

## **Ninth Circuit Rules that Decision Reimposing the Automatic Stay is Immediately Appealable**

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October 1, 2025

In 2020, the Supreme Court ruled that a bankruptcy court's decision to lift the automatic stay of pending litigation imposed by the Bankruptcy Code is a final, appealable order. But what if a bankruptcy court lifts the stay and later reimposes it? Is the latter order also immediately appealable, or is it considered interlocutory?

In *Fantasia v. Diodato*, \_\_\_ F.4th \_\_\_, No. 23-3742, 2025 WL 2639885 (9th Cir. Sept. 15, 2025), the Ninth Circuit recently ruled that the latter order is also final and immediately appealable.

The case arose out of a dispute between Frances Fantasia and her estranged daughter, Keri Diodato. In 2011, Fantasia (Mother) set up an irrevocable trust and named her daughter, Keri Diodato (Daughter), as the trustee. But Mother later concluded that Daughter had misused funds in the trust. In 2017, Mother sued Daughter (and Daughter's then husband) in Massachusetts state court.

Two years later, Daughter filed for bankruptcy in Arizona. Mother filed a proof of claim in the bankruptcy case, asserting the same claims she had filed in Massachusetts.

The bankruptcy filing automatically stayed that lawsuit under Bankruptcy Code section 362. But a few months later, Fantasia moved to modify the stay, seeking the bankruptcy court's authorization to pursue her claims in state court. She also asked the bankruptcy court to abstain from adjudicating her proof of claim, citing 28 U.S.C. §1334(c)(1). The bankruptcy court granted the motion in February 2020.

Thereafter, COVID-19 delayed the Massachusetts case, pushing trial until at least November 2022. Meanwhile, in March 2021, Daughter moved for reconsideration of the bankruptcy court's order that Mother's state case could proceed despite her bankruptcy filing, citing Federal Rule of Civil Procedure 60(b)(6). (Rule 60 permits courts to reconsider their decisions based on clerical mistakes, oversights, and omissions. Subsection (b)(6) is a catch-all provision permitting reconsideration for "any other reason that justifies relief.")

In considering the parties' arguments, the bankruptcy court decided it would make more sense for Mother's state law claims to be adjudicated in the bankruptcy court and not state court. As a result, the bankruptcy judge: i) vacated the February 2020 order lifting the stay and granting abstention; and ii) reimposed the stay.

With the matter now back in the bankruptcy court, Mother filed adversary proceedings against Daughter. The court held a trial in May 2022 and ruled in Daughter's favor on all claims. In July 2022, the bankruptcy court entered a final judgment.

A month later, Mother appealed to the district court, challenging only the March 2021 order reimposing the automatic stay as to her state court action. Procedurally, she asserted that the March 2021 order was interlocutory, thus requiring her to wait until entry of a final judgment to appeal. On the merits, she argued that Daughter's "motion sought to correct a judicial mistake" and thus should have been decided "under Rule 60(b)(1) and denied ... as untimely under Rule 60(c)." (Rule 60(c) requires that any motion under Rule 60(b) "must be made within a reasonable time" but that motions pursuant to subparagraphs (b)(1), (b)(2), and (b)(3) must be filed "no more than a year after the entry of the judgment or order" of which reconsideration is sought.) Daughter argued in response "that the district court did not have jurisdiction to consider [Mother's] appeal because the challenged bankruptcy court order was immediately appealable under the collateral order doctrine." *Id.* at \*3. (The collateral order doctrine is an exception to the final judgment rule, allowing for appeals of interlocutory orders that resolve important issues that are separate from the merits of the case. The doctrine stems from the Supreme Court's decision in *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541 (1949).)

The district court decided that (i) it did have jurisdiction to hear the appeal, but (ii) the bankruptcy court had appropriately reinstated the automatic stay under Rule 60(b)(6). Therefore, the district court left the existing judgment in place. Mother then appealed to the Ninth Circuit, again arguing the reimposition of the automatic stay by the bankruptcy court was an improper, though interlocutory, order. *Id.*

While ultimately achieving the same practical result — *i.e.*, non-disruption of the bankruptcy court's adjudication of the dispute — the Ninth Circuit took a different approach than the district court. The court of appeals contrasted "final," appealable orders in the bankruptcy context to those in "ordinary civil litigation." In civil cases, "an order is generally considered final and appealable when it ends the litigation on the merits and leaves nothing for the court to do but execute the judgment. But the regime in bankruptcy is different. Orders in bankruptcy cases qualify as 'final' when they definitively dispose of discrete disputes within the overarching bankruptcy case." *Id.* at \*4 (cleaned up).

The court then applied the Supreme Court's 2020 decision in *Ritzen Group, Inc. v. Jackson Masonry* to determine whether the March 2021 reconsideration order was "final."

In *Ritzen*, the Supreme Court held that an order granting or denying relief from the automatic stay is a “final, appealable order” under 28 U.S.C. §158(a)(1) because it “forms a discrete procedural unit within the embracive bankruptcy case” and “occurs before and apart from proceedings on the merits of creditors’ claims.” That conclusion controls here. Although the March 2021 order did not, strictly speaking, grant or deny a party relief from the automatic stay, but instead *reimposed* the automatic stay, that is a distinction without a difference for purposes of finality.

*Fantasia*, 2025 WL 2639885, at \*4 (cleaned up).

The Ninth Circuit panel set aside several Ninth Circuit Bankruptcy Appellate Panel (“BAP”) decisions cited by Mother that, to some degree, “impl[ied] that the bankruptcy court’s March 2021 order was not a final order.” The court found that even if it accepted Mother’s “characterization of these decisions, her argument” still failed because the panel was “not bound by BAP decisions. Moreover, these cases are of limited persuasive value here because they were decided several years before *Ritzen*.” *Id.* at \*7.

Because the bankruptcy court’s March 2021 order was final, Mother was required to appeal within 14 days. As she failed to do so, her appeal was untimely. *Id.*

*Fantasia* thus serves as a stark reminder to practitioners to be vigilant about which orders are final, and which are interlocutory, especially in the post-*Ritzen* context.

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