NORTH DAKOTA BANKERS ASSOCIATION

LEGAL UPDATE

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BANKRUPTCY

Creditor Pays the Price for Violating the Automatic Stay * [5TH CIR]

A Firm that invested in foreclosed property hired an attorney to purchase real property. Firm wired money to the attorney to pay for the property foreclosed upon. However, on the morning of the property's foreclosure sale, debtor filed for Chapter 7 bankruptcy and faxed notice of the bankruptcy filing to the foreclosure attorney hired by Firm. The next morning the attorney recorded transfer of the property from a third party to debtor. Despite Firm having been notified of the automatic stay, Firm decided to wire $2.4 million to the attorney's IOLTA account to pay for the foreclosed property. Shortly thereafter, the attorney stole that money, closed his law practice and took a trip to Europe with the funds. In fact, the attorney stole from many clients, resulting in the attorney's incarceration. Firm received a considerable amount of the $2.4 million back but sought more in later bankruptcy hearings, suing two other defrauded creditors who had received a portion of the money in the IOLTA account as well as the attorney. The bankruptcy court denied the claims against the other creditors after evaluating the circumstances. This appeal followed.

In ELBAR INVS. INC. v. PRINS (IN RE OKEDOKUN). 968 F.3D 378 (5TH CIR.2020), the Fifth Circuit Court of Appeals reviewed the bankruptcy court's decision on the Firm's motion to obtain additional recovery from the two other defrauded creditors. The Firm claimed the money sent to the other creditors in the attorney's bankruptcy case came from the funds it had wired to the IOLTA account. The Firm argued it was entitled to recover under a theory of equitable subrogation. The Fifth Circuit reasoned the Firm was not entitled to the money because the Firm never paid the title holder of the property. Rather, it had paid the money to its attorney. Most importantly, the court chastised the creditor, emphasizing that it had knowingly violated the automatic stay multiple times. The court also noted the creditor's sophistication, because it was a repeat player in the world of bankruptcy and foreclosure sales. Additionally, the court denied the Firm's fraud claims. Neither of the creditors that had received money from the JOLTA account had any fraudulent intent. The court also denied the conversion and unjust enrichment claims brought by the Firm against the other creditors because neither of the creditors knew they had received stolen moNey.

Accordingly, Elbar only held a right to recover against the attorney who had actually stolen the money. *[By Jimmy.D.Vaughn@ttu.edu]*

Bankruptcy Court Lifts Automatic Stay in the Interest of Judicial Economy [BKR SDNY]

Creditor sold to Debtor all fixtures, furnishings and inventory located on property that the creditor leased. At the same time, Creditor entered into an agreement with the debtor allowing it to sublease the leased containing the sold items. Simultaneously, Debtor entered into a security agreement giving the Creditor a security interest in all of the Debtor's assets. An additional agreement required the Debtor to obtain all its inventory from the creditor. Debtor breached this agreement by entering into an inventory agreement with another supplier. Creditor then commenced a state court action against the Debtor and a number of other entities, claiming breach of contract, among other various claims. Debtor counterclaimed, and the supplier counterclaimed. After discovery was completed and three days before trial on the claims, the Debtor filed for Chapter 11 bankruptcy, which put into place the automatic stay. Subsequently, the Creditor filed a motion to lift the stay. Debtor and a secured creditor of the debtor opposed stay relief, arguing that it would impede the debtor's reorganization.

In IN RE MEAT & GROCERY CORP. 617 B.R. 224 (Bank S.D. N.Y. 2020), the bankruptcy court granted the creditor's motion to lift the automatic stay. The court considered the many factors the bankruptcy court may look at to decide whether to the lift the automatic stay. Several of the factors weighed in favor of lifting the automatic stay. Firstly, the automatic stay does not stay a claim asserted by a debtor, such as the debtor's counterclaim in this case, and therefore this factor weighed in favor of lifting the stay. Moreover, the multi-party nature of the pending state court action weighed in favor of lifting the stay. In addition, the court gave weight to the fact the parties were ready for a bench trial at the time the debtor commenced the case. The court stated, "In short, continuation of the state court action… will promote the interest of judicial economy and expeditious and economical resolution of the litigation." The bankruptcy court rejected the debtor's contention that lifting the stay would lead to duplicative litigation and the possibility of inconsistent results. In any event, issues at stake in the state court litigation would have to be resolved before the debtor could reorganize. As a result, the court held the relevant factors weighed heavily in favor of lifting the automatic stay. The court lifted the stay on the condition that any money the creditor was awarded in a judgment against the debtor would have to be collected in the bankruptcy case. *[By Jimmy Vaughn Jimmy.D.Vaughn@ttu.edu]*

