

Court of Appeals of the State of Georgia

ATLANTA, SEP 30 2008

The Court of Appeals hereby passes the following order:

**A09A0104. SUMMIT AUTOMOTIVE GROUP, LLC v. TED A. CLARK, JR.,
et al.**

In this interlocutory appeal, Summit Automotive Group, LLC seeks review of the trial court's order denying its motion for summary judgment. After this appeal was docketed, Sharry Lynn Griffin, Summit's co-defendant and alleged joint tortfeasor in the underlying action, filed a notice of stay based upon her bankruptcy filing in the United States Bankruptcy Court for the Northern District of Florida, Case No. 08-31288. Although Griffin is not a party to this appeal, she has asserted that this action and all proceedings have been stayed pursuant to 11 U.S.C. § 362 of the Bankruptcy Code. We disagree.

This court has held that a stay as to one co-defendant does not necessarily require a stay as to other co-defendants where each defendant may be jointly and severally liable. A stay on behalf of the bankrupt co-defendant merely suspends the proceedings as to him. The plain language of the Bankruptcy Code itself indicates that proceedings against the debtor are stayed. We see no reason to extend the language to include co-defendants of the debtor.

(Punctuation and emphasis omitted.) *Paul v. Joseph*, 212 Ga. App. 122, 124 (1) (441 SE2d 762) (1994), citing *GMAC v. Yates Motor Co.*, 159 Ga. App. 215, 218 (2) (283 SE2d 74) (1981). Because the liability against the defendants in this case is joint and severable, Griffin's bankruptcy filing does not operate to stay Summit's instant appeal. Id. Accordingly, the motion to stay is DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 30 2008

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Willi L. Mart, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, August 30, 2010

The Court of Appeals hereby passes the following order:

A10A0821. BMV PROPERTIES, LLC ET AL. v. LEGACY STATE BANK.

It appearing that appellant BMV Properties, LLC has filed a bankruptcy petition in the United States Bankruptcy Court for the Southern District of Georgia, Case No. 10-40630-LWD, and that all proceedings involving this debtor have been stayed pursuant to 11 U.S.C. § 362 of the Bankruptcy Code, it is hereby ordered that this case be REMANDED to the trial court until such time as the bankruptcy court terminates the automatic stay; grants appropriate relief from the automatic stay; or otherwise determines that the provisions of the automatic stay do not apply to the parties or issues involved in this appeal. Appellant shall be entitled to re-file his appeal within 30 days following the date that the bankruptcy court lifts the automatic stay, grants relief from the stay, or rules that the stay does not apply in this case.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **AUG 30 2010**

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Holly K. O. Spaw , Clerk.