

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

ENTERED ON  
JUL 09 2008  
DOCKET

IN RE: : CASE NO. 08-69728-JB  
:  
Jessie Ann Brown, :  
:  
Debtor. : CHAPTER 7  
:

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Wilshire Credit Corporation, :  
as Servicer for Merrill Lynch Mortgage :  
Lending, Inc., its assignees :  
and/or successors in interest, : CONTESTED MATTER  
:  
Movant, :  
:  
v. :  
:  
Jessie Ann Brown, and :  
Paul H. Anderson, Trustee :  
:  
Respondents. :

ORDER AND NOTICE OF HEARING

On June 17, 2008, Wilshire Credit Corporation, as Servicer for Merrill Lynch Mortgage Lending, Inc. ("Wilshire Credit"), filed a motion seeking an order pursuant to 11 U.S.C. § 362(b)(22), confirming that the filing of debtor's Chapter 7 petition did not stay the enforcement of a Dispossessory Order and permitting Wilshire Credit to obtain a writ of possession. (the "Motion") (Docket No. 13). Section 362(b)(22) provides that the filing of a petition does not operate as a stay "of the continuation of any eviction,

unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential property in which the debtor resides as a tenant under a lease or rental agreement and with respect to which the lessor has obtained before the date of the filing of the bankruptcy petition, a judgment for possession of such property against the debtor.”

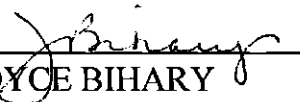
Counsel for Wilshire Credit will need to clarify the facts. Paragraph 5 of the motion states that a writ of possession was issued on the dispossessory order, but Paragraph 6 seeks an order permitting the issuance and execution of a writ of possession under the dispossessory order. Counsel did not attach a copy of a writ of possession to the motion. Thus, it is unclear whether a writ of possession was issued prior to the petition date as described in §362(b)(22).

The only exhibit attached to the motion is an Order issued by the State Court of DeKalb County dated April 28, 2008 requiring the payment of rent. However, debtor is not listed as a party in the DeKalb County Order, and counsel has not explained the relationship between the DeKalb County Order and the debtor. Finally, it is not clear in the motion or the record that the debtor resides at the premises at issue, 1127 Greenridge Lane, Lithonia, Georgia. Accordingly,

IT IS ORDERED and NOTICE IS HEREBY GIVEN that a hearing on Wilshire Credit Corporation’s "Motion for Order Confirming Petition Does Not Operate as Stay of the Enforcement of Dispossessory Order" shall be before the undersigned on **August**

6, 2008 at 10:00 AM, COURTROOM 1402, UNITED STATES COURTHOUSE,  
RICHARD B. RUSSELL FEDERAL BUILDING, 75 SPRING STREET, SW,  
ATLANTA, GEORGIA.

IT IS SO ORDERED, this 8<sup>th</sup> day of July, 2008.

  
\_\_\_\_\_  
JOYCE BIHARY  
UNITED STATES BANKRUPTCY JUDGE

CERTIFICATE OF MAILING

A copy of the foregoing Order was mailed to the following:

**Jessie Ann Brown**

Ste 3 1191  
2375 Wesley Chapel Rd.  
Decatur, GA 30035

**Paul H. Anderson, Jr.**

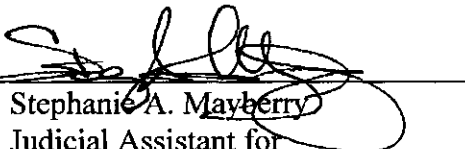
Paul H. Anderson, Jr.  
Two Piedmont Center - Suite 315  
3565 Piedmont Road, NE  
Atlanta, GA 30305

**Office of the US Trustee**

Suite 362  
75 Spring Street, SW  
Atlanta, GA 30303

**Marc E. Ripps**

P.O. Box 923533  
Norcross, GA 30010

  
Stephanie A. Mayberry  
Judicial Assistant for  
Chief Judge Bihary

Mailed: 07/08/08