

COPY



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 DATE: 9/6/2016

INTERTRIBAL COURT OF SOUTHERN CALIFORNIA  
 46002 GOLSH ROAD  
 VALLEY CENTER, CA 92082

THE INTERTRIBAL COURT OF SOUTHERN CALIFORNIA  
 FOR THE RINCON BAND OF LUISENO INDIANS

NICHOLAS SCAFFIDI,  
 an individual

Plaintiff,

vs.

RINCON BAND OF LUISENO INDIANS,  
 an Indian Tribal Nation; HCAL,  
 LLC, a corporation

Defendants.

) Case No.: CV-1607-22  
 )  
 ) **ORDER; CASE DISMISSED WITHOUT**  
 ) **PREJUDICE**

Plaintiff NICHOLAS SCAFFIDI ("Plaintiff") commenced this action by filing a Complaint for Damages on July 14, 2016. For the reasons set forth below, the Court finds the filing of the Complaint was an action *void ab initio* which did not invoke the jurisdiction of the Court. Accordingly, this action is dismissed without prejudice.

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1 Analysis:

2       The incident that forms the basis of Plaintiff's Complaint is  
3 alleged to have occurred on July 24, 2014. Defendant HCAL, LLC  
4 ("HCAL") has submitted evidence establishing that on January 15,  
5 2015, it along with affiliated companies filed a voluntary petition  
6 for relief under Chapter 11 of the United States Bankruptcy Code in  
7 the United States Bankruptcy Court, Northern District of Illinois  
8 (case number 15-01145). At that time an automatic stay came into  
9 effect that prohibits the commencement of actions such as this one,  
10 to recover for claims against HCAL that occurred before its  
11 bankruptcy filing, unless the claimant first obtains an order from  
12 the Bankruptcy Court granting relief from the automatic stay under  
13 11 U.S.C. § 362. Actions taken in violation of the automatic stay  
14 are void, not voidable In re Gruntz, (9th Cir. 2000) 202 F. 3d  
15 1074, 1081-1082. "Void" acts have no force or effect and cannot be  
16 cured or ratified. As a result, the debtor/estate does not have to  
17 take any action to "undo" the act. In re Schwartz, (9th Cir. 1992)  
18 954 F. 2d 569, 571.

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22       Plaintiff argues that this Court is a Sovereign and not  
23 subject to the bankruptcy laws of the United States. Plaintiff is  
24 incorrect; See Krystal Energy Co. v. Navajo Nation, (9th Cir. 2004)  
25 357 F. 3d 1055, 1061; Cert. Denied, Navajo Nation v. Krystal Energy  
26 Co., (2004) 543 U.S. 871 (Congress has abrogated tribal sovereign  
27 immunity for purposes of the Bankruptcy Code). Plaintiff has not  
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1 provided any evidence that he has obtained a relief from stay order  
2 from the Bankruptcy Court, and the arguments he has advanced  
3 indicate he has not. Therefore, his filing of the Complaint  
4 violated the automatic stay, and did not invoke the jurisdiction of  
5 this Court.  
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7 For the foregoing reasons, it is hereby  
8 ORDERED, that this action is dismissed, without prejudice.  
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10 DATED: September 6, 2016  
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12 Judge John Messina  
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