

No.

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IN THE  
*Supreme Court of the United States*

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KARL LINARD MALLOY,  
*Petitioner,*

v.

KRISTIN E. SCHELIN AND MARK A. WATSON,  
*Respondents.*

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*ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT*

(Case No. 24-2271)

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APPENDIX TO  
PETITION FOR A WRIT OF CERTIORARI

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**APPENDIX TO  
PETITION FOR A WRIT OF CERTIORARI**

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APPENDIX A

UNPUBLISHED

UNITED STATES COURT OF APPEALS FOR THE  
FOURTH CIRCUIT

No. 24-2271

KRISTIN E. SCHELIN; MARK A. WATSON,  
Plaintiffs - Appellees,

v.

KARL LINARD MALLOY,

Defendant - Appellant.

Appeal from the United States District Court for the  
Eastern District of Virginia, at Richmond. M. Hannah  
Lauck, District Judge. (3:24-cv-00002-MHL)

Submitted: November 25, 2025 Decided: December  
1, 2025

Before WYNN and RICHARDSON, Circuit Judges,  
and KEENAN, Senior Circuit Judge.

Affirmed in part, dismissed in part by unpublished  
per curiam opinion.

Karl Linnard Malloy, Appellant Pro Se.

Christopher Lawrence Perkins, ECKERT SEAMANS  
CHERIN & MELLOTT, LLC, Richmond, Virginia, for  
Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Karl Linard Malloy appeals the district court's order affirming the bankruptcy court's order remanding to the state court a real estate contract dispute that Malloy had removed to the bankruptcy court to be addressed in the context of his Chapter 13 bankruptcy case. The bankruptcy court determined that mandatory abstention was appropriate under 28 U.S.C. § 1334(c)(2). The bankruptcy court also modified the automatic stay to allow the state case to proceed to final judgment but required the parties to seek relief from the bankruptcy court prior to executing any judgment issued by the state court. The district court affirmed the bankruptcy court's order. In his appeal from the district court's order, Malloy contends that the bankruptcy court erred by modifying the automatic stay and erred in concluding that abstention was appropriate. We affirm in part and dismiss in part.

An order modifying the automatic stay is a final appealable order because it resolves a discrete dispute in the bankruptcy case. *Ritzen Grp. Inc. v. Jackson Masonry, LLC*, 589 U.S. 35, 37-38 (2020). "Congress . . . has granted broad discretion to bankruptcy courts to lift the automatic stay to permit enforcement of rights against property of the estate." *Claughton v. Mixson*, 33 F.3d 4, 5 (4th Cir. 1994). We have reviewed the record and discern no abuse of discretion by the bankruptcy court in modifying the automatic stay to allow the state court to adjudicate the real estate contract dispute, which had been proceeding in the

state courts for 18 months prior to Malloy filing his bankruptcy petition. We therefore affirm the portion of the district court's order upholding the modification of the automatic stay.

Malloy also contests the portion of the order remanding the case to the state court. However, "[a]ny decision to abstain . . . made under [28 U.S.C. § 1334(c)] . . . is not reviewable by appeal or otherwise by the court of appeals." 28 U.S.C. § 1334(d). Because we lack jurisdiction to review the propriety of the decision to abstain, we dismiss this portion of the appeal.\* We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED IN PART, DISMISSED IN PART

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\* To the extent that Malloy challenges the bankruptcy court's order granting the Appellees' motion for an expedited hearing on the motion to remand, we find no abuse of discretion by the district court.

**APPENDIX B**

FILED: December 1, 2025

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

No. 24-2271 (3:24-cv-00002-MHL)

KRISTIN E. SCHELIN; MARK A. WATSON

Plaintiffs - Appellees

v.

KARL LINARD MALLOY

Defendant - Appellant

**J U D G M E N T**

In accordance with the decision of this court, the judgment of the district court is affirmed in part. The appeal is dismissed in part.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ NWAMAKA ANOWI, CLERK

APPENDIX C

FILED: December 30, 2025

UNITED STATES COURT OF APPEALS FOR THE  
FOURTH CIRCUIT

No. 24-2271 (3:24-cv-00002-MHL)

KRISTIN E. SCHELIN; MARK A. WATSON

Plaintiffs - Appellees

v.

KARL LINARD MALLOY

Defendant - Appellant

O R D E R

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 40 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge Wynn, Judge Richardson, and Senior Judge Keenan.

