

Shook, Hardy & Bacon Bankruptcy & CREDITORS' RIGHTS GROUP

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Good News for National Banking Associations

On January 17, 2006, the U.S. Supreme Court issued an opinion that clarified the citizenship of national banks. In *Wachovia Bank, N.A. v. Schmidt*, 126 S. Ct. 941 (2006), the Court held that a national banking association was a resident only of the state in which its main office is located. The Court rejected the contrary view that the banks are citizens of every state in which they maintain a branch.

The Problem: Wachovia Bank, N.A. is a national bank with its main office in Charlotte, North Carolina. Wachovia operates branches in several states, including South Carolina. The plaintiff and other South Carolina residents filed a class action lawsuit against Wachovia in a South Carolina state court. Under federal law (28 U.S.C. § 1348), national banks are "deemed citizens of the States in which they are respectively located." Wachovia asserted it was only a "citizen" of North Carolina, meaning the parties are diverse (from different states) such that Wachovia was entitled to have the case transferred from state court to federal district court. Among reasons the bank wanted to be in federal court likely was the fact it was seeking to force arbitration of the dispute, and federal courts are more likely than state courts to enforce arbitration clauses. The Fourth Circuit Court of Appeals disagreed with the bank, concluding that national banks are "located" in every state in which the bank operates a branch, and thus the federal district court lacked diversity jurisdiction over the dispute. The U.S. Supreme Court accepted the appeal because of the differing views among appellate courts.

Why Is the Case Important? The U.S. Supreme Court rejected the Fourth Circuit's restrictive interpretation of section 1348. The Court held that a national bank is a citizen *only* of the state designated in its articles of association as its main office, and thus the parties were diverse. This greatly enhances national banks' access to federal court. Also, because federal courts are more likely than state courts to enforce arbitration clauses, the decision has the effect of strengthening arbitration as a way to resolve disputes and eliminate class actions.

Bankruptcy & Creditors' Rights Group

The Bankruptcy & Creditors' Rights Group of Shook, Hardy & Bacon L.L.P. specializes in all aspects of bankruptcy and creditors' rights under U.S. law. If you wish to discuss any of the articles in this newsletter with us or find out more about our bankruptcy and creditors' rights practice, please call us.

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