

FIRST COMMERCIAL BANK, N.A. *v.* Michael W.
WALKER, Aearth Development, Inc., Aearth Preparation, Inc.,
and Coal Processors, A Joint Venture

96-1495

973 S.W.2d 823

Supreme Court of Arkansas
Opinion delivered September 17, 1998

APPEAL & ERROR — MOTION TO RECALL AND STAY MANDATE
GRANTED. — The supreme court granted appellees' motion to
recall and to stay the mandate pending the disposition of appellees'
petition for writ of certiorari and appeal, if certiorari were granted,
to the United States Supreme Court.

Motion to Recall Mandate and Motion for Stay of the Recalled Mandate, Including Appellant's Entitlement to Collect Appeal Costs, Pending Disposition of Petition for Writ of Certiorari and Appeal, if Certiorari is Granted, to the U.S. Supreme Court; granted.

Barber, McCaskill, Jones & Hale, P.A., by: *Glenn W. Jones, John S. Cherry, and Joseph F. Kolb*; and *Williams & Anderson*, by: *Philip S. Anderson, Leon Holmes, and Katharine R. Cloud*, for appellant/cross-appellee.

The Burk Law Firm, A Professional Corporation, by: *Michael G. Burk; Walker & Black*, by: *Kendall R. Black*; and *James E. Burk*, for appellees/cross-appellants.

PER CURIAM. Appellees Michael W. Walker, Aearth Development, Inc., Aearth Preparations, Inc., and Coal Processors, Inc., filed a motion to recall the mandate and to stay the recalled mandate, including appellant's entitlement to collect appeal costs, pending the disposition of their petition for writ of certiorari and appeal, if certiorari is granted, to the United States Supreme Court.

[1] We grant appellees' motion to recall the mandate and to stay the mandate pending the disposition of appellees' petition for writ of certiorari to the Supreme Court, or for ninety days from the date of this order, whichever is first. If the Supreme Court grants certiorari, we continue to recall and stay the mandate pending the disposition of the appeal.

Motion granted.

J.W. GREEN, JR., HANI W. HASHEM, and MARK KLAPPENBACH, Sp. JJ., join. GLAZE, BROWN, and IMBER, JJ., not participating.