

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

<p>PIG BOYS, INC., a Utah corporation, Plaintiff, vs. ALL STAR CATERING LLC, a New Mexico limited liability company, <i>et al.</i>, Defendants.</p>	<p>MEMORANDUM DECISION AND ORDER</p> <p>Case No. 2:11-cv-78 CW</p>
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Now before the court is a motion to lift the stay as to Defendants Nicholas Firkins and All Star Catering LLC (Dkt. No. 36). As discussed below, that motion is GRANTED.

On October 25, 2011, Defendant Richard Firkins filed a notice that he had filed for bankruptcy. Thereafter, the clerk of court stayed the entire action. On October 31, Plaintiff filed a motion to lift the stay as to Nicholas Firkins and All Star, because there is no indication that these Defendants are insolvent. These Defendants have not opposed the motion. In the Tenth Circuit, the general rule is that the automatic stay does not extend to solvent parties. *See Oklahoma Federated Gold and Numismatics, Inc. v. Blodgett*, 24 F.3d 136, 141 (10th Cir. 1994) (“While § 362 extends the stay provisions of the Bankruptcy Code to the “debtor”, the rule followed by this circuit and the general rule in other circuits is that the stay provision does not

extend to solvent codefendants of the debtor.”) (citations omitted). There is no apparent reason that this rule should not be followed in this case.

For the foregoing reasons, the court GRANTS Plaintiff’s motion to lift the stay as to Nicholas Firkins and All Star. The stay remains in effect as to Richard Firkins.

DATED this 5th day of December, 2011.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "Clark Waddoups", written over a horizontal line.

Clark Waddoups
United States District Court Judge