

NO. 28329

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

LESLIE L. HAMAOKA, Plaintiff-Appellant,
v.

HYATT CORPORATION, foreign corporation doing business
under the trade name HYATT REGENCY WAIKIKI RESORT,
JILL FISHER, BONNIE KIYABU, and CARLA THOMAS,
Defendants-Appellees,

and

JOHN DOES 1 to 5 and JANE DOES 1 to 5, Defendants

APPEAL FROM CIRCUIT COURT OF THE FIRST CIRCUIT
(CV. NO. 04-1-0390)

ORDER DENYING THE MARCH 8, 2007 MOTION FOR A STAY OF
PROCEEDINGS DUE TO AN AUTOMATIC STAY FROM BANKRUPTCY COURT
(By: Burns, C.J., Lim and Foley, JJ.)

Upon review of (1) Plaintiff-Appellant Leslie L. Hamaoka's (Appellant Hamaoka) March 8, 2007 motion for a stay of these proceedings due to an automatic stay in United States Bankruptcy Court for the District of Hawaii Case No. 05-50011, (2) Defendant-Appellee Hyatt Corporation's March 16, 2007 memorandum in opposition to Appellant Hamaoka's March 19, 2007 motion for a stay, and (3) the record, it appears that Appellant Hamaoka's March 8, 2007 motion for a stay lacks merit.

Pursuant to 11 U.S.C.A. § 362(a) (Supp. 2006), "[w]hen a debtor files a bankruptcy petition, an automatic stay immediately arises[.]" Hillis Motors, Inc. v. Hawaii Automobile Dealers' Association, 997 F.2d 581, 585 (9th Cir. 1993). "It is designed to effect an immediate freeze of the status quo by

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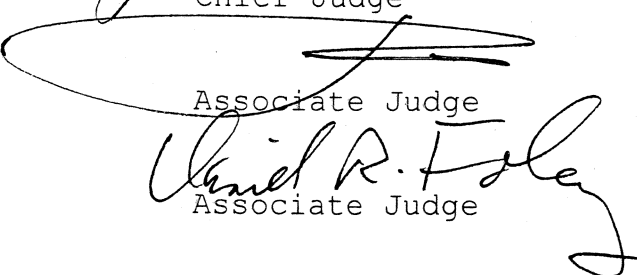
precluding and nullifying post-petition actions, judicial or nonjudicial, in nonbankruptcy fora against the debtor or affecting the property of the estate." Id. (citations omitted). Thus, "[t]he appellate court shall not consider motions or requests for relief during the pendency of the bankruptcy." HRAP 54(c).

However, an automatic stay under 11 U.S.C.A. § 362(a) (Supp. 2006) "is applicable only to proceedings against the debtor." In re Miller, 397 F.3d 726, 729 (9th Cir. 2005). Appellant Hamaoka has not submitted proof that a party in appellate court case number 28329 is a debtor-party in any pending bankruptcy proceeding. In the absence of such proof, it appears that the automatic stay under 11 U.S.C.A. § 362(a) (Supp. 2006) does not apply to appellate court case number 28329. Therefore,

IT IS HEREBY ORDERED that Appellant Hamaoka's March 8, 2007 motion for a stay of these proceedings due to an automatic stay in United States Bankruptcy Court for the District of Hawaii Case No. 05-50011 is denied.

DATED: Honolulu, Hawai'i, March 23, 2007.


Chief Judge


Associate Judge

Associate Judge