

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. 11-20207-CIV-O'SULLIVAN

[CONSENT]

ALIRIO ANTONIO ZAMBRANO,

Plaintiff

v.

DOM & DOM PIZZA INC., d/b/a GINO'S PIZZA  
and GIANCARLO MONTOYA,Defendants.  

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**ORDER**

THIS MATTER came before the Court on the Suggestion of Bankruptcy (DE # 65, 4/16/12) filed by the defendants.<sup>1</sup>

The corporate defendant, Dom & Dom Pizza, Inc., filed a voluntary petition for bankruptcy in the Southern District of Florida. Id. By operation of Title 11 United States Code Section 362, the above-styled action is STAYED as to the corporate defendant, Dom & Dom Pizza, Inc.

Title 11 United States Code Section 362 stipulates that an automatic stay is created upon the filing of any bankruptcy petition. See Ellison v. Northwest Eng'g Co., 707 F.2d 1310, 1311 (11th Cir. 1983). The purpose of the stay is "to give the debtor a breathing spell from his creditors." Id.

Accordingly, after careful review of the record, and the Court being otherwise

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<sup>1</sup> Although the suggestion of bankruptcy was filed by both defendants there is no indication in the suggestion of bankruptcy that the individual defendant also filed a petition for bankruptcy.

fully advised, it is

ORDERED AND ADJUDGED, that this case is STAYED as to the corporate defendant, Dom & Dom Pizza, Inc. It is further

ORDERED AND ADJUDGED that the case remains open as to the individual defendant, Giancarlo Montoya, because the protection of the automatic stay does not apply to co-defendants who are not in bankruptcy. See In re Sunbeam Securities Litigation, 261 B.R. 534, 536 (S.D. Fla. 2001) (noting that “[t]he law makes clear . . . that the automatic stay provisions . . . generally are not available to third-party non debtors”); Dewitt v. Daley, 336 B.R. 552, 556 (S.D. Fla. 2006)(noting that “the case law is clear that extending a stay to non-bankrupt co-defendants is done rarely, justified only in ‘unusual circumstances’”).

DONE AND ORDERED, in Chambers, in Miami, Florida, this **16th** day of April, 2012.

  
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JOHN J. O'SULLIVAN  
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:  
All counsel of record