

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

DARRYL E. ROUSON,

Appellant,

v.

Case No: 8:17-cv-328-T-36

BERNARD EDWARDS COMPANY, LLC
and JESS S. MORGAN & CO., INC.,

Appellees.

ORDER

This matter comes before the Court upon Appellant's Motion to Continue Stay of Bernard Edwards Company, LLC's Motion for an Award of Appellate Attorney's Fees and Costs (Doc. 24), (Doc. 50) and Appellee's response in opposition (Doc. 52). The Court, having considered the motion and being fully advised in the premises, will deny Appellant's Motion to Continue Stay of Bernard Edwards Company, LLC's Motion for an Award of Appellate Attorney's Fees and Costs (Doc. 24).

On February 7, 2018, this Court stayed Appellant's Motion for an Award of Appellate Attorney's Fees and Costs (Doc. 24) pending the resolution of two related proceedings: a decision from the Bankruptcy Court regarding Appellee's entitlement to attorney's fees and costs and a decision from the Eleventh Circuit Court of Appeals on the Appellant's appeal of this Court's judgment. *See* Doc. 47. On September 24, 2018, the Bankruptcy Court entered an interlocutory order granting-in-part Appellant's motion for an award of attorneys' fees and costs and finding that Bernard Edwards Company, LLC is entitled to reimbursement for defending the Debtor's Motion to Reject Executory Portions of the Co-Publishing Agreement. *See* Doc. 52-1; Bankr. Doc.

370.¹ But it found that BEC was not entitled to reimbursement of fees and costs for defending the related adversary proceeding.² *Id.* Thus, the Bankruptcy Court found that it must allocate the requested fees and costs between the two proceedings. *Id.* Accordingly, it set an evidentiary hearing for December 18, 2018, to decide the allocation. *See* Doc. 52 at 3 n. 2. On August 7, 2018, the Eleventh Circuit affirmed this Court's judgment and mandate issued on November 5, 2018. Docs. 48, 57.

In the motion, Appellant argues that in the interests of efficiency and economy the Court should continue the stay of the Appellant's Motion for an Award of Appellate Attorney's Fees and Costs to allow the Bankruptcy Court to rule on the allocation issue. Appellee responds that given the Bankruptcy Court's ruling on the Motion for Fees and Costs, and the Eleventh Circuit's ruling on the appeal, there is no longer a basis for the stay. Further, although the Bankruptcy Court must still determine the amount of fees and costs to which Appellee is entitled, those fees and costs are completely separate from the appellate fees and costs requested from this Court. And, Appellee argues, the Bankruptcy Court's decision regarding the amount to which it is entitled is unlikely to assist this Court in resolving the Motion before it. Thus, it argues, efficiency and economy weigh against extending the stay.

Courts have broad discretion in managing their own dockets. *Clinton v. Jones*, 520 U.S. 681, 706 (1997). This discretion includes the ability to stay certain aspects of litigation if a movant demonstrates good cause and reasonableness. *See Nankivil v. Lockheed Martin Corp.*, 216 F.R.D. 689, 692 (M.D. Fla.), *aff'd*, 87 Fed. Appx. 713 (11th Cir. 2003). But the Court must also take an

¹ *In Re Bambi Alicia Herrera-Edwards*, Case No. 8:12-bk-15725-RCT.

² *In Re Bambi Alicia Herrera-Edwards*, Adv. No. 8:13-ap-00641-RCT.

active role in managing cases on its docket. *Chudasama v. Mazda Motor Corp.*, 123 F.3d 1353, 1366 (11th Cir. 1997).

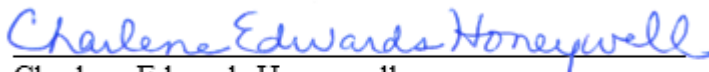
In this case, Appellant has not demonstrated good cause to continue the stay. Further, the Bankruptcy Court's decision regarding allocation of the attorneys' fees and costs in the proceedings before it will not likely aid this Court in deciding entitlement to and the amount of attorneys' fees and costs in the appeal to this Court. Efficiency and economy are not served by extending the stay.

Accordingly, it is ORDERED:

1. Appellant's Motion to Continue Stay of Bernard Edwards Company, LLC's Motion for an Award of Appellate Attorney's Fees and Costs (Doc. 24), (Doc. 50) is **DENIED**.

2. The stay of these proceedings is hereby lifted. On or before November 30, 2018, the parties shall file a notice with the Court renewing any previously pending motions.

DONE AND ORDERED in Tampa, Florida on November 16, 2018.


Charlene Edwards Honeywell
United States District Judge

Copies to:
Counsel of Record and Unrepresented Parties, if any