For the Court

/s/ Nwamaka Anowi, Clerk

**APPENDIX D**

IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

KARL LINARD MALLOY,

Appellant,

v. Civil Action No. 3:24-cv-002

KRISTIN E. SCHELIN

and

MARK A. WATSON

Appellees.

MEMORANDUM ORDER

This matter comes before the Court on pro se<sup>1</sup> Karl Linard Malloy's ("Appellant") appeal from the United States Bankruptcy Court for the Eastern District of Virginia's Order entered December 20,

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<sup>1</sup> Although Mr. Malloy is not a member of the Virginia State Bar and is proceeding pro se in this case, Mr. Malloy is an attorney licensed to practice law in the State of New York, the State of Maryland, and the District of Columbia. See *In re Karl Linard Malloy*, Case No. 23-33442-KRH (ECF No. 426, at n.4) (Bankr. E.D. Va. Oct. 28, 2024). For the purposes of this appeal, the Court will consider Mr. Malloy a pro se litigant.

2023, (the "Remand Order") granting: (1) Appellees Kristin E. Schelin and Mark A. Watson's (collectively, the "Appellees") Motion for Expedited Hearing on Motion for Remand (the "Motion for Expedited Hearing"); and (2) Appellees' Motion for Remand (the "Motion for Remand"). (ECF No. 1; ECF No. 1-1, at 1.) Appellees filed a response brief, (ECF No. 24), and Mr. Malloy replied, (ECF No. 25). The Court dispenses with oral argument because the materials before it adequately present the facts and legal contentions, and argument would not aid the decisional process. Accordingly, the matters are ripe for disposition. The Court exercises jurisdiction pursuant to 28 U.S.C. § 158(a)(1).<sup>2</sup> For the reasons that follow, the Court will

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<sup>2</sup> Mr. Malloy broadly asserts that this Court has jurisdiction over this appeal pursuant to 28 U.S.C. § 158(a)(1) as an appeal from a final bankruptcy order, but does not elaborate as to why the Remand Order constitutes a final order. (ECF No. 5, at 8.) Similarly, Appellees also broadly state, without providing additional analysis, that "[t]his Court has appellate jurisdiction over the present matter pursuant to 28 U.S.C. § 158(a) as an appeal from a final bankruptcy order." (ECF No. 24, at 6.)

"This Court has jurisdiction to hear appeals 'from final judgments, orders, and decrees [of bankruptcy courts],' or may grant leave to appeal through 'interlocutory orders and decrees [of bankruptcy courts].'" *In re Bankr. Est. of Morgantown Excavators, Inc.*, 507 B.R. 126, 129 (N.D.W. Va. 2014) (quoting 28 U.S.C. § 158(a)(1), (3).) "However, a party only has the right to review by this Court when the bankruptcy court's judgment is final." *Id.* (citing § 158(a)(1)). "A final judgment 'generally is one which ends the litigation on the merits and leaves nothing for

affirm the judgment of the United States Bankruptcy Court for the Eastern District of Virginia.

I. Factual and Procedural Background

On October 5, 2023, Karl Linard Malloy filed, pro se, a voluntary petition under Chapter 13 of Title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Eastern District of Virginia (the "Bankruptcy Court").

See In re: Karl Linard Malloy, Case No. 23-33442-KRH (ECF No. 1) (Bankr. E.D. Va. Oct. 5, 2023). This appeal primarily concerns the propriety of the Bankruptcy Court's remand of a state property dispute between the parties. See Schelin v. Malloy, Case No. 23-03043-KRH (ECF No. 16) (Bankr. E.D. Va. Dec. 20, 2023). Mr. Malloy also appeals the

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the court to do but execute the judgment." Id. (quoting *Catlin v. United States*, 324 U.S. 229, 233 (1945) (citation omitted)). Thus, it is dubious that the Bankruptcy Court's grant of the Remand Order constitutes a final order for purposes of appeal.

Mr. Malloy is ADMONISHED that he must follow the dictates of 28 U.S.C. § 158(a) when filing any appeal from the Bankruptcy Court. Regardless, for the reasons articulated below, even presuming without deciding that this constitutes an appealable decision, the Bankruptcy Court properly granted the Motion for Remand based on mandatory abstention under 28 U.S.C. § 1334(c)(2).

