

IN THE SUPREME COURT OF THE STATE OF NEVADA

JEFFREY C. STONE, INC., AN
ARIZONA CORPORATION D/B/A
SUMMIT BUILDERS OF NEVADA;
PERLMAN ARCHITECTS OF
CALIFORNIA, INC., A NEVADA
CORPORATION; PA LAS VEGAS, LLC,
A NEVADA LIMITED-LIABILITY
COMPANY; AND ARCO ELECTRIC OF
NEVADA,

Appellants,

vs.

TROPICANA INN INVESTORS, LLC, A
NEVADA LIMITED LIABILITY
COMPANY; MARSHALL
INVESTMENTS CORPORATION, A
FOREIGN CORPORATION; THE
MIDTOWN NIKI GROUP, LLC, A
FOREIGN LIMITED LIABILITY
COMPANY; AND THE RMCI GROUP,
INC., A FOREIGN CORPORATION,

Respondents.

No. 52195

FILED

DEC 19 2008

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

ORDER DISMISSING APPEAL

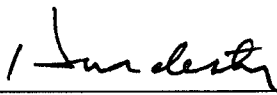
Counsel for respondents has filed a "Notice of Commencement of Bankruptcy Case" and a "Notice of Order for Relief in an Involuntary Case," informing this court that respondent Tropicana Inn Investors, LLC, has filed a petition for bankruptcy. The notices also indicate that this appeal is stayed due to the bankruptcy filing. See 11 U.S.C. § 362(a)(1).


Given the applicability of the bankruptcy 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

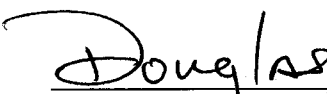
purposes of the bankruptcy stay—to provide protection for debtors and creditors—we further conclude that such dismissal will not violate the bankruptcy stay.¹ See Independent Union of Flight Attendants v. Pan American World Airways, Inc., 966 F.2d 457, 459 (9th Cir. 1992) (holding that the automatic 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 appellants’ right to move for reinstatement of this appeal upon either the lifting of the bankruptcy stay or final resolution of the bankruptcy proceedings, if appellants deem such a motion appropriate at that time.

It is so ORDERED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

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. Elizabeth Goff Gonzalez, District Judge
Jay Earl Smith, Settlement Judge
Fennemore Craig, P.C./Las Vegas
Peel Brimley LLP
Kravitz, Schnitzer, Sloane, Johnson & Eberhardy, Chtd.
Michael R. Mushkin & Associates, P.C.
Santoro, Driggs, Walch, Kearney, Holley & Thompson
Eighth District Court Clerk