

Publications

"Client Alert: Bankruptcy Court Orders Denying Relief From the Automatic Stay Must Be Appealed Within 14 Days," February 17, 2020

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In most civil litigation, a party typically has no right to an appeal until the entire case is fully and finally decided as to all parties. The United States Supreme Court recently made clear, however, that bankruptcy litigation is different than most civil litigation when it unanimously held that a bankruptcy court's order denying relief from the automatic stay is a final appealable order. See *Ritzen Group, Inc. v. Jackson Masonry, LLC*, ___U.S.___, 205 L.Ed.2d 419, 422 (2020). Thus, applying Federal Rule of Bankruptcy Procedure 8002(a), an appeal from such orders must be filed within 14 days of the order's entry.

In making this ruling, the Supreme Court provided further guidance on what constitutes a "proceeding" within a bankruptcy case. In *Bullard v. Blue Hills*, the Court had previously explained that a bankruptcy case involves "an aggregation of individual controversies" and that a bankruptcy order is final when "they definitively dispose of discrete disputes within the overarching bankruptcy case." 575 U.S. 496, 135 S.Ct. 1686, 1692, 191 L.Ed.2d 621 (2015). Here, the Court determined that adjudication of a stay-relief motion is its own "proceeding" because it is noticed, heard, and decided separate and apart from the merits of creditors' claims.

The Court rejected an argument that its decision would lead to piecemeal litigation and appeals. Instead, the Court explained that its ruling would avoid, rather than cause delay, because it allows a quicker decision on whether a creditor may establish its rights outside of the bankruptcy process. If an order on a stay-relief motion was not appealable, a creditor that lost the motion would have to litigate its claims within the bankruptcy case, win on an eventual appeal at the end of the entire case, and then re-litigate its claims again outside of the bankruptcy process.

The *Ritzen Group* decision is especially relevant to mortgage lenders, equipment financiers, secured creditors and other creditors seeking stay relief in order to pursue non-bankruptcy remedies. The key takeaway from this recent decision is that creditors must quickly and timely appeal decisions denying their motion for relief from the

automatic stay to prevent waiver. Deadlines matter!

