

Carter Ledyard Wins Appeal and Summary Judgment Dismissal for C6 Capital Funding LLC in Usury Suit

January 26, 2022

Carter Ledyard achieved a series of wins on appeal and in the trial level court for merchant cash advance (MCA) funder C6 Capital Funding LLC (C6) in a lawsuit by merchants seeking to vacate a judgment by confession and MCA agreement on usury grounds.

On November 12, 2021, the Appellate Division, Fourth Department, granted Carter Ledyard's appeal of a lower court order that had granted the merchants a preliminary injunction against C6's enforcement of the judgment. The lower court's preliminary injunction decision had been cited as adverse precedent against MCA funders in other cases.

The Appellate Division agreed with Carter Ledyard's arguments that the lower court had abused its discretion in granting the preliminary injunction, since the merchants' claim that they would be harmed by having to pay the judgment amount prior to a final determination of the lawsuit against C6 did not amount to irreparable harm warranting a preliminary injunction. As a result, the Appellate Division vacated the preliminary injunction.

On January 18, 2022, an Ontario County Commercial Division Justice issued a decision in the lower court proceedings (which had continued while the appeal was pending) on the merchants' motion for summary judgment on their usury claims. The court acknowledged that its prior determination on its preliminary injunction decision was not binding at the summary judgment juncture.

The court not only denied the merchants' motion for summary judgment, but on its own accord granted summary judgment to C6 and dismissed the usury claims on the ground that they are barred by a 1-year statute of limitations. The litigation was filed more than one year after the MCA agreement was signed, the merchants stopped remitting the sold portion of their receivables to C6 and the judgment was entered, making the usury claims time barred.

As a result of the court's decision, C6 can once again fully enforce its judgment against the merchants.

Carter Ledyard attorneys Jeffrey S. Boxer and Jacob H. Nemon represented C6.

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