

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL DICHiarO, AN
INDIVIDUAL,

Appellant,


vs.

GARETT HIGO, AN INDIVIDUAL AS
TRUSTEE FOR THE GARETT HIGO
DYNASTY TRUST, A NEVADA TRUST;
COLLIN HIGO, AN INDIVIDUAL AS
TRUSTEE FOR THE COLLIN HIGO
DYNASTY TRUST, A NEVADA TRUST,
Respondents.

No. 89724

FILED

DEC 23 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a final judgment. Eighth Judicial District Court, Clark County; Gloria Sturman, Judge.

Counsel for respondents has filed a Notice of Bankruptcy, informing this court that appellant Michael DiChiaro has filed for relief under Chapter 7 of the United States Bankruptcy Code. 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 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. 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 [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 a decision to dismiss requires the court to first 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 60 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.

Pickering, J.
Pickering

Cadish, J.
Cadish

Lee, J.
Lee

cc: Hon. Gloria Sturman, District Judge
Patrick N. Chapin, Settlement Judge
Krista N. Albregts, PLLC
Serrano Law Group, PLLC
Smith & Shapiro, PLLC
Eighth District Court Clerk