UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF ILLINOIS

Interinsurance Exchange of the Automobile Club v. Cook, Kohn, Lunn, and Rathbun

Interinsurance Exchange · No. 25-cv-3052, 25-cv-3053, 25-cv-3054, 25-cv-2055 · Decided March 23, 2026

SUMMARY

The United States District Court for the Central District of Illinois affirmed the Bankruptcy Court's denial of Interinsurance Exchange's motions for relief from the automatic stay in four consolidated Chapter 7 bankruptcy cases. The court held that the Bankruptcy Court did not err by determining that dischargeability issues could be addressed before the creditor's California jury trial concerning the existence and amount of the underlying debts. The court also concluded that the creditor had not been denied its Seventh Amendment jury-trial right and found the appeal concerning a stay pending appeal and permissive abstention moot.

CASE DETAILS

COURT	United States District Court for the Central District of Illinois
WRITING FOR THE COURT	Colleen R. Lawless
JURISDICTION	United States District Court for the Central District of Illinois
DECIDED	March 23, 2026
DOCKET	25-cv-3052, 25-cv-3053, 25-cv-3054, 25-cv-2055
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from consolidated orders of the United States Bankruptcy Court for the Central District of Illinois denying the creditor's motions for relief from the automatic stay and addressing motions to stay adversary proceedings pending appeal and for permissive abstention.
STANDARD OF REVIEW	Questions of law are reviewed de novo, factual findings are reviewed for clear error, and the bankruptcy court's application of facts to the correct legal standard is disturbed only if clearly erroneous. A decision granting or denying relief from the automatic stay is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	unpublished

PARTIES

Interinsurance Exchange of the Automobile Club v. Tammy D. Cook, Dean R. Kohn, Frank F. Lunn, IV, Francis S. Rathbun

TOPICS

automatic stay | appellate procedure | standard of review | chapter 7 | bankruptcy

PRACTICE AREAS

bankruptcy | civil procedure | appellate procedure

QUESTIONS PRESENTED

1. Whether the Bankruptcy Court abused its discretion by denying relief from the automatic stay to allow California litigation concerning the existence and amount of alleged debts to proceed before dischargeability proceedings.
2. Whether ordering dischargeability proceedings before a jury trial on the underlying state-law claims violated Interinsurance Exchange's Seventh Amendment right to a jury trial.
3. Whether the Bankruptcy Court denied or improperly limited the creditor's right to a jury trial on its state-law claims.
4. Whether the appeals concerning the Bankruptcy Court's order on a stay pending appeal and permissive abstention remained justiciable.

HOLDINGS

1. The Bankruptcy Court did not abuse its discretion in denying relief from the automatic stay. The creditor's desire to try its state-law claims in California before litigating dischargeability did not establish cause without consideration of the Fernstrom factors and other case-specific considerations.
2. The Bankruptcy Court was not required to lift the automatic stay so that the California litigation could determine the existence and amount of the debt before the Bankruptcy Court determined dischargeability.
3. The Bankruptcy Court did not deny Interinsurance Exchange a jury trial on its state-law claims. It only determined that dischargeability proceedings should occur first and did not rule that the creditor could never obtain a jury trial on the underlying claims.
4. The appeal from the Bankruptcy Court's order on the motion to stay pending appeal and alternative motion for permissive abstention was moot because the denial of relief from the automatic stay was resolved on the merits.

KEY QUOTATIONS

> *"But it cannot establish cause for stay relief by making the affirmative choice to try its case in two different forums and then claiming that it is being disadvantaged and prejudiced by its own choice."* (at 4)

> *“Considering the posture of this case, Interinsurance Exchange effectively advocates for a rule that any time prepetition litigation is stayed by bankruptcy, there exists “cause” — without regard for Fernstrom or Grogg, or the bankruptcy court's inherent discretion in deciding stay relief —for a creditor to be relieved from the stay to continue the litigation.”* (at 8)

> *“In summary, the Bankruptcy Court’s holding that it should resolve dischargeability issues before the determination of the existence of a debt, assuming any debts are excepted from the Debtors’ discharges, in reliance on the Fernstrom and Grogg factors, does not constitute reversible legal error.”* (at 12)

FACTUAL BACKGROUND

Four individual Illinois debtors filed Chapter 7 bankruptcy cases shortly before trial was scheduled in California state-court litigation involving state-law claims asserted by their primary creditor, Interinsurance Exchange. The bankruptcy filings automatically stayed the California litigation, and Interinsurance Exchange sought relief from the stay under 11 U.S.C. § 362(d)(1) so that a California jury could determine the existence and amount of the alleged debts before the Bankruptcy Court determined dischargeability. The Bankruptcy Court denied stay relief as to the individual debtors, reasoning that the dischargeability proceedings should occur first and that the creditor could litigate damages later if necessary.

