ELEVENTH CIRCUIT SEEKS FLORIDA SUPREME COURT GUIDANCE ON FRAUDULENT TRANSFERS AND PROCEEDINGS SUPPLEMENTARY

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In *Saadi v. Maroun*, et al., No. 22-11020, 2025 WL 3002380 (11th Cir. Oct. 27, 2025), the Eleventh Circuit certified several questions of Florida law concerning fraudulent transfers and proceedings supplementary to the Florida Supreme Court. The appeal arose from a judgment creditor's challenge to an order granting summary judgment in favor of the judgment debtor and his limited liability company (LLC) on fraudulent transfer claims asserted through proceedings supplementary.

The dispute stems from a 2009 $90,000 jury verdict obtained by Saadi on his defamation claim against Maroun. After unsuccessful collection efforts, Saadi asserted that—nearly nine years later—he discovered facts supporting the initiation of proceedings supplementary under Fla. Stat. § 56.29. He alleged that a non-party wired nearly $300,000 into Maroun's personal bank account, which Maroun used to purchase a condominium titled in his LLC's name and to pay personal expenses. Saadi sought and obtained permission from the District Court to pursue an impleader action for fraudulent transfers against the LLC, and he subsequently filed the operative second amended complaint.

That complaint asserted actual and constructive fraudulent transfer claims under Fla. Stat. §§ 725.105(1)(a)–(b), 726.106(1)–(2), and § 56.29(3)(b), which authorizes courts to void transfers of personal property made to delay, hinder, or defraud creditors. The District Court granted summary judgment for Maroun and the LLC, holding that: (i) Counts II and III, brought under Chapters 725 and 726, were time-barred under § 726.110, and Saadi failed to establish any basis for tolling under § 95.051; and (ii) Count I, brought under § 56.29(3)(b), failed because the condominium was not "personal property" and the transferred funds were not identifiable. The court further concluded that the actual fraudulent conveyance claim was time-barred for the same reasons.

On appeal, the Eleventh Circuit certified five questions to the Florida Supreme Court. The first three asked:

Whether a money judgment is available under § 56.29(3)(b);

Whether a judgment creditor may recover fraudulently transferred funds under § 56.29(3)(b) and, if so, whether the funds must be identifiable; and

Whether the 2014 amendment to § 56.29—which provides that fraudulent transfer claims brought in proceedings supplementary "are subject to chapter 726"—applies retroactively.

In framing these questions, the Eleventh Circuit highlighted conflicting appellate decisions, including McGregor v. Fowler White Burnett, P.A., 332 So. 3d 481 (Fla. 4th DCA 2021), and Rosenberg v. U.S. Bank, 360 So. 3d 795 (Fla. 3d DCA 2023).

The fourth and fifth certified questions concern tolling under Florida law. Specifically, the Eleventh Circuit asked:

Whether claims brought under Florida's fraudulent transfer statute are subject to the tolling provisions of § 95.051; and

Whether fraudulent concealment of the identity of the tortfeasor constitutes a valid basis for tolling under § 95.051(1)(c).

To distinguish between statutes of limitations and statutes of repose such as § 726.110, the Eleventh Circuit quoted *Hess v. Philip Morris USA, Inc.*, 175 So. 3d 687, 695 (Fla. 2015): statutes of limitations bar actions after a time period measured from accrual, while statutes of repose bar actions after a period measured from a specific act, extinguishing the cause of action entirely.

The District Court had reasoned that § 95.051 does not toll the statute of repose and that Florida courts recognize tolling for fraudulent concealment of the tort but not concealment of the tortfeasor's identity. It also found no evidence that Maroun concealed the alleged transfers.

As is standard when certifying questions, the Eleventh Circuit noted that the Florida Supreme Court has discretion whether to accept the questions and may restate or refine them as needed.

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