

IN THE SUPREME COURT OF NORTH CAROLINA

No. 40PA25

Filed 23 October 2026

EAST BAY COMPANY, LTD. *v.* BRANDON SCOTT BAXLEY

On discretionary review pursuant to N.C.G.S. § 7A-31 of a unanimous decision of the Court of Appeals, 296 N.C. App. 444 (2024), affirming an order dismissing plaintiff's action entered on 8 February 2023 by Judge Keith O. Gregory in Superior Court, Wake County. Heard in the Supreme Court on 18 February 2026.

Buckmiller & Frost, PLLC, by Matthew W. Buckmiller and Joseph Z. Frost, for plaintiff-appellant.

Gaskins Hancock Tuttle Hash LLP, by William H. Kroll, for defendant-appellee.

OPINION OF THE COURT

ALLEN, Justice.

Obtaining civil judgments against defendants is one thing; collecting on them is something else. It can take plaintiffs years to collect on such judgments, if they can collect on them at all.

Recognizing this difficulty, state law allows a plaintiff who has obtained a civil judgment to file a lawsuit to renew that judgment. A plaintiff has ten years from the entry of judgment to commence a renewal action. N.C.G.S. § 1-47(1) (2025).

Plaintiff East Bay Company obtained a civil judgment against defendant Brandon Scott Baxley. Defendant later filed a bankruptcy petition, which triggered an automatic stay under federal law. 11 U.S.C. § 362(a). During the nearly two years that it remained in place, the stay prevented plaintiff from renewing its judgment against defendant. *See id.*

Plaintiff commenced this renewal action after the automatic bankruptcy stay

E. BAY CO. v. BAXLEY

Opinion of the Court

terminated. By the time plaintiff filed the renewal action, more than ten years had passed since the entry of the original judgment. This fact led the Court of Appeals to conclude that the ten-year statute of limitations for renewal actions barred plaintiff's lawsuit.

The question for this Court is whether the automatic bankruptcy stay extended plaintiff's filing deadline by tolling the statute of limitations. As explained below, we hold that it did and that, as a result, the renewal action was timely filed. We therefore reverse and remand.

I.

A party seeking to enforce a civil judgment “may obtain a new judgment to collect any unpaid amount due on [the] prior judgment by bringing ‘an independent action on the prior judgment.’” *Unifund CCR Partners v. Loggins*, 270 N.C. App. 805, 809 (2020) (quoting *Raccoon Valley Inv. Co. v. Toler*, 32 N.C. App. 461, 463 (1977)). The action to renew the judgment “must be brought within ten years of entry of the original judgment, and such renewal action can only be brought once.” *Id.* (citing N.C.G.S. § 1-47(1) (2017)).

On 30 July 2010, plaintiff obtained a civil judgment against defendant in the Superior Court, Wake County, for \$507,294.09 plus interest and reasonable attorneys' fees. On 8 July 2018, nearly eight years after the entry of that judgment, defendant filed a bankruptcy petition under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of North Carolina.

“Under the Bankruptcy Code, filing a petition for bankruptcy automatically ‘operates as a stay’ of creditors’ debt-collection efforts outside the umbrella of the bankruptcy case.” *Ritzen Grp., Inc. v. Jackson Masonry, LLC*, 589 U.S. 35, 37 (2020) (quoting 11 U.S.C. § 362(a)). Specifically, the filing of a bankruptcy petition automatically stays:

- (1) the commencement or continuation . . . of a judicial . . . proceeding against the debtor that was or could have been commenced before the commencement of the [bankruptcy case], or to recover a claim against the debtor that arose before the commencement of the case under this title;

E. BAY CO. v. BAXLEY

Opinion of the Court

(2) the enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of the [bankruptcy case]; [and]

....

(6) any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the [bankruptcy case.]

11 U.S.C. § 362(a).

In Chapter 7 cases, the automatic stay terminates when the case is closed or dismissed or when the bankruptcy court grants or denies the debtor’s discharge. 11 U.S.C. § 362(c)(2). *See generally Canning v. Beneficial Me., Inc.*, 442 B.R. 165, 170 (Bankr. D. Me. 2011) (“A bankruptcy discharge relieves the debtor of personal liability for pre-petition debts.” (emphasis omitted)).

On 19 June 2020, the bankruptcy court denied defendant’s discharge. The court’s action terminated the automatic stay, which the parties agree had remained in place for a total of 711 days.

