

IN THE SUPREME COURT OF THE STATE OF NEVADA

ERKAN EREREN AKA ERKAN
EREREN, M.D. AKA ERKAN M.
EREREN,
Appellant,
vs.
MGM GRAND HOTEL, LLC,
Respondent.

No. 55486

FILED

SEP 29 2010

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

ORDER DISMISSING APPEAL

This is an appeal from a district court summary judgment in a contract law action. Eighth Judicial District Court, Clark County; David Wall, Judge.

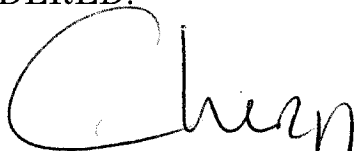
Appellant has notified this court that on September 7, 2010, he filed a petition for relief under Chapter 7 of the Bankruptcy Code. The filing of a bankruptcy petition operates to stay, automatically, the "continuation" of any "judicial . . . action . . . against the debtor." 11 U.S.C. § 362(a)(1) (2006). An appeal, for purposes of the automatic stay, is considered a continuation of the action in the trial court. Consequently, an appeal is automatically stayed if the debtor was the defendant in the underlying trial court action. See Ingersoll-Rand Financial Corp. v. Miller Mining, Co., 817 F.2d 1424 (9th Cir. 1987). Appellant was a defendant below. Therefore, this appeal is stayed pursuant to the automatic stay provisions of federal bankruptcy law.


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

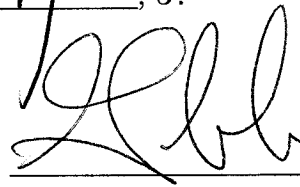
the bankruptcy stay—to provide protection for debtors and creditors—we further conclude that such dismissal will not violate the bankruptcy stay. See IUFA v. Pan American, 966 F.2d 457, 459 (9th Cir. 1992) (holding that the automatic stay does not preclude dismissal of an appeal so long as dismissal is “consistent with the purpose of the statute [11 U.S.C. §362(a)”]; Dean v. Trans World Airlines, Inc., 72 F.3d 754, 756 (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 on 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.¹


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. David Wall, District Judge
Craig A. Hoppe, Settlement Judge
Mirch Law Office
Fennemore Craig, P.C./Las Vegas
Eighth District Court Clerk

¹In light of this order, appellant’s September 27, 2010, motion to hold this appeal in abeyance is denied as moot.