

IN THE SUPREME COURT OF THE STATE OF NEVADA

MIHEE JANG; AND GREENLAND
SUPERMARKET, INC., A NEVADA
CORPORATION,

Appellants,

vs.

SPRING MOUNTAIN AND RAINBOW
LLC, A NEVADA LIMITED LIABILITY
COMPANY,

Respondent.

No. 62979

FILED

SEP 09 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY: *[Signature]*
DEPUTY CLERK

ORDER DISMISSING APPEAL

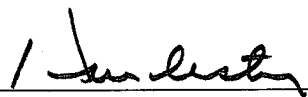
Counsel for appellants informed this court that this appeal was stayed due the bankruptcy filing of appellant Greenland Supermarket, Inc. See 11 U.S.C. § 362(a)(1); See also, Ingersoll-Rand Financial Corp. v. Miller Mining, Co. Inc., 817 F.2d 1424 (9th Cir. 1987). Because it was not clear whether the stay applied to both appellants, we directed counsel to file a status report regarding the extent of the stay. Counsel reports that the stay applies to both appellants

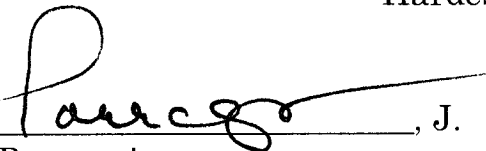
Given the applicability of the stay, this appeal may linger indefinitely on this court's docket pending final resolution of the bankruptcy proceedings. Accordingly, we conclude that judicial efficiency will be best served if this appeal is dismissed without prejudice. Because a dismissal *without prejudice* 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

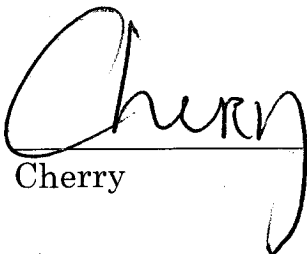
further conclude that such dismissal will not violate the bankruptcy stay.¹ See Independent Union of Flight Attendants v. Pan American World Airways, Inc., 966 F.2d 457, 459 (9th Cir. 1992) (holding that the automatic stay does not preclude dismissal of an appeal so long as dismissal is “consistent with the purpose of the statute [11 U.S.C. §362(a)”]; Dean v. Trans World Airlines, Inc., 72 F.3d 754, 755 (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 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.²

It is so ORDERED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Cherry

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 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.

²Any such motion for reinstatement of the appeal must be filed within 60 days of the lifting of the bankruptcy stay or conclusion of bankruptcy proceedings, whichever occurs earlier.

cc: Hon. Douglas W. Herndon, District Judge
Robert F. Saint-Aubin, Settlement Judge
Hutchison & Steffen, LLC
Leavitt Sully & Rivers
Denton Lopez & Cho
Eighth District Court Clerk