

IN THE SUPREME COURT OF THE STATE OF NEVADA

SAIF, INC., A CALIFORNIA
CORPORATION,
Appellant,

vs.

GARY POLICH, AS HEIR AND
SUCCESSOR TO MARIAN POLICH
(DECEASED); CYNTHIA J. DAVIS;
ELINGTON BENDER; SALLY
BERNTSEN; ETHEL HENDRICKSON;
ROBERT ARDIS; PAMELA ARDIS;
RICHARD CLARK; JUDY CLARK;
THERESE SAUBERT; PENNY BRILL;
BETTY FJELD; WILLIAM MCKAMEY;
DENISE MCKAMEY; STEPHEN
EASTMAN; PATRICIA EASTMAN;
RUTH STONE; BROCK PAYNTER;
BILLIE JEAN BLOXHAM; JOHN
BLOXHAM; BROCK PAYNTER;
ADELINE TOPEL; WILLIAM
SANDAKER; MARTHA SANDAKER;
LORI JACQUELINE; RICHARD MOTIL;
DIANE TOPEL; PATSY DECKER; JEAN
SMITH; WAUNETA ROTH; LOUISE
HAABY; ELMER DAVIS; DORIS DAVIS;
ROBERT BARTLETT, INDIVIDUALLY
AND AS HEIR AND SUCCESSOR TO
ERMA BARTLETT(DECEASED);
RICHARD WEIL; TERRI WEIL; SCOTT
JOHNSON; GLENDA JOHNSON;
RICHARD MCCLOUD; THEOLA
MCCLOUD; BETTYE ADAMS; CINDY
DAVIS; CLARI DAVIS, BRANT DAVIS,
SHELLY DAVIDSON, THOMAS
DAVIDSON; SANDRA CHRISMAN;
CHUCK CHRISMAN; JOHN
SLINGSBY; FAYE SLINGSBY; LARRY
W. ANDERSON; TERESA L.
ANDERSON; WILLIS NYHOLM AND

No. 48536

FILED

JAN 15 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

EVELYN NYHOLM, INDIVIDUALLY
AND AS HEIRS AND SUCCESSORS TO
GEORGE MILLET (DECEASED);
NANCY HEIN AND FRANK HEIN, AS
HEIRS AND SUCCESSORS TO
GEORGE MILLET (DECEASED);
DOROTHY COX; BARBARA JOAN
GARDNER; AURELIA CRAIG;
STANFORD BENNETT; RHONDA
BENNETT; HARVEY HENDRICKSON;
AND PAUL COMER,
Respondents.

ORDER DISMISSING APPEAL

On October 31, 2007, this court issued an order directing appellant to submit points and authorities establishing that the bankruptcy stay applies to this appeal. On November 20, 2007, appellant timely filed points and authorities in compliance with this court's order. To date, there has been no response or objections filed by respondents.


After reviewing appellant's points and authorities, it appears that the automatic bankruptcy stay applies to this appeal. Accordingly, we order this appeal stayed pursuant to the mandatory provisions of federal bankruptcy law. See 11 U.S.C. § 362(a).

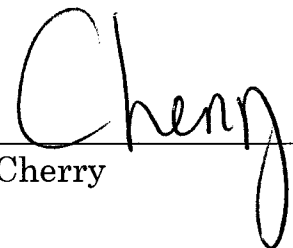
However, given the applicability of the automatic stay, this appeal may linger indefinitely on this court's docket pending final resolution of the bankruptcy proceedings. Accordingly, we conclude that judicial efficiency will be best served if this appeal is dismissed, without prejudice. Because a dismissal *without prejudice* will not require this court to reach the merits of this appeal and is not inconsistent with the primary purposes of the bankruptcy stay—to provide protection for debtors and creditors—we further conclude that such dismissal will not


violate the bankruptcy stay.¹ See Independent Union of Flight Attendants v. Pan American World Airways, Inc., 966 F.2d 457, 459 (9th Cir. 1992) (holding that the automatic stay does not preclude dismissal of an appeal so long as dismissal is “consistent with the purpose of the statute [11 U.S.C. §362(a)”]; Dean v. Trans World Airlines, Inc., 72 F.3d 754, 755 (9th Cir. 1995) (holding that a post-bankruptcy petition dismissal will violate the automatic stay “where the decision to dismiss first requires the court to consider other issues presented by or related to the underlying case”).

Accordingly, we dismiss this appeal. This dismissal is without prejudice to appellant’s right to move for reinstatement of this appeal upon either the lifting of the bankruptcy stay or final resolution of the bankruptcy proceedings, if appellant deems such a motion appropriate at that time.

It is so ORDERED.


_____, J.
Maupin


_____, J.
Cherry


_____, J.
Saitta

¹ The automatic stay provides a debtor “with protection against hungry creditors” and gives it a “breathing spell from its creditors” by stopping all collection efforts. Dean v. Trans World Airlines, Inc., 72 F.3d 754, 755 (9th Cir. 1995). Further, it assures creditors “that the debtor’s other creditors are not racing to various courthouses to pursue independent remedies to drain the debtor’s assets.” Id. At 755-6.

cc: Hon. Jackie Glass, District Judge
Prince & Keating, LLP
Van Dyke & Associates, APLC
Clark Tatom
Eighth District Court Clerk