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State nor trial counsel for Alfredson believed the courthouse discussion constituted a formal offer. Without a formal offer being made, trial counsel could not have been deficient in failing to disclose it to Alfredson. Alfredson has failed to present sufficient evidence to overcome the presumption that his trial counsel acted reasonably.

CONCLUSION

For the foregoing reasons, we affirm the judgment of the district court.

AFFIRMED.

CASSEL, J., not participating.

JANE DOE, APPELLANT AND CROSS-APPELLEE, V. FIREMAN'S FUND INSURANCE COMPANY, APPELLEE AND CROSS-APPELLANT.

843 N.W.2d 639

Filed February 21, 2014. No. S-13-075.

1. **Summary Judgment: Appeal and Error.** An appellate court will affirm a lower court's grant of summary judgment if the pleadings and admitted evidence show that there is no genuine issue as to any material facts or as to the ultimate inferences that may be drawn from the facts and that the moving party is entitled to judgment as a matter of law.
2. ____: ____. In reviewing a summary judgment, an appellate court views the evidence in the light most favorable to the party against whom the judgment was granted, and gives that party the benefit of all reasonable inferences deducible from the evidence.
3. **Bankruptcy: Judgments: Appeal and Error.** Whether the automatic stay provisions of 11 U.S.C. § 362(a) (2006 & Supp. III 2009) have been violated is a question of law. An appellate court reaches a conclusion regarding questions of law independently of the trial court's conclusion.
4. **Judgments: Final Orders.** To constitute a judgment under Neb. Rev. Stat. § 25-1301 (Reissue 2008), a judge's decision must be both rendered and entered.

Appeal from the District Court for Red Willow County: DAVID URBOM, Judge. Affirmed.

Vincent M. Powers, of Vincent M. Powers & Associates, for appellant.

Patrick Q. Hustead and Christopher J. Shannon, of Hustead Law Firm, P.C., and Stephen L. Ahl and Krista M. Carlson, of Wolfe, Snowden, Hurd, Luers & Ahl, L.L.P., for appellee.

HEAVICAN, C.J., WRIGHT, CONNOLLY, STEPHAN, MCCORMACK, MILLER-LERMAN, and CASSEL, JJ.

HEAVICAN, C.J.

INTRODUCTION

Under federal law, the filing of a petition in bankruptcy operates as an automatic stay of the commencement or continuation of any action or proceedings against the debtor or the recovery of a claim against the debtor which arose prior to the filing of bankruptcy.[1] This appeal asks us to determine whether the entry of a default judgment announced prior to the filing of bankruptcy, but signed and file stamped after, was stayed under federal law. We conclude that it was and, accordingly, affirm the Red Willow County District Court's order granting the motion for summary judgment of Fireman's Fund Insurance Company (Fireman's).

FACTUAL BACKGROUND

The plaintiff, Jane Doe, allegedly was sexually assaulted on August 31, 2004. The perpetrator was employed by Red Willow Dairy, L.L.C., which was owned and operated by Jim Huffman and Ann Huffman. On October 23, 2009, Doe sued Red Willow Dairy and the Huffmans in Lancaster County District Court, alleging that they failed to investigate the background of Doe's assaulter and failed to properly supervise him. Doe's amended complaint was filed on October 28. Red Willow Dairy and the Huffmans did not respond to the lawsuit in the district court, and a motion for default judgment was filed on December 14, 2009.

A hearing on the motion for default judgment was held on December 18, 2009. The judges' notes for the case were included in one of the exhibits in the instant case. The notes show that at the December 18 hearing, the court sustained the motion for default judgment and directed Doe's attorney to

[1] 11 U.S.C. § 362(a)(1) (2006 & Supp. III 2009).

submit a proposed order within 7 days. Although the subsequent signed order does not show on its face when it was signed by the court, the judges' notes show an entry on December 22, stating, "For order on default judgment see file. (default)." The signed order granting the default judgment was file stamped by the Lancaster County clerk of the district court on December 22. The day before, on December 21, Red Willow Dairy and the Huffmans had filed for chapter 7 bankruptcy.

During the bankruptcy proceedings, Doe was listed as a creditor to Red Willow Dairy and the Huffmans. Doe eventually settled her claim in return for an assignment of all rights to any and all causes of action that Red Willow Dairy and the Huffmans might have against Fireman's for its action or inaction with respect to the Lancaster County District Court lawsuit.