Bankruptcy Court's decision to grant Appellees' Motion for Expedited Hearing on Motion for Remand. *Id.* The Court begins with a summary of relevant facts and the case proceedings to date.

A. The Underlying Property Dispute and Resulting State Court Litigation

As found by the Bankruptcy Court, the uncontested facts of this case are as follows. Appellees and Mr. Malloy "entered into a Central Virginia Multiple Listing Services Purchase Agreement dated February 25, 2022, and ratified February 26, 2022 (the 'Agreement')." (ECF No. 1-1, at 5-6.) In the Agreement, Mr. Malloy "agreed to convey, and [Appellees] agreed to purchase, certain real property located in Powhatan County, Virginia" (the "Real Property"). (ECF No. 1-1, at 6.) "After execution of the Agreement, a dispute arose between" Appellees and Mr. Malloy. (ECF No. 1-1, at 6.) "On or about March 25, 2022, [Appellees] sued [Mr. Malloy] in Powhatan County Circuit Court ... for specific performance of the Agreement, damages, declaratory relief, and injunctive relief, thereby commencing the 'State Court Litigation.'" (ECF No. 1-1, at 6.) On November 20, 2023, Mr. Malloy removed the State Court Litigation to the Bankruptcy Court. (ECF No. 1-1, at 7.)

B. The Bankruptcy Court Holds a Hearing, and Subsequently Remands the State Court Litigation

On December 8, 2023, Appellees filed their Motion for Expedited Hearing and Motion for

Remand. (ECF No. 1-1, at 9.) "On December 13, 2023, the [Bankruptcy] Court conducted a hearing ... on the Motion to Expedite and the Motion to Remand." (ECF No. 1-1, at 5.) Both parties attended the hearing. (ECF No. 1-1, at 5.) On December 20, 2023, the Bankruptcy Court entered the Remand Order, which remanded the State Court Litigation back to the Circuit Court for the County of Powhatan. (ECF No. 26-1, at 11; ECF No. 26-2, at 2.)

On January 2, 2024, Mr. Malloy appealed the Bankruptcy Court's Order Granting Motion for Expedited Hearing and Motion for Remand. (ECF No. 1, at 1.)

## II. Standard of Review

Final orders of a bankruptcy court are appealable to a district court pursuant to 28 U.S.C. § 158(a). "When reviewing a decision of the bankruptcy court, a district court functions as an appellate court and applies the standards of review generally applied in federal courts of appeal." *Paramount Home Entm 't Inc. v. Circuit City Stores, Inc.*, 445 B.R. 521, 526-27 (E.D. Va. 2010) (citing *Webb v. Reserve Life Ins. (In re Webb)*, 954 F.2d 1102, 1103--04 (5th Cir. 1992)). The district court reviews the bankruptcy court's legal conclusions de novo and its factual findings for clear error. *Stancill v. Harford Sands, Inc. (In re Harford Sands Inc.)*, 372 F.3d 637,639 (4th Cir. 2004). A finding of fact is clearly erroneous if a court reviewing it, considering all of the evidence, "is left with the definite and firm conviction that a mistake has been

committed." *Anderson v. City of Bessemer City*, 470 U.S. 564,573 (1985) (quoting *United States v. United States Gypsum Co.*, 333 U.S. 364,395 (1948)); accord *Educ. Credit Mgmt. Corp. v. Mosko (In re Mosko)*, 515 F.3d 319,324 (4th Cir. 2008) (quoting *United States Gypsum Co.*, 333 U.S. at 395). "Where there are two permissible views of the evidence, the factfinder's choice between them cannot be clearly erroneous." *Anderson*, 470 U.S. at 574. In cases where the issues present mixed questions of law and fact, the Court will apply the clearly erroneous standard to the factual portion of the inquiry and de nova review to the legal conclusions derived from those facts. *Gilbane Bldg. Co. v. Fed Reserve Bank of Richmond*, 80 F.3d 895, 905 (4th Cir. 1996). "Decisions committed to the discretion of the bankruptcy court are reviewed for abuse of discretion." *In re Mitrano*, 409 B.R. 812,815 (E.D. Va. 2009).

## II. Analysis

Presuming this constitutes an appealable decision, the Bankruptcy Court properly granted the Motion for Remand based on mandatory abstention under 28 U.S.C. § 1334(c)(2). Furthermore, the Bankruptcy Court properly exercised discretion over its own docket when it held a hearing regarding Appellees' Motion for Expedited Hearing on Motion for Remand and the Motion for Remand.

