

IN THE SUPREME COURT OF THE STATE OF NEVADA

A CAB, LLC; AND CREIGHTON J
NADY,

Appellants,

vs.

MICHAEL MURRAY; AND MICHAEL
RENO, INDIVIDUALLY AND ON
BEHALF OF ALL OTHERS SIMILARLY
SITUATED,

Respondents.

No. 77050

FILED

MAY 07 2019

ELIZABETH L. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER

Respondents have filed a suggestion of bankruptcy notifying this court that an involuntary petition for relief under Chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Nevada has been filed against appellant A Cab, LLC. A copy of an Involuntary Petition Against a Non-Individual from the bankruptcy court is attached to the motion.

The filing of a Chapter 7 petition operates to stay, automatically, the “continuation” of any “judicial . . . action . . . against the [bankruptcy] debtor.” 11 U.S.C. § 362(a)(1) (2010). An appeal, for purposes of the automatic bankruptcy stay, is considered a continuation of the action in the trial court. *See, e.g., Ingersoll-Rand Fin. Corp. v. Miller Mining Co.*, 817 F.2d 1424 (9th Cir. 1987). Consequently, an appeal is automatically stayed if the debtor was a defendant in the underlying trial court action. *Id.*

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It appears that A Cab was a defendant below. Therefore, this appeal is stayed as to A Cab pursuant to the automatic stay provisions of federal bankruptcy law.

Given the applicability of the automatic stay, A Cab's 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 the appeal is dismissed as to A Cab without prejudice. Because a dismissal without prejudice will not require this court to reach the merits of A Cab's appeal and is not inconsistent with the primary purpose 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 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, 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 as to A Cab only. The dismissal is without prejudice to A Cab's right to move for reinstatement of its appeal within 60 days of either the

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). 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.

lifting of the bankruptcy stay or final resolution of the bankruptcy proceedings, if A Cab deems such a motion appropriate at that time.

It is so ORDERED.

Pickering, J.
Pickering

Parraguirre, J.
Parraguirre

Cadish, J.
Cadish

cc: Hon. Kenneth C. Cory, District Judge
Rodriguez Law Offices, P.C.
Premier Legal Group
Hutchison & Steffen, LLC/Las Vegas
Leon Greenberg Professional Corporation
Eighth District Court Clerk