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# BANKRUPTCY APPELLATE PANEL SUMMARY

September 2016

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*In re Jackson*, No. 15-8037, 2016 WL 4147641, 2016 Bankr. LEXIS 2840, \_\_\_ B.R. \_\_\_ (B.A.P. 6th Cir. Aug. 4, 2016). **Issue:** **Whether the bankruptcy court erred by finding a violation of the chapter 7 discharge injunction by a condo association when it rescheduled a sheriff's sale in a prepetition foreclosure action.** **Facts:** A chapter 7 debtor received a discharge and the clerk closed the case. Thereafter, the debtor's condo association scheduled a sheriff's sale in a prepetition foreclosure action that was stayed by the bankruptcy. The debtor owed prepetition and postpetition fees to the association. **Procedure:** The debtor moved to reopen his bankruptcy, alleging that the association was attempting to collect a discharged debt. The bankruptcy court reopened the case and directed the association to show cause why its actions did not violate the discharge injunction. Following the show cause hearing, the bankruptcy court concluded that

the association violated the discharge injunction. Because a first mortgage exceeded the value of the property, leaving no equity for the association's statutory lien, the bankruptcy court reasoned that the association was using the foreclosure as a disguised attempt to coerce payment of a prepetition debt. The association appealed. **Holding:** **The bankruptcy court erred by finding a violation of the chapter 7 discharge injunction by a condo association when it rescheduled a sheriff's sale in a prepetition foreclosure action.** **Analysis:** All foreclosure litigation can potentially induce payment of discharged debt to avoid foreclosure. This does not mean that a creditor cannot pursue its in rem rights. To hold otherwise would chill the exercise of these recognized rights. The bankruptcy court effectively imposed an "equity requirement" that is not found in the Ohio foreclosure statute. **REVERSED.**