

IN THE SUPREME COURT OF THE STATE OF NEVADA

RIVER OAKS HOMEOWNERS'
PROTECTION COMMITTEE, INC.;
JOANNE MEEHAN; TOM LEWISON;
LANCE MOLINARI; SUE MOLINARI;
PAT HOUSE; MICHAEL RUNNELS;
RUTH ANN JOHNSON; BUD
JOHNSON; CATHERINE BROWN
KING; BARBARA BEACH; BARBARA
G. BUNCH; JANA MASSO; THOMAS L.
LYNCH; LLOYD STANDER; JOHN F.
MEIKLE; BARRY F. LUTTERMAN;
SUSAN D. GOETZ; EILEEN GOETZ;
RICHARD T. ROBERTS; BRIAN BACH;
CINDY CHRISMAN; RUBY E.
NICHOLS; MILAN DAN SILVA;
RHONDA BEACHBOARD; BOB
BEACHBOARD; SEAN A. BALL;
ALLYSON E. BALL; LAVAN
WHITFIELD; JOY GREGORY-HART;
DOYLE E. HART; ROSE M. GOFF;
NEIL R. GOFF; JOSEPH BLASKO;
GRETA BLASKO; ROBERT R. BLACK;
JEAN PURCELL; ROBERT
FIELDING; SANDRA WAGNER;
DIANNE S. WISEMAN; AND CLOVIS R.
HASSLER,

Appellants/Cross-
Respondents,

vs.

GLEN MEADOWS HOMEOWNERS
ASSOCIATION, INC., D/B/A RIVER
OAK HOMEOWNERS ASSOCIATION;
AND NONA EMERY,
Respondents,
and
NEC CORPORATION; EMERY
MEDICAL CORPORATION; DR. CLYDE

No. 35861

FILED

FEB 27 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

EMERY; AND VERDI MEADOWS
UTILITY COMPANY,

Respondents/Cross-
Appellants.

RIVER OAKS HOMEOWNERS
PROTECTION COMMITTEE, INC.;
JOANNE MEEHAN; TOM LEWISON;
LANCE MOLINARI; SUE MOLINARI;
PAT HOUSE; MICHAEL RUNNELS;
RUTH ANN JOHNSON; BUD
JOHNSON; CATHERINE BROWN
KING; BARBARA BEACH; BARBARA
G. BUNCH; JANA MASSO; THOMAS L.
LYNCH; LLOYD STANDER; JOHN F.
MEIKLE; BARRY F. LUTTERMAN;
SUSAN D. GOETZ; EILEEN GOETZ;
RICHARD T. ROBERTS; BRIAN BACH;
CINDY CHRISMAN; RUBY E.
NICHOLS; MILAN DAN SILVA;
RHONDA BEACHBOARD; BOB
BEACHBOARD; SEAN A. BALL;
ALLYSON E. BALL; LAVAN
WHITFIELD; JOY GREGORY-HART;
DOYLE E. HART; ROSE M. GOFF;
NEIL R. GOFF; JOSEPH BLASKO;
GRETA BLASKO; ROBERT R. BLACK;
JEAN PURCELL; ROBERT
FIELDING; SANDRA WAGNER;
DIANNE S. WISEMAN; AND CLOVIS
R. HASSLER,

Appellants,

vs.

GLEN MEADOWS HOMEOWNERS
ASSOCIATION, INC., D/B/A RIVER
OAK HOMEOWNERS ASSOCIATION;
DR. CLYDE EMERY; NEC
CORPORATION; VERDI MEADOWS
UTILITY COMPANY; AND EMERY
MEDICAL CORPORATION,

Respondents.

No. 36665

ORDER DISMISSING APPEALS

These consolidated appeals have been docketed in this court for several years. The appeals were stayed pursuant to the mandatory provisions of federal bankruptcy law in 2001. See 11 U.S.C. §362(a). After imposition of the stay, respondents Nona Emery and Dr. Clyde Emery, the bankruptcy debtors, filed several status reports in this court indicating that the bankruptcy proceedings and stay were continuing.

In March 2004, this court entered an order noting that the Emerys had been discharged by the bankruptcy court and directing the Emerys to file points and authorities addressing whether the discharge terminated the automatic stay mandated by 11 U.S.C. §362(a). In the points and authorities filed in response to this court's order, the Emerys argued that the discharge did not terminate the stay because their estate continued to be controlled by the bankruptcy trustee and subject to pending bankruptcy proceedings. The Emerys' points and authorities also pointed out that each appellant was listed as a judgment creditor in the bankruptcy and was served with a copy of the discharge and that appellants "never sought relief from the stay, or clarification of the extent to which the discharge affected the stay." No party filed any response to the Emerys' points and authorities.

Because it appeared that the stay continued, this court directed the Emerys to file another status report. The most recent status report filed by the Emerys was designated as their "Final Status Report." In this report, the Emerys point out that the time to object to the discharge of their debts has expired and assert that the bankruptcy court


discharge “operates to convert the automatic stay to a permanent injunction against appellant in reference to its judgment against Clyde and Nona Emery, and its request that this Court review that judgment.” No party has filed a response to the Emerys’ final status report.

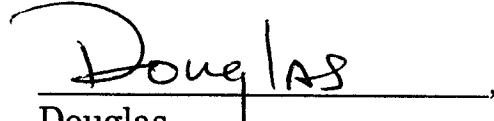
We note that these appeals have languished on our docket for many years. Further, given the apparent applicability of a continuing and possibly permanent stay, this appeal may languish indefinitely on this court’s docket. Under these circumstances, we conclude that judicial efficiency will be best served if this appeal is dismissed, without prejudice. Because a dismissal *without prejudice* is not inconsistent with the primary purposes of the bankruptcy stay – to provide protection for debtors and creditors – and will not require this court to reach the merits of this appeal, we further conclude that such dismissal will not violate the bankruptcy stay. 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, 756 (9th Cir. 1995) (holding that a dismissal of an action after the filing of a bankruptcy petition 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”).

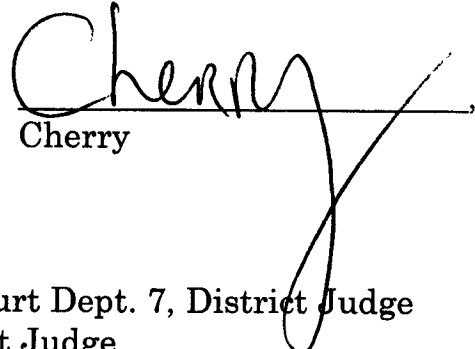
Accordingly, cause appearing, we dismiss these appeals. This dismissal is without prejudice to appellants’ right to move for

reinstatement of these appeals if and when such a motion becomes appropriate.

It is so ORDERED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

cc: Second Judicial District Court Dept. 7, District Judge
Carolyn Worrell, Settlement Judge
Mirch & Mirch
Mark H. Gunderson, Ltd.
Stephen C. Moss
Wise, Wiezorek, Timmons & Wise
Washoe District Court Clerk