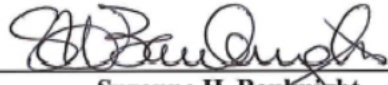




**SO ORDERED.**

**SIGNED this 20th day of August, 2025**

**THIS ORDER HAS BEEN ENTERED ON THE DOCKET.  
PLEASE SEE DOCKET FOR ENTRY DATE.**

  
\_\_\_\_\_  
**Suzanne H. Bauknight**  
**CHIEF UNITED STATES BANKRUPTCY JUDGE**

---

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
EASTERN DISTRICT OF TENNESSEE**

In re

SALEM POINTE CAPITAL, LLC

Case No. 3:24-bk-31702-SHB  
Chapter 11

Debtor

BARBARA KELLER TAYLOR and  
CHARLTON TAYLOR

Plaintiffs

v.

Adv. Proc. No. 3:25-ap-03005-SHB

SALEM POINTE CAPITAL, LLC

Defendant

**MEMORANDUM AND ORDER ON  
MOTION TO DISMISS**

This adversary proceeding was commenced by the filing of the Complaint of Barbara and Charlton Taylor for Injunctive and Monetary Relief (“Complaint”) on March 24, 2025 [Doc. 1], alleging that Defendant’s property maintenance has caused continuous water runoff to flow onto

Plaintiffs' property, prompting Plaintiffs' claims of trespass and nuisance against Defendant.

Plaintiffs seek a declaratory judgment as to the rights and liabilities of the parties regarding their respective properties, injunctive relief in the form of abatement of the nuisance, and the recovery of at least \$200,000.00 in property damages.

Before the Court is the Motion to Dismiss Adversary Proceeding for Violations of Automatic Stay ("Motion to Dismiss") filed by Defendant on May 29, 2025, together with a supporting Memorandum of Law<sup>1</sup> [Docs. 13, 14]. Defendant asks for dismissal of the Complaint as void pursuant to Federal Rule of Bankruptcy Procedure 7012(b)<sup>2</sup>, arguing that Plaintiffs violated the automatic stay when they filed this adversary proceeding without first obtaining stay relief because the Complaint asserts claims and seeks damages based on pre-petition events, which would be a stay violation if filed in the state court. In the alternative, Defendant asks for this adversary proceeding to be stayed. Plaintiffs timely responded to the Motion to Dismiss on June 4, 2025 [Doc. 16], arguing that the automatic stay is not violated by the initiation of an adversary proceeding.

Because the Court finds as a matter of law that the filing of an adversary proceeding does not violate the automatic stay, the Motion to Dismiss will be denied.

---

<sup>1</sup>The Court has not considered the Affidavit of Michael Ayers, which is attached to the Motion to Dismiss [Doc. 13 at 4]. Under Federal Rule of Civil Procedure 12(d), when matters outside the pleadings are presented, the Court can either treat the motion as one for summary judgment or exclude the extraneous material. *Lasarge v. Fastex Logistics, Inc.*, No. 23 C 14836, 2024 WL 3011359 at \*2 (N.D. Ill. June 14, 2024) (referencing Rule 12(d) and finding premature the consideration of materials outside the complaint while the proceedings were in infancy). Because this adversary proceeding is unquestionably in its infancy, and because testimony of Debtor's principal could not impact whether Plaintiffs' argument that this adversary proceeding violates the automatic stay, Court will not consider the Affidavit.

<sup>2</sup>Rule 7012(b) incorporates therein Federal Rule of Civil Procedure 12(b)-(i). Although Defendant argued that the adversary proceeding "should be dismissed as void for violating the automatic stay," [Doc. 14 at 5 ¶ 2], it did not expressly state which of the available defenses under Rule 12(b) it was relying on to challenge Plaintiffs' Complaint.

## I. DISCUSSION

The automatic stay, which becomes effective at the commencement of the case, protects a debtor from “the commencement or continuation . . . of a[n] . . . action or proceeding against the debtor that was or could have been commenced before the commencement of the case[.]” 11 U.S.C. § 362(a)(1). One of the primary purposes of the stay is to “allow for an orderly administration of assets.” *In re Nat’l Brokers of Am., Inc.*, 663 B.R. 661, 669 (Bankr. E.D. Pa. 2024).

Through its Motion to Dismiss, Defendant urges the Court to adopt a minority view among bankruptcy courts. Specifically, Defendant argues that Plaintiffs violated the automatic stay by initiating an adversary proceeding based on allegations of prepetition conduct of Debtor. Some courts have held that the plain language reading of § 362(a)(1) stays the filing of any proceeding against a debtor that stems from a prepetition claim. *In re Roman Catholic Church of Archdiocese of Santa Fe*, 627 B.R. 916, 921 (Bankr. D.N.M. 2021); *see also Healy/Mellon-Stuart Co. v. Coastal Group, Inc. (In re Coastal Group, Inc.)*, 100 B.R. 177, 178 (Bankr. D. Del. 1989) (finding that a complaint on a state-law contract was “the typical case which cannot be filed subsequent to a bankruptcy filing absent relief from stay for cause”); *Sears, Roebuck & Co. v. Penney (In re Penney)*, 76 B.R. 160, 161 (Bankr. N.D. Cal. 1987) (“Rule 7001 is not . . . an open invitation to commence any sort of adversary proceeding against the debtor . . . [or] to sue the debtor on a cause of action which, if brought in state court, would be a blatant violation of the automatic stay.”). Courts adopting this minority view generally do so based on the language of § 362(a)(1) and because “suing the debtor in bankruptcy court is not equivalent to filing a proof of claim,” which is not a violation of the automatic stay. *In re Roman Catholic Church of Archdiocese of Santa Fe*, 627 B.R. at 922.

