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LEGAL UPDATES

The Clock is Ticking: Bankruptcy Orders Denying Relief from the Automatic Stay are Final and Immediately Appealable

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In civil litigation, a “final decision” for purposes of appeal is normally limited to an order that resolves the entire case. In general, a ruling cannot be appealed unless it ends the litigation. A bankruptcy case, however, often encompasses many *individual* controversies. As the United States Supreme Court recently ruled, a bankruptcy court’s order definitively denying a creditor’s request for relief from the automatic stay is a “final decision.” Consequently, the clock on the creditor’s time to appeal starts ticking as soon as the order is entered.

In *Ritzen Group, Inc. v. Jackson Masonry, LLC*, a creditor sued the debtor for breach of contract in state court. After the debtor filed for bankruptcy, the creditor filed a motion seeking relief from the Bankruptcy Code section 362(a) “automatic stay” to proceed with trial in the state court. The bankruptcy court denied the motion, and creditor did not file an appeal within 14 days after entry of the order, as prescribed by the Federal Bankruptcy Rules. Instead, creditor filed a proof of claim against debtor’s bankruptcy estate, which the bankruptcy court ultimately disallowed after deciding the merits of creditor’s breach of contract claim. Only then did creditor appeal the order denying its motion for relief from stay. The district court rejected creditor’s appeal because it was late, and the Sixth Circuit Court of Appeals affirmed.

On appeal, the Supreme Court ruled against the creditor. As the Court explained, creditor’s motion for relief from stay constituted a discrete controversy which had been decided with finality upon entry of the bankruptcy court’s order. While entry of the order did not resolve the entire bankruptcy case, it did fully resolve creditor’s request to have its litigation proceed in a different forum. The Court concluded that the order denying creditor’s motion for relief from stay was therefore final and immediately appealable, and affirmed the lower courts’ rejection of creditor’s untimely appeal.

How will this decision impact creditors? Many creditors seek relief from the automatic stay in bankruptcy, whether to perfect a lien against a debtor’s property, to liquidate the amount of a claim, or as here, to proceed with litigation commenced in a non-bankruptcy forum before the debtor filed for bankruptcy. Irrespective of the many reasons why a creditor might seek relief from stay, creditors should be aware that the clock starts to tick on the time to appeal a

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bankruptcy court's order denying relief from stay *immediately* upon entry of that order. Our experienced team of creditors' rights attorneys have the knowledge and expertise to help with these and other bankruptcy issues.