On 10 June 2022, plaintiff filed its renewal action against defendant in the Superior Court, Wake County. In its complaint, plaintiff admitted that 29 July 2020 was the “original deadline” for filing the renewal action. Plaintiff alleged, however, that the filing deadline had been extended by the number of days that the automatic stay had remained in effect. According to plaintiff’s calculations, the new filing deadline was 11 July 2022.

Defendant moved to dismiss the lawsuit under Rule 12(b)(6) of the North Carolina Rules of Civil Procedure for failure to state a claim for relief. In particular, defendant argued that the automatic stay did not extend plaintiff’s filing deadline beyond the ten-year limit prescribed in N.C.G.S. § 1-47(1) for renewal actions.

The trial court granted the motion to dismiss. In its order, the court concluded that plaintiff’s renewal action “must be dismissed as a matter of law because . . . [p]laintiff . . . missed its deadline to bring the action.” Plaintiff appealed.

The Court of Appeals characterized its task as “reconciling the automatic stay of 11 U.S.C. § 362(a) and the ten-year statute of limitations period in [N.C.G.S.] § 1-47.” *E. Bay Co. v. Baxley*, 296 N.C. App. 444, 450 (2024). In analyzing whether the automatic stay tolled plaintiff’s ten-year filing period, the court turned to 11 U.S.C. § 108(c), another provision in the Bankruptcy Code.

E. BAY CO. v. BAXLEY

Opinion of the Court

Section 108(c) provides that:

[I]f applicable nonbankruptcy law . . . fixes a period for commencing or continuing a civil action in a court other than a bankruptcy court on a claim against the debtor, . . . and such period has not expired before the date of the filing of the petition, then such period does not expire until the later of—

- (1) the end of such period, including any suspension of such period occurring on or after the commencement of the case; or
- (2) 30 days after notice of the termination or expiration of the stay under section 362 . . . of this title . . . with respect to such claim.

11 U.S.C. § 108(c).

Citing federal case law, the Court of Appeals explained that 11 U.S.C. § 108(c) “does not provide for the tolling of any externally-imposed statute of limitations[] but only calls for applicable time deadlines to be extended for 30 days after termination of the bankruptcy stay, provided such a deadline would have fallen on an earlier date.” *E. Bay Co.*, 296 N.C. App. at 450–51 (citing *Aslanidis v. U.S. Lines*, 7 F.3d 1067, 1072–73 (2d Cir. 1993)). Under this interpretation of 11 U.S.C. § 108(c), “[p]laintiff only would have been granted the thirty days extension after dismissal of [its] bankruptcy petition[] if the ten-year deadline had expired while the stay remained in effect.” *Id.* at 451. But ten years had not yet elapsed when the automatic stay ended on 19 June 2020. Indeed, plaintiff still had forty days left in which to commence a renewal action before the expiration of the ten-year period on 29 July 2020. Thus, the court reasoned that 11 U.S.C. § 108(c) had no impact on the filing deadline for plaintiff’s renewal action.

The Court of Appeals likewise concluded that N.C.G.S. § 1-23 did nothing to extend the filing deadline. Under that statute, “[w]hen the commencement of an action is stayed by injunction or statutory prohibition, the time of the continuance of the injunction or prohibition is not part of the time limited for the commencement of the action.” N.C.G.S. § 1-23 (2025). Relying on one of its prior decisions, the Court of Appeals held that N.C.G.S. § 1-23 does not apply to the facts of this case. *E. Bay Co.*, 296 N.C. App. at 451 (citing *K&S Res., LLC v. Gilmore*, 284 N.C. App. 78, 83–85 (2022)). Having determined that plaintiff was not entitled to an extension of the original filing deadline, the Court of Appeals affirmed the trial court’s order

E. BAY CO. v. BAXLEY

Opinion of the Court

dismissing the renewal action as untimely. *Id.* at 452.

Plaintiff filed a petition for discretionary review asking this Court to decide whether 11 U.S.C. § 108(c) and N.C.G.S. § 1-23 tolled the ten-year statute of limitations for plaintiff's renewal action while the automatic stay was in effect. We allowed the petition.

II.

