



Signed and Filed: February 7, 2025

Dennis Montali

DENNIS MONTALI
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re) Bankruptcy Case
E. LYNN SCHOENMANN,) No. 22-30028-DM
Debtor.) Chapter 7
_____) _____
STUART SCHOENMANN, in his) Adversary Proceeding
capacity as executor of the) No. 22-03105-DM
estate of Donn R. Schoenmann,) Consolidated with Adv. Proc.
Plaintiff,) No. 24-03035-DM
v.)
E. LYNN SCHOENMANN,)
Defendant.)
_____) _____
E. LYNN SCHOENMANN,) Adversary Proceeding
Plaintiff,) No. 24-03035-DM
v.) **MEMORANDUM DECISION ON MOTION**
STUART SCHOENMANN, Individually) **FOR STAY PENDING APPEAL**
and as Executor of the Probate)
Estate of Donn R. Schoenmann,)
CELESTE LYTLE; BETH SCHOENMANN;)
and COLETTE SIMS,)
Defendants.)

1 **I. INTRODUCTION.**

2 Creditor and state court Petitioner Stuart Schoenmann, both
3 as executor of the Estate of Donn Schoenmann and individually,
4 together with creditors and state court Petitioners Celeste
5 Lytle, Beth Schoenmann, and Colette Sims (collectively
6 "Appellants"), appealed five of this court's orders on December
7 19, 2024 ("the five orders").

8 The five orders were entered in the main case, *In re*
9 *E. Lynn Schoenmann*, Case No. 22-30028 and two of them were
10 also entered in A.P. No. 24-03035 (respectively, the "Main
11 Case" and "Adversary Proceeding"). After filing notices of
12 appeal, Appellants filed virtually identical motions for
13 stay pending appeal (the "Motion") in both the Main Case
14 and the Adversary Proceeding. The appeals are now
15 designated in the United States District Court under Case
16 No. 3:25-cv-00142-EMC and Case No. 3:25-cv-00504-EMC. The
17 Motion requests that the court "stay all proceedings
18 between and/or concerning the (sic) themselves and E. Lynn
19 Schoenmann ("Debtor") until these appeals are finally
20 decided." Adversary Proceeding, Dkt. 24, P. 1.¹

21 Appellants did not specifically request a stay of any of
22 the five orders, but rather seek to suspend essentially all
23 bankruptcy proceedings pending the appeal of the five orders
24 pursuant to Fed. R. Bankr. P. ("Rule") 8007(a)(1)(D) (though no
25 parties cite to any part of this Rule). A suspension of all
26

27 ¹ The Motion filed the Main Case is identical to what is quoted
28 above, except that the Appellants refer to themselves as
"Petitioners" rather than "themselves."

1 bankruptcy proceedings concerning the Appellants would include
2 the stay of the effect of some, but not all, of the five orders,
3 and it is unclear to the court even now what the Appellants
4 expect the court to do about parts of those orders that took
5 effect prior to the filing of the Motions.

6 For the reasons that follow, the court will DENY the
7 Motion.

8 **II. The Five Orders.**

9 On November 19, 2024, the court entered an order ("first
10 order") (Main Case, Dkt. 614) approving the Chapter 7 Trustee's
11 motion to abandon and dispose of certain personal property
12 located at real property in Idyllwild, CA, and one painting
13 located in Arizona ("Arizona Painting"). That order was not
14 stayed. As to the personal property located in Idyllwild, it is
15 the court's understanding that the Trustee worked with
16 Appellants on two separate occasions to walk through and collect
17 personal property that Appellants claim is property of Donn
18 Schoenmann's probate estate. It is also the court's
19 understanding that the Trustee worked with Anna Schoenmann,
20 Debtor and Donn Schoenmann's adult daughter, to collect what
21 amounted to twelve items that were either Anna's separate
22 personal property, or property not collected by Appellants on
23 previous visits.

24 On December 9, 2024, the court issued an order that denied
25 a renewed motion for relief from stay previously filed by
26 Appellants ("second order") (Main Case, Dkt. 629). On the same
27 day, it entered an order ("third order") (Main Case, Dkt. 630)
28 authorizing the Chapter 7 Trustee to abandon Debtor's inherited

1 IRA and two required minimum distributions and to remit one
2 required minimum distribution, subject to the court's prior
3 Sequestration Orders (Main Case, Dkts. 156, 315), which restrain
4 Debtor from accessing or using those funds until further order
5 and explicitly does not disturb any other party's asserted
6 rights to the money. That order was not stayed.

7 On December 11, 2024, the court issued a further order
8 regarding the Arizona Painting ("fourth order") (Main Case, Dkt.
9 631) that permitted either the Debtor to cover costs for
10 delivery of the Arizona Painting, or permitted Trustee to
11 dispose of the painting entirely. On the same day, it issued an
12 order consolidating Adversary Proceeding No. 24-03035 with
13 Adversary Proceeding No. 22-03105 ("fifth order") (Main Case,
14 Dkt. 632). That order was not stayed.

15 Appellants do not request a stay of any of the five orders
16 specifically.² In the interest of completeness, however, the
17 court notes that there is nothing of substance to stay regarding
18 these five orders.

19 The first order allowed the Trustee to do what he has
20 subsequently done prior to Motions, and nothing related to that
21 order can be stayed. Appellants did not seek to enjoin any
22 actions that may be taken subsequent to the order, and actively
23 participated in disposal property after the order took effect.

