

IN THE SUPREME COURT OF THE STATE OF NEVADA

EQUITY TITLE, LLC, A NEVADA  
LIMITED LIABILITY COMPANY D/B/A  
EQUITY TITLE OF NEVADA,  
Appellant,  
vs.  
MELANI SCHULTE AND SABRECO,  
INC., A NEVADA CORPORATION,  
Respondents.

No. 53212

FILED

MAY 07 2010

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *A. Ingersoll*  
DEPUTY CLERK

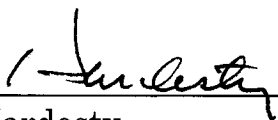
ORDER DISMISSING APPEAL

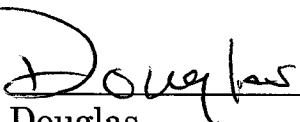
This is an appeal from an amended district court judgment awarding costs. Eighth Judicial District Court, Clark County; Timothy C. Williams, Judge.


On December 9, 2009, we entered a second order to show cause why this appeal should not be dismissed for lack of jurisdiction. On December 9, 2009, and January 26, 2010, this court received notice that respondents filed petitions for relief under Chapter 11 of the bankruptcy code on October 11 and November 15, 2009, in the United States Bankruptcy Court for the District of Nevada (Case Nos. 09-29123-BAM and 09-31584-BAM). The filing of a Chapter 11 petition operates to stay, automatically, the “continuation” of any “judicial . . . action . . . against the [bankruptcy] debtor.” 11 U.S.C. § 362(a)(1) (2006). An appeal, for purposes of the automatic bankruptcy stay, is considered a continuation of the action in the trial court. See, e.g., Ingersoll-Rand Financial Corp. v. Miller Min. Co., 817 F.2d 1424 (9th Cir. 1987). Consequently, an appeal is automatically stayed if the debtors were defendants in the underlying trial court action. Id. In the underlying district court action, respondents were defendants. Accordingly, the automatic bankruptcy stay applies to this appeal.

Given the applicability of the automatic stays, this appeal may linger indefinitely on this court's docket pending final resolution of the bankruptcy proceedings. And although appellant's response to our order to show cause indicated that appellant has moved for relief from the automatic stays, appellant has not filed any paper in this court indicating that the stays have been lifted. Accordingly, we conclude that judicial efficiency will be best served if this appeal is dismissed without prejudice. Because such a dismissal 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 the dismissal will not violate the bankruptcy stay. See Dean v. Trans World Airlines, Inc., 72 F.3d 754, 756 (9th Cir. 1995) (providing that a post-bankruptcy dismissal violates the automatic stay when “the decision to dismiss first requires the court to consider other issues presented by or related to the underlying case”); see also IUFA v. Pan American, 966 F.2d 457, 459 (9th Cir. 1992) (explaining that the automatic bankruptcy stay does not preclude dismissal of an appeal so long as dismissal is “consistent with the purpose of [11 U.S.C. §362(a)]”). Accordingly, this appeal is dismissed without prejudice to appellant's right to move for its reinstatement upon either the lifting of the bankruptcy stay or final resolution of the bankruptcy proceedings, if such a motion is deemed appropriate at that time.

It is so ORDERED.

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Pickering

cc: Hon. Timothy C. Williams, District Judge  
Nathaniel J. Reed, Settlement Judge  
Meier & Fine, LLC  
Sabreco, Inc.  
Melani Schulte  
Eighth District Court Clerk