O'NEILCANNON
HOLLMAN DEJONG & LAING S.C.

# "THE JUDGMENT IS AFFIRMED BY AN EQUALLY DIVIDED COURT"

With a one sentence opinion, the United States Supreme Court issued its first deadlocked ruling following the death of Justice Antonin Scalia. The ruling came in a creditors' rights case that languished before the Court for some time, hinting of a divided Court on the issue prior to Scalia's death.

In *Hawkins v. Community Bank of Raymore*, the United States Court of Appeals for the Eighth Circuit addressed a dispute between a bank and a developer that defaulted on its loans from the bank. The two members of the developer and their spouses guarantied the loans. The spouses of the guarantors of the loan sued the bank, alleging they were required to guaranty the loan only because of their spousal status and, therefore, were discriminated against pursuant to the Equal Credit Opportunity Act ("ECOA"). The district court granted summary judgment to the bank, holding that the spouses were not "applicants" who gained protections of the ECOA. The Eighth Circuit affirmed, reasoning the plain language of the ECOA provides that a person is an "applicant" only if he or she requests credit, but a guarantor does not, simply by executing a guaranty, request credit, and, therefore, the marital status protections of the ECOA did not apply. Conflicting authority exists in the Sixth Circuit.

The Supreme Court granted the petition for writ of certiorari in March of 2015, and oral argument was held in October of 2015. The Court had not issued a decision as of Scalia's death on February 13, 2016, indicating a potentially close decision.

The one sentence decision indicating the deadlock was issued on March 22, 2016. When the Supreme Court is deadlocked at 4–4, the decision of the lower court stands, but it does not have precedential value. Therefore, the bank remained victorious over the spouses, and the circuit split remains unresolved.

Although certainly short and sweet, the Court's first deadlocked decision following the death of Justice Scalia speaks volumes on what future United States Supreme Court decisions hold.