

The Bankruptcy Court for the District of Maryland (J. Derby) denied a motion to reconsider an order terminating the automatic stay to permit a creditor to proceed with post-foreclosure sale ratification.

In re May, 2016 Bankr. Lexis 923 (Bankr. D.Md. Feb. 18, 2016).

Summary by Kristen M. Siracusa, Miles & Stockbridge P.C.

On December 23, 2015, the bankruptcy court entered an order terminating the automatic stay, relying on *In re Denny*, 242 B.R. 593 (Bankr. D. Md. 1999) to permit the secured creditor to proceed with post-foreclosure sale ratification actions in the Maryland state court. The Debtor filed a motion to reconsider the bankruptcy court's order.

The motion to reconsider argued that *Ocwen Loan Servicing v. Kameni (In re Kameni)*, 2014 U.S. Dist. Lexis 97360, 2014 WL 3563658 (D. Md. 2014), *aff'd per curium*, 589 Fed. Appx. 145 (4th Cir. 2015) and *In re Konowitz*, 905 F.2d 55 (4th Cir. 1990) effectively overruled *In re Denny*. The court disagreed and upheld *In re Denny*, *In re De Souza*, 135 B.R. 793 (Bankr. D.Md. 1992), and the well-established case law in the district of Maryland that the bankruptcy court does not have the authority to invalidate a prepetition foreclosure sale. At the original hearing on the creditor's motion to annul the automatic stay, the bankruptcy court held that *In re Kameni* was distinguishable from and reconcilable with *In re Denny*. In *Kameni*, the foreclosure sale occurred after the bankruptcy filing in violation of the automatic stay and not prepetition, as was the case in *May*. Moreover, the bankruptcy court did not grant the creditor's motion to annul the stay, but instead, granted relief from stay for the limited purpose of allowing the ratification process to continue so that the Debtor's rights with respect to the property could be determined under Maryland law. The Debtor would be able to raise any objections he may have to ratification of the sale in state court.

The text of the court's order denying the motion to reconsider can be found at *In re May*, 2016 Bankr. Lexis 924 (Bankr. D. Md. February 18, 2016).