

**Federal Court Fails to Find Federal Question Jurisdiction over Virginia Servicemember's Lawsuit**  
**By Jason Murphy | Oct. 30, 2019 | News and Alerts**

In *Griffiths v. Nationstar Mortgage, LLC et al*, October 10, 2019, EDVA at Richmond (Hudson), the servicemember Borrower brought a claim against the Mortgagee premised upon Virginia's state version of the Servicemember Civil Relief Act (SMCRA), Virginia Code § 44-102.1. The Borrower alleged that his rights were violated and commenced suit in the Circuit Court for Caroline County, Virginia. The Mortgagee removed the case to the United States District Court for the Eastern District of Virginia in Richmond, Virginia under federal jurisdiction arguing that the state-based claim cannot proceed without reviewing, interpreting and applying federal law. The Mortgagee quoted specific language contained in the codified Virginia law to support its argument that the Mortgagor must look to federal statutory law to define active duty. [Click Here](#) for the decision.

The Court referred to the 4<sup>th</sup> Circuit case of *Burrell v. Beyer Corp*, 918 F. 3d 372 (4<sup>th</sup> Cir. 2019) for guidance in the analysis and discussed the narrow application of federal law. In its decision, the Court in *Griffiths* took the position that so as long as there is even one theory posited by a plaintiff that does not require an interpretation of a federal law, resolution of the federal law question is not necessary to the disposition of the case. *Id.* The Court wrote "While this case is closely moored to the SCRA, it principally turns on whether the Defendant mortgagor lender was in compliance with the Act during Plaintiff's period of active military service" *Id.* at p. 4. The Court found that the lawsuit did not involve a disputed question of federal law as the central issue was whether the SCRA was violated under Virginia law. The Court offered further clarification by stating that simply because the claim in question raised a federal issue such as the qualification for SCRA protection, it is insufficient to rise to the level of a substantial question of federal law. The decision pointed out that in the subject case both Virginia and the federal government provide parallel remedies. Thus, there was no preemption. Given that the Mortgagor looked to Virginia law, the case was remanded back to the Caroline County Circuit Court.

This case underscores the fact that the merely because a case is closely involved with and relies upon federal law, federal courts in the United States District Court for Eastern District of Virginia will not automatically permit removal based upon federal jurisdiction when the cause of action case arises under a state law, not federal law.

Please contact the undersigned with any questions.

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