

The Fourteen-Day Time to Appeal Applies to Orders Enforcing The Automatic Stay

Articles January 14, 2020

Today, the United States Supreme Court issued an opinion of interest to every debtor and creditor in a bankruptcy case as the decision involves the automatic stay. The appeal involved a bankruptcy court's order that enforced the automatic stay and whether that type of order is final so that it must be appealed within the 14 days permitted by Rule 8002 of the Federal Rules of Bankruptcy Procedure. The losing creditor waited months to appeal, the district court dismissed the appeal as untimely and the Sixth Circuit affirmed.

The Court of Appeals ruled: "An order denying stay relief terminates a proceeding, so it is final. In bankruptcy, parties must appeal final orders within fourteen days of the court's ruling. Fed. R. Bankr. P. 8002(a). Ritzen did not appeal the stay-relief denial within fourteen days. Thus, Ritzen's appeal is untimely." *In re Jackson Masonry, LLC*, 906 F.3d 494, 498 (6th Cir. 2018), cert. granted sub nom. *Ritzen Grp., Inc. v. Jackson Masonry, LLC*, 139 S. Ct. 2614, 204 L. Ed. 2d 263 (2019), and aff'd sub nom. *RITZEN GROUP, INC. v. JACKSON MASONRY, LLC*, No. 18-938, 2020 WL 201023 (U.S. Jan. 14, 2020).

The Supreme Court opinion was written by Justice Ginsburg for a unanimous court. The Court held that: "[A]djudication of a motion for relief from the automatic stay forms a discrete procedural unit within the embracive bankruptcy case" which "yields a final, appealable order when the bankruptcy court unreservedly grants or denies relief." See *Ritzen Group, Inc. v. Jackson Masonry, LLC*, Case Number 18-938, — U.S. — (Jan. 14, 2020).

If your client is dissatisfied with the bankruptcy court's determination granting or denying relief from stay, remember that the appeal period is 14 days from entry of the order on the docket.

For additional information contact Honorable (Ret.) Judith K. Fitzgerald.