

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROBERT R. PILKINGTON; AND  
DENISE L. PILKINGTON, HUSBAND  
AND WIFE, INDIVIDUALLY AND  
JOINTLY,  
Appellants,

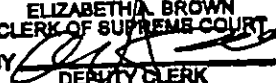
vs.

HUNTER LIGGETT; JANET LENK  
COHEN; CARIN LENK SLOANE;  
KRISTIN NOEL PFEIFER; JILL RENE  
STYNDAL; GINGER SIMPSON F/K/A  
GINGER STUMME; AND WELLS  
FARGO BANK NATIONAL  
ASSOCIATION, A FOREIGN FOR-  
PROFIT (BUSINESS) CORPORATION  
DOING BUSINESS IN THE STATE OF  
NEVADA,  
Respondents.

No. 87936-COA

**FILED**

APR 07 2025

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

**ORDER DISMISSING APPEAL**

Appellants Robert R. Pilkington and Denise L. Pilkington appeal from a district court judgment in a trust dispute. Fifth Judicial District Court, Nye County; Steven R. Kosach, Judge.

On February 14, 2025, this court issued an order directing the parties to address whether this appeal was subject to an automatic stay stemming from appellants' Chapter 11 bankruptcy proceedings. Having considered the parties' responses and the applicable law, we conclude that, although appellants were the plaintiffs below, the automatic stay applies.

"A plaintiff's bankruptcy petition generally does not implicate the bankruptcy automatic stay because the bankruptcy stay applies to actions 'against the debtor,' not actions *by* a debtor." *Edwards v. Ghandour*, 123 Nev. 105, 111, 159 P.3d 1086, 1090 (2007), *abrogated on other grounds*

by *Five Star Cap. Corp. v. Ruby*, 124 Nev. 1048, 194 P.3d 709 (2008). However, a motion for attorney fees, such as is the subject of this appeal, is treated as a separate action against the plaintiff bankruptcy debtors, and therefore the appeal of the order granting attorney fees is subject to the automatic stay. See *Alpern v. Lieb*, 11 F.3d 689, 690 (7th Cir. 1993) (treating the defendants' motion for FRCP 11 attorney fees as a separate action against the plaintiff bankruptcy debtor, but holding the stay inapplicable because actions brought pursuant to governmental police or regulatory powers are statutorily exempt from the stay); *Wolgast v. Richards*, 463 B.R. 445, 450 (E.D. Mich. 2012) (concluding that a motion seeking attorney fees from a debtor-plaintiff is automatically stayed under 11 U.S.C. § 362(a)(1)); *Roach v. First Nat'l Bank of Anchorage*, 636 P.2d 608, 614 (Alaska 1981) (construing the defendant's application for fees and costs as a proceeding against the plaintiff bankruptcy debtor covered by the automatic stay), modified on reh'g by 643 P.2d 690 (1982).

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, judicial efficiency will best be served if the appeal is dismissed without prejudice. Because such a dismissal does not require this court to reach the merits of the appeal and is not inconsistent with the primary purposes of the bankruptcy stay, we conclude that the dismissal will not violate the bankruptcy stay.<sup>1</sup> See *Indep. Union*

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<sup>1</sup>The 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 quotation marks omitted). Further, it "assures creditors that the debtor's other creditors are not racing to various


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 [11 U.S.C. § 362(a)]"); cf. *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 a decision to dismiss requires the court to first consider other issues presented by or related to the underlying case").

We therefore dismiss this appeal without prejudice to appellants' right to move for reinstatement of the appeal upon either the lifting of the bankruptcy stay or final resolution of the bankruptcy proceedings, if appellants deem such a motion appropriate at the time.<sup>2</sup>

It is so ORDERED.

  
Bulla, C.J.

  
Gibbons, J.

  
Westbrook, J.

cc: Fifth Judicial District Court, Dept. 2

\_\_\_\_\_ courthouses to pursue independent remedies to drain the debtor's assets." *Id.* at 755-56.

<sup>2</sup>In light of our resolution, we necessarily deny appellants' pending motions to expedite this appeal.

Hon. Steven R. Kosach, Senior Judge  
Denise L. Pilkington  
Robert R. Pilkington  
Anthony L. Barney, Ltd.  
Erickson Thorpe & Swainston, Ltd.  
Snell & Wilmer, LLP/Las Vegas  
Nye County Clerk