A Rule 12(b)(6) motion to dismiss challenges “the legal sufficiency of the pleading against which it is directed. The function of a motion to dismiss is to test the law of a claim, not the facts which support it.” *Howell v. Cooper*, 388 N.C. 71, 77–78 (2025) (cleaned up) (emphasis omitted) (quoting *White v. White*, 296 N.C. 661, 667 (1979)). Thus, we “treat the complaint’s factual allegations as true,” but we consider de novo whether, if true, those allegations state a valid legal claim. *Sanders v. N.C. Dep’t of Transp.*, 388 N.C. 653, 659 (2025). We also review de novo issues of statutory interpretation. *Morris v. Rodeberg*, 385 N.C. 405, 409 (2023). “When reviewing a matter de novo, this Court considers the matter anew and freely substitutes its own judgment for that of the lower courts.” *Town of Midland v. Harrell*, 385 N.C. 365, 370 (2023) (cleaned up).

III.

“Statutes of limitations are blunt instruments.” *Morris*, 385 N.C. at 409. They bar untimely claims “regardless of whether the claims have merit.” *Id.* A statute of limitations “represent[s] the legislature’s determination of the point at which the right of a party to pursue a claim must yield to competing interests, such as the unfairness of requiring the opposing party to defend against stale allegations.” *Id.*

A defendant may assert a statute-of-limitations defense in a Rule 12(b)(6) motion to dismiss “if it appears on the face of the complaint that [a statute of limitations] bars the claim.” *Horton v. Carolina Medicorp, Inc.*, 344 N.C. 133, 136 (1996). Once a defendant has raised such a defense, “the burden of showing that the action was instituted within the prescribed period is on the plaintiff.” *Id.* “A plaintiff sustains this burden by showing that the relevant statute of limitations has not expired.” *Id.*

In this case, we must decide whether an automatic bankruptcy stay tolls the

E. BAY CO. v. BAXLEY

Opinion of the Court

ten-year statute of limitations for renewal actions. If it does, then plaintiff timely filed its renewal action. If it does not, then the trial court and the Court of Appeals correctly determined that the action is time-barred. Resolving this question requires us to construe the pertinent federal and state statutory provisions.

“The principal goal of statutory construction is to accomplish the legislative intent.” *Lenox, Inc. v. Tolson*, 353 N.C. 659, 664 (2001). “‘If the statute’s plain language is clear and unambiguous,’ the court ‘applies the statute as written and does not engage in further statutory construction.’” *N.C. Dep’t of Revenue v. Philip Morris USA, Inc.*, 388 N.C. 181, 187 (2025) (quoting *N.C. Farm Bureau Mut. Ins. Co. v. Hebert*, 385 N.C. 705, 711 (2024)).

We turn first to the text of N.C.G.S. § 1-47(1). Section 1-47(1) is part of a group of statutes of limitations “for the commencement of actions, other than for the recovery of real property.” N.C.G.S. § 1-46 (2025). It reads:

Within ten years an action—

- (1) Upon a judgment or decree of any court of the United States, or of any state or territory thereof, from the date of its entry. No such action may be brought more than once, or have the effect to continue the lien of the original judgment.

N.C.G.S. § 1-47 (2025).

On its face, N.C.G.S. § 1-47(1) provides that a renewal action “must be brought within ten years of entry of the original judgment[] and . . . can only be brought once.” *Unifund*, 270 N.C. App. at 809. Inasmuch as plaintiff did not file its renewal action within ten years after entry of the original judgment, section 1-47(1) clearly bars the action unless some other statutory provision operated to extend the filing deadline.

As noted above, N.C.G.S. § 1-23 provides: “When the commencement of an action is stayed by injunction or statutory prohibition, the time of the continuance of the injunction or prohibition is not part of the time limited for the commencement of the action.” N.C.G.S. § 1-23. The plain language of this statute tolls a statute of limitations for whatever period an action is stayed by an “injunction or statutory prohibition.” Thus, any period in which an injunction or statutory prohibition stayed the commencement of plaintiff’s renewal action tolled the ten-year filing deadline.

This brings us to 11 U.S.C. § 362(a). Under that provision, the filing of a Chapter 7 bankruptcy petition automatically stays “*the commencement or*

E. BAY CO. v. BAXLEY

Opinion of the Court

continuation . . . of a judicial . . . proceeding against the debtor that was or could have been commenced before the commencement of the [bankruptcy case].” 11 U.S.C. § 362(a)(1) (emphasis added). So, a debtor cannot be sued on a debt so long as the automatic bankruptcy stay continues in place. *See Herlihy v. DBMP, LLC*, 167 F.4th 142, 149 (4th Cir. 2026) (“[T]he Bankruptcy Code provides that when a bankruptcy petition is filed, all judicial actions against the debtor are automatically stayed.”). It follows that 11 U.S.C. § 362(a) prevented plaintiff from commencing its renewal action while defendant’s stay remained in effect.

