

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

CEDAR RAPIDS LODGE & SUITES,
LLC, et al.,

Plaintiffs,

vs.

JFS DEVELOPMENT, INC., f/k/a JCS
DEVELOPMENT, INC., et al.,

Defendants.

No. 09-CV-175-LRR

ORDER

The matter before the court is Defendant Ted Vosburg’s “Notice of Filing of Bankruptcy” (“Notice”) (docket no. 132). According to the Notice, Vosburg filed for bankruptcy in the United States Bankruptcy Court for the Northern District of Iowa, Case No. 11-01390.

When a debtor files a bankruptcy petition, an automatic stay bars the “continuation . . . of a judicial . . . action or proceeding against the debtor that was . . . commenced before the commencement of the [bankruptcy case.]” 11 U.S.C. § 362(a)(1). The automatic stay remains in place until the bankruptcy case is closed or dismissed or until the bankruptcy court grants or denies a discharge. *See id.* § 362(c)(2). Accordingly, the court shall stay the instant action with respect to Plaintiffs’ claims against Vosburg.

The stay does not affect Plaintiffs’ claims against Defendants JFS Development, Inc., John F. Seibert or Lightowler Johnson Associates, Inc.¹ *See Croyden Assoc. v. Alleco, Inc.*, 969 F.2d 675, 677 (8th Cir. 1992) (holding that “the stay is not available to

¹ The instant action remains stayed with respect to Plaintiffs’ claims against Defendant Marc Gabrielson, who previously filed for bankruptcy. *See* Order (docket no. 131).

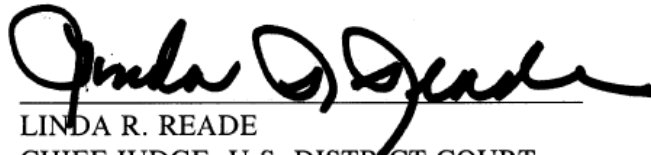
nonbankrupt codefendants, ‘even if they are in a similar legal or factual nexus with the debtor’” (quoting *Maritime Elec. Co. v. United Jersey Bank*, 959 F.2d 1194, 1205 (3d Cir. 1992))). The stay also does not extend to counterclaims against Plaintiffs. See 11 U.S.C. § 362(a)(1) (providing that the stay applies to judicial actions “against the debtor”); *Seiko Epson Corp. v. Nu-Kote Int’l, Inc.*, 190 F.3d 1360, 1364 (Fed. Cir. 1999) (“The rule also permits claims by the debtor, and counterclaims, to proceed.”).

It is **HEREBY ORDERED**:

- (1) This action is **STAYED** with respect to Plaintiffs’ claims against Defendant Ted Vosburg;
- (2) All other claims and counterclaims shall proceed; and
- (3) Defendant Ted Vosburg is ordered to electronically file a status report on or before **January 18, 2012**. In the report, Vosburg shall inform the court about the status of the bankruptcy proceedings.

IT IS SO ORDERED.

DATED this 18th day of July, 2011.


LINDA R. READE
CHIEF JUDGE, U.S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA