

SUPREME COURT OF ARKANSAS

No. 11-1013

JACK BOYAJIAN

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered May 17, 2012

APPEAL FROM THE PULASKI
COUNTY CIRCUIT COURT,
[NO. CV2009-4928]HONORABLE TIMOTHY DAVIS
FOX, JUDGEREVERSED AND DISMISSED.**JIM HANNAH, Chief Justice**

Jack H. Boyajian appeals an order of summary judgment finding him liable for violating the Arkansas Deceptive Trade Practices Act (ADTPA).¹ The judgment imposed a civil penalty of \$194,000 for 776 violations and enjoined further similar conduct.² Boyajian asserts, among other issues on appeal, that the ADTPA is inapplicable to an attorney collecting on debts in the course of the practice of law. We agree, and because this issue is dispositive of this appeal, we do not address the remaining issues Boyajian presents. Our jurisdiction is pursuant to Arkansas Supreme Court Rule 1-2(b)(1), (5) (2011).

Boyajian was the sole shareholder of JBC Legal Group, P.C., and majority shareholder

¹See Ark. Code Ann. § 4-88-101 to -115 (Repl. 2001 & Supp. 2007).

²The complaint named as defendants JBC Legal Group, P.C., Boyajian Law Offices, P.C., and Jack H. Boyajian. Judgment was entered as to all three defendants; however, only Jack H. Boyajian has appealed the judgment.

of Boyajian Law Offices, P.C. Boyajian is a licensed attorney in California, and both JBC and Boyajian Law Offices were law offices organized as corporations under California law. According to Boyajian's affidavit, Boyajian and the two law offices were engaged by clients seeking recovery of debts from individuals. Boyajian averred that the two law offices "brought hundreds of lawsuits in various jurisdictions throughout the United States," but no suits were ever filed in Arkansas. Boyajian's practice apparently involved collections on dishonored checks, telecom debts, and medical-treatment debts.

On December 18, 2007, the State of Arkansas, through Attorney General Dustin McDaniel, brought a consumer-protection complaint asserting violations of the ADTPA. The State sought an order requiring restitution of funds collected, an award of a civil penalty under the ADTPA, an order requiring payment of the State's litigation costs and fees, and an injunction requiring compliance with the ADTPA. On June 16, 2011, the circuit court entered summary judgment finding violations of the ADTPA, assessing a civil penalty of \$194,000, and enjoining the defendants from conducting business in Arkansas until the civil penalty was paid. Defendants were also enjoined from further conduct in violation of the ADTPA.

An appeal from an order of summary judgment typically concerns the issue of whether a material question of fact is left unanswered; however, the issue presented in this appeal involves the interpretation of the ADTPA, which is a question of law decided by this court *de novo*. See *Bennett & Deloney, P.C. v. State*, 2012 Ark. 119, ___ S.W.3d ___. Boyajian argues that, because his conduct in debt collection was carried out in the practice of law, the

ADTPA is inapplicable. In *Bennett*, this court stated that “the ADTPA has no application to the practice of law by attorneys.” *Bennett*, 2012 Ark. 119, at 6, ___ S.W.3d at ___. As in *Bennett*, Boyajian engaged in the practice of law in undertaking debt collections. Because Boyajian was engaged in the practice of law at the time of the alleged acts, the ADTPA is not applicable. See *Bennett*, 2012 Ark. 119, at 7, ___ S.W.3d at ___ (citing *Campbell v. Asbury Auto., Inc.*, 2011 Ark. 157, ___ S.W.3d ___; *Born v. Hosto & Buchan, PLLC*, 2010 Ark. 292, ___ S.W.3d ___; *Preston v. Stoops*, 373 Ark. 591, 285 S.W.3d 606 (2008)). The practice of law cannot be regulated by an act of the General Assembly because the regulation of the practice of law is within the exclusive jurisdiction of the judiciary. See *Stoops*, 373 Ark. at 594, 285 S.W.3d at 609.

Reversed and dismissed.