Doe then filed this action against Fireman's in Red Willow County District Court. Doe alleged that Fireman's had a duty to defend Red Willow Dairy and the Huffmans and had breached that duty.

Fireman's first filed a motion to dismiss, which was denied. Fireman's then filed a motion for partial summary judgment on the issue of coverage, which the district court granted, concluding that the operative insurance policy excluded claims for sexual molestation.

Doe then filed her own motion for summary judgment, and Fireman's filed two more motions—one arguing that the entry of the default judgment order violated the bankruptcy stay and another arguing that because there was no coverage under the policy, there was no duty to defend. The district court later granted summary judgment to Fireman's, reasoning that the default judgment entry violated the automatic bankruptcy stay. The district court also denied Doe's motion for summary judgment.

Doe appeals, and Fireman's cross-appeals.

ASSIGNMENTS OF ERROR

On appeal, Doe assigns that the district court erred in finding that the filing of the default judgment on December 22, 2009, violated the automatic stay of the U.S. Bankruptcy Court

and, as such, erred in granting summary judgment in favor of Fireman's.

On cross-appeal, Fireman's assigns, restated, that the district court erred in not also granting it summary judgment for the reason that because there was no coverage under the policy, Fireman's had no duty to defend.

STANDARD OF REVIEW

[1,2] An appellate court will affirm a lower court's grant of summary judgment if the pleadings and admitted evidence show that there is no genuine issue as to any material facts or as to the ultimate inferences that may be drawn from the facts and that the moving party is entitled to judgment as a matter of law.[2] In reviewing a summary judgment, an appellate court views the evidence in the light most favorable to the party against whom the judgment was granted, and gives that party the benefit of all reasonable inferences deducible from the evidence.[3]

[3] Whether the automatic stay provisions of 11 U.S.C. § 362(a) have been violated is a question of law.[4] We reach a conclusion regarding questions of law independently of the trial court's conclusion.[5]

ANALYSIS

On appeal, Doe assigns that the district court erred in concluding that the default judgment entered against Red Willow Dairy and the Huffmans violated the automatic stay of the bankruptcy court.

In this case, the district court orally pronounced the granting of default judgment in Doe's favor on Friday, December 18, 2009, as reflected by the court's minute entry. The minute entry also shows that the court directed Doe's counsel to submit a proposed order within 7 days. Red Willow Dairy

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[2] *Churchill v. Columbus Comm. Hosp.*, 285 Neb. 759, 830 N.W.2d 53 (2013).

[3] *Id.*

[4] *Eskanos & Adler, P.C. v. Leetien*, 309 F.3d 1210 (9th Cir. 2002).

[5] *Churchill v. Columbus Comm. Hosp., supra* note 2.

and the Huffmans filed for bankruptcy on December 21. On Tuesday, December 22, the court made another minute entry referring to the order on default judgment. In context, it is perfectly clear that the court signed the order on December 22. And the parties agree that the order granting Doe's motion for default judgment was file stamped by the court clerk on December 22.

Doe directs this court to *In re Soares*[6] and argues that we should adopt a ministerial act exception to the bankruptcy stay. Doe argues that this court should conclude that both the rendition of the order by the judge on December 22, 2009, and the entry of the order by the court clerk, who file stamped and dated the order on December 22, were merely ministerial. Thus, Doe argues it was the oral pronouncement and journal entry on December 18 that is the pertinent time to consider with respect to the bankruptcy stay.

In *In re Soares*, the First Circuit defined a ministerial act as one that is essentially clerical in nature: "Thus, when an official's duty is delineated by, say, a law or a judicial decree with such crystalline clarity that nothing is left to the exercise of the official's discretion or judgment, the resultant act is ministerial."[7] The First Circuit concluded that when the judicial function is complete—i.e., when the judicial decision is made—those acts done in "obedience to the judge's peremptory instructions or [are] otherwise precisely defined and nondiscretionary"[8] are ministerial and not violative of the automatic stay even if undertaken after an affected party files for bankruptcy.

But we decline to adopt such an exception because it is inconsistent with Nebraska law. Neb. Rev. Stat. § 25-1301 (Reissue 2008) sets forth the relevant statutory provisions for the rendition and entry of judgments in Nebraska courts. Section 25-1301(2) provides that the "[r]endition of a judgment is the act of the court, or a judge thereof, in making and

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[6] *In re Soares*, 107 F.3d 969 (1st Cir. 1997).

