
Supreme Court Restricts Bankruptcy Courts' Jurisdiction to Consider Certain Counterclaims

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On June 23, 2011, in *Stern v. Marshall*, the Supreme Court addressed whether a bankruptcy court had the statutory and constitutional authority to adjudicate to final judgment a state law tort counterclaim against a creditor. Although the Court unanimously agreed that 28 U.S.C. § 157 gave the bankruptcy court the statutory authority to resolve such and similar claims, the Court split 5-4 in holding that Congress' delegation of that authority was unconstitutional. This decision, which affirmed the decision of the United States Court of Appeals for the Ninth Circuit, implicitly curbed the authority of bankruptcy judges to issue final, binding judgments on issues seemingly unrelated to federal law or federal regulatory schemes, even though such judges often adjudicate such issues.

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