

IN THE SUPREME COURT OF THE STATE OF NEVADA

MILWAUKEE INSTRUMENTS, INC.,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
JOSEPH HARDY, JR., DISTRICT
JUDGE,

Respondents,

and

C.N.W., A MINOR CHILD, BY AND
THROUGH HIS GUARDIANS AD
LITEM, CHRISTOPHER BRIAN WREN
AND EMELY WREN, HUSBAND AND
WIFE; CHRISTOPHER BRIAN WREN
ON HIS OWN BEHALF; EMELY WREN
ON HER OWN BEHALF; L.K., A
MINOR CHILD, BY AND THROUGH
HER NATURAL PARENTS, KOUROSH
KAVEH AND JILL RAW; L.W. AND
L.W., MINOR CHILDREN, BY AND
THROUGH THEIR NATURAL
MOTHER, SANTE WILLIAMS; S.M., A
MINOR CHILD, BY AND THROUGH
HIS NATURAL FATHER, JORGE
MORALES; JOSEPH TEGANO,
INDIVIDUALLY; RYAN CARRIER AND
ARIKA CARRIER, HUSBAND AND
WIFE, INDIVIDUALLY AND ON
BEHALF OF THEIR MINOR
CHILDREN, H.C. AND F.C.,
Real Parties in Interest.

No. 88716

FILED

JUN 12 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

ORDER DISMISSING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges district court rulings denying petitioner's motion for summary judgment on

standing and granting real parties in interest's motion for partial summary judgment on issue preclusion regarding the underlying implied warranty and strict liability claims asserted against petitioner.

Petitioner has filed a notice informing this court that it has filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of North Carolina. The filing of a Chapter 11 petition operates to stay, automatically, the "continuation" of any "judicial . . . action . . . against the [bankruptcy] debtor." 11 U.S.C. § 362(a)(1) (2020). For purposes of the automatic bankruptcy stay, a petition for extraordinary relief in an ongoing action is considered a continuation of the action in the trial court. *See generally Ingersoll-Rand Fin. Corp. v. Miller Mining Co.*, 817 F.2d 1424 (9th Cir. 1987). Consequently, a writ proceeding is automatically stayed if the debtor is a defendant in the underlying trial court action. *Id.* Petitioner is a defendant below. Therefore, this matter is stayed pursuant to the automatic stay provisions of federal bankruptcy law.

Given the applicability of the automatic stay, this petition 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 the petition is dismissed without prejudice. Because a dismissal without prejudice will not require this court to reach the merits of the petition 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

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) (internal citation omitted). Further, it assures creditors "that the debtor's other creditors are not racing to various

See Independent 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*, 72 F.3d at 755 (holding that a post-bankruptcy petition dismissal will violate the automatic stay “where a decision to dismiss requires the court to first consider other issues presented by or related to the underlying case”). Accordingly, we dismiss this petition. This dismissal is without prejudice to petitioner’s right to move for reinstatement of this petition upon either the lifting of the bankruptcy stay or final resolution of the bankruptcy proceedings, if it deems such a motion appropriate at that time.

It is so ORDERED.



_____, J.
Herndon



_____, J.
Lee



_____, J.
Bell

cc: Hon. Joseph Hardy, Jr., District Judge
Snell & Wilmer, LLP/Las Vegas
Campbell & Williams
Kemp Jones, LLP
Parker, Nelson & Associates
Eighth District Court Clerk

courthouses to pursue independent remedies to drain the debtor’s assets.”
Id. at 755-56.