Section 362(a) obviously constitutes a “statutory prohibition” against the commencement of legal actions against debtors protected by the automatic stay. Indeed, the Court of Appeals of New York reached the same conclusion when analyzing whether 11 U.S.C. § 362(a) qualifies as a “statutory prohibition” under a New York law that “tolls the statute of limitations where ‘the commencement of an action has been stayed by a court or by statutory prohibition.’” *Lubonty v. U.S. Bank Nat’l Ass’n*, 139 N.E.3d 1222, 1223 (N.Y. 2019) (quoting N.Y.C.P.L.R. 204(a)).

Whether the automatic bankruptcy stay constitutes a “statutory prohibition” . . . is an issue of first impression for this Court. The issue need not detain us long. The bankruptcy stay provision expressly prohibits the “commencement or continuation” of any covered action (11 USC § 362[(a)][(1)])—it is a blanket ban on filing or continuing lawsuits against the debtor It is therefore clear that section 362(a) is a “statutory prohibition” within the plain meaning of [the New York tolling statute].

Id. at 1224–25.

Because 11 U.S.C. § 362(a) amounts to a “statutory prohibition” as N.C.G.S. § 1-23 uses the term, section 1-23 tolls statutes of limitations for claims that are subject to automatic bankruptcy stays. Hence, in this case, section 1-23 extended the filing deadline for plaintiff’s renewal action by the number of days that defendant’s stay remained in place, that is, until at least 11 July 2022. Plaintiff filed its renewal action before that date, so both the trial court and the Court of Appeals erred in holding that the ten-year statute of limitations codified in N.C.G.S. § 1-47(1) bars the action.

In arguing that N.C.G.S. § 1-23 did not extend the filing deadline for plaintiff’s

E. BAY CO. v. BAXLEY

Opinion of the Court

renewal action, defendant relies on *Fisher v. Anderson*, 193 N.C. App. 438 (2008), and *K&S Res., LLC v. Gilmore*, 284 N.C. App. 78 (2022). Of course, as decisions of the Court of Appeals, those cases do not bind this Court. In any event, neither case seems to be directly on point.

In *Fisher*, the trial court dismissed the plaintiff's renewal action against the defendant as time-barred under N.C.G.S. § 1-47(1). 193 N.C. App. at 438. The plaintiff appealed, arguing that the trial court did not account for the collective impact of N.C.G.S. § 1-234 and Rule 62(a) of the Rules of Civil Procedure on the statute of limitations. *Id.* at 439.

Section 1-234 states that a judgment lien on real property continues “for 10 years from the date of the entry of the judgment.” N.C.G.S. § 1-234. The statute further provides that “the time during which the party recovering . . . such judgment shall be, or shall have been, restrained from proceeding thereon by an order of injunction . . . or by a statutory prohibition[] does not constitute any part of the 10 years.” *Id.* Rule 62(a) automatically stays the execution of a judgment “for thirty days from the entry of the judgment.” *Fisher*, 193 N.C. App. at 441. The plaintiff in *Fisher* maintained that Rule 62(a) constitutes a “statutory prohibition” within the meaning of N.C.G.S. § 1-234. *Id.* Thus, according to the plaintiff, Rule 62(a)—when read together with N.C.G.S. § 1-234—extended his filing deadline by thirty days. *Id.* at 439. Unpersuaded, the Court of Appeals affirmed the trial court's dismissal of the plaintiff's renewal action. *Id.* at 441.

In our view, *Fisher* differs from this case in at least two material respects. First, unlike this case, *Fisher* did not involve tolling under N.C.G.S. § 1-23. Second, the Court of Appeals based its decision in *Fisher* at least partly on the plaintiff's failure to allege in his complaint “that enforcement of the judgment was restrained by an injunction, order, appeal, or statutory prohibition.” *Id.* Here, in contrast, the complaint expressly alleges that 11 U.S.C. § 362 prevented plaintiff from commencing its renewal action until after the bankruptcy court denied defendant's discharge.

The *Gilmore* case is similarly inapposite. Near the end of its analysis in that case, the Court of Appeals explained that N.C.G.S. § 1-23 did not toll the plaintiff's ten-year statute of limitations under N.C.G.S. § 1-47(1) because “the record [was] devoid of any reference to a stay or injunction on commencement” of a renewal action. *Gilmore*, 284 N.C. App. at 85. The record in this case *does* reference such a stay: the

E. BAY CO. v. BAXLEY

Opinion of the Court

automatic stay imposed by 11 U.S.C. § 362(a) when defendant filed his bankruptcy petition.

