Debtwire
An Acuris company

COURT: Supreme Court says appeals of bankruptcy court stay orders have to be speedy

14 January 2020 | 16:13 EST

The US Supreme Court held today that appeals of bankruptcy court orders on requests for stay relief must be made within 14 days of the order's issuance, a decision that is expected to speed up such disputes.

The unanimous decision, penned by Justice Ruth Bader Ginsburg, held that an order "unreservedly" denying a creditor relief from a bankruptcy stay constitutes a "final, immediately appealable order." The decision states that resolution of stay relief – which typically comes when a creditor wants to litigate a dispute outside of bankruptcy court but can't due to the stay automatically afforded debtors that file for bankruptcy – can have "large practical consequences" by giving the creditor an opportunity to handle its claim against a debtor outside of the traditional bankruptcy process.

A 14-day appeal window will allow creditors to quickly clarify their rights outside of a debtor's bankruptcy proceeding, rather than "disrupting the efficiency of the bankruptcy process," Justice Ginsburg wrote. As such, the court's findings "opened the door for more and earlier appeals in bankruptcy cases," Annette Jarvis of Dorsey & Whitney said today.

"Motions for relief from the stay are typically brought early in a bankruptcy case and often, as in this case, determine the forum for resolving a larger dispute. It is clear now that denial of these motions must be appealed if the forum decision is to be challenged," Jarvis said. However, she also noted that the court's decision could lead to some procedural confusion if a creditor files a new motion for stay relief in light of any changed circumstances in the case.

The court's findings should also serve as guidance for lawyers unfamiliar with bankruptcy court who nonetheless find themselves representing a creditor in a bankruptcy proceeding, according to Nancy Hendrickson, co-chair of Kaufman Dolowich & Voluck's Financial Services Practice Group.

"While this unanimous decision perhaps comes as no surprise to regular bankruptcy practitioners, it is a key practice pointer for attorneys who only occasionally have to foray into bankruptcy court. Most litigators at some point will be faced with a situation where a party files for bankruptcy and brings their case to a screeching halt, and thus will have at least passing knowledge of motions to lift the automatic stay," Hendrickson said today.

Hendrickson noted that the Supreme Court did not specify whether an order denying stay relief without prejudice also qualifies as "final and appealable," meaning it is important that judges issue such orders with prejudice, to avoid uncertainty.

PROPRIETARY
North America

Real Estate
USA

Issuer
Mid-Day Commentary

Other
Nelson Mullins Riley & Scarborough

The decision stems from a land sale that never went into effect. The would-be purchaser, Ritzen Group, Inc., sued the would-be seller, Jackson Masonry, LLC, in Tennessee state court over the collapsed deal. Days before a trial was set to begin, Jackson filed for Chapter 11 bankruptcy protection, according to court papers. The Chapter 11 filing automatically put the state court litigation on hold, prompting Ritzen's motion for relief from the stay.

A bankruptcy judge denied the motion. A federal district court later rejected Ritzen's appeal of the stay order, finding it was not timely filed as required under the Federal Rule of Bankruptcy Procedure. The US Court of Appeals for the Sixth Circuit affirmed the district court's decision.

The case is *Ritzen Group, Inc. v Jackson Masonry LLC*, case number 18-938, in the Supreme Court of the United States.

by Maria Chutchian

Related links:

Opinion