

The Eleventh Circuit Court of Appeals Affirmed Dismissal

The Eleventh Circuit Court of Appeals has affirmed the dismissal of a patronage capital credit putative class action against Central Alabama Electric Cooperative on the ground that it failed to state a claim upon which relief could be granted under Alabama cooperative law. The unanimous panel decision held that “While [Ala. Code] § 37-6-20 requires that excess revenues be distributed, Caver’s claims ignore how § 37-6-20 provides that the manner of distribution of patronage refunds is determined by a cooperative’s bylaws. To be clear, our narrow holding here is that § 37-6-20 does not require CAEC to distribute patronage refunds only in a cash payment manner.”

The court also held that CAEC’s removal of the case to federal court under the federal officer removal statute (28 U.S.C. § 1442(a)(1)) was proper.

Rushton Stakely shareholders Dennis Bailey, Mac Freeman and Evans Bailey represented defendant Central Alabama Electric Cooperative at the district court level where they secured a dismissal and briefed the appeal before the Eleventh Circuit. Dennis Bailey presented oral argument to the panel for the cooperative.

The published opinion was authored by Circuit Judge Frank M. Hull with Circuit Judge Gerald B. Tjoflat and District Judge Carlos E. Mendoza, sitting by designation, joining.

The appellants were represented by Oscar M. Price, IV of Price Armstrong LLC and Wilson F. Green of Fleenor & Green, LLP.

Amicus briefs were submitted on behalf of the Florida Electric Cooperatives Association by Lawrence J. Hamilton, Christina Schwing and Laura B. Renstrom of Holland & Knight LLP and for

Dixie Electric Cooperative and Pioneer Electric Cooperative by Philip H. Butler, Robert E. Poundstone IV, George R. Parker and Marc James Ayers of Bradley Arant Boult Cummings, LLP.