

[Cite as *Ayad v. Russo*, 2008-Ohio-5881.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 92405

BRAHIM (ABE) AYAD. ET AL.

RELATORS

vs.

JUDGE NANCY RUSSO, ET AL.

RESPONDENTS

**JUDGMENT:
COMPLAINT DISMISSED**

WRIT OF PROHIBITION
ORDER NO. 415224

RELEASE DATE: November 12, 2008

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**JUDGE NANCY RUSSO AND JUDGE
RALPH J. McALLISTER:**

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ANTHONY O. CALABRESE, JR., J.:

{¶ 1} Sua sponte, the relators' complaint for a writ of prohibition is dismissed, pursuant to Civ.R. 12(B)(6), for failure to state a claim upon which relief can be granted. *State ex rel. Peebles v. Anderson*, 73 Ohio St.3d 559, 1995-Ohio-335, 653 N.E.2d 371. A bankruptcy stay does not preclude the continuation of proceedings against a non-bankrupt party, since the automatic stay provision of the Bankruptcy Code extends only to the debtor filing bankruptcy proceedings and not non-bankrupt parties. *Cardinal Federal S. & L. Assn. v. Flugum* (1983), 10 Ohio Ap..3d 243, 461 N.E.2d 932; *Sowell v. United Companies Lending Corp* (July 27, 2000), Cuyahoga App. No. 76389; *Kingsmen Enterprises, Inc. v. Kasunic* (Feb. 17, 1994), Cuyahoga App. No. 64720; *Terry v. SMJ Growth Corp.* (Mar. 2, 2000), Cuyahoga App. No. 76083; *Slater v. Haffey* (Feb 6, 1992), Cuyahoga App. No. 59659.

{¶ 2} Accordingly, we sua sponte dismiss the relators' complaint for a writ of prohibition. Costs to relators. It is further ordered that the Clerk of the Eighth District Court of Appeals serve notice of this judgment upon all parties as mandated by Civ.R. 58(B).

Complaint dismissed.

ANTHONY O. CALABRESE, JR., JUDGE
JAMES J. SWEENEY, A.J., and
MELODY J. STEWART, J., CONCUR