

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

MICHAEL BARRY KINEARD

Plaintiff,

v.

Case No: 2:23-cv-559-JES-NPM

TRAYVIS SMITH and GIDEON L  
DAVID,

Defendants.

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**ORDER**

Before the Court is the defendants' Suggestion of Bankruptcy and Notice of Stay (Doc. 42). Wellpath Holdings, Inc. and affiliated entities—one of which is presumably the defendants' employer—have declared Chapter 11 bankruptcy in the United States Bankruptcy Court for the Southern District of Texas, Case No. 24-90533. The defendants ask the Court to apply the automatic stay to this case.

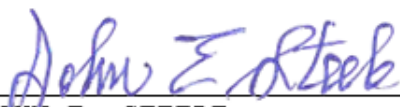
A bankruptcy petition operates to stay litigation of all pre-petition claims against the debtor. 11 U.S.C. § 362(a)(1). The protections of this automatic stay generally extend to the debtor alone. In re Boginsky, 658 B.R. 209, 211 (Bankr. S.D. Fla. 2024); see also In re TXNB Internal Case, 483 F.3d 292, 301 (5th Cir. 2007) ("Section 362(a)...does not apply, however, to actions not directed against the debtor or property of the debtor."). Although the automatic stay generally does not protect non-

debtors, bankruptcy courts have the power to extend the stay to enjoin suits against non-debtors in certain situations. Id.

The court in Wellpath's bankruptcy case has extended the stay to "lawsuits filed as of the Petition Date in which a Debtor is named as one of the defendants therein." Amended Interim Order Enforcing the Automatic Stay, entered Nov. 12, 2024, In re Wellpath Holdings, Inc. et al., No. 24-90533, at \*1 n.3 (Bankr. S.D. Tex.). Rider 1 to Wellpath's bankruptcy petition lists the Debtors. None of those Debtors are named as a defendant in this case. Because the automatic stay does not protect the defendants and the bankruptcy court has not enjoined litigation of claims against them, this case may proceed. If the bankruptcy court extends the stay to the defendants, they shall promptly notify the Court and the plaintiff.

Accordingly, the defendants' request to stay this case is **denied.**

**DONE and ORDERED** at Fort Myers, Florida, this 21st day of November 2024.

  
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JOHN E. STEELE  
SENIOR UNITED STATES DISTRICT JUDGE

Copies:  
Counsel of Record