

IP 08-1094-C h/k Blanford v. St. Vincent [2]
Judge David F. Hamilton

Signed on 05/27/09

NOT INTENDED FOR PUBLICATION IN PRINT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ANNE M. BLANFORD,)	
)	
Plaintiff,)	
vs.)	NO. 1:08-cv-01094-DFH-TAB
)	
ST. VINCENT HOSPITAL AND HEALTH)	
CARE CENTER, INC.,)	
)	
Defendant.)	

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ANNE M. BLANFORD, individually and)
on behalf of all others similarly situated,)

Plaintiff,)

v.)

ST. VINCENT HOSPITAL AND HEALTH)
CARE CENTER, INC.,)

Defendant.)

CASE NO. 1:08-cv-1094-DFH-TAB

ENTRY ON RENEWED MOTION TO DISMISS

On February 27, 2009, the court issued an entry granting in part and denying in part St. Vincent Hospital's motion to dismiss this case. Dkt. No. 39. At the time, the court said that it needed further information from plaintiff Anne Blanford to determine whether it had subject matter jurisdiction over her remaining claim. Blanford has now supplied this information, and she does not dispute that the case should be dismissed. The parties dispute whether the dismissal should be with or without prejudice.

The facts of this case can be found in the February 27 entry. Blanford filed a class complaint against St. Vincent alleging that St. Vincent violated the federal Fair Debt Collection Practices Act (FDCPA) in two ways. First, she alleged that St. Vincent violated the FDCPA by authorizing a third party, Med-1 Solutions, LLC,

to seek attorney fees in state court on debts that she owed to St. Vincent. Second, she alleged that St. Vincent violated the FDCPA by authorizing Med-1 to sue her in Med-1's (rather than St. Vincent's) name.¹

The *Rooker-Feldman* doctrine bars lower federal courts from exercising what amounts to appellate review of decisions of state courts when a party complains to the federal court that a state court judgment has injured that party. See generally *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280, 283-84 (2005); *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983); *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923). In the February 27 entry, the court held that it did not have subject matter jurisdiction over Blanford's claim based on the use of the Med-1 name and that it could have subject matter jurisdiction over the attorney fees claim only if a state court did not order Blanford to pay attorney fees to Med-1. If the state court ordered Blanford to pay attorney fees, the *Rooker-Feldman* doctrine precludes her from challenging this award in federal court.

Blanford has now established that the state court ordered her to pay attorney fees to Med-1. Dkt. No. 41. This fact deprives the court of subject matter jurisdiction over the attorney fees claim under the FDCPA. Blanford argues that the case should be dismissed without prejudice. St. Vincent argues that it should be dismissed with prejudice.

¹Blanford also filed claims under Indiana law. These claims were dismissed.

When a case is dismissed because the *Rooker-Feldman* doctrine deprives the court of subject matter jurisdiction, the dismissal is neither with prejudice nor without prejudice. *Frederiksen v. City of Lockport*, 384 F.3d 437, 438 (7th Cir. 2004) (“When the *Rooker-Feldman* doctrine applies, there is only one proper disposition: dismissal for lack of federal jurisdiction. A jurisdictional disposition is conclusive on the jurisdictional question: the plaintiff cannot re-file in federal court. But it is without prejudice on the merits, which are open to review in state court to the extent the state’s law of preclusion permits.”). The dismissal is for lack of federal jurisdiction.

Conclusion

The defendant’s renewed motion to dismiss is granted. Dkt. No. 44. The court will enter final judgment dismissing the case for lack of federal jurisdiction. The motion for class certification and the motion for unopposed class certification are denied as moot. Dkt. Nos. 6, 13.

So ordered.

Date: May 27, 2009

DAVID F. HAMILTON, CHIEF JUDGE
United States District Court
Southern District of Indiana

Copies to:

Glenn Vician
BOWMAN, HEINTZ, BOSCIA & VICIAN
glennsvician2@bhbvonline.com

Robert Stochel
HOFFMAN & STOCHEL
res@reslaw.org

Angela Smith
HALL RENDER KILLIAN HEATH & LYMAN
asmith@hallrender.com