

By: Keith A. Langley



The analogy is that bankruptcy is substantial upfront with a long tail. The U.S. Supreme Court has now put even more substance upfront.

In 2020 the Court unanimously said that an order denying a creditor relief from the automatic stay on debt collection efforts was final and immediately appealable. There are issues to be considered in determining finality -for example is there anything left for the bankruptcy court to do, and do the parties have related substantive litigation still pending between them?

Accordingly the correct delineation of the dimensions of the bankruptcy proceeding is a matter of considerable importance. An issue arises when the bankruptcy court denies the stay relief without prejudice. When there are other aspects of the bankruptcy involved, the order denying relief from the stay may not be final and appealable. A complex analysis is required and disparate results can occur.

Unfortunately, the Bankruptcy Court's denial of the motion to lift stay of Ritzen Group was determined by the U.S. Supreme Court as final and therefore the appeal which came later was untimely. The 14 day appeal clock ran from entry of the order.



Texas • Florida
Oklahoma • Arkansas

Dallas

P.O. Box 94075
Southlake, Texas 76092
(214) 722-7160

Miami

1200 Brickell Avenue
Suite 1950
Miami, Florida 33131
(305) 961-1691

info@l-llp.com

www.langley.law

To "Go Green", our firm uses recyclable paper or ceramic cups and no longer uses Styrofoam cups. In addition, we have adopted a less-paper office environment.

We hope that these changes make big differences in the future.

Well done is better than well said.

- Benjamin Franklin



In this case, Ritzen Group sued Jackson regarding a land sale contract prepetition. The defendant Jackson then filed bankruptcy. Ritzen filed to lift the automatic stay to pursue Jackson. The Bankruptcy Court denied the motion. Ritzen Group did not appeal, instead filing a proof of claim which was denied by the Bankruptcy Court, which was then appealed. Too late said the Supreme Court. The denial order was final and accordingly Ritzen had only 14 days to follow an appeal.

Keith A. Langley is a Partner at Langley LLP and may be contacted at klangley@l-llp.com.

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