Proof of Claim Did Not Lack Sufficient Documentation [BKR MD FL]

Debtor objected to a creditor's proof of claim. The creditor's proof of claim asserted the claim was fully secured. The objection to the proof of claims contended that, although the proof of claim asserted the claim was fully secured, there was no proof of perfection of any alleged security interest. The objection also contended that the proof of claim provided inadequate documentation because it failed to provide an accounting of payments received by the debtor. Moreover, the amount of the secured claim exceeded the total amount on the attached invoices.

In IN RE DEESE, 618 B.R. 566 (BANKR. M.D. FL 2020), the bankruptcy court evaluated the claim against the debtor. The court sustained the first objection because of the discrepancy between the total claim shown on the face of the proof of claim and the amount owed as indicated by the invoices. However, the court stated that the proof of claim does not need to create an account for payments. If the debtor seeks to object because he disagrees that all payments have been created, he may file a supplemental objection with specific amounts. Therefore, the court overruled that objection. Lastly, because the proof of claim contained a provision that gave the creditor a purchase money security interest in the items purchased on the account, the proof of claim was properly identified as secured. Lastly, the court evaluated the claim by the creditor and the difference between the amount owed and the collateral. The court entered an order overruling the above-mentioned objections and giving the creditor thirty days to file an amended proof of claim that included sufficient documentation to support the full amount of the claim, which if appropriate would bifurcate its claim into secured and unsecured portions depending on the replacement value of the collateral. *[By Jimmy Vaughn Jimmy.D.Vaughn@ttu.edu]*

Oversecured Creditor has Unqualified Right to Interest-Including Default Interest-Allowed Under State Law [WD MI]

An oversecured creditor of a chapter 11 debtor filed a motion to receive attorney fees and interest arising from a payment default. The auction of the debtor's assets had resulted in sufficient proceeds to pay the creditors' principal as well as interest and attorney's fees. The oversecured creditor's motion had sought payment at the contractually set default interest rate because, the creditor argued, the debtor had defaulted on its loan post-petition. The debtor argued, however, that the post-default interest rate of 18% was a penalty rather than a true liquidated damages provision. The debtor also argued that if it the default interest were a penalty rather than liquidated damages, it was unenforceable. The bankruptcy court held that the default interest was a penalty rather than a liquidated damages provision and refused to allow the payment. Because the court would not allow the interest, it did not reach the issue of whether the default interest provision had been triggered.

In BANK OF MO. v. FAMILY PHARM., INC (IN RE FAMILY PHARM., INC.), 614 B.R. 58 (B.A.P. 8th Cir. 2020), the Bankruptcy Appellate Panel (B.A.P.) reversed the bankruptcy court's decision. Looking to Supreme Court authority and to the plain language of 11 U.S.C. § 506(b), the Bankruptcy Appellate Panel held that, so long as attorney's fees provided for in a contract were legal under state law, they are allowable in bankruptcy cases. Any equitable considerations must be applied very sparingly, the panel concluded. While the debtor had argued that the contract's 18% default interest rate was unenforceable, state law allowed for an 18% default interest rate. Moreover, state law did not support the debtor's argument that the default interest was an unenforceable penalty. The B.A.P. did not decide the remaining question of whether the default interest provision had in fact been triggered, but rather remanded the case to the bankruptcy court to make that determination. *[By Colton Sniegowski Colton.Sniegowski@ttu.edu Ed. Grant Rodgers]*

SECURED TRANSACTIONS

FDCPA Claim May Arise From Breaching the Peace During Repossession [7TH CIR]

Debtor defaulted on a loan. Creditor hired a repossession company to repossess the vehicle that secured the loan. When the repo person came to tow the car, the debtor informed him that she would not willingly let him take the car. After telling the debtor, "we can do this the easy way or the hard way," the repo person called the police. The police handcuffed the debtor while the repo person hooked up the vehicle to the tow truck. The police officer removed the handcuffs once the vehicle securing the debt began to be towed away. As a result of the repossessing party's actions, the debtor sued the repossession company for violating the Fair Debt Collection Practices Act (FDCPA) because it had engaged in a wrongful nonjudicial action to repossess property. The debtor contended that Indiana law prohibits a party from attempting to gain possession of collateral when doing so breaches the peace. The district judge viewed the claim as an improper attempt to repackage a state law violation as a federal claim and entered summary judgment on behalf of the repossessing party. This appeal followed.