PROCEDURAL HISTORY

Four Illinois debtors filed Chapter 7 bankruptcy cases shortly before trial in California state-court litigation brought by Interinsurance Exchange. The Bankruptcy Court denied the creditor's motions for relief from the automatic stay as to the individual debtors, granted relief as to two debtor entities, partially granted a stay of the adversary proceedings pending appeal, and denied permissive abstention as moot. The District Court affirmed the February 11, 2025 stay-relief order, held the appeal concerning the later stay and abstention order moot, and remanded for further bankruptcy proceedings.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The Bankruptcy Court's February 11, 2025 order denying relief from the automatic stay is affirmed. The cases are remanded to the Bankruptcy Court for further proceedings. The appeal from the May 12, 2025 order concerning a stay pending appeal and permissive abstention is moot.

CASES CITED

- In re AGF Enterprises, Inc. II, 742 F.3d 763, 766 (7th Cir. 2014)
- Kovacs v. United States, 739 F.3d 1020, 1023 (7th Cir. 2014)
- In re Berman, 629 F.3d 761, 766 (7th Cir. 2011)
- In re Fernstrom Storage & Van Co., 938 F.2d 731, 735 (7th Cir. 1991)
- In re Udell, 18 F.3d 403, 410 (7th Cir. 1994)

- Colon v. Option One Mortgage Corp., 319 F.3d 912, 916 (7th Cir. 2003)
- In re Prate, 634 B.R. 72, 76-77 (Bankr. N.D. Ill. 2021)
- In re Grogg, 295 B.R. 297, 305 n.6 (Bankr. C.D. Ill. 2003)
- In re Maurice, 21 F.3d 767, 773 (7th Cir. 1994)
- In re Swope, 466 F.2d 936, 938 (7th Cir. 1972)
- Sanders v. First Recovery, LLC, No. 5:23-CV-553, 2024 U.S. Dist. LEXIS 139670, at *19 (E.D.N.C. Aug. 5, 2024)
- In re Swain, No. 22 B 13283, 2025 Bankr. LEXIS 77, at *27-28 (Bankr. N.D. Ill. Jan. 17, 2025)
- In re Moore, 625 B.R. 896, 899-900, 905-06 (Bankr. N.D. Ill. 2021)
- In re Che, No. 11 B 700, 2013 Bankr. LEXIS 2001, at *20-22 (Bankr. N.D. Ill. May 15, 2013)
- Beacon Theatres Inc. v. Westover, 359 U.S. 500 (1959)
- Dairy Queen Inc. v. Wood, 369 U.S. 469 (1962)
- Parklane Hosiery Co. v. Shore, 439 U.S. 322, 333-35 (1979)
- New West, L.P. v. City of Joliet, 891 F.3d 271, 273 (7th Cir. 2018)
- Katchen v. Landy, 382 U.S. 323, 339-40 (1966)
- In re Collazo, 817 F.3d 1047, 1053 (7th Cir. 2016)
- Stern v. Marshall, 564 U.S. 462, 499 (2011)
- Executive Benefits Insurance Agency v. Arkison, 573 U.S. 25, 36-38 (2014)
- Wellness International Network, Ltd. v. Sharif, 575 U.S. 665, 682 (2015)
- Fifth Third Mortgage Co. v. Blouin, 2015 U.S. Dist. LEXIS 749699, at *9-10 (N.D. Ill. June 9, 2015)
- Adas v. Rutkowski, 2013 U.S. Dist. LEXIS 1811517, at *31-32 (N.D. Ill. Dec. 30, 2013)
- In re Boricich, 464 B.R. 335, 336 (Bankr. N.D. Ill. 2011)
- Granfinanciera, S.A. v. Nordberg, 492 U.S. 33, 58 (1989)
- Boudle v. CMI Network, Inc., No. 07-CV-2820, 2007 U.S. Dist. LEXIS 82336, at *13-16 (E.D.N.Y. Nov. 6, 2007)
- In re Weinstein, 237 B.R. 567, 574 (Bankr. E.D.N.Y. 1999)
- In re Parkinson, 102 B.R. 141, 142-43 (Bankr. C.D. Ill. 1988)
