

IN THE SUPREME COURT OF THE STATE OF NEVADA

KIMMI HALL, AN INDIVIDUAL, AND  
MIRACLE YOUNG SKIN PRODUCTS,  
INC., A NEVADA CORPORATION,

Appellants,

vs.

JAE HA, AN INDIVIDUAL,

Respondent.

No. 53332

**FILED**

SEP 03 2010

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

ORDER DISMISSING APPEAL

In response to an order from this court seeking clarification, counsel for appellants filed a status report indicating that this appeal is stayed pursuant to the automatic stay provisions of federal bankruptcy law. See 11 U.S.C. § 362(a)(1).

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.<sup>1</sup>

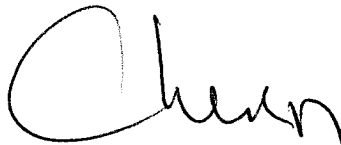
<sup>1</sup> The automatic stay provides a debtor “with protection against hungry creditors” and gives it a “breathing spell from its creditors” by stopping all collection efforts. Dean v. Trans World Airlines, Inc., 72 F.3d 754, 755 (9<sup>th</sup> Cir. 1995). Further, it assures creditors “that the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


See Independent Union of Flight Attendants v. Pan American World Airways, Inc., 966 F.2d 457, 459 (9<sup>th</sup> 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 (9<sup>th</sup> 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.

Further, in the status report, counsel for appellants have renewed their motion to withdraw as attorneys of record for appellants. Cause appearing, we grant the motion to withdraw as counsel of record for appellants. See NRAP 46(e)(3); SCR 46; NRPC 1.16. Accordingly, the clerk shall remove attorneys Angela Nolan and Evan S. Wishengrad, of the law firm of Wishengrad Law Offices, LLC, from the docket of this appeal.

It is so ORDERED.

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Doug Smith, District Judge  
Carolyn Worrell, Settlement Judge  
The Eighth District Court Clerk  
Hutchison & Steffen, LLC  
Wishengrad Law Offices, LLC  
Sullivan, Hill, Lewinn, Rez & Engel  
Goldsmith & Guymon  
Kimmi Hall  
Miracle Young Skin Products, Inc.