In RICHARDS V. PAR, INC., 954 F.3D 965 (7TH CIR. 2020), the Seventh Circuit Court of Appeals evaluated the claim of the debtor that collection efforts by the repossession company violated Indiana law. The court held that a reasonable jury could find that the repossession company employees lacked the necessary right under Indiana law to properly seize the vehicle. The court then referred to the language of FDCPA § l592(f)6(a), which provides a creditor may not take or threaten to take non-judicial action if there is no present right of possession. It then evaluated the common law interpreting § 26-1-9.1-609 of the Indiana Code, stating, "if a breach of the peace occurs, then the repossessor must desist and pursue remedy in the court." Accordingly, if there is a breach of the peace, the repossessing entity has no right of possession. For that reason, breaching the peace during a repossession can be a violation of the FDCPA. As a result of these holdings, the court reversed and remanded the case to the lower court. *[By Jimmy Vaughn Jimmy.D.Vaughn@ttu.edu]*

GUARANTEES

Releasing co-guarantor results in release of other guarantor [GA APP]

In 2011 several debtors gave various guaranties and pledged several parcels of real estate as security for a loan. In 2012 the debtors and creditor agreed to modify the security agreements. As part of the modification one of the debtors become a guarantor and pledged real estate owned by it. The original debtors defaulted on the loan and filed for bankruptcy. Creditor initiated a suit for judgment on the guaranty instruments guarantors had executed. The Debtor Guarantor from the modified agreement was not a party to the action. After exhausting the collateral of the original debtors, a substantial amount of money still remained unpaid on the debt. Naturally, the creditor informed the Debtor Guarantor from the second agreement that it intended to enforce its rights in the collateral, and did so, foreclosing on the property of the Debtor Guarantor, which then initiated a lawsuit seeking various equitable remedies. His primary claim was that he had been released as a guarantor by operation of law. Both parties filed for summary judgment. The trial court held that the Debtor Guarantor had not been released. As a result of the holding, this appeal followed.

In POLLARD V. QUEENSBOROUGH NAT'L BANK TRUST CO, 844 S.E. 2d 894 (Ct. App. GA 2020), the court evaluated the claim of the Debtor Guarantor that the dismissal of a co guarantor in a prior proceeding relieved him of his obligation and agreed that the Debtor Guarantor had been released by operation of law. The court evaluated OCGA § 10-7-20, which generally discharges co-guarantors when a lender settles with other coguarantors in a related agreement. The court held the Debtor Guarantor was a joint surety with the same obligations as the debtors under the 2011 agreement. While the Debtor Guarantor's exposure was limited only to the property he had put up as collateral, the agreement did not obligate the Debtor Guarantor to pay a certain proportion share of the underlying debt. Had the agreement done so, the Debtor Guarantor would not have been released. Additionally, the Debtor Guarantor had not consented to the lender's releases or modifications with the co guarantors. Accordingly, the lender's claim against the Debtor Guarantor had been released. *[By Jimmy Vaughn Jimmy.D.Vaughn@ttu.edu]*

DEPOSIT ACCOUNTS

Court Enforces Shortened Limitations Period in Deposit Account [SD MS]

An elderly business owner opened a bank account for his business. When opening the account, the business owner agreed to the bank's 48-page deposit account agreement. The agreement stated that if the bank honored a forged check, the account owner would forfeit a claim against the bank in two cases: (l) 30 days after the statement was made available to the account holder if the check was honored without good faith, or (2) after 10 days if the bank had honored the check in good faith. Later, an employee of the business began to write forged checks from the businesses' bank account and the bank honored those fraudulent checks. That employee intercepted the bank statements to prevent the business owner from being aware of the fraudulent activity. Several months later, the business owner became aware of the fraud and approached the bank to remedy the situation.

