

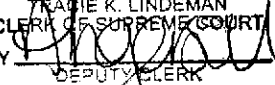
IN THE SUPREME COURT OF THE STATE OF NEVADA

CYNTHIA DUFFY,
Appellant,
vs.
ONEWEST BANK, FSB,
Respondent.

No. 64518

FILED

MAR 11 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
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DEPUTY CLERK

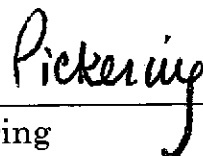
ORDER DISMISSING APPEAL

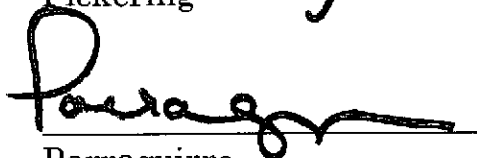
This is an appeal from a district court order denying a petition for judicial review of foreclosure mediation and allowing respondent to proceed with foreclosing on the subject real property. On February 7, 2014, appellant notified this court, in response to a notice to file the docketing statement, that she has petitioned for relief under Chapter 7 in the United States Bankruptcy Court for the District of Nevada and that this appeal is subject to the automatic bankruptcy stay. The automatic bankruptcy stay applies to any action to obtain possession of or to enforce a lien against property of the bankruptcy estate, and thus to the foreclosure proceedings. 11 U.S.C. § 362(a)(3), (4) and (5) (2010); *see, e.g., Ingersoll-Rand Fin. Corp. v. Miller Mining Co.*, 817 F.2d 1424 (9th Cir. 1987). Accordingly, this appeal, which appellant presumably pursues to halt the foreclosure proceedings, is moot.


Given the applicability of the automatic stay to the foreclosure proceedings, which at this point renders moot the appeal, 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 such a dismissal 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 the dismissal will not violate the bankruptcy stay. *See Dean v. Trans World Airlines, Inc.*, 72 F.3d 754, 756 (9th Cir. 1995) (providing that a post-bankruptcy dismissal violates the automatic stay when “the decision to dismiss first requires the court to consider other issues presented by or related to the underlying case”); *see also IUFA v. Pan Am.*, 966 F.2d 457, 459 (9th Cir. 1992) (explaining that the automatic bankruptcy stay does not preclude dismissal of an appeal so long as dismissal is “consistent with the purpose of [11 U.S.C. §362(a)]”). Accordingly, this appeal is dismissed without prejudice to appellant’s right to move for its reinstatement within 60 days of either the lifting of the bankruptcy stay or final resolution of the bankruptcy proceedings, if such a motion is deemed appropriate at that time.

It is so ORDERED.


_____, J.
Pickering


_____, J.
Parraguirre


_____, J.
Saitta

cc: Hon. Kathleen E. Delaney, District Judge
Cody Law Firm, LLC
Brooks Bauer LLP
Eighth District Court Clerk