14-520 HAWKINS V. COMMUNITY BANK OF RAYMORE

DECISION BELOW: 761 F.3d 937

LOWER COURT CASE NUMBER: 13-3065

QUESTION PRESENTED:

Community Bank of Raymore[1] sued housewife Valerie Hawkins for over $2 million claiming Ms. Hawkins owed the money under an absolute, unconditional guaranty regardless of whether CBR sued PHC Development, LLC,[2] the named borrower, or Gary Hawkins, one of PHC's owners. Stated another way, CBR claimed Ms. Hawkins agreed to repay the loans regardless of whether CBR pursued her husband, PHC, or any collateral. CBR claims Ms. Hawkins is "primarily and unconditionally liable" under the agreement she signed. Ms. Hawkins, like Ms. Patterson, was not a member, officer, or otherwise interested in PHC.

Petitioners claim that CBR engaged in marital status discrimination under the Equal Credit Opportunity Act ("ECOA") by requiring their guaranties. The Sixth Circuit recently agreed that spousal guarantors have standing as "applicants" to assert ECOA violations. The Eighth Circuit disagreed with the Sixth Circuit, deciding that ECOA "applicants" unambiguously excludes guarantors. The Eighth Circuit ruling contradicts state courts of last resort in Alaska, Iowa, Missouri, and Virginia. Indeed, spousal guarantors in Iowa or Missouri state courts are afforded protection by the ECOA, but not in federal district courts in Iowa or Missouri.

The Eighth Circuit's decision raises the following issues not yet decided by this Court:

1. Are "primarily and unconditionally liable" spousal guarantors unambiguously excluded from being ECOA "applicants" because they are not integrally part of "any aspect of a credit transaction"?

2. Did the Federal Reserve Board have authority under the ECOA to include by regulation spousal guarantors as "applicants" to further the purposes of eliminating discrimination against married women?

[1]Hereinafter referred to as CBR.

[2]Hereinafter referred to as PHC.

CERT. GRANTED 3/2/2015