

COURT OF APPEALS OF MARYLAND

Klass v. Klass, 377 Md. 13

831 A.2d 1067 (2003) · No. No. 125, Sept. Term, 2002 · Decided September 8, 2003

SUMMARY

The Maryland Court of Appeals reviewed a divorce judgment involving alimony, child support, custody, attorney fees, a monetary award, and distribution of a retirement plan. It held that certain family-law determinations, including dissolution of marriage, custody, support, guardian ad litem fees, and attorney fees, were not barred by the Bankruptcy Code's automatic stay, while property-related aspects entered during the stay were void. The court also addressed the state court's authority to determine the effect of the federal bankruptcy stay.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Wilner; Bell, C.J.; Eldridge; Raker; Cathell; Harrell; Battaglia
JURISDICTION	Maryland
DECIDED	September 8, 2003
DOCKET	No. 125, Sept. Term, 2002
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Petition for certiorari from an unreported decision of the Court of Special Appeals affirming a Circuit Court for Frederick County divorce judgment. The Maryland Court of Appeals reviewed the effect of a Chapter 7 bankruptcy automatic stay on the divorce proceedings and whether the appellant received adequate notice of trial.
STANDARD OF REVIEW	De novo review of the legal effect of the federal automatic stay and whether the challenged state-court proceedings were legally permissible; review of the notice issue for prejudice and adequacy.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Lawrence Melvin Klass v. Kathy Ann Hartman Klass

TOPICS

- automatic stay
- bankruptcy
- family law procedure
- dissolution of marriage
- qdro

PRACTICE AREAS

family law

bankruptcy

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the Maryland courts had jurisdiction to determine in the first instance whether the § 362 automatic stay applied to the pending divorce proceedings.
2. Whether the § 362 automatic stay barred the establishment of alimony, child support, support arrearages, guardian ad litem fees, and attorney fees in the divorce action.
3. Whether the automatic stay barred entry of the divorce judgment and provisions concerning custody and visitation.
4. Whether the automatic stay invalidated the monetary award, its reduction to judgment, the Qualified Domestic Relations Order, and the award of use and possession of the jointly titled automobile.
5. Whether discovery served during the automatic stay and resulting deemed admissions could be used at trial.
6. Whether Lawrence received adequate notice of the trial date and was prejudiced by the subpoena used to provide that notice.

HOLDINGS

1. A state court in which a nonbankruptcy action is pending has concurrent jurisdiction to determine, at least in the first instance, whether the § 362 automatic stay is in effect and whether a particular action is subject to it. The state court may not grant relief from the stay, which is committed exclusively to the bankruptcy court.
2. The § 362(b)(2) exception permits a state court to establish alimony and child support, determine support arrearages, and establish or collect from non-estate property guardian ad litem fees and attorney fees awarded in divorce, custody, or support proceedings.
3. The automatic stay does not preclude entry of a judgment dissolving the marriage or determining custody and visitation.
4. The monetary award, its reduction to judgment, the Qualified Domestic Relations Order directing distribution from Lawrence's profit-sharing plan, and the award of use and possession of the jointly titled automobile were subject to the automatic stay while it was in effect.
5. Discovery initiated against the debtor concerning nonexempt claims during the automatic stay constitutes an impermissible continuation of the proceeding; deemed admissions arising while the stay was in effect are void and may not be admitted into evidence.
6. The notice issue did not warrant relief because Lawrence received the subpoena stating the trial date, knew of the trial, did not attend, and suffered no sanction or other prejudice from noncompliance.

KEY QUOTATIONS

“The State court may not grant relief from the stay—that is a matter committed exclusively to the Bankruptcy Court—but it may, when presented with the issue, determine whether, factually or legally, a stay is in effect and whether a particular action it is about to take or has already taken is subject to such a stay.” (831 A.2d at 1071)

“Neither common sense nor the statement of Congressional intent behind the exception supports such a reading.” (831 A.2d at 1073)

“We hold that, for purposes of § 362(b), fees awarded to a guardian ad litem for services to a child or children in a divorce, custody, or child support case constitute child support, and that an order establishing or modifying such fees or providing for their collection from non-estate property is not precluded by the automatic stay.” (831 A.2d at 1075)

