

IN THE SUPREME COURT OF THE STATE OF NEVADA

GARY E. RUTHERFORD,  
Appellant/Cross-  
Respondent,  
vs.  
JANNELL R. RUTHERFORD,  
Respondent/Cross-  
Appellant.

No. 42239

**FILED**

**OCT 16 2006**

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Filardo*  
CHIEF DEPUTY CLERK


ORDER DISMISSING APPEAL AND CROSS-APPEAL


On February 8, 2005, this court entered an order noting that this appeal is stayed pursuant to the mandatory provisions of federal bankruptcy law. See 11 U.S.C. § 362(a). On January 10, 2006, following the filing of a bankruptcy status report, we entered an order noting that, based upon the parties' representations, it appears that an order at least partially lifting the bankruptcy stay may have recently been entered. However, because we were unable to determine whether this appeal may proceed, we concluded that this appeal shall remain stayed pursuant to 11 U.S.C. § 362(a). Because this matter remained on the court's active docket, we ordered respondent/cross-appellant's counsel to file an updated report informing this court of the status of the bankruptcy proceedings.

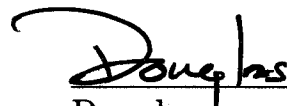
On May 15, 2006, the parties filed a stipulation to dismiss this appeal and cross-appeal. We note that the parties have not informed this court whether the mandatory bankruptcy stay remains in effect. Nevertheless, we conclude that approving the parties' stipulation to dismiss will not violate the bankruptcy stay because it does not require this court to consider issues presented by or related to the underlying case. See Dean v. Trans World Airlines, Inc., 72 F.3d 754 (9th Cir. 1995) (holding that a post-filing 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.”). Cause appearing, we approve the stipulation and dismiss this appeal and cross-appeal. NRAP 42(b). Each party shall bear their own attorney fees and costs. Id.

It is so ORDERED.

  
\_\_\_\_\_, J.  
Becker

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Douglas

cc: Eighth Judicial District Court Dept. F, District Judge,  
Family Court Division  
Lansford W. Levitt, Settlement Judge  
Gayle F. Nathan  
Alan R. Johns  
Clark County Clerk