

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT, IN AND
FOR LEON COUNTY, FLORIDA

Planned Parenthood Of Southwest
And Central Florida, on behalf of itself,
its staff, and its patients, et al.,

CASE NO: 2022-CA-912

Plaintiffs,

CIVIL DIVISION

vs.

State Of Florida, et al.,

Defendants.

**ORDER DENYING PLAINTIFFS' EMERGENCY MOTION TO VACATE AUTOMATIC
STAY OF TEMPORARY INJUNCTION**

On July 5, 2022, the Plaintiffs filed an emergency motion to vacate the automatic stay in effect pursuant to Rule 9.310(b)(2), Florida Rules of Appellate Procedure. The Defendants have responded opposing the motion.

In Florida, the Rules of Appellate Procedure automatically impose a stay of the trial court's decision when an appeal is filed. The cited rule provides that the trial court must first consider a motion to vacate the automatic stay. If the trial court vacates the automatic stay, that decision is automatically reviewable by the District Court. If the trial court denies a motion to vacate the automatic stay, the party seeking to vacate can then apply to the appellate court (District Court) to vacate the automatic stay.

As this Court discussed at the trial below and in its Final Judgment (¶ 109) courts are obliged to follow binding precedent even if they might wish to decide the case

differently. See Scott v. Trotti, 283 So. 3d 340, 343-45 (Fla. 1st DCA 2018).

The First District Court of Appeal has ruled that in considering a motion to vacate an automatic stay, the moving party “must demonstrate that the equities are overwhelming tilted against maintaining the stay”. In its review, the trial court must consider (1) the government’s likelihood of success on appeal, and (2) the likelihood of irreparable harm if the automatic stay is reinstated. Florida Department of Health v. People United for Medical Marijuana, 250 So. 3d 825 (Fla. 1st DCA 2018). Even though this Court believes the Plaintiffs have met these three requirements, it declines to grant their motion because of the direction of the First District that “a trial court may vacate an automatic stay during the pendency of an appeal ... only ... ‘under the most compelling circumstances,’”¹ and due to a series of decisions of that Court which reversed trial court orders granting motions to vacate the stay.

The very high burden set by the First District is demonstrated in a series of cases in which it has reversed orders by trial courts setting aside the automatic stay. In Florida Department of Health v. People United for Medical Marijuana, 250 So. 3d 825 (Fla. 1st DCA 2018), the trial court, on June 5, 2018, entered an order vacating the automatic stay. On June 18, 2018, the First District quashed the trial court’s order.² In Scott v. Trotti, 283 So. 3d 340 (Fla. 1st DCA 2018), the trial court, on June 11, 2018, entered an order vacating the

¹250 So. 3d 835, 828

²The case was in the Second Judicial Circuit of Florida - Case No. 2017 CA 1394.

automatic stay. On June 18, 2018, the First District quashed the trial court's order.³ In Desantis v. Florida Education Association, 306 So. 3d 1202 (Fla. 1st DCA 2020), the trial court, on August 27, 2020, entered an order vacating the automatic stay. One day later, on August 28, 2020, the First District quashed the trial court's order.⁴ In Desantis v. Scott, Case No. 1D21-2685 (Fla. 1st DCA 2021), the trial court, on September 8, 2021, entered an order vacating the automatic stay. Two days later, on September 10, 2021, the First District quashed the trial court's order. On October 27, 2021, the First District issued a second four page opinion supplementing its first order quashing the trial court's order.⁵ In Secretary of State v. Black Voters Matter, 2022 WL 1698353 (Fla. 1st DCA 2022), the trial court, on May 16, 2022, entered an order vacating the automatic stay. Four days later, on May 20, 2022, the First District quashed the trial court's order. On May 27, 2022, the First District issued a second lengthy opinion, discussing in part, a further explanation of its May 20, 2022, ruling.

The above cases regarding the automatic stay are included in this order to demonstrate the basis for this Court's conclusion that the First District has established a high barrier, based on the "most compelling circumstances" doctrine, to a trial court issuing an order vacating an automatic stay.

Although this Court is denying the motion to set aside the automatic stay, the

³The case was in the Second Judicial Circuit of Florida - Case No. 2018 CA 1039.


⁴The case was in the Second Judicial Circuit of Florida - Case No. 2020 CA 1450 and 2020 CA 1467.

⁵The case was in the Second Judicial Circuit of Florida - Case No. 2021 CA 1382.

Plaintiffs still have the option of requesting the First District to vacate the automatic stay. The very high standard applied and accelerated review by the First District of trial court orders vacating the automatic stay may be due to the fact that the vacating of the stay at the trial level, by necessity, requires the District Court to review the trial court decision on an emergency type basis without time to wait for a complete transmittal of the appellate record and full briefing to the Court. However, with the automatic stay in place, a motion to vacate addressed to the District Court does not necessarily require an emergency review and permits that Court time to examine the full record and consider the appellate briefs.

For the reasons stated in this order, the Plaintiffs' motion to vacate the automatic stay is denied.

DONE AND ORDERED in Tallahassee, Leon County, Florida, on this 12th day of July, 2022.


JOHN C. COOPER
CIRCUIT JUDGE

Copies to:

Attorneys of Record