“We hold that the discovery initiated by Kathy constituted an impermissible continuation of the proceeding, that the deemed admissions that arose while the stay was in effect were void, and that the court therefore erred in admitting the request into evidence.” (831 A.2d at 1078)

FACTUAL BACKGROUND

Lawrence and Kathy Klass married in 1984, had three children, separated in 1998, and pursued divorce and related support and custody relief in Maryland. Lawrence filed a Chapter 7 bankruptcy petition in California on December 27, 2000, while the Maryland divorce action was pending, and the automatic stay remained in effect until his discharge on April 9, 2001. During the stay, Kathy served discovery requests and the state court entered a judgment for guardian ad litem fees; the divorce trial occurred after the discharge, and Lawrence did not attend despite receiving notice of the trial date.

PROCEDURAL HISTORY

The Circuit Court for Frederick County entered a divorce judgment awarding custody, alimony, child support, a monetary award, the value of a profit-sharing plan, attorney fees, and arrearages. The Court of Special Appeals affirmed in an unreported opinion. The Court of Appeals granted certiorari, affirmed in part, reversed in part, and remanded for further proceedings consistent with its opinion.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Court of Special Appeals was instructed to affirm the Circuit Court judgment as to the divorce, custody and visitation provisions, alimony, child support, guardian ad litem fees, attorney fees, and alimony and child-support arrearages; reverse as to the remaining stayed aspects; and remand to the Circuit Court for further proceedings that may be permissible in light of the bankruptcy discharge and the opinion.

CASES CITED

- In re Middlesex Power Equipment & Marine, Inc., 292 F.3d 61, 66 (1st Cir. 2002)

- In re Baldwin-United Corp. Litigation, 765 F.2d 343, 347 (2d Cir. 1985)
- U.S. Department of Housing and Urban Development v. CCMV, 64 F.3d 920, 927 (4th Cir. 1995)
- Picco v. Global Marine Drilling Co., 900 F.2d 846, 850 (5th Cir. 1990)
- N.L.R.B. v. Edward Cooper Painting, Inc., 804 F.2d 934, 939 (6th Cir. 1986)
- Gruntz v. County of Los Angeles, 202 F.3d 1074 (9th Cir. 2000)
- Rooker v. Fidelity Trust Co., 263 U.S. 413, 44 S. Ct. 149, 68 L. Ed. 362 (1923)
- District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 103 S. Ct. 1303, 75 L. Ed. 2d 206 (1983)
- Matter of Rimsat, Ltd., 98 F.3d 956 (7th Cir. 1996)
- In re Siciliano, 13 F.3d 748 (3d Cir. 1994)
- Dean v. Trans World Airlines, Inc., 72 F.3d 754 (9th Cir. 1995), cert. denied, 519 U.S. 863 (1996)
- Peters v. Hennenhoefter (In re Peters), 964 F.2d 166, 167 (2d Cir. 1992)
- Dvorak v. Carlson (In re Dvorak), 986 F.2d 940, 941 (5th Cir. 1993)
- Beaupied v. Chang (In re Chang), 163 F.3d 1138, 1140-41 (9th Cir. 1998)
- In re Jones, 9 F.3d 878 (10th Cir. 1993)
- Miller v. Gentry, 55 F.3d 1487 (10th Cir. 1995)
- In re Blaemire, 229 B.R. 665 (Bankr. D. Md. 1999)
- In re Sutton, 250 B.R. 771 (Bankr. S.D. Fla. 2000)
- Goldberg v. Miller, 371 Md. 591, 810 A.2d 947 (2002)
- In re Spong, 661 F.2d 6, 11 (2d Cir. 1981)
- In re Silansky, 897 F.2d 743, 745 (4th Cir. 1990)
- In re Kline, 65 F.3d 749 (8th Cir. 1995)
- In re Strickland, 90 F.3d 444, 447 (11th Cir. 1996)
- In re Moon, 211 B.R. 483 (S.D.N.Y. 1997)
- In re Michaels, 157 B.R. 190 (Bankr. D. Mass. 1993)
- In re Becker, 136 B.R. 113 (Bankr. D.N.J. 1992)
- David v. Hooker, Ltd., 560 F.2d 412 (9th Cir. 1977)
- Paden v. Union for Experimenting Colleges and Universities, 7 B.R. 289, 292 (N.D. Ill. 1980)
- In re Miller, 262 B.R. 499 (9th Cir. 2001)

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