

Ortiz v. Aurora Health Care, Inc. (In re Ortiz), No. 10-3465 (7th Cir. Dec. 30, 2011)

January 6, 2012 by [Sharon J. Richardson](#) and [Kelly A. Sinclair](#)

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The Seventh Circuit Court of Appeals dismissed the debtors' appeal of the bankruptcy court's dismissal of the debtors' state law counterclaims because the bankruptcy court lacked authority to enter a final judgment on the debtors' counterclaims, and without a final judgment, there was no basis for appellate jurisdiction.

Aurora Health Care, Inc. filed, in various bankruptcy cases, proofs of claims that disclosed the debtors' medical treatment information. Two groups of debtors filed separate class action lawsuits against Aurora, alleging that because the proofs of claims were public, Aurora was in violation of a Wisconsin statute that prohibits disclosure of health care records without the individual's consent. The bankruptcy court dismissed the debtors' complaints for failure to state a cause of action and the Seventh Circuit granted the debtors' motion for direct appeal.

The court of appeals determined that the debtors' counterclaims against Aurora constituted core proceedings for two reasons. First, they were claims "arising in a case under title 11" because they were predicated on Aurora's participation in the debtors' bankruptcy cases, and thus, would not exist outside of the bankruptcy. Second, the debtors' counterclaims were core proceedings under 28 U.S.C. §157(b)(2)(C), which includes as core "counterclaims by the estate against persons filing claims against the estate."

However, notwithstanding the nature of the debtors' counterclaims as core, the court of appeals concluded that the bankruptcy court lacked constitutional authority to enter a final judgment on them. The court rejected Aurora's argument that the bankruptcy court had final adjudicative authority because "[e]very court . . . has the authority to resolve disputes claiming that the way one party acted in the course of the court's proceeding violated another party's rights."^[i] The court considered this argument flawed because it assumed that bankruptcy judges are akin to Article III judges, and the difference between bankruptcy judges and Article III judges went to the heart of the Supreme Court's decision in *Stem v. Marshall*.^[ii] "Article III could neither serve its purpose in the system of checks and balances nor preserve the integrity of judicial decision making if the other branches of the Federal Government could confer the Government's 'judicial power' on entities outside Article III."^[iii]

The Seventh Circuit found that the debtors' counterclaims could not be finally determined by the non-Article III bankruptcy court because they were "ordinary state-law claims." The dispute involved private parties, whose rights did not derive from a federal statute or implicate a particularized area of the law suited for determination by a specialized federal administrative agency. Moreover, despite the factual overlap between Aurora's proofs of claims and the debtors' counterclaims, adjudication of Aurora's proofs of claims would not "necessarily resolve" the debtors' counterclaims.^[iv] Because the bankruptcy court lacked authority to enter a final judgment, there was no basis for appellate jurisdiction and the appeals were dismissed.

[i] *Ortiz v. Aurora Health Care, Inc. (In re Ortiz)*, No. 10-3465, at * 13 (7th Cir. Dec. 30, 2011).

[ii] *Stern v. Marshall*, _ U.S. _, 131 S. Ct. 2595 (2011).

[iii] *Ortiz*, No. 10-3465, at * 13-14 (quoting *Stern*, _ U.S. at _, 131 S. Ct. at 2609).

[iv] *Id.* at * 15 (quoting *Stern*, _ U.S. at _, 131 S. Ct. at 2617).