

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHALMER BAUER, INDIVIDUALLY;
AND DONNA BAUER, INDIVIDUALLY,
Appellants,

vs.

A.W. CHESTERTON COMPANY;
ANCHOR PACKING; FOSTER
WHEELER LLC; GARLOCK, INC.;
HOPEMAN BROTHERS; BELMONT
PACKING & RUBBER CO.; BURNHAM
CORPORATION; GOULD PUMPS;
CRANE CO.; FORD MOTOR
COMPANY; GENERAL MOTORS
CORPORATION; ITW FOOD
EQUIPMENT GROUP, LLC, F/K/A
HOBART CORP.; NATIONAL
AUTOMOTIVE PARTS ASSOCIATION;
OWENS-ILLINOIS, INC.; CBS
CORPORATION F/K/A VIACOM, INC.;
COOPER INDUSTRIES, LLC;
MAREMONT CORPORATION;
PNEUMO ABEX, LLC; GEORGIA-
PACIFIC CORPORATION; BORG-
WARNER MORSE TEC, INC.;
REYNOLDS METALS COMPANY;
WARREN PUMPS; OAKFABCO;
CLEAVER-BROOKS CO.; CROWN
BOILER CO.; SUPERIOR BOILER
WORKS, INC.; VIAD CORP.; GENERAL
ELECTRIC COMPANY;
INTERNATIONAL HARVESTER CO.;
MONSANTO; WEIL-MCLAIN;
DURAMETALIC; DOSSERT
CORPORATION; DAIMLERCHRYSLER
CORPORATION; HERSH PACKING &
RUBBER CO.; INGERSOLL-RAND
COMPANY; AMERICAN STANDARD
INC.; MOBIL OIL CORPORATION;
ALLIED SIGNAL, INC., N/K/A,
HONEYWELL, INTERNATIONAL,

No. 49079

FILED

MAY 27 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

INC.; RILEY POWER, INC., F/K/A
BABCOCK BORSIG ENERGY, INC.,
F/K/A D.B. RILEY, INC., F/K/A RILEY
STOKER CORPORATION; WHEELER
PROTECTIVE APPAREL, INC.;
CROWN, CORK & SEAL CO.;
WOOLSULATE CORPORATION; JOHN
CRANE, INC.; INDUSTRIAL
HOLDINGS CORP., F/K/A
CARBORUNDUM CO.; AND IMO
INDUSTRIES,
Respondents.

ORDER DISMISSING APPEAL

This appeal was docketed in this court on March 14, 2007. This appeal has been stayed pursuant to the automatic stay provisions of federal bankruptcy law since June 1, 2009. See U.S.C. § 362(a)(1). Respondents' most recent status report, filed on March 15, 2010, indicates that the automatic stay remains in effect.

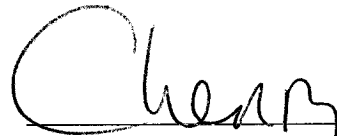
Given the applicability of the automatic stay, this appeal may linger indefinitely on this court's docket until respondents' bankruptcy proceedings are concluded. Under these circumstances, we conclude that judicial efficiency will be best served if this appeal is dismissed, without prejudice. Because a dismissal *without prejudice* 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.¹ See Independent Union of Flight Attendants

¹The automatic stay provides a debtor “with protection against hungry creditors” and gives it a “breathing spell from its creditors” by
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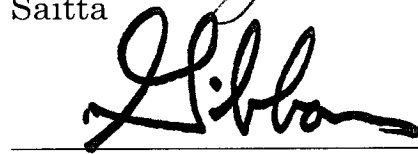
v. Pan American World Airways, Inc., 966 F.2d 457, 459 (9th Cir. 1992) (holding that the automatic stay does not preclude dismissal of an appeal so long as dismissal is “consistent with the purpose of the statute [11 U.S.C. § 362(a)]”), Dean v. Trans World Airlines, Inc., 72 F.3d 754, 756 (9th Cir. 1995) (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 appellants’ right to move for reinstatement of this appeal upon either the lifting of the bankruptcy stay or final resolution of the bankruptcy proceedings, if appellants deem such a motion appropriate at that time.

It is so ORDERED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

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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: Eighth Judicial District Court Dept. 15, District Judge
Stephen E. Haberfeld, Settlement Judge
Kemp, Jones & Coulthard, LLP
Alverson Taylor Mortensen & Sanders
Backus Carranza
Baker & Hotstetler/Denver
Barker Washburn
Barron & Pruitt, LLP
Georgeson Angaran, Chtd.
Michael A. Hagemeyer
Jennings, Haug & Cunningham, LLP
Laxalt & Nomura, Ltd./Reno
Lewis & Roca, LLP/Las Vegas
Lyles & Associates
Steven C. Lynes
Morris Peterson/Las Vegas
Morris Polich & Purdy, LLP/Las Vegas
James M. O'Reilly
Olson, Cannon, Gormley & Desruisseaux
Parsons Behle & Latimer/Reno
Pico, Escobar & Rosenberger, Ltd.
Schiff Hardin LLP
Selman Breitman, LLP
Snell & Wilmer, LLP/Las Vegas
Sutter Axland
Thorndal Armstrong Delk Balkenbush & Eisinger/Las Vegas
Wait Law Firm
Watson Rounds
Wilson, Elser, Moskowitz, Edelman & Dicker, LLP
Eighth District Court Clerk