The majority of courts considering this issue, however, have concluded that the automatic stay implicitly allows a party to commence an adversary proceeding in the bankruptcy court where a debtor's case is pending. *See, e.g., Snavelly v. Miller (In re Miller)*, 397 F.3d 726, 730 (9th Cir. 2005); *Prewitt v. N. Coast Vill., Ltd. (In re N. Coast Vill., Ltd.)*, 135 B.R. 641, 643 (B.A.P. 9th Cir. 1992); *Allied Dev. of Ala. LLC v. Forever 21, Inc. (In re Forever 21, Inc.)*, 623 B.R. 53, 62-63 (Bankr. D. Del. 2020); *Ameritrust Co., N.A. v. Opti-Gage, Inc. (In re Opti-Gage, Inc.)*, 130 B.R. 257, 259 (Bankr. S.D. Ohio 1991); *Citicorp N. Am., Inc. v. Finley (In re Washington Mfg. Co.)*, 118 B.R. 555, 561 (Bankr. M.D. Tenn. 1990). In support of this view, the majority view is that applying the stay to proceedings within the "home bankruptcy court would be illogical and would not serve the purposes underlying the automatic stay." *In re Miller*, 397 F.3d at 730 (quoting *In re N. Coast Vill., Ltd.*, 135 B.R. at 643); *see also In re Opti-Gage, Inc.*, 130 B.R. at 259 ("[F]iling actions against a debtor in this court comports with the bankruptcy policy of centralizing disputes involving the debtor in one court, and therefore the filing of the . . . cross-claim against [the debtor] did not violate the automatic stay provisions of § 362."); *In re Washington Mfg. Co.*, 118 B.R. at 561 ("Taken to its extreme, the [Defendant's] argument would require the filing of a motion for relief from the stay, with its attendant [\$299.00] filing fee, before any creditor could seek any relief or remedy including, for example, dischargeability determinations in the home bankruptcy court where the case is pending.").

Numerous courts have reasoned that the filing of an adversary proceeding against a debtor in bankruptcy court is akin to filing of a proof of claim. *See Charan Trading Corp. v. Uni-Marts, LLC (In re Uni-Marts, LLC)*, 399 B.R. 400, 418 (Bankr. D. Del. 2009) (citing cases). Further, the bankruptcy court possesses the power to limit proceedings as a protection for potential harm against the debtor's estate, and, under the authority of 11 U.S.C. § 105(a), debtors

may move to delay or bar proceedings that may be “unreasonably burdensome.” *In re Washington Mfg. Co.*, 118 B.R. at 561 (quoting *Am. Spinning Mills, Inc. v. Kubicek (In re Am. Spinning Mills, Inc.)*, 43 B.R. 365, 367 (Bankr. E.D. Pa. 1984)).

The Sixth Circuit has not ruled on this issue, and this is a case of first impression in this district. Based on the weight of authority and the underlying purposes of the automatic stay as articulated by the court in *Cellceutix Corp. v. Nickless (In re Formatech, Inc.)*, 496 B.R. 26, 35 (Bankr. D. Mass. 2013) – “affording a debtor breathing room, preserving the status quo by preventing a race to grab assets, and providing the orderly administration and liquidation of the estate” – this Court agrees with and adopts the majority view, which better preserves judicial efficiency, better comports with the Bankruptcy Code, and prevents what would be an absurd result if a creditor or party-in-interest were required to seek stay relief (which, itself, would require notice and a hearing in compliance with the Court’s Local Rules together with payment of the \$199.00 filing fee) before being allowed to commence an adversary proceeding (which also requires its own filing fee of \$350.00).

Accordingly, the Court finds that Plaintiffs did not violate the automatic stay when they initiated this adversary proceeding.<sup>3</sup>

---

<sup>3</sup>As an alternate remedy, Defendant requested that the Court stay this adversary proceeding, stating only: “If this Court does not rule that this proceeding should be dismissed as void for violating the automatic stay, this matter should be stayed until the Debtor begins objecting to Proof of Claims.” [Doc. 14 at 5.] The Court views such a request as seeking a ruling under 11 U.S.C. § 105(a), which would require the Court to “consider the traditional factors governing preliminary injunctions[.] . . . (1) the likelihood of the plaintiff’s success on the merits, (2) whether plaintiff will suffer irreparable injury without the injunction, (3) the harm to others which will occur if the injunction is granted, and (4) whether the injunction would serve the public interest.” *Am. Imaging Servs., Inc. v. Eagle-Picher Indus., Inc. (In re Eagle-Picher Indus., Inc.)*, 963 F.2d 855, 858 (6th Cir. 1992). Defendant, however, addressed none of the factors for the Court to stay this proceeding, including any explanation of the potential harm to the estate if the Court declines the request for a stay. Moreover, a Chapter 11 Trustee has been appointed after the Court removed the debtor-in-possession. Thus, although the Court will entertain a legally supported request for a stay of this action by the Chapter 11 Trustee, Defendant’s request is denied.

## **II. ORDER**

For the foregoing reasons, the Court directs that because Plaintiffs did not violate the automatic stay by filing the Complaint initiating this adversary proceeding, the Motion to Dismiss filed by Defendant on May 29, 2025 [Doc. 13], is DENIED.

# # #