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Cohen and Wolf Attorneys Represented Client in Precedent-Setting Ruling

06.25.2012

MAHON V. TICOR TITLE INSURANCE COMPANY AND TICOR TITLE INSURANCE COMPANY OF FLORIDA, DOCKET NO. 10-3005-CV

On June 25, 2012, the Second Circuit issued a significant jurisdictional opinion concerning class actions. It affirmed Judge Alvin W. Thompson's dismissal of all claims against two of three defendants in a putative class action, setting a precedent in this circuit regarding proper defendants in class actions.

Deborah Mahon purchased title insurance from Chicago Title Insurance Company and claimed that she was overcharged for the premium she paid. Mahon brought this action against Chicago Title and two of its sister companies claiming that all three companies, wholly-owned subsidiaries of the same parent company, likewise overcharged title insurance premiums, and all shared resources in Connecticut, coordinated in drafting their premium rate schedules, and operated in the same manner regarding overcharging for premiums in refinance transactions. Mahon claimed that the sister companies were proper parties because they were "juridically linked" with Chicago Title, even though she suffered no injury by them.

Judge Thompson granted the motion to dismiss the sister companies, because Mahon had no Article III standing as to them. He reasoned that the juridical link doctrine relates only to the question of class certification, and has no bearing on Article III standing. Mahon appealed, contending that under Article III, a plaintiff need only demonstrate an injury resulting from the conduct of at least one defendant.

In affirming, the Second Circuit held that whether Rule 23 would permit a plaintiff to represent a class against non-injurious defendants cannot affect a plaintiff's Article III standing to sue them – a plaintiff must establish standing for each claim. The Second Circuit also rejected the Seventh Circuit approach that analyzes class certification before Article III standing and treats the class as the relevant inquiry. In light of this case, a named plaintiff in a private civil class action must allege an injury as to each

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defendant, and cannot rely on an injury as to a single defendant or the juridical link doctrine to attempt to circumvent Article III standing.

The case at the District Court level is ongoing as to remaining defendant Chicago Title Insurance Corporation. Mahon's motion for class certification is pending as to that defendant. In the Second Circuit, the title insurance companies were represented by Stewart Edelstein and Jason Buchsbaum of Cohen and Wolf, P.C., working with Derek E. Diaz, of Hahn, Loesser & Parks, LLP.

ATTORNEYS

Jason A. Buchsbaum

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