### A. Legal Standard: Mandatory Abstention Under 28 U.S.C. § 1334(c)(2)

Pursuant to 28 U.S.C. § 1334(c)(2), a federal court must abstain from hearing a case in certain instances. Section 1334(c)(2) provides:

Upon timely motion of a party in a proceeding based upon a State law claim or State law cause of action, related to a case under title 11 but not arising under title 11 or arising in a case under title 11, with respect to which an action could not have been commenced in a court of the United States absent jurisdiction under this section, the district court shall abstain from hearing such proceeding if an action is commenced, and can be timely adjudicated, in a State forum of appropriate jurisdiction.

28 U.S.C. § 1334(c)(2) (emphasis added).

In other words, Section 1334(c)(2) "presents a six-part test for determining whether mandatory abstention applies:"

- (1) A party to the proceeding must file a timely motion to abstain;
- (2) The proceeding must be based on a state law claim;
- (3) The proceeding must be a "non-core, but related to" proceeding;
- (4) No basis for federal court jurisdiction other than Section 1334 should exist;
- (5) An action must have been commenced in state court; and

(6) The state court action can be timely adjudicated.

In re Seven Springs, Inc., 148 B.R. 815, 817 (Bankr. E.D. Va. 1992).

B. The Bankruptcy Court Properly Concluded that Mandatory Abstention is Required

Correctly applying the six-part test in Section 1334(c)(2), the Bankruptcy Court concluded "that mandatory abstention is required in" the State Court litigation because all six factors were satisfied. (ECF No. 1-1, at 10.)<sup>3</sup> Starting with factor one, the Bankruptcy Court accurately explained that "[Appellees] timely filed the Motion to Remand, having filed it only eighteen days after the State Court Litigation was removed to" the Bankruptcy Court. (ECF No. 1-1, at 11.) Regarding factor two, "[t]he dispute between the parties concerns specific performance for an alleged breach of a contract for the sale of real property - an issue purely governed by Virginia state law." (ECF No. 1-1, at 11.) The Bankruptcy Court correctly concluded that factor three-that the proceeding is a "non-core, but related to" proceeding-was also satisfied. (ECF No. 1-1, at 10-11.) The Court explained: "[t]he State Court

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<sup>3</sup> In the alternative, the Bankruptcy Court also noted that "permissive abstention and statutory remand are also appropriate." (ECF No. 1-1, at 11.) Because mandatory abstention applies here, the Court need not evaluate these alternative conclusions.

Litigation is a private dispute that existed prior to the filing of the Bankruptcy Case, would have continued to exist independently of the Bankruptcy Case and the Bankruptcy Code, and the Parties' rights and obligations are not significantly affected as a result of the filing of the Bankruptcy Case." (ECF No. 1-1, at 12 (citing *In re Seven Springs, Inc.*, 148 B.R. at 817).)

Turning to factor four, the Bankruptcy Court rightly observed that "[a]s there is no federal question present and there is no dispute that the parties are not diverse, there is no basis for federal court jurisdiction other than 28 U.S.C. § 1334." (ECF No. 1-1, at 11.) Factor five also is met: "[t]he State Court litigation was timely commenced in State Court prior to removal to" the Bankruptcy Court. (ECF No. 1-1, at 11-12.) Finally, the Bankruptcy Court accurately concluded that factor six was satisfied because "the State Court was prepared to place this matter back on the State Court's docket for trial upon remand." (ECF No. 1-1, at 12.)<sup>4</sup>

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<sup>4</sup> At the December 13, 2023 hearing regarding the Motion for Expedited Hearing on Motion for Remand and the Remand Order, Appellees represented that they had contacted the Circuit Court for the County of Powhatan to determine its availability. (ECF No. 22-2, at 99, KLM004899.) Appellees represented that "the [Powhatan Circuit Court] stands ready to hear the case. The judge's calendar is available at the convenience of the parties to reschedule [the State Court Litigation] should the Court remand the case." (ECF No. 22-2, at 99, KLM004899.)

Because the Bankruptcy Court correctly concluded that mandatory abstention applied to the State Court Litigation, the Court sees no basis for reversing the Remand Order on this basis.

