

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

IVAN URIBE,
Appellant,

CASE NO.: 2018-CV-31-A-O

v.

IMH ASSETS CORP., a Florida
corporation, and IMH ASSETS
CORP., a California corporation,
Appellees.

**FINAL ORDER DISMISSING APPEAL AND
DIRECTING CLERK TO CLOSE CASE**

THIS MATTER came before the Court *sua sponte*. The Court finds as follows:

On May 30, 2019, this Court's Order informed Appellant that he is not entitled to a bankruptcy stay because he was the plaintiff below and 11 U.S.C. § 362(a)(1) provides that the automatic stay only prevents an "action or proceeding against the debtor." *See, e.g., Crosby v. Monroe County*, 394 F.3d 1328, 1331 n. 2 (11th Cir. 2004) ("The automatic stay provision of the Bankruptcy Code, 11 U.S.C. § 362, does not extend to lawsuits initiated by the debtor.").

This Court's May 30, 2019 Order also directed Appellant to file and serve the initial brief within 30 days of the date of the Order. Appellant was warned that failure to comply with the Order would result in *sua sponte* dismissal of this case. However, Appellant failed to file the initial brief, or otherwise respond to the Court's Order.

Thus, on July 16, 2019, the Court entered its Order to Show Cause, ordering Appellant to file his initial brief within 10 days. Appellant was again warned that that failure to comply with the Order would result in *sua sponte* dismissal of this case.

However, Appellant failed to file the initial brief, or otherwise respond to the Court's Order to Show Cause within 10 days.

Well after expiration of the 10 days contemplated in the Court's July 16, 2019 Order to Show Cause, Appellant did file with the Court his Notice of Status of Bankruptcy Case on August 15, 2019, in which he asks that the Court reconsider its prior Orders, and his Notice of Filing Bankruptcy on August 20, 2019, which asserts that he is entitled to a bankruptcy stay. However, as already explained to Appellant in the Court's May 30, 2019 Order, he is not entitled to a bankruptcy stay because he was the plaintiff below. *See* 11 U.S.C. § 362(a)(1); *Crosby*, 394 F.3d at 1331 n. 2.

In short, Appellant was given two opportunities to file an initial brief, and was twice warned that failure to do so would result in the *sua sponte* dismissal of this case, but he has still failed to file an initial brief. The time has now come to dismiss this appeal.

Therefore, it is **ORDERED AND ADJUDGED** that this appeal is **DISMISSED**. The Clerk of the Court is directed to **CLOSE** this case forthwith. No further motions in this case will be accepted by the Court.

DONE AND ORDERED in Chambers, at Orlando, Orange County, Florida, on this _____ day of _____, 2019.

DONALD A. MYERS, JR.
Chief Judge

APTE and O'KANE, J.J., concur.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order was furnished on this _____ day of _____, 2019 to the following: Ivan Uribe, 2423 S. Orange Ave. #181, Orlando, FL 32806; Vitaliy Kats, Esquire, Greenberg Traurig, P.A., 101 E. Kennedy Blvd., Ste. 1900, Tampa, FL 33602.

Judicial Assistant