

Supreme Court Rules "Now or Never" to Appeal Stay Relief Denials

Article By:

Lance P. Martin

Under the [Bankruptcy Code](#), filing a bankruptcy petition automatically halts efforts to collect pre-petition debts from the debtor outside of bankruptcy.

This is the "automatic stay" and it is a command, not a suggestion. If a creditor wants to continue a lawsuit against a debtor outside of bankruptcy, repossess collateral, terminate a lease, set off debts, or pursue other collection efforts, it first must obtain stay relief from the bankruptcy court.

What happens if the bankruptcy court denies stay relief? According to the United States Supreme Court's unanimous decision in *Ritzen Group, Inc. v. Jackson Masonry, LLC*, decided on January 14, 2020, a bankruptcy court's order unreservedly denying relief from the automatic stay is a final, immediately appealable order. That means that the party on the losing side can appeal the decision to the district court. But it also means that if the party does not appeal within 14 days, it loses its right to appeal.

Ritzen Group, Inc. contracted with Jackson Masonry, LLC to buy land in Tennessee. The deal never closed and Ritzen sued Jackson Masonry in Tennessee state court for breach of contract. Days before trial, Jackson Masonry filed bankruptcy under Chapter 11. Ritzen moved for stay relief in bankruptcy court, arguing the Chapter 11 filing was in bad faith and seeking an order allowing the state court trial to proceed. The bankruptcy court denied Ritzen's motion.

In bankruptcy, a party has 14 days to appeal a final order. Ritzen did not appeal. Instead, it filed a proof of claim. Before confirmation, the bankruptcy court found that Ritzen, not Jackson Masonry, had breached the purchase contract, denied Ritzen's proof of claim, and approved Jackson Masonry's plan of reorganization. Ritzen then filed two appeals, one for the denial of the stay relief motion and one challenging the court's resolution of the breach-of-contract issue.

The lower courts denied Ritzen's appeals. On the appeal of the stay relief motion, the courts said it was untimely because Ritzen had waited until after plan confirmation rather than appealing within 14 days of the order denying stay relief.

The Supreme Court affirmed the lower courts. It reasoned that bankruptcy is a wide-ranging umbrella proceeding with "an aggregation of individual controversies" underneath. When a

bankruptcy court order definitively disposes of a discrete dispute within the larger bankruptcy case, it is "final" for appeal purposes, triggering the 14-day appeal deadline. The Supreme Court held that the adjudication of a motion for relief from the automatic stay is one such discrete dispute.

The Supreme Court reasoned that automatic stay litigation occurs before and apart from the bankruptcy claim-resolution process. A creditor seeking stay relief must file a motion, notice interested parties, and hold a hearing before the bankruptcy court. At the hearing, through testimony and evidence, the creditor must prove "cause" or other specific conditions required by the Code. Because the bankruptcy court's decision "terminates a procedural unit separate from the remaining case," allowing (and requiring) immediate appeal will avoid delays and inefficiencies. If the bankruptcy court got it wrong, then immediate appeal will permit creditors to establish their rights expeditiously. The Supreme Court deemed this more favorable than requiring a creditor who loses a stay-relief motion to litigate their claims throughout the bankruptcy and then, at the end, appeal and seek a do-over of the entire case.

Creditors facing stay relief denial from the bankruptcy court should strategize their options. A creditor could request denial be without prejudice to its rights to bring the matter back before the bankruptcy court. This may be advantageous if, for instance, the creditor believes grounds supporting "cause" for stay relief may improve and it prefers a second look by the bankruptcy court to an appeal to district court. Conversely, if the creditor thinks the bankruptcy court got it wrong and wants review by a different court, then it should ask the bankruptcy court to designate the denial order "final" and then file its appeal before the 14-day deadline.

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