C. The Bankruptcy Court Properly Exercised Discretion Over Its Own Docket

Mr. Malloy also appeals the Bankruptcy Court's decision to hold a hearing on the Motion for Expedited Hearing on Motion for Remand and the Motion for Remand on December 13, 2023. He argues that the timing and notice he received with respect to the hearing, along with the fact that the Court did not hold an evidentiary hearing regarding the Motion for Remand, constitutes procedural error. (ECF No. 5, at 12-19.) This argument founders.<sup>5</sup> As the Bankruptcy

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<sup>5</sup> Notably, the Bankruptcy Court "found [Mr. Malloy's] objection to the motion for the Expedited Hearing to be disingenuous, given that the motion was a mere formality following the Court's instruction [on November 29, 2023] that the underlying pleading be filed." (ECF No. 1-1, at 9 n.6.) The Bankruptcy Court explained:

The Court had already set the continued Hearing for December 13 at the request of [Mr. Malloy] after he fired his bankruptcy counsel at the November 29 Hearings and said he needed the additional time to engage new counsel. [Mr. Malloy] then appeared at the continued Hearing without new bankruptcy counsel. The [Bankruptcy] Court had given all the Parties notice at the November 29 Hearings that it would consider remanding the State Court Litigation at the continued Hearing. The [Bankruptcy] Court was not impressed with the argument advanced by [Mr. Malloy] that the

Court correctly observed, 18" [g]enerally, a federal bankruptcy court does not have to rely upon a motion by any party to remand a case under § 1452(b). Instead, the court can consider, upon its own motion, its jurisdiction over the subject matter and whether to remand the matter to the state court." (ECF No. 1-1, at 8 n.5 (quoting *Tex. Gulf Trawling Co. v. RCATrawlers & Supply, Inc.* (In re *Ciclon Negro, Inc.*), 260 B.R. 832,837 (Bankr. S.D. Tex; 2001) and citing *Clarke & Assocs., Inc. v. Runsted*, 480 F. Supp. 3d 1333, 1336 (D. Utah 2020).) The Bankruptcy Court's decision to nonetheless hold a hearing on this issue-when it was not required to hold any hearing at all-was not abuse of discretion, particularly where both parties attended the hearing. (ECF No. 1-1, at 1.)<sup>6</sup>

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notice he had been accorded was inadequate because of his self-inflicted pro se status.

(ECF No. 1-1, at 9 n.6 (italics added).)

<sup>6</sup> Mr. Malloy's argument that the Motion to Remand fails to comply with the Local Rules of the Eastern District of Virginia also founders. Mr. Malloy contends:

The Motion for Remand fails to comply with Local Civil Rule 7(K) ... which provides, in part, that "[i]t shall be the obligation of counsel for any party who files any dispositive or partially dispositive motion addressed to a party who is appearing in the action without counsel to attach to or include at the foot of the motion a warning consistent with the requirements of *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975). The warning shall state that: [t]he prose party is entitled to file a response opposing the motion and that any such response must be filed within twenty-one (21) days of the

III. Conclusion

For the foregoing reasons, the Court AFFIRMS the judgment of the Bankruptcy Court, and DISMISSES this appeal.

To the extent Mr. Malloy believes he has a right (and proper basis) to appeal this decision of the Court, Mr. Malloy is advised that he must file a proper written notice of appeal within thirty (30) days of the date of entry hereof. Failure to file a written notice of appeal may result in the loss of the right to appeal.

The Court DIRECTS the Clerk to send a copy of this Order to Mr. Malloy at his address of record.

It is SO ORDERED.

Date: 11/19/24

Richmond, Virginia

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date on which the dispositive or partially dispositive motion is filed[.]

(ECF No. 5, at 12.) First, the citation to Local Rule 7(K) is inapposite, as Local Bankruptcy Rule 9013-1(M) controls the notice requirements for all hearings in bankruptcy court. See Local Bankruptcy Rule 9013-1(M). Second, even if Local Civil Rule 7(K) applied to certain motions in Bankruptcy Court, it does not apply to the Motion to Remand because it is a nondispositive motion. See, e.g., *Young v. James*, 168 F.R.D. 24, 27 (E.D. Va. 1996) ("The Court finds persuasive the reasoning and analysis of the cases holding that motions to remand should be considered nondispositive.")

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/s/ M. Hannah Lauck  
United States District Judge

**Additional material  
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available in the  
Clerk's Office.**