

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

APR 23 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

AMALIA KESSLER; et al.,

Plaintiffs - Appellants,

v.

NICKLESS AND PHILLIPS P.C.,

Defendant - Appellee.

No. 07-55527

D.C. No. CV-06-00712-SJO

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
S. James Otero, District Judge, Presiding

Submitted April 13, 2009**

Before: GRABER, GOULD, and BEA, Circuit Judges.

Amalia Kessler and Sam Abbas appeal pro se from the district court's
judgment dismissing their diversity action alleging various tort law claims arising

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument, and accordingly denies Appellants' request. *See* Fed. R. App. P. 34(a)(2).

from an adversary proceeding in bankruptcy court. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *Barnett v. Centoni*, 31 F.3d 813, 816 (9th Cir. 1994) (per curiam), and may affirm on any basis supported by the record, *Wong v. Bell*, 642 F.2d 359, 361-62 (9th Cir. 1981). We affirm.

Appellant Abbas notified the court that appellant Kessler is deceased, and moves to be substituted as Kessler's successor in interest. We grant the unopposed motion. *See* Fed. R. Civ. P. 25(a)(1).

We dismiss Abbas as an independent party for lack of standing, because he has not alleged an invasion of his legally protected interests. *See Angelucci v. Century Supper Club*, 41 Cal.4th 160, 175 (2007); *see also Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992).

The action was properly dismissed because it was filed in direct violation of the automatic stay, and Appellants violated the bankruptcy court's order directing them to dismiss the action. *See* 11 U.S.C. § 362(a)(3) (providing that the filing of a bankruptcy petition stays any act to obtain possession or exercise control over property of the estate); *see also Wong*, 642 F.2d at 361-62 (explaining that a district court has authority under Fed. R. Civ. P. 12(b)(6) to dismiss sua sponte for failure to state a claim).

Appellants' remaining contentions are unpersuasive.

The Motion to Substitute is granted; all remaining motions are denied.

AFFIRMED.