

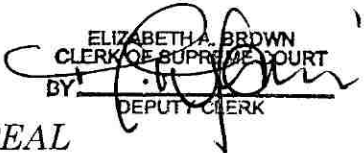
IN THE SUPREME COURT OF THE STATE OF NEVADA

JENNIFER ARYANI MURILLO, AN
INDIVIDUAL AND AS MANAGER OF
VISIONARY GROUP, LLC,
Appellant,
vs.
AGUSTIN ANGELES,
Respondent.

No. 86704

FILED

JAN 19 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

ORDER DISMISSING APPEAL

Respondent has notified this court that appellant has filed a petition for relief under the Bankruptcy Code. Respondent has also provided a copy of the bankruptcy notice filed in the United States Bankruptcy Court for the District of Nevada. Based upon the foregoing, respondent asserts that this appeal is subject to the automatic stay provisions of federal bankruptcy law and should be dismissed without prejudice. Appellant has not filed a response.

The filing of a bankruptcy 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 (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 appellant¹ was a defendant below. Therefore, this appeal is stayed pursuant to the automatic stay provisions of federal bankruptcy law.

¹The parties fail to identify the precise role of Visionary Group, LLC, in this matter. Their filings, however, generally refer to “Jennifer Aryani

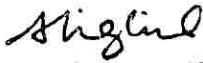
Given the applicability of the automatic stay, this appeal may linger indefinitely on this court's docket pending final resolution of the bankruptcy proceedings. Accordingly, this court concludes that judicial efficiency will be best served if this appeal is dismissed without prejudice. Because a dismissal 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—this court further concludes that such dismissal will not violate the bankruptcy stay. *See Dean v. Trans World Airlines, Inc.*, 72 F.3d 754, 756 (9th Cir. 1995) (providing that a post-bankruptcy dismissal violates the automatic stay when “the decision to dismiss first requires the court to consider other issues presented by or related to the underlying case”); *see also Indep. Union of Flight Attendants v. Pan Am. World Airways, Inc.*, 966 F.2d 457, 459 (9th Cir. 1992) (explaining that the automatic bankruptcy

Murillo, an individual and as manager of Visionary Group, LLC” as the sole “appellant” in this appeal. Even if Visionary Group, LLC, were considered a separate appellant, the automatic stay would likely extend to it. *See A.H. Robins Co. v. Piccinin*, 788 F.2d 994, 999 (4th Cir. 1986) (the automatic stay may extend to non-bankrupt parties when “there is such identity between the debtor and [a non-bankrupt party] that the debtor may be said to be the real party defendant and that a judgment against [the non-bankrupt party] will in effect be a judgment or finding against the debtor”); *see also OCA, Inc. v. Johnstown Orthodontic Specialists, Inc.*, 2006 WL 2773493, *2 (W.D. Pa., Sept. 25, 2006) (extending the automatic stay to all claims at issue where allowing “parallel proceedings interpreting the same instrument [to proceed] will frustrate the bankruptcy proceeding § 362 was meant to protect”); *In re Edwin A. Epstein, Jr. Operating Co.*, 314 B.R. 591, 591 (Bankr. S.D. Tex. 2004) (the automatic stay should extend to “an inextricably intertwined action” with “claims that arise from the same transaction or occurrence”).

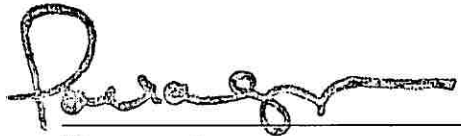
stay does not preclude dismissal of an appeal so long as dismissal is “consistent with the purpose of [11 U.S.C. § 362(a)]”).

Accordingly, this appeal is dismissed. 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.²

It is so ORDERED.


_____, J.
Stiglich


_____, J.
Pickering


_____, J.
Parraguirre

cc: Hon. Jacob A. Reynolds, District Judge
Law Office of Steven H. Burke, D/B/A The 808 Firm
Raich Law PLLC
Eighth District Court Clerk

²Any such motion to reinstate the appeal must be filed within 60 days of any order lifting the stay or concluding the bankruptcy proceedings.