

IN THE SUPREME COURT OF THE STATE OF NEVADA

PAUL HOANG PHAN, AN
INDIVIDUAL,

Appellant,

vs.


CREDIT UNION 1, AN ILLINOIS
STATE CHARTERED CREDIT UNION,
AS SUCCESSOR IN INTEREST TO
CUMORAH CREDIT UNION,

Respondents.

No. 60240

FILED

OCT 30 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEAL

In response to an order of this court, counsel for appellant has filed a status report regarding appellant's bankruptcy proceedings. In that report, counsel indicates that this appeal is stayed pursuant to the automatic stay provisions of federal bankruptcy law. See U.S.C. § 362(a)(1).

Given the applicability of the automatic stay, this appeal may linger indefinitely on this court's docket until appellant's bankruptcy proceedings are concluded. Under these circumstances, 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


¹The 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

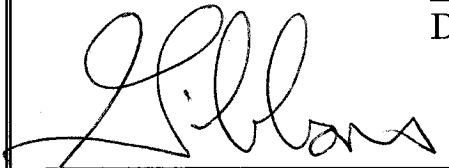
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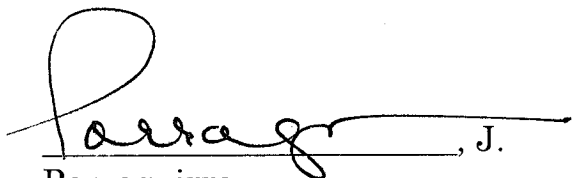
v. Pan American World Airways, Inc., 966 F.2d 457, 459 (9th Cir. 1992) (holding that the automatic stay does not preclude dismissal of an appeal so long as dismissal is “consistent with the purpose of the statute [11 U.S.C. § 362(a)]”); Dean v. Trans World Airlines, Inc., 72 F.3d 754, 756 (9th Cir. 1995) (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, cause appearing, we dismiss this appeal. This dismissal is without prejudice to appellant’s right to move for reinstatement of this appeal upon 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.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

...continued
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. Timothy C. Williams, District Judge
Larry J. Cohen, Settlement Judge
Kensington Hartnett Law
Law Office of Hayes & Welsh
Eighth District Court Clerk