

IN THE SUPREME COURT OF THE STATE OF NEVADA

BABCOCK & WILCOX AMERICAN HOLDING  
COMPANY, INC., AND EMPLOYERS  
INSURANCE COMPANY OF NEVADA, A  
MUTUAL COMPANY,

Appellants,

vs.

DOUGLAS IVES,

Respondent.

No. 35580

**FILED**

SEP 13 2000

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order granting a petition for judicial review in a workers' compensation matter, setting aside the appeals officer's decision, and remanding the matter to appellant Employers Insurance Company of Nevada (EICON) to allow respondent Douglas Ives to pursue his claim for occupational disease.

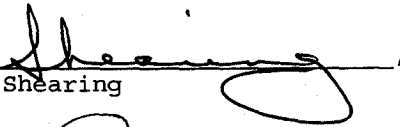
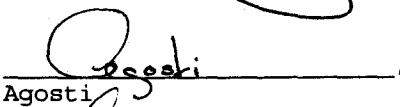
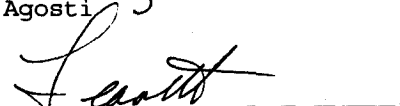
On April 3, 2000, appellant Babcock & Wilcox American Holding Company, Inc. (Babcock) filed a notice of bankruptcy proceedings in the United States Bankruptcy Court. Subsequently, on April 14, 2000, the parties to this appeal filed a stipulation to dismiss this appeal pursuant to a settlement. On May 25, 2000, we ordered Babcock to file a report informing this court of the status of the bankruptcy proceedings. We noted that the filing of a bankruptcy petition operated to automatically stay the continuation of judicial action against the bankruptcy debtor, and that an appeal is automatically stayed if the debtor was the defendant in the underlying trial court action. See 11 U.S.C. § 362(a)(1); *Ingersoll-Rand Financial Corp. v. Miller Min. Co., Inc.*, 817 F.2d 1424 (9th Cir. 1987). We therefore ordered Babcock to provide this court with any order of the bankruptcy court resolving the bankruptcy proceedings or lifting the automatic stay. On June 13, 2000, Babcock filed a bankruptcy status report, indicating that the bankruptcy proceedings were

ongoing and the stay in the bankruptcy proceedings had not been lifted.

Further, because it appeared that this appeal involved a potential jurisdictional defect, on July 21, 2000, we ordered appellants to show cause why this appeal should not be dismissed for lack of jurisdiction. In response, Babcock provided this court with an order from the bankruptcy court lifting the stay and allowing Babcock to continue handling workers' compensation claims presented prior to the filing of the bankruptcy petition.

Accordingly, as the bankruptcy stay has been lifted, we approve the parties' stipulation to dismiss this appeal.<sup>1</sup> We hereby dismiss this appeal, with each party to bear its own costs and attorney's fees. See NRAP 42(b).

It is so ORDERED.<sup>2</sup>

 _____ Shearing	J.
 _____ Agosti	J.
 _____ Leavitt	J.

cc: Hon. Brent T. Adams, District Judge  
Employers Insurance Company of Nevada, Glade A. Myler  
James A. McCarty  
Marialice K. Galt  
Washoe County Clerk

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<sup>1</sup>In light of our disposition of this appeal, we express no opinion on the jurisdictional issue.

<sup>2</sup>We deny as moot EICON's motion for stay filed on June 15, 2000, and request for submission of motion filed on June 26, 2000.