

Attorneys:

- **Irve J. Goldman**
igoldman@pullcom.com
203.330.2213
- **Jonathan A. Kaplan**
jkaplan@Pullcom.com
860.424.4379
- **Jessica Grossarth Kennedy**
jkennedy@pullcom.com
203.330.2215

Connecticut District Court Suggests Automatic Stay May Apply To Non-debtor Junior Lienholders In Foreclosure Action

*Posted by Jessica Grossarth
August 8, 2014*

On July 22, 2014, the Connecticut District Court issued an opinion, Eastern Savings Bank FSB v. St. Germain, et al, 2014 WL 3687740 (D. Conn. 2014), which could impact the applicability of the automatic stay of 11 U.S.C. §362(a) to non-debtor parties.

Eastern Savings Bank commenced a foreclosure action against Stephen St. Germain and Darleen St. Germain on December 16, 2013 to foreclose the mortgage on their residential real property located in Windham, Connecticut. Windham Hospital and Connecticut Housing Finance Authority (the "Co-Defendants") were included as named defendants in the action, as they held encumbrances on the property subsequent in right to Eastern's mortgage. Eastern obtained a default against the Co-Defendants for their failure to plead or otherwise defend the action.

Subsequent to entry of the defaults against the Co-Defendants, on May 16, 2014, Eastern filed a motion for default against the individual defendants, a motion for judgment by strict foreclosure and order for possession of the Windham property. While the motions were pending, the individuals filed for Chapter 13 bankruptcy protection. Due to the imposition of the automatic stay, the Court denied Eastern Savings Bank's motion for default and motion for strict foreclosure.

More interestingly, however, the Court suggested that the automatic stay may also apply to the Co-Defendants, which would prevent Eastern from proceeding against the Co-Defendants. The Court noted that neither of the Co-Defendants were liable to Eastern Savings Bank or had any direct relationship with Eastern Savings Bank. Rather, the interests of Eastern Savings Bank and the Co-

Connecticut District Court Suggests Automatic Stay May Apply To Non-debtor Junior Lienholders In Foreclosure Action

Defendants were aligned, albeit competing, with respect to the individual debtor defendants, and specifically, the property. If the action were to proceed against the Co-Defendants and a default was obtained, then the Co-Defendants would have a deficiency claim against the debtors. Given the potential adverse impact on the individuals' bankruptcy estate, the Court ordered Eastern Savings Bank to submit a brief stating its position as to whether the automatic stay should not be extended to the Co-Defendants. A decision with respect to this issue is reserved for another day!

© 2014 Pullman & Comley, LLC. All Rights Reserved.

This publication is intended for educational and informational purposes only. Readers are advised to seek appropriate professional consultation before acting on any matters in this update. This report may be considered attorney advertising. To be removed from our mailing list, please email unsubscribe@pullcom.com with "Unsubscribe" in the subject line. Prior results do not guarantee a similar outcome.