In REDSANDS ENERGY, LLC v. REGIONS BANK, 442 F. Supp. 3d 945 (S.D. Miss. 2020), the court held the business owner was contractually precluded from bringing claims against the bank. The court was unpersuaded by fact the manager had been intercepting the bank statements because the business owner had other means of acquiring account statements, such as through online access, phone calls, or visiting the bank in person. In so concluding, the court gave no weight to the owner being elderly and not participating in online banking. The court would not alter the express terms of the contract because the contract was not unconscionable. Additionally, the difference in bargaining power between the bank and the business owner could not void the contract. Finally, the court relied upon Fifth Circuit authority to enforce the terms of the contract, which were consistent with Article 4 of the Uniform Commercial Code. *[By Grant Coffey grant.coffey@ttu.edu Ed. by Jimmy Vaughn]*

Bank's Failure to Prove Contents of Account Agreement Creates Problem When It Honored Fraudulent Checks [ED CA]

Account holder held an account with bank. Account holder's volunteer bookkeeper forged the signature of account holder on numerous occasions. Ultimately, bookkeeper forged almost half a million dollars in checks. Account holder (plaintiff) alleged these checks were not properly payable and filed an action to recover from the bank on a number of theories: breach of deposit agreement, negligence, and violation of the California commercial code. The bank filed a motion to dismiss.

In A.B. CONCRETE COATING INC. v. WELLS FARGO BANKS, N.A., 2020 U.S. Dist. LEXIS 243958 (E.D. CA 2020), the court held that it would consider neither a purported account agreement nor the purported regular practice of sending depositors monthly statement on the motion to dismiss: there were reasons to question the authenticity and/or admissibility of the evidence offered by the bank. Indeed, the bank's employee could not swear that the tenyear old account agreement she had located after a search was in fact the one that the plaintiff had entered into with the bank. Moreover, although there were California state court cases holding that a court could take judicial notice of a bank's practice of sending regular monthly statements to customers, the court indicated it could find no Federal court so holding. In evaluating the negligence claim, the court held that the § 4-406 of the California commercial code precluded the negligence claim against the bank. However, in evaluating the breach of contract claim, the court noted that the amended complaint alleged the four elements of a breach of contract under California law. Therefore, the court granted the motion to dismiss on the negligence claim based on the California commercial code but denied the motion to dismiss on the breach of contract claim. *[By Jimmy Vaughn Jimmy.D.Vaughn@ttu.edu Ed. Grant Coffey]*

No Duty to Monitor Depositor Account Activity for the Sake of Other Depositors [CA]

A freelance bookkeeper (Bookkeeper) ran a scam against her client (Client) through the bank (Bank) they each coincidentally held an account at. To complete her scam, Bookkeeper created a fake business name for herself- she stated that she was d/b/a "Income Tax Payments" under her already existing checking account. She then instructed Client to write all of her tax payment checks to the fake name "Income Tax Payments" rather than the United States Treasury. Bookkeeper's scam ran for nearly five years, resulting in her obtaining over $700,000 from Client. In the end, Bookkeeper pleaded guilty and was sentenced to federal prison for her scamming crimes. Client then brought this suit against Bank, alleging that Bank was negligent when it failed to monitor Bookkeeper's account for fraudulent activity after Bookkeeper added the "'inherently suspicious' name 'Income Tax Payments' to [her] account." At trial, the court granted Bank's nonsuit motion. Client raised two arguments on appeal. First, Client contended that Bookkeeper's name, "Income Tax Payments," was so inherently suspicious that Bank had a duty to investigate potential scams. Second, she argued that, as a matter of law, banks have a duty "to monitor other depositors' accounts for fraud," and, in the event there is no duty, one should be recognized. This California court of appeals concluded that the trial court was correct to grant Bank's motion for nonsuit.