24 To stay the second order denying a prior motion for relief
25 from stay is to do nothing.

27 ² The Motion does not invoke Rule 8007(a)(1)(A), that deals with
28 "a stay of the bankruptcy court's judgment, order, or decree
pending appeal;"

1 The third order, as noted above, has already taken effect,
2 and continues to restrain Debtor from accessing or using those
3 funds until further order and explicitly does not disturb any
4 other party's asserted rights to the money.

5 The fourth order has also taken effect. The court cannot
6 stay events that have already taken place and that Appellants
7 have not sought to enjoin Debtor from doing anything with the
8 Arizona painting.

9 Finally, as to the fifth order, while the court could treat
10 the two consolidated adversary proceedings as separate pending
11 appeal, there would simply be no practical effect. The
12 consolidation is simply a streamlining of related adversary
13 proceedings so they could be administered as one matter rather
14 than two, in terms of scheduling and briefing. Even if the
15 court were to stay the consolidation, it could still proceed to
16 administer the two separate adversary proceedings in tandem for
17 efficiency purposes, and parties would file identical briefs in
18 two proceedings as opposed to one.

19 For all of these reasons, the Motion will be denied as to
20 the five orders.

21 **III. Factors for Stay/Suspension Pending Appeal.**

22 What appears to be the true substance of Appellants'
23 request is the requested suspension of administration of nearly
24 every aspect of this bankruptcy through Rule 8007(a)(1)(D) until
25 the appeals of the five orders (which, as noted, are discrete
26 and have little or nothing to do with Appellants overall
27 arguments regarding the Probate Exception) are resolved.
28

1 Granting such sweeping relief under the rubric of a motion
2 for stay pending appeal of specific orders, while contemplated
3 in Rule 8007(a) (1) (D) and (e), is uncommon.

4 Motions to stay a proceeding pending appeal (and certainly
5 suspension of matters beyond the order(s) on appeal) are highly
6 discretionary and should only be exercised when "irremediable
7 injury may result from the effect of the decree" and should be
8 "sparingly employed and reserved for the exceptional situation."
9 *In re Wymer*, 5 B.R. 802, 806 (BAP 9th Cir. 1980).

10 Parties seeking a stay pending appeal must make a showing
11 under four factors: "(1) whether the stay applicant has made a
12 strong showing that he is likely to succeed on the merits; (2)
13 whether the applicant will be irreparably injured absent a stay;
14 (3) whether issuance of the stay will substantially injure the
15 other parties interested in the proceeding; and (4) where the
16 public interest lies." *Nken v. Holder*, 556 U.S. 418, 433-34
17 (2009).

18 As to the first factor, Appellants have not shown that they
19 are likely to succeed on the merits of the appeal. The court
20 has previously discussed in multiple of its orders that the
21 probate exception of *Marshall v. Marshall*, 547 U.S. 293, 311-12
22 (2006), has been waived by the Appellants by their full-throated
23 participation in the bankruptcy for years, via multiple
24 adversary proceedings, including a nondischargeability
25 proceeding, exemption objections, and other acts. Further, the
26 probate exception is not applicable at all to some of the orders
27 on appeal and has only questionable relation to the others. The
28 Order Consolidating Adversary Proceedings 22-03105 and 24-03035

1 (Main Case, Dkt. 632) is a procedural order germane only to this
2 court. The Order Granting Chapter 7 Trustee's Motion for Order:
3 1) Approving Abandonment of the Estate's Interest in the
4 Inherited IRA and Two Required Minimum Distributions; 2)
5 Authorizing the Trustee to Remit One of the Required Minimum
6 Distribution Funds to the Debtor (Main Case, Dkt. 630) is, as
7 discussed above, subject to the court's prior Sequestration
8 Orders (Main Case, Dkts. 156, 315), interpretation of which is
9 solely the jurisdiction of this court, not the state court.

10 The court agrees that ownership of the Arizona painting is
11 a discrete question that should be decided by probate court.
12 The orders on abandonment of IRA funds, personal property and
13 stay relief are so intertwined with all the bankruptcy matters
14 described here and in the reasoning for each of the five orders,
15 that they cannot be separated. Once the bankruptcy issues are
16 resolved, the rest might well be sent to the probate court for
17 determination.³

18 As to the second factor, the Appellants have not shown that
19 substantial harm will come to them if the Motion is not granted.
20 If it does turn out that Appellants are entitled to certain
21 property Debtor currently claims is part of the bankruptcy
22 estate, any liability Debtor may owe to Appellants would be
23 based on post-petition conduct and not be discharged, and
24 property improperly retained could be returned to the
25 Appellants.

26
27 ³ If Appellants pursue the appeals of any of the five orders, the
28 District Court can consider whether those appeals are
interlocutory, timely or have merit. Those are inquiries which
this court lacks jurisdiction to address.

1 The third factor is neutral. The only harm that Debtor and
2 the Trustee would be subject to during a stay pending appeal is
3 further delay. In a nearly three-year old case, this harm is
4 minimal.

5 As to the fourth factor, there are not sufficient public
6 interest implications to merit a suspension pending appeal of
7 the five orders. There are competing public interests in both
8 probate and bankruptcy proceedings being resolved efficiently
9 and according to the law. The rest of the disputes boil down to
10 a private matter between embattled family members and do not
11 implicate the public at all.

12 Having considered these factors, the court will also deny
13 the request to suspend any aspect of this bankruptcy case in its
14 disposition of the Motion.

15 **IV. CONCLUSION**

16 For the reasons stated above, the court will by separate
17 order DENY the Motion.

18
19 **END OF MEMORANDUM DECISION**
20
21
22
23
24
25
26
27
28

COURT SERVICE LIST

ECF Recipients