[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 20-11364

D.C. Docket No. 3:17-cv-00022-DHB-BKE

LIZZIE DAVIS,
Individually and on Behalf of all Others Similarly Situated,
DENNIS GREEN,
Individually and on Behalf of all Others Similarly Situated,
JOHNNY MOODY,
Individually and on Behalf of all Others Similarly Situated,
JOHN SUBER,
Individually and on Behalf of all Others Similarly Situated,
SHIRLEY WILLIAMS,
Individually and on Behalf of all Others Similarly Situated,
PAMELA DAVIS,
Individually and on Behalf of all Others Similarly Situated,

Plaintiffs - Appellants,

versus

OASIS LEGAL FINANCE OPERATING COMPANY, LLC,
OASIS LEGAL FINANCE, LLC,
OASIS LEGAL FINANCE HOLDING COMPANY, LLC,
THL CREDIT, INC.,

Defendants - Appellees.

Appeal from the United States District Court
for the Southern District of Georgia

(May 20, 2021)

Before WILLIAM PRYOR, Chief Judge, LUCK, and ED CARNES, Circuit Judges.

PER CURIAM:

This is an appeal by the plaintiffs from the district court's judgment on the pleadings for the defendants. The litigation arose from a "Nonrecourse Purchase Agreement" in which the defendants purported to purchase an ownership interest in or an amount of any proceeds the plaintiffs might recover in their individual personal injury lawsuits against other defendants. The parties and district court are aware of the pleading and procedural particulars, and we are writing only for them. So we will leave out the details and focus on how we resolve the issues raised in this appeal and the grounds for doing so.

The plaintiffs' claims that the agreements in question violate Georgia's Payday Lending Act (PLA) and its Industrial Loan Act (ILA) are foreclosed by the Georgia Supreme Court's decision in Ruth v. Cherokee Funding, LLC, 820 S.E.2d 704 (Ga. 2018). Those are unmistakably state law issues, and the law of a state unmistakably is what the state supreme court says it is. United States v. Davis, 875 F.3d 592, 597 (11th Cir. 2017); United States v. Howard, 742 F.3d 1334, 134 (11th

Cir. 2014); Morrison v. Allstate Indem. Co., 228 F.3d 1255, 1266 (11th Cir. 2000). We are bound to follow the decision in Ruth that this type of agreement in which the repayment obligation is limited and contingent is not a loan for purposes of the PLA or ILA. Ruth, 820 S.E.2d at 709–11. The district court did not err in granting judgment on the pleadings in favor of the defendants on those claims.

Nor did the district court err in denying on futility grounds the plaintiffs' motion for leave to amend their complaint. They wanted to allege that because of the "extremely high interest rates," the defendants "cannot lose money in the aggregate," hence the contingency is illusory, hence the agreements are loans, hence they are covered by Georgia's PLA. (Their proposed amended complaint would have dropped the ILA count altogether.)

But, as the district court explained, whether the repayment obligation is contingent must be examined on an individual plaintiff, agreement-by-agreement basis. That is a truer reading of the Ruth decision than the one the plaintiffs put forward. It is undisputed that if a particular plaintiff does not win a judgment, obtain an award, or secure a settlement in her case, the defendants get nothing. And, taking the plaintiffs' aggregate view position to its logical conclusion, the only way the defendants could lawfully enter into this type of agreement is by ensuring that they would lose money in the aggregate, forcing them out of business. That might please the plaintiffs or their attorneys, and it might even be

good public policy, but it is a policy decision that will have to be made by the Georgia Legislature or Georgia Supreme Court.

The other amendment the plaintiffs wished to make is one alleging that the agreements violated Georgia's prohibition on assigning personal injury claims. They sought to add that claim even though the agreements explicitly state that the defendants are not entitled to any control over the plaintiffs' personal injury claims and give the defendants an interest in only the proceeds of those claims. The plaintiffs' unlawful assignment argument is based entirely on American Chain & Cable Co. v. Brunson, 278 S.E.2d 719 (Ga. Ct. App. 1981). They contend that decision holds any agreement to loan money against the recovery from a personal injury lawsuit is illegal. But it doesn't hold that.

American Chain involved interest-free loans that three alleged tortfeasors in a personal injury case made to the plaintiffs in exchange for covenants not to sue. 278 S.E.2d at 720. The loans were to be repaid only out of whatever the plaintiffs recovered by suing the other two (non-lending) alleged tortfeasors. Id. The court held that the loaned funds should be treated not as loans but as absolute payments to be set off against any judgment. Id. at 722–23. The present case has nothing to do with payments from tortfeasors to plaintiffs, much less with some tortfeasors attempting to shift their responsibility for paying a potential judgment onto other tortfeasors. An amendment based on the American Chain decision would have

done the plaintiffs no good. It, like the other proffered amendment, would have been futile.

AFFIRMED.