

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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NASDI, LLC, :  
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 Plaintiff, : 17cv3578 (DLC)  
 :  
 -v- : ORDER  
 :  
 SKANSKA KOCH INC. KIEWIT :  
 INFRASTRUCTURE CO. (JV) d/b/a SKANSKA :  
 KIEWIT JV, :  
 :  
 Defendant. :  
 :  
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DENISE COTE, District Judge:

In an Opinion of September 28, 2020, summary judgment was granted to the defendant on the plaintiff's claims and on its counterclaim for breach of contract to the extent of a finding of liability against the plaintiff. The issues of damages on the breach of contract claim and the defendant's claim for indemnification remain for trial. The plaintiff has moved for reconsideration of that September 28, 2020 Opinion.

On December 4, 2020, the plaintiff notified the Court that it had entered involuntary bankruptcy proceedings. In an Order of December 7, 2020, proceedings in this matter were stayed pending the resolution of the bankruptcy proceeding pursuant to 11 U.S.C. § 362.

In a letter of September 28, 2021, the plaintiff informed the Court that, while the bankruptcy proceeding remains pending,


it has concluded that the bankruptcy stay does not apply to its claims against the defendant, and that it "does not have any opinion" on whether the bankruptcy stay applies to the defendant's counterclaim. It requested that the Court decide its pending motion for reconsideration. Construing the plaintiff's request as a motion to lift the stay imposed by this Court for the purpose of deciding the pending motion for reconsideration, it is hereby

ORDERED that the plaintiff's motion to lift the stay is denied. If the plaintiff seeks to proceed with this litigation, it must make an application to the bankruptcy court for relief from the bankruptcy stay. 11 U.S.C. § 362(d). Should the bankruptcy court lift the stay as to the plaintiff, either entirely or in part to allow for resolution of this litigation, this Court will proceed to address the plaintiff's motion for reconsideration and provide the parties with such further relief as is appropriate, including the trial of any surviving claims.

IT IS FURTHER ORDERED that a status letter is due **January 30, 2022**.

SO ORDERED:

Dated: New York, New York  
September 30, 2021

  
DENISE COTE  
United States District Judge