[7] *Id.* at 974.

[8] *Id.*

signing a written notation of the relief granted or denied in an action." And § 25-1301(3) provides that the "entry of a judgment . . . occurs when the clerk of the court places the file stamp and date upon the judgment."

Our current version of § 25-1301 replaced an earlier version which provided multiple methods for the entry of judgment, thus leading to confusion about when an order was entered and therefore final.[9] Under the prior statute, rendition of a judgment was defined as "the act of the court, or a judge thereof, in pronouncing judgment, accompanied by the making of a notation on the trial docket, or one made at the direction of the court or judge thereof, of the relief granted or denied in an action."[10] And the time for appeal under the former statute began to run with the "rendition" of the judgment.[11] This frequently resulted in uncertainty regarding the commencement of the time for appeal. We decline to adopt the ministerial exception advocated by Doe, because to do so would be contrary to the intent behind the 1999 revisions to § 25-1301, which sought to instill certainty in the question of when a judgment was entered. After the 1999 revisions, the pronouncement of judgment and making of a trial docket entry no longer play any role in the "rendition" of a judgment.

[4] To constitute a "judgment" under § 25-1301, a judge's decision must be both rendered and entered.[12] In this case, the *rendering* of the district court's grant of summary judgment could not have occurred when the first minute entry was made on December 18, 2009, because the minute entry was not signed by the judge. Until the judge signed the order on December 22, he had not "rendered" the judgment within the meaning of § 25-1301. Even if the entry of the judgment by the court clerk was purely ministerial, the judge's signing of

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[9] Introducer's Statement of Intent, L.B. 622, Committee on Judiciary, 96th Leg., 1st Sess. (Mar. 19, 1999) (amended into 1999 Neb. Laws, L.B. 43).

[10] See § 25-1301(2) (Reissue 1995).

[11] See Neb. Rev. Stat. § 25-1912(1) (Reissue 1995).

[12] See *Kilgore v. Nebraska Dept. of Health & Human Servs.*, 277 Neb. 456, 763 N.W.2d 77 (2009).

the order was not; rather, it was an essential part of the judicial function of the "rendition" of the judgment. Moreover, the *entry* of that judgment plainly did not occur until December 22, when "the clerk of the court place[d] the file stamp and date" upon a written notation of that decision.

Thus, by the time the order granting default judgment was signed by the court (rendition) and file stamped and dated by the clerk (entry) on December 22, 2009, Red Willow Dairy and the Huffmans had the day before filed for bankruptcy. And, as is provided by 11 U.S.C. § 362(a), "a petition filed . . . operates as a stay, applicable to all entities, of . . . (1) the commencement or continuation . . . of a judicial . . . proceeding against the debtor." This stay is applicable regardless of notice.[13]

As of December 21, 2009, the order in the underlying action between Doe and Red Willow Dairy and the Huffmans had not been rendered or entered, and thus was not a judgment. The filing of the bankruptcy stayed any further proceedings, preventing the rendition and entry of the default judgment on December 22. Because neither rendition nor entry of the default judgment was accomplished before the filing of the bankruptcy action, Fireman's could not have breached any duty it might have to defend Red Willow Dairy and the Huffmans. And the underlying action between Doe and Red Willow Dairy and the Huffmans was discharged in the bankruptcy action.

We are aware of the comments in the dissent suggesting that it was "the court's judgment when pronounced" and that the entry was ministerial. The dissent relies in part on language in *Luikart v. Bredthauer*.[14] But the confusion engendered by cases like *Luikart* was addressed in the 1999 amendments to § 25-1301 which, contrary to the dissent's view, were not limited to the issue of when to take an appeal, although they were in aid of it. So too, our use of the word "ministerial," though perhaps ill chosen, in *Kilgore v. Nebraska Dept. of Health &*

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[13] See, e.g., *Constitution Bank v. Tubbs*, 68 F.3d 685 (3d Cir. 1995); 9B Am. Jur. 2d *Bankruptcy* § 1725 (2006).

[14] See *Luikart v. Bredthauer*, 132 Neb. 62, 271 N.W. 165 (1937).

Human Servs.,[15] upon which the dissent relies, was in the context of appealability.

Because the trial court has inherent authority to modify its oral ruling before its entry, we do not agree with the reasoning of the dissent to the effect that the judgment occurs when orally pronounced and that the entry of judgment on December 22, 2009, was merely ministerial. Moreover, we do not endorse execution of judgment based on the oral pronouncement in this case. Our reasoning is not at odds with federal law under § 362(a)(1), but simply applies it to the facts of this case. To adopt the reasoning of the dissent would be a setback for Nebraska procedural jurisprudence and trivialize the entry of the judgment.

Doe's assignment of error is without merit. We need not reach the assignment of error on cross-appeal filed by Fireman's.

CONCLUSION

The decision of the district court granting summary judgment to Fireman's is affirmed.

AFFIRMED.

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[15] See *Kilgore v. Nebraska Dept. of Health & Human Servs.*, *supra* note 12.

CONNOLLY, J., dissenting.

I believe that the majority opinion has incorrectly focused on whether an order is final for purposes of an appeal instead of whether a court's act is ministerial under § 362 of the federal bankruptcy code.[1] Federal courts hold, and legal commentators agree, that postpetition ministerial acts do not violate the automatic stay of proceedings against the debtor under § 362. I would remand the cause for the court to decide the issue raised by the insurer's cross-appeal.

COURT'S ORDER DID NOT VIOLATE THE BANKRUPTCY STAY

Upon the filing of a bankruptcy petition, § 362(a)(1) treats the petition as an automatic stay of the commencement or continuation of any judicial, administrative, or other proceedings

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[1] See 11 U.S.C. § 362(a)(1) (2006 & Supp. III 2009).

against the debtor. I agree that any action that violates an automatic stay is void.[2] But under federal law, the district court's official entry of its default judgment was a ministerial act, not the continuation of a proceeding. And whether an action constitutes the "commencement or continuation" of a proceeding is a question of federal bankruptcy law—not state law.[3]

It is true that we are not bound by appellate circuit courts' interpretation of a federal statute,[4] but those decisions are, of course, strong persuasive authority. And federal courts, in analyzing whether a court's action is ministerial, do not focus on whether an order is final for the purpose of an appeal in state court. Instead, the purpose of § 362 is to balance the interests of debtors and creditors in bankruptcy proceedings.[5] And in considering whether a court's postpetition action violates an automatic stay, federal courts have drawn the line at ministerial acts. That is, acts that are merely ministerial (essentially clerical) after a court has decided a case will not violate the automatic stay. The First Circuit is not the only federal court to have concluded that postpetition ministerial acts do not violate the automatic stay when the court pronounced judgment—in a written order or from the bench—before the debtor filed a bankruptcy petition.[6]

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[2] See, e.g., *Acands, Inc. v. Travelers Cas. and Sur. Co.*, 435 F.3d 252 (3d Cir. 2006); *In re Integrated Technology Solutions, Inc.*, 417 B.R. 643 (D.N.M. 2009).

[3] Compare *In re Williams*, 703 F.2d 1055 (8th Cir. 1983).

[4] See *Strong v. Omaha Constr. Indus. Pension Plan*, 270 Neb. 1, 701 N.W.2d 320 (2005), *abrogated on other grounds, Kennedy v. Plan Administrator for DuPont Sav. and Investment Plan*, 555 U.S. 285, 129 S. Ct. 865, 172 L. Ed. 2d 662 (2009).

[5] See, e.g., *In re Pettit*, 217 F.3d 1072 (9th Cir. 2000).

[6] See, e.g., *Rexnord Holdings, Inc. v. Bidermann*, 21 F.3d 522 (2d Cir. 1994); *In re Knightsbridge Development Co. Inc.*, 884 F.2d 145 (4th Cir. 1989); *In re Heaviside*, 433 B.R. 749 (E.D. Mo. 2010); *In re Aultman*, 223 B.R. 481 (W.D. Pa. 1998); 2 Michael Baccus & Howard J. Steinberg, Bankruptcy Litigation § 12:11 (2013), *available at* Westlaw BKRLIT. See, also, *In re Pettit, supra* note 5; *In re Carver*, 828 F.2d 463 (8th Cir. 1987). Compare *In re Vierkant*, 240 B.R. 317 (B.A.P. 8th Cir. 1999).

And Nebraska's entry of judgment statute should not affect that result.

