

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ANDREW BENNETT, et al.,)
)
Appellants,)
v.)
)
JEFFERSON COUNTY,)
ALABAMA)
)
Appellee.)

Civil Action Number
2:14-cv-00213-AKK

ORDER

This case is one of the appeals from the bankruptcy proceedings that addressed Jefferson County’s declaration of bankruptcy in 2011. The sole issue remaining in this case is whether the bankruptcy court properly disallowed the Appellant’s claim for \$1.63 billion. For the reasons explained below, the court finds that this issue is barred by the doctrine of res judicata, and that this case is due to be dismissed.

In the bankruptcy proceedings below, the Appellants filed a proof of claim for \$1.63 billion. Doc. 71-1 at 126–29. Basically, the Appellants’ claim alleged that the County had colluded with lenders by engaging in various transactions financing the County’s sewer debt that generated large fees for the lenders and increased sewer rates for the public. *See id.* at 130–37. The County filed an objection to the proof of claim, arguing that the claim was not permissible. *Id.* at 92–107.



The bankruptcy court held a hearing on the claim, after which it entered an order sustaining the County's objection "on the grounds that the Claimants have stated no right to payment or any other affirmative recovery against the County under Alabama law," and "in the alternative, that the value of any claim asserted by the Claimants is valued and allowed in the amount of zero dollars." Doc. 1-1 at 2. The bankruptcy court thus "disallowed" the claim "in [its] entirety." *Id.* In response, the Appellants filed a motion to reconsider, which the bankruptcy court denied, doc. 1-13, and the Appellants filed a notice of appeal, doc. 1-3 at 3.

Meanwhile, the bankruptcy court considered the Chapter 9 Plan of Adjustment for Jefferson County. Doc. 7-30. The plan broadly releases "All Sewer Debt-Related Issues." Doc. 7-29 at 68. The plan defines the sewer released claims as:

including any and all Claims or Causes of Action challenging the validity or enforceability of the Sewer Warrants or the issuance thereof . . . or any Sewer System rates or charges established or collected by the County in connection with the issuance or the payment of debt service in respect of the Sewer Warrants.

Id. at 29–30. The plan says that it represents the final settlement of all such claims:

[T]he Plan accordingly represents a full, final, and complete compromise, settlement, release, and resolution of, among other matters, disputes and pending or potential litigation (including any appeals) regarding the following: (i) the allowability, amount, priority, and treatment of the Sewer Debt Claims; (ii) the validity or enforceability of the Sewer Warrants; . . . (iv) the appropriate rates that have been or can be charged to users of the Sewer System; . . . and (xiv)

other historical and potential issues associated with the Sewer System and its financing.

Id. at 68–69. The plan also specifically enjoins the Appellants from pursuing their claim:

From and after the Effective Date, the County, any Person seeking to exercise the rights of the County (including in respect of the County’s Causes of Action purportedly asserted in the Bennett Action) . . . are permanently and completely enjoined from commencing or continuing any action, directly or indirectly and in any manner, to assert, pursue, litigate, or otherwise seek any recovery on or on account of such Sewer Released Claims.

Id. at 90–91.

The bankruptcy court subsequently confirmed the plan. Doc. 7-30. The confirmation order specifically notes that the plan releases the Appellants’ claim:

The aggregate effect of the comprehensive compromises, settlements, and other provisions of the Plan is . . . to settle and release all Causes of Action purportedly asserted, or that could be asserted, in the . . . Bennett Action . . . because those Ratepayer Claims constitute and are encompassed within the Sewer Released Claims that are resolved and forever released by the Plan.

Doc. 7-30 at 21. The confirmation order continues to say that even if the Appellants’ claim did not come within the Sewer Released Claims, the terms of the plan moot the harm asserted by the Appellants:

[T]o the extent that the Ratepayer Claims are not Sewer Released Claims, the comprehensive compromises, settlements, and other provisions of the Plan operate both to remediate the harm that would give rise to any claim for damages in the . . . Bennett Action (which are duplicative or derivative of the damages associated with [the] Sewer Released Claims belonging to the County that are released,

compromised, and settled pursuant to the Plan) and to moot the . . . Bennett Action.

Id. at 21–22. Finally, the bankruptcy court reiterated that it rejected the Appellants’ claim on the merits:

The Court finds that the legal theories and arguments underlying the Ratepayer Claims are deficient on the merits and that, to the extent not otherwise resolved or mooted pursuant to the Plan, the . . . Bennett Action shall be dismissed for failure to state cognizable claims against the defendants in such actions.

Id. at 24. Accordingly, the bankruptcy court ordered (again) that the Appellants’ claim “be deemed dismissed with prejudice in its entirety.” *Id.* at 64–65.

The Appellants pursued several appeals, one of which challenged the bankruptcy court’s plan and confirmation order. Ultimately, the Eleventh Circuit concluded that the Appellants’ appeal of the plan and confirmation order was equitably moot and remanded to this court for dismissal. *Bennett v. Jefferson Cty*, 899 F.3d 1240, 1254 (11th Cir. 2018).¹

The result is straightforward. The plan and confirmation order addressed the Appellants’ proof of claim and rejected it. The Appellants’ appealed the plan and confirmation order and lost. Consequently, the doctrine of res judicata bars the Appellants from bringing any further challenges to the plan and confirmation order, which is precisely what the Appellants are doing by pursuing their proof of claim.

¹ Appellants’ petition for a writ of certiorari was denied. *Bennett v. Jefferson Cty.*, No. 18-1018, 2019 WL 465193 (U.S. Mar. 4, 2019).

The Appellants' arguments for why this case is not barred by res judicata were recently rejected by another Eleventh Circuit decision. *See Bennett v. Jefferson Cty.*, -- Fed. App'x --, 2020 WL 3493402 (11th Cir. 2020).

Thus, the court concludes that this appeal from the bankruptcy court's decision to disallow the Appellants' proof of claim is barred by res judicata. This case is **DISMISSED WITH PREJUDICE**.

DONE the 30th day of July, 2020.



ABDUL K. KALLON
UNITED STATES DISTRICT JUDGE