

BOISE, FRIDAY, NOVEMBER 6, 2009 AT 8:50 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO, by and through)
LAWRENCE G. WASDEN, Attorney)
General,)
Plaintiff-Respondent,)
v.)
SCOTT B. MAYBEE, d/b/a SMART-)
SMOKER.COM, BUYCHEAP-)
CIGARETTES.COM and ORDER-)
SMOKESDIRECT.COM,)
Defendant-Appellant.)

Docket No. 35200

Appeal from the District Court of the Fourth Judicial District of the State of Idaho, Ada County. Hon. Kathryn A. Sticklen, District Judge.

Stoel Rives, LLP, Boise, for appellant.

Hon. Lawrence G. Wasden, Idaho Attorney General, Boise, for respondent.

The State of Idaho filed suit against Scott B. Maybee for alleged violations of both the Tobacco Master Settlement Agreement Complementary Act (Complementary Act), I.C. §§ 39-5701 to 3957-18, and the Prevention of Minors' Access to Tobacco Act (Minors' Access Act), I.C. §§ 39-8401 to 39-8407. The district court granted summary judgment in favor of the State.

Maybee now appeals the grant of summary judgment, arguing that, as a matter of law, the Complementary Act does not regulate the sale of unstamped cigarettes sold through the mail. Maybee contends that if the Complementary Act does regulate this conduct, the Interstate Commerce Clause of the United States Constitution preempts the Complementary Act and cannot be enforced against Maybee. Maybee additionally contends that both the Complementary Act and the Minor's Access Act are preempted by the Indian Commerce Clause under the United States Constitution, and cannot be enforced against Maybee.

BOISE, FRIDAY, NOVEMBER 6, 2009 AT 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

MIRIAM G. CARROLL,)	
)	
Plaintiff-Appellant,)	
)	
v.)	
)	
MBNA AMERICA BANK,)	
)	
Defendant-Respondent.)	
-----)	
MBNA AMERICA BANK,)	Docket No. 34765
)	
Plaintiff-Respondent,)	
)	
v.)	
)	
DAVID F. CAPPS,)	
)	
Defendant-Appellant.)	
_____)	

Appeal from the District Court of the Second Judicial District of the State of Idaho, Idaho County. Hon. John H. Bradbury, District Judge.

Miriam G. Carroll and David F. Capps, Kamiah, pro se.

Wilson & McColl, Boise, for respondent.

This action arises from Miriam Carroll's and David Capps' dispute letters to MBNA America Bank. In the letters, Carroll and Capps claimed that MBNA failed to credit their accounts with unidentified promissory notes and that MBNA also made unwarranted, adverse reports against Carroll and Capps to various credit bureaus. As a result of these complaints, MBNA sought separate arbitration of Carroll's and Capps' disputes with the National Arbitration Forum (NAF). Carroll and Capps each filed an objection to the arbitration proceedings, alleging that MBNA was not contractually entitled to arbitration and that the arbitrator lacked jurisdiction. On receipt of these objections, the arbitrator called for evidence that the contracts contained no arbitration clause. After considering the evidence, the arbitrator found agreements to arbitrate and the NAF entered separate awards for MBNA against Capps and Carroll.

After the awards were entered, Carroll filed this action in the Idaho County District Court, seeking damages for violations of the federal Truth in Lending Act, breach of contract, violations of rights, and injunctive relief to vacate the arbitration award. Capps filed a similar complaint against MBNA in the Idaho County District Court. MBNA moved for summary judgment on Capps' and Carroll's claims and the cases were consolidated. MBNA's summary judgment motions were denied. The district court then heard Capps' and Carroll's claims for injunctive relief, treating them as a motions to vacate arbitration awards, and found that the NAF had jurisdiction over their claims and that awards had properly been entered against them under the applicable Delaware law.

Capps and Carroll immediately filed a motion for reconsideration and argued that the application of Delaware law was precluded by the Idaho Credit Code; they had not entered an agreement to arbitrate with MBNA under Idaho law; the agreements between them and MBNA were unconscionable; and the district court should open limited discovery on the issue of standing because MBNA, as an assignee and potential assignor of their claims, may not have standing to sue. After nearly a year of briefing and hearings, the district court denied Capps' and Carroll's motions and other substantive claims, and entered judgment for MBNA, confirming the arbitration awards. Capps and Carroll filed a timely notice of appeal to this Court, arguing that the district court erred in: (1) applying Delaware law; (2) finding that MBNA could unilaterally amend the agreement between the parties; (3) not opening limited discovery on the issue of standing; (4) finding that the NAF could determine whether an arbitration agreement existed; and (5) finding that the MBNA contracts were not unconscionable.

BOISE, FRIDAY, NOVEMBER 6, 2009 AT 11:10 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

CITIBANK (SOUTH DAKOTA), N.A.,)	
)	
Plaintiff-Respondent,)	
)	
vs.)	Docket No. 35053
)	
MIRIAM G. CARROLL,)	
)	
Defendant-Appellant.)	
_____)	

Appeal from the District Court of the Second Judicial District of the State of Idaho, Idaho County. The Honorable John H. Bradbury, District Judge.

Miriam G. Carroll, Kamiah, pro se.

Hawley Troxell Ennis & Hawley, LLP, Boise, and Stroock & Stroock & Lavan, LLP, Los Angeles, California, for respondent.

Citibank (South Dakota), N.A., commenced an action seeking to collect delinquent credit card debt from Miriam Carroll. Citibank issued Carroll a credit card in 1999, which she used for the next five years, paying the balance on the account as it came due. However, in 2005, shortly after sending Citibank a letter questioning its failure to credit her account with promissory notes that she allegedly tendered to Citibank, Carroll stopped making her payments. In the months before sending the letter and ceasing payment, Carroll transferred over \$24,800 in balances from other accounts to her Citibank account.

As a result of Carroll's default, Citibank filed an action against her, seeking collection of the balance due on the account, along with accrued interest and attorney fees. Carroll, proceeding pro se, counterclaimed, alleging violations of the federal Truth in Lending and Fair Credit Reporting Acts. As the case progressed, Carroll developed the theory that Citibank lacked standing to pursue its claims against her because it had engaged in asset securitization and assigned the receivables from her account to a trust. Carroll also argued that Citibank could not collect the debt because it failed to comply with the Idaho Collection Agency Act. On Citibank's motion for summary judgment, the district court ruled that Citibank was entitled to recovery as a matter of law.

Carroll moved for reconsideration, arguing that the district court incorrectly concluded that Citibank was a real party in interest with standing to pursue the claim. The district court, after supplemental briefing on the subject of standing and the applicability of the Idaho Collection Agency Act, upheld its grant of summary judgment and entered judgment for

Citibank in the amount of \$40,812.81, representing principal and interest on Carroll's account, along with \$49,491.29 in attorney fees and costs to Citibank.

Carroll filed a timely notice of appeal, arguing that this Court should reverse the district court's grant of summary judgment because Citibank failed to demonstrate that it is a real party in interest with standing to pursue its collection action against her as a result of its assignment of her account receivables.