

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAWN CHANDLER, INDIVIDUALLY
AND ON BEHALF OF ALL OTHERS
SIMILARLY SITUATED,

Appellant,

vs.

KOSTER FINANCE LLC,

Respondent.

No. 80547

FILED

JUN 17 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DISMISSING APPEAL

Counsel for appellant has filed a notice of bankruptcy, informing this court that appellant Dawn Chandler has filed a Chapter 7 bankruptcy case in the United States Bankruptcy Court for the District of Nevada (Las Vegas), Case No. 20-12516-mkn. 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. *See Ingersoll-Rand Fin. Corp. v. Miller Mining Co., Inc.*, 817 F.2d 1424 (9th Cir. 1987). It appears that appellant appeals from an attorney fee award entered against her 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 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 *Indep. Union of Flight Attendants v. Pan Am. 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 appellant’s right to move for reinstatement of this appeal within 90 days of either the lifting of the bankruptcy stay or final resolution of the bankruptcy proceedings, if appellant deems such a motion appropriate at that time.

It is so ORDERED.


_____, J.
Parraguirre


_____, J.
Hardesty


_____, J.
Cadish

¹The automatic stay provides a debtor “with protection against hungry creditors” and gives the debtor 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 755-56.

cc: Hon. Jacqueline M. Bluth, District Judge
Stephen E. Haberfeld, Settlement Judge
Kazerouni Law Group, APC
Sklar Williams LLP
Eighth District Court Clerk