In KURTZ-AHLERS, LLC v. BANK OF AMERICA, N.A., 48 Cal. App. 5th 952, 262 Cal. Rptr. 3d 420, 2020 Cal. App. LEXIS 395 (Cal. App. 2020), the court noted that there is an overwhelming amount of case law that specifies each duty that a bank owes to its account holders, and none of it includes the duty to monitor its depositors' accounts for the sake of other depositors. According to common law, the relationship between banks and account holders is merely and exclusively contractual. This contractual relationship does not imply a duty to police account activity. Instead, case law provides the opposite there is no duty. There is a minimal exception to the "otherwise sweeping rule [that] a bank owes no duty" to police account activity. A bank has a narrow duty to inquire into checks of a significant amount made payable to a bank if a third party seeks to negotiate the check to their benefit. This court held that the facts presented here do not match the very specific factual scenario of that exception to the general rule that a bank has no duty to monitor accounts for the benefit of third parties. Thus, the court rejected Client's main arguments and moved to her alternative argument that the court "should recognize a new duty on banks, owed only to depositors, to monitor any account with a fictitious business name so 'odd,' 'generic,' or otherwise 'suspicious' that it gives a bank reason to suspect the account holder of fraudulent activity." The court relied heavily on public policy to refute Client's argument. Initially, the court found that, according to a fundamental tort law, when there is purely an economic law, liability in negligence is the exception, not the rule." Second, creating a duty would violate bank customers' right to privacy if a bank were to inquire into its customer's purchases. Finally, creating a duty would impair banking efficiency- banks would have to spend a significant time monitoring any slightly suspicious transactions (time they never had to spend on monitoring before). At the end of the opinion, the court argues that the depositors are in the best position to prevent themselves from falling into the trap of a scam artist by simply using their due diligence by checking their financial records. The court states that Client should have realized the trap she was in after making five years' worth of payments to Bookkeeper. In sum, the court affirmed the trial court's ruling. *[By Madison Pyle madison.pyle@ttu.edu]*

The U.C.C. Duties of Ordinary Care Govern a Collecting Bank's Handling of Dishonored Checks Instead of Common Law Principles [MA APP]

The debtor received a check by someone posing to be a client and deposited it into its trust account (IOLTA) at First Republic Bank. The bank credited the amount to its account and sent the check to the drawee bank, JP Morgan Chase Bank. The client then sent instructions for two wire transfers to two different accounts, one in Cambodia and the other in Hong Kong. Once the transfers were made, the deposited check was revealed to be a counterfeit. Accordingly, First Republic Bank charged back the amount of the check to the debtor's IOLTA account, leading to the suit. The debtor sued the bank on two counts: (1) a negligence claim, and (2) for breach of the good faith and ordinary care provisions of the California Commercial Code. The trial court granted summary judgment to the bank on both counts.

In SARROUF LAW LLP v. FIRST NATIONAL BANK, 148 N.E.3d 1243, 2020 Mass. App. LEXIS 55 (Mass. App. 2020), the Massachusetts court of appeals affirmed the summary judgment grant on both claims. On the first count, the court held the trial court properly dismissed the claim for three reasons. First, the court stated that the debtor did not prove any relevant duty of First Republic Bank under common law or based on the parties' contractual agreements. The court noted that the relationship between the bank and its account holders is contractual in nature. The duty owed to the account holder can only be defined by the account agreement and the Uniform Commercial Code. The court further stated that under California's common law principles, the plaintiff failed to show that the Bank's action amounted to tortious conduct. The court reasoned that the debtor needed to demonstrate harm and not just a broken contractual promise. So, for such conduct to be tortious under common law, the duty violated must be beyond the contract, which the plaintiff failed to demonstrate. Another reason the court gave was that the California Code expressly displaces common law principles to the extent its provisions apply. Furthermore, under California law, the California Code principles apply to a bank's acceptance of a check for collection of that check. As a result, the debtor could only bring a claim under the U.C.C. The court then moved to the second count the plaintiff brought: breach of good faith and ordinary care provisions under the California Code. The court reasoned that a duty could only be imposed by the parties' contractual agreement and the provisions of the U.C.C. The court held there was no provision in their contract imposing a specific duty on the bank. Rather, the contract actually provided that the account holders are "responsible for checks they deposit and are returned unpaid and for any problems arising from the deposit." The court also stated that under the U.C.C., when a bank credits the depositor's account in the amount of a check the amount is merely a provisional credit. the payor bank dishonors the check, these provisional settlements may be revoked. Furthermore, the court said that the U.C.C. clearly states until there is a final settlement of the check, the risk of loss lies with the depositor. The court finalized its decision by considering California Code section 4202 and stating that the bank exercises ordinary care by timely presenting an item which First Republic Bank did. As a result, the court affirmed the grant of summary judgment in favor of the bank. *[By Samuel Ghirmay Samuel.ghirmay@ttu.edu]*

GENERAL BANKING

Non-signatory Party Could Enforce Arbitration Clause [8TH CIR]

A debtor entered a student loan arrangement with a student loan provider. The two relevant clauses of the loan provided that any conflicts arising from the loan would be resolved in arbitration, and that the loan's interest rate would not exceed the state law interest rate limit. Subsequently, the loan was assigned to another creditor. This creditor allegedly increased the interest rate on the loan above the state limit, causing the debtor to sue in federal district court. The second creditor then sought to compel arbitration pursuant to the arbitration clause the debtor had agreed to in the initial loan agreement. The debtor objected to the motion, arguing that the creditor never agreed to the initial loan agreement, and therefore the creditor and the debtor were not bound by the arbitration clause.

