

UNITED STATES BANKRUPTCY COURT  
 NORTHERN DISTRICT OF GEORGIA  
 ATLANTA DIVISION

JAN 05 2005

|                        |   |                   |
|------------------------|---|-------------------|
| IN RE:                 | : | CASE NO. 04-66948 |
|                        | : |                   |
| PAI ENTERPRISES, INC., | : | CHAPTER 11        |
|                        | : |                   |
| Debtor.                | : | JUDGE BIHARY      |
|                        | : |                   |

ORDER

This Chapter 11 case is before the Court on USF Insurance Company's ("USF") motion for relief from the automatic stay, filed December 22, 2004. In its motion, USF seeks relief from the automatic stay to allow it to file a complaint for declaratory judgment in this Court against several non-debtor parties who are currently being defended by USF in an adversary proceeding pending in this Chapter 11 case (Adv. Proc. No. 04-6467) and against the debtor who is the plaintiff in the pending adversary proceeding. A party does not need relief from the automatic stay to file a complaint against the debtor in the same court where the bankruptcy is pending. *See Prewitt v. North Coast Village, Ltd. (In re: North Coast Village, Ltd.)*, 135 B.R. 641, 642-43 (9<sup>th</sup> Cir. B.A.P. 1992). Further, USF does not need relief from the automatic stay to file a complaint against non-debtor entities. *National City Bank of Minneapolis v. Lapidis (In re: Transcolor Corp.)*, 296 B.R. 343, 358 (Bankr. D. Md. 2003). Accordingly, USF's motion for relief from the automatic stay is unnecessary and is DENIED. This ruling is without prejudice to the parties' rights to raise jurisdictional defenses to the complaint and is without prejudice to USF's right to seek relief from the automatic stay to file a declaratory judgment action in another forum.

IT IS SO ORDERED, this 4<sup>th</sup> day of January, 2005.

  
 JOYCE BIHARY  
 UNITED STATES BANKRUPTCY JUDGE

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