It is true that in 1999, the Legislature amended Neb. Rev. Stat. § 25-1301 (Reissue 1995) in two ways to clarify when a party can appeal. First, the amendment provided that a court renders a judgment or order when the judge signs a written notation of its determination of the relief granted or denied. Second, the court enters the judgment or final order when the court's clerk places the file stamp and date on the judgment or final order.[7]

But through these amendments, the Legislature was clarifying the start date for the appeal period. This purpose is shown by the introducer's statement of intent[8] and the statements of the judges who testified that the previous version of § 25-1301 had caused confusion about the deadline for filing an appeal. The same bill also amended Neb. Rev. Stat. § 25-1912 (Reissue 1995) to change the start date for the 30-day appeal period from the date that the trial court rendered its judgment or final order to the date that the court entered it.[9] Finally, the Legislature amended § 25-1301(3) to specifically provide that "[f]or purposes of determining the time for appeal, the date stamped on the judgment, decree, or final order shall be the date of [the judgment's] entry."

In sum, the 1999 amendments are ministerial and solely related to the filing of an appeal. So they should not affect the efficacy of the court's judgment when pronounced. To hold otherwise will encourage parties to take actions contrary to the court's judgment before it is officially entered. And we have long recognized that a judgment is effective when pronounced even if a party may not use it for some purposes until the court has entered it:

> "The rendition of a judgment is the judicial act of the court in pronouncing the sentence of the law upon the

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[7] See, 1999 Neb. Laws, L.B. 43 § 3; § 25-1301(2) and (3) (Reissue 2008).

[8] See, Introducer's Statement of Intent, L.B. 622, Judiciary Committee, 96th Leg., 1st Sess. (Mar. 19, 1999) (amended into L.B. 43); Hearing, 96th Leg., 1st Sess. 30-41 (Mar. 19, 1999).

[9] See L.B. 43, § 8.

> facts in controversy as ascertained by the pleadings and the verdict. The entry of a judgment is a ministerial act, which consists in spreading upon the record a statement of the final conclusion reached by the court in the matter, thus furnishing external and incontestable evidence of the sentence given, and designed to stand as a perpetual memorial of its action. It is the former, therefore, that is the effective result of the litigation. In the nature of things, a judgment must be rendered before it can be entered. And not only that, but though the judgment be not entered at all, still it is none the less a judgment. The omission to enter it does not destroy it, nor does its vitality remain in abeyance until it is put upon the record. . . .'' . . . ''. . . 'There are certain purposes, however, for which a judgment is required to be duly entered before it can become available or be attended by its usual incidents. Thus, . . . this is prerequisite to the right to appeal. And so a judgment must commonly be docketed before it can create a lien upon land . . . . But with these exceptions, a judgment is independent of the fact of its entry. And in all cases, the distinction between rendition and entry is substantial and important.'''[10]

Under this reasoning, I disagree that the 1999 amendments alter when a court's substantive judgment of the parties' rights and obligations has effect. Even after the 1999 amendments, we have specifically characterized a court's signing and file stamping of a judgment or order as ministerial acts required for an appeal.[11] In short, I believe that the majority opinion confuses the issues. Whether an order is appealable is not the same as whether a court's act is ministerial for the purpose of violating the automatic stay in federal bankruptcy proceedings.

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[10] *Luikart v. Bredthauer*, 132 Neb. 62, 65-66, 271 N.W. 165, 167 (1937), quoting 1 Henry Campbell Black, A Treatise on the Law of Judgments § 106 (2d ed. 1902).

[11] See *Kilgore v. Nebraska Dept. of Health & Human Servs.*, 277 Neb. 456, 763 N.W.2d 77 (2009).

Here, we are not deciding whether a creditor can enforce a judgment after the debtor has filed a bankruptcy petition.[12] We are deciding only whether a court can enter a postpetition judgment that it pronounced before the debtor filed the petition. Federal courts specifically intended the exception for ministerial acts to prevent court actions like this one from violating the automatic stay. In contrast, the rule that the opinion sets out, if adopted by federal courts, would encourage debtors to try to defeat prepetition judgments against them by racing to the bankruptcy court before the court officially enters its judgment.

