

IN THE SUPREME COURT OF THE STATE OF NEVADA

PAULINE FARRIS, A/K/A PAULINE
MICHAILOFF,

Appellant,

vs.

JOHN A. THOMAS, JR., JAMES R.
TRIGUEIRO, AND COMMUNITY
CONSTRUCTION, INC.,

Respondents.

PAULINE FARRIS, A/K/A PAULINE
MICHAILOFF,

Appellant,

vs.

JOHN A. THOMAS, JR.,

Respondent.

PAULINE FARRIS, A/K/A PAULINE
MICHAILOFF,

Appellant,

vs.

JOHN A. THOMAS, JR.,

Respondent.

No. 34229

FILED

APR 12 2002

JANE TIE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

No. 34551

No. 35146

ORDER DISMISSING APPEALS

Docket Nos. 34229 and 34551 are appeals from a summary judgment in an action for money due on promissory notes filed by appellant Pauline Farris against respondents John A. Thomas, Jr., James R. Trigueiro, and Community Construction, Inc. Docket No. 35146 is an appeal from a judgment in a separate action filed by Farris against Thomas for money due on promissory notes.

Our preliminary review of the documents before this court revealed a potential jurisdictional defect in Docket No. 34229. It appeared that Farris's notice of appeal in Docket No. 34229 was filed before the

district court had entered a final judgment.¹ Accordingly, on February 11, 2002, we ordered Farris to show cause within thirty days why the appeal in Docket No. 34229 should not be dismissed for lack of jurisdiction. We cautioned Farris that failure to respond to our order could result in the dismissal of the appeal for lack of jurisdiction. To date, Farris has not responded to our order. Accordingly, as Farris has failed to demonstrate this court's jurisdiction, we dismiss the appeal in Docket No. 34229.²

On May 4, 2001, this court received notice that James R. Trigueiro, a respondent in Docket No. 34229, filed a bankruptcy petition in the United States Bankruptcy Court. The filing of a bankruptcy petition operates to automatically stay the continuation of any judicial action against the bankruptcy debtor.³ An appeal for the purposes of the automatic bankruptcy stay, is considered a continuation of the action in the trial court.⁴ It is unclear at this time whether the automatic stay has been lifted. Nevertheless, an appellate court may dismiss an appeal for lack of jurisdiction even where the automatic stay provisions under the bankruptcy code are otherwise applicable.⁵ Thus, the existence of any

¹See Rae v. All American Life & Cas. Co., 95 Nev. 920, 605 P.2d 196 (1979).

²The April 30, 2001 motion to strike portions of the designated record in Docket No. 34229 is denied as moot.

³See 11 U.S.C. § 362(a)(1).


⁴See Ingersoll-Rand Financial Corp. v. Miller Min. Co., Inc., 817 F.2d 1424 (9th Cir. 1987).

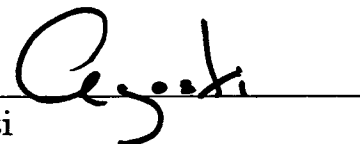
⁵See Royal Dynasty, Inc. v. Chin, 638 N.E.2d 921 (Mass. App. Ct. 1994).

bankruptcy stay does not affect our decision to dismiss the appeal in Docket No. 34229 for lack of jurisdiction.

On August 8, 2001, Farris filed motions to voluntarily dismiss the appeals in Docket Nos. 34551 and 35146, respectively. As Farris did not designate Trigueiro as a party in these appeals, the bankruptcy stay is not an issue. Accordingly, we grant the motions, and we dismiss the appeals in Docket Nos. 34551 and 35146.⁶ The parties shall bear their own costs and attorney fees.⁷

It is so ORDERED.


_____, C.J.
Maupin


_____, J.
Agosti


_____, J.
Leavitt

cc: Hon. Steven R. Kosach, District Judge
Hon. Brent T. Adams, District Judge
Thomas T. Anderson
Roland K. Martin Jr.
Beesley, Peck, Matteoni & Cossitt, Ltd.
Jones Vargas/Reno
Washoe District Court Clerk

⁶The March 21, 2001 motion to withdraw as counsel filed by Jones Vargas in all three appeals is denied as moot.

⁷See NRAP 42(b).