Defendant separately contends that 11 U.S.C. § 108(c) forecloses plaintiff's renewal action. Again, that statute provides in relevant part:

[I]f applicable nonbankruptcy law . . . fixes a period for commencing or continuing a civil action in a court other than a bankruptcy court on a claim against the debtor, . . . and such period has not expired before the date of the filing of the petition, then such period does not expire until the later of—

- (1) the end of such period, including any suspension of such period occurring on or after the commencement of the case; or
- (2) 30 days after notice of the termination or expiration of the stay under section 362 . . . of this title . . . with respect to such claim.

11 U.S.C. § 108(c).

As construed by defendant, section 108(c) guarantees creditors a minimum of thirty days after notice of the end of a debtor's automatic bankruptcy stay to commence legal action against the debtor. If the creditors' deadline under the applicable statute of limitations falls after the thirty-day period, creditors have until that later date to file their lawsuits. So far we agree with defendant.

Defendant goes on to argue, however, that "[u]nder section 108(c)(1), the suspension of any statute of limitations period is included in the calculated time, *not* added to the statute of limitations period." If we understand this argument correctly, defendant believes that the period during which a statute of limitations is tolled cannot be used to extend a creditor's filing deadline beyond the thirty-day minimum mandated by 11 U.S.C. § 108(c)(2). If that is defendant's understanding, we disagree.

Other appellate courts have construed 11 U.S.C. § 108(c) to allow states to do exactly what defendant apparently believes they may not do. According to the United States Court of Appeals for the Seventh Circuit, section 108(c) "assure[s] [creditors] 30 days in which to pick up the baton[,] [but] if states want to give [creditors] additional time, that is their business." *Pettibone Corp. v. Easley*, 935 F.2d 120, 121 (7th Cir. 1991). By way of example, the court noted that Illinois "tolls its statute of limitations during the entire bankruptcy proceeding." *Id.* (citing 735 Ill. Comp. Stat. 5/13-216).

E. BAY CO. v. BAXLEY

Opinion of the Court

Similarly, the New York Court of Appeals expressly rejected the argument “that the bankruptcy statute itself provides the primary mechanism by which a [creditor] may refile a claim—namely, the 30-day grace period provided in 11 USC § 108(c).” *Lubonty*, 139 N.E.3d at 1228. The court explained that, “if another statute tolls the action longer than 30 days[,] section 108(c) applies the longer toll, rather than the 30-day grace period.” *Id.* (citations omitted); *see also HSBC Bank USA, N.A. v. Crum*, 907 F.3d 199, 206 (5th Cir. 2018) (observing that “11 U.S.C. § 108 incorporates state law tolling provisions”).

In our view, the Seventh Circuit and the New York Court of Appeals have accurately construed the text of 11 U.S.C. § 108(c). The statute declares that a creditor’s deadline for commencing a legal action against a debtor who has filed a bankruptcy petition “does not expire *until the later of*” (1) the deadline imposed by the applicable statute of limitations, including any “suspension” (tolling period authorized by a statute other than 11 U.S.C. § 108(c)), or (2) “[thirty] days after notice of the termination or expiration of the [automatic bankruptcy] stay.” 11 U.S.C. § 108(c) (emphasis added).

Defendant relies heavily on the decision of the United States Court of Appeals for the Second Circuit in *Aslanidis*. That decision, however, does not support defendant’s position. Although we read the Second Circuit’s opinion to acknowledge that, on its own, section 108(c) will not toll a statute of limitations beyond the thirty-day minimum, *Aslanidis* expressly recognizes that other federal or state statutes can provide for longer tolling periods. 7 F.3d at 1073.

In this case, section 1-23 extended plaintiff’s original filing deadline to a date more than thirty days after notice of the automatic bankruptcy stay’s termination. Section 108(c) therefore gave plaintiff until that later date to commence its lawsuit against defendant. Because plaintiff filed its renewal action before that date, the ten-year statute of limitations in N.C.G.S. § 1-47(1) does not bar the action.

IV.

Plaintiff timely filed its renewal action. Accordingly, we reverse the judgment of the Court of Appeals and remand this case for further remand to the trial court for additional proceedings not inconsistent with this opinion.

REVERSED AND REMANDED.