This case illustrates the potential problems of the rule that the majority opinion adopts. The trial court sustained Jane Doe's motion for a default judgment on Friday, December 18, 2009. Red Willow Dairy, L.L.C., and Jim Huffman and Ann Huffman filed for bankruptcy on the following Monday, December 21, before the court entered its judgment on Tuesday, December 22. If the court had entered its judgment on Monday, would we require parties to prove the times that the court entered its judgment and the debtor filed the bankruptcy petition? If a creditor claimed that the court improperly delayed the entry of judgment, would that claim require the judge to testify as a witness?

Because the federal rule avoids these problems, I find it more persuasive. I would hold that the district court erred in concluding that the Lancaster County District Court's entry of the default judgment violated the automatic stay of § 362 and was therefore void. This conclusion leads me to the issue raised by the insurer's cross-appeal: whether the court erred in failing to dismiss Doe's complaint or to grant Fireman's Fund Insurance Company (Fireman's Fund) summary judgment on Doe's claim that it breached its duty of good faith and fair dealing.

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[12] See, 11 U.S.C. § 362(a)(6); *Eskanos & Adler, P.C. v. Leetien*, 309 F.3d 1210 (9th Cir. 2002).

Cause Should Be Remanded for Court to Decide Cross-Appeal Issue

As the majority opinion states, Doe was a creditor in the bankruptcy proceeding. She entered into a settlement agreement with Red Willow Dairy and the Huffmans to assign to Doe any claims they had against Fireman's Fund in exchange for her promise not to pursue any claims against them in bankruptcy court. The record shows that Doe notified the bankruptcy court of the settlement, and for deciding this appeal, I assume that the bankruptcy court approved the settlement.[13] But we cannot decide the issue raised by the insurer's cross-appeal because the district court has not yet ruled on it.

In its cross-appeal, Fireman's Fund argues that it did not breach its duty of good faith and fair dealing in failing to defend Red Willow Dairy and the Huffmans against Doe's claim because it had good reason to deny their claim for coverage. Fireman's Fund argues that its policy's exclusion for the risk presented by Doe's claim was undebatable. As the majority opinion states, the court agreed, and Doe does not assign error to that ruling on appeal.

Instead, Doe argues that Firemen's Fund is estopped from denying coverage because it knew about Doe's claim and her motion for a default judgment. Yet, it took no steps to protect its insureds from a default judgment or to notify them that it would not defend them before the court entered the default judgment. Doe argues that an insurer cannot lead an insured to believe that it will assume responsibility for a defense and then leave the insured liable for a default judgment. Fireman's Fund responds that none of its actions could have led a reasonable insured to believe that it was assuming a defense. Leaving aside that the parties dispute the relevant facts, we generally do not consider issues that the trial court has not decided.[14] And Fireman's Fund incorrectly argues that the court erred in

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[13] See 10 Collier on Bankruptcy ¶ 9019.01 (Alan N. Resnick & Henry J. Sommer eds., 15th ed. rev. 2009).

[14] See *Conley v. Brazer*, 278 Neb. 508, 772 N.W.2d 545 (2009).

failing to decide whether it had breached the duty of good faith and fair dealing.

In April 2012, Doe moved for summary judgment on the insurer's liability. Fireman's Fund then moved for summary judgment on its defense that the default judgment was void because it violated the automatic stay in the bankruptcy proceeding. Later, Fireman's Fund moved for a summary judgment that it could not be liable for breaching a duty of good faith and fair dealing because it had no duty to defend Red Willow Dairy and the Huffmans.

The court considered these motions at the same time. It concluded that the default judgment violated the automatic stay and was void and that Fireman's Fund was therefore entitled to judgment as a matter of law. Accordingly, the court overruled Doe's motion for summary judgment and did not reach the issue whether Fireman's Fund had breached a duty of good faith and fair dealing.

The court obviously concluded that its ruling on the bankruptcy issue mooted Doe's claim and Fireman's Fund's alternative defense. And the majority opinion relies on this reasoning in declining to address the cross-appeal: "Because neither rendition nor entry of the default judgment was accomplished before the filing of the bankruptcy action, Fireman's [Fund] could not have breached any duty it might have to defend Red Willow Dairy and the Huffmans." So the trial court's ruling completely disposed of the subject matter of the litigation, and it was not error for the court to withhold a ruling on a moot issue.[15] But because I disagree with the court's ruling regarding the effect of the automatic stay, I would remand the cause for the court to decide the issue raised by the cross-appeal.

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[15] See *Big John's Billiards v. State*, 283 Neb. 496, 811 N.W.2d 205 (2012).