

Wiley Represents Law Firm Nagle & Zaller in a Certified Question Proceeding in the Maryland Court of Appeals

August 12, 2022

Wiley, a preeminent Washington, D.C. law firm, successfully represented law firm Nagle & Zaller in a certified question proceeding in the Maryland Court of Appeals. The certified question concerned whether a law firm, like Nagle & Zaller, that represents HOAs in negotiating and administering repayment plans with homeowners who owed delinquent debts are “in the business of making of loans” and thus subject to the Maryland Consumer Loan Law (MCLL).

The court concluded that, “a law firm that prepares promissory notes or undertakes debt collection activity on behalf of a HOA client is not subject to the MCLL because it is not a ‘lender’ that is ‘engaged in the business of making loans’ under the provisions of the MCLL. Rather, a law firm is in the business of providing legal or debt collection services to its clients.” The court’s decision extended beyond the certified question, holding also “that a HOA that extends a payment plan for the repayment of delinquent HOA assessments is not ‘in the business of making loans’ and, therefore, not subject to the MCLL.” The court emphasized that holding otherwise would lead to “illogical and unreasonable results” because it would mean that “any business or organization that offers a payment plan for the repayment of a debt in an amount of \$25,000 or less—such as a HOA, physician, hospital, or law firm—would need to be licensed under [the MCLL].”

The court’s decision resolves an important question of first impression that affects all businesses and professionals extending credit in Maryland as “an ancillary function” of their operations. It confirms

Related Professionals

Richard A. Simpson
Partner, Deputy General Counsel
202.719.7314
rsimpson@wiley.law
Kimberly A. Cereijo
Partner
202.719.7326
kcereijo@wiley.law
Elizabeth Fisher
Associate
202.719.4526
eefisher@wiley.law

Practice Areas

Insurance

that the MCLL “is intended to regulate the consumer lending industry,” not any and every business that might extend credit to customers as part of its broader mission.

Richard A. Simpson acted as lead attorney in the Maryland Court of Appeals representing Nagle & Zaller. Simpson’s oral argument can be viewed [here](#). Wiley attorneys Kimberly A. Ashmore and Elizabeth E. Fisher also advised on the matter, along with co-counsel Shirlie N. Lake and Alex V. Cranford of Eccleston and Wolf, P.C.