

IN THE SUPREME COURT OF THE STATE OF NEVADA

WANDA LAMB PECCOLE,
INDIVIDUALLY AND AS CO-TRUSTEE
OF THE WILLIAM PECCOLE &
WANDA PECCOLE 1971 TRUST,
Appellant,

vs.

WILLIAM DAVID STODDART,
Respondent.

No. 38854

FILED

MAY 23 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY A. Alvarado
DEPUTY CLERK

ORDER DISMISSING APPEAL


This appeal was docketed in this court on November 30, 2001. This appeal has been stayed pursuant to the automatic stay provisions of federal bankruptcy law since April 30, 2002. See U.S.C. § 362(a)(1). Respondent's most recent status report, filed on March 9, 2006, informs this court that the bankruptcy proceeding is still pending and that appellant has not sought relief from the stay.

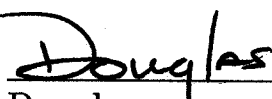
We note that this appeal has languished on our docket for more than 4 years. Further, given the applicability of the automatic stay, this appeal may languish indefinitely on this court's docket until appellant's bankruptcy proceedings are concluded. Under these circumstances, we conclude that judicial efficiency will be best served if this appeal is dismissed, without prejudice. Because a dismissal *without prejudice* is not inconsistent with the primary purposes of the bankruptcy stay – to provide protection for debtors and creditors – and will not require this court to reach the merits of this appeal, we further conclude that such

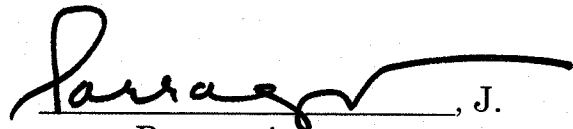
dismissal will not violate the bankruptcy stay.¹ See Independent Union of Flight Attendants v. Pan American World Airways, Inc., 966 F.2d 457, 459 (9th Cir. 1992) (holding that the automatic stay does not preclude dismissal of an appeal so long as dismissal is “consistent with the purpose of the statute [11 U.S.C. § 362(a)]”), Dean v. Trans World Airlines, Inc., 72 F.3d 754, 756 (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, cause appearing, we dismiss this appeal. This dismissal is without prejudice to appellant’s right to move for reinstatement of this appeal upon 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.


_____, C.J.
Rose


_____, J.
Douglas


_____, J.
Parraguirre

¹ 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). 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 755-6.

cc: Hon. Allan R. Earl, District Judge
Bailus Cook & Kelesis
Robert A. Kelley
Law Offices of Richard McKnight, P.C.
Clark County Clerk