In NEAL v. NAVIENT SOLS., LLC, 978 F.3d 572 (8th Cir. 2020), the court held that the arbitration clause was binding to both the creditor and the debtor even though the creditor was not a party to the initial loan agreement. According to the state's law, arbitration clauses bind non-signatory parties only in rare occasions. The court reasoned that this was one such occasion where a nonsignatory party was bound by an arbitration clause. Here, the creditor is a non-signatory agent that is bound by the terms of the original agreement; the agreement is the basis for the liability the plaintiff is hoping to enforce; and allowing the plaintiff to circumvent part of the agreement would be contrary to state law. Additionally, the debtor was estopped from avoiding the arbitration clause because the debtor's argument that the interest rate was too high was so integrally intertwined with the original contract. For that reason, the court used basic principles of agency and estoppel to bind the nonsignatory creditor and the debtor to the arbitration clause. *[By Grant Coffey grant.coffey@ttu.edu]*

Reducing Credit Union's Contractual Attorneys' Fees in Part Because of Debtor's Financial Hardship [D MA]

Debtor defaulted on a loan that he had taken out for higher education. Subsequently, the creditor sued. The creditor filed a motion for summary judgement and attorneys' fees. The court granted the motion for summary judgement but denied the request for attorneys' fees without prejudice. In response, the creditor filed a renewed motion for attorneys' fees. The creditor argued that the initial agreement between the debtor and the creditor specified that in the case of default, the debtor would pay the creditor's reasonable attorneys' fees.

In MIT FED. CREDIT UNION v. CORDISCO, 2021 U.S. Dist. LEXIS 10021 (D. Mass. Jan. 20, 2021), the court reduced the attorneys' fees, but nonetheless, ordered the debtor to pay the creditor's attorneys' fees as reduced. Here, the court had determined that the fees the creditor asked for were unreasonable for two reasons. First, the creditor included hours charged by the attorney that were unproductive and duplicative. Secondly, some of the fees incurred were the result of the creditor's having changed counsel. Most surprisingly, however, the court reduced the fees (in an unspecified amount) because the defendant had been facing financial hardship. In total, the court reduced the attorney fees by 25% to a achieve a more equitable result. *[By Grant Coffey grant.coffey@ttu.edu]*

Amended TILA Claim Barred by One Year Statute of Limitations [ND CAL]

A debtor sought to discharge a loan on the ground that the creditor had violated the Truth in Lending Act (TILA). The debtor's claim was made four years after the alleged TILA violation occurred. The court denied the original TILA claim and the debtor's two amended claims. Subsequently, the debtor filed a third motion to amend his complaint.

In CHU v. FAY SERVICING, LLC, 20-CV-3540-YGR, 2021 U.S. Dist. LEXIS 5090 (N.D. Cal. Jan. 8, 2021), the court denied the motion for leave to amend the complaint. When considering whether granting a leave to amend is appropriate, the court acknowledged it should "freely give leave when justice so requires". Fed. R. Civ. P. 15(a). However, leave to amend should not be granted when the amended complaint would be dismissed. Here, the allegations in the amended complaint fell far outside of the one-year limit on TILA claims. Additionally, the amended complaint did not raise facts that would indicate the statute of limitations should be tolled. Furthermore, the debtor raised allegations of negligence and breach of contract, which the court had previously rejected. Because the amended complaint would be subject to dismissal on these grounds, the court denied the debtor leave to amend his complaint. *[By Grant Coffey grant.cofffey@ttu.edu Ed. Melissa Clark]*

Tracy Kennedy
NDBA General Counsel

Role of NDBA General Counsel

NDBA's general counsel serves as the attorney for the association. Although Tracy is pleased to be able to serve as a resource for NDBA members in responding to their questions, she is providing general information, not legal advice. Banks must obtain legal advice from counsel who has been retained by the bank to represent the bank's interests in a specific matter.

To contact Tracy Kennedy, NDBA General Counsel, call 701.772.8111 or email at tracy@ndba.com.