

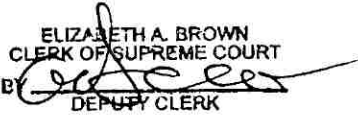
IN THE SUPREME COURT OF THE STATE OF NEVADA

CITY OF RENO,  
Appellant,  
vs.  
TEVA PHARMACEUTICALS USA, INC.;  
CEPHALON, INC.; ENDO HEALTH  
SOLUTIONS, INC.; ENDO  
PHARMACEUTICALS INC.; WATSON  
LABORATORIES, INC.; ACTAVIS  
PHARMA, INC. F/K/A WATSON  
PHARMA, INC.; AND ACTAVIS LLC,  
Respondents.

No. 85412

**FILED**

JUL 10 2023

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER DISMISSING APPEAL*

Pursuant to the stipulation of the parties, this appeal is dismissed as to respondents Teva Pharmaceuticals USA, Inc.; Cephalon, Inc.; Watson Laboratories, Inc.; Actavis Pharma, Inc. f/k/a Watson Pharma, Inc.; and Actavis LLC (collectively, the Teva Entities) only, with appellant and the Teva Entities each to bear their own costs and fees. NRAP 42(b). The clerk of this court shall modify the caption accordingly.

The remaining respondents, Endo Health Solutions, Inc., and Endo Pharmaceuticals Inc. (Endo) have filed a notice informing this court that they have filed a petition for Chapter 11 bankruptcy and that this appeal is subject to the automatic stay.

The filing of a Chapter 11 petition operates to stay, automatically, the "continuation" of any "judicial. . . action . . . against the [bankruptcy] debtor." 11 U.S.C. § 362(a)(1). 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, 1426 (9th Cir. 1987). Consequently, an appeal is automatically

stayed if the debtor was a defendant in the underlying trial court action. *Id.* It appears that Endo were defendants below, and this appeal is therefore 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, this court concludes that judicial efficiency will be best served if the appeal is dismissed without prejudice. Because a dismissal *without prejudice* will not require this court to reach the merits of the appeal and is not inconsistent with the primary purpose of the bankruptcy stay—to provide protection for debtors and creditors—this court further concludes that this dismissal will not violate the bankruptcy stay.<sup>1</sup> 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)]"); see also *Dean v. Trans World Airlines, Inc.*, 72 F.3d 754, 756 (9th Cir. 1995) (holding that a postbankruptcy 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, this appeal is dismissed. The dismissal is without prejudice to the right to move for reinstatement of the appeal within 90 days

---

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

