

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL JAY NOVICK, AN
INDIVIDUAL,

Appellant,

vs.
MORGAN STANLEY SMITH BARNEY,
LLC; AND MORGAN STANLEY SMITH
BARNEY FA NOTES HOLDINGS, LLC,

Respondents.

No. 76268

FILED

OCT 01 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a pro se appeal from a district court order confirming an arbitration award and from a final judgment on the arbitration award. Eighth Judicial District Court, Clark County; Douglas Smith, Judge.

Appellant has filed a notice informing this court that he has filed for a petition for bankruptcy relief. The filing of a bankruptcy petition operates to stay, automatically, the “continuation” of any “judicial . . . action . . . against the debtor.” 11 U.S.C. § 362(a)(1). An appeal, for purposes of the automatic stay, is considered a continuation of the action in the trial court. Consequently, an appeal is automatically stayed if the debtor was the defendant in the underlying trial court action. *See Ingersoll-Rand Fin. Corp. v. Miller Mining Co., Inc.*, 817 F.2d 1424 (9th Cir. 1987). It appears that appellant was a defendant below. Therefore, this appeal is stayed pursuant to the automatic stay provisions of federal bankruptcy law.

Given the applicability of the automatic 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

cc: Hon. Douglas Smith, District Judge
Michael Jay Novick
Greenberg Traurig, LLP/Las Vegas
Munger, Tolles & Olson, LLP
Eighth District Court Clerk