

Motion to Impose/Reimpose Automatic Stay

Docketing Event

Bankruptcy > Motions/Applications/Objections > Motion to Impose/Reimpose Automatic Stay

Negative Notice: N/A

Accompanying Orders: N/A

Code and Rule References:

[11 U.S.C. § 362](#)

[Fed. R. Bankr. P. 4001\(a\)\(1\)](#)

[Local Rule 4001-1](#)

Fee: N/A

Applicable Chapters: 7, 11, 12, 13

Implemented: 2/9/2016

Last Revision: 1/23/2018 9:40:09 AM

Description

Upon filing a bankruptcy petition, an automatic stay is imposed in most cases with two exceptions. The stay requires creditors to cease actions against the debtor and the debtor's property as described in 11 U.S.C. § 362(a). The stay continues until either the case is dismissed or closed or, in an individual case, until the granting or denial of discharge. 11 U.S.C. § 362(c).

Creditors may file a motion pursuant to 11 U.S.C. § 362 requesting the stay be lifted to allow them to pursue a particular piece of property. Those motions are most often titled Motion for Relief from Stay, although other titles may also be used. There are separate procedures on Motions for Relief from Stay.

There are two exceptions to the imposition of the automatic stay.

When a new case is filed and there was one previous case for the debtor that was dismissed within the previous year, the automatic stay is imposed for 30 days. After 30 days, the automatic stay terminates. 11 U.S.C. § 362(c)(3)(A). The debtor may request to **extend** the stay by filing a Motion to Extend the Automatic Stay. 11 U.S.C. § 362(c)(3)(B). Motions to extend are addressed in a separate procedure.

When a new individual or joint case is filed and there were two or more individual or joint cases for the debtor that were dismissed within the previous year, the automatic stay is not imposed, (11 U.S.C. § 362(c)(4)(A)(i)) but the debtor may request to have the stay **imposed** by filing a Motion to Impose the Automatic Stay.

This procedure discusses requests to have the stay imposed after two prior bankruptcy cases were dismissed in the prior year.

Filing Checklist

Review the motion to determine if it:

- Is signed;
- Has the attorney's name and address complete and consistent with the filing attorney's name and address in CM/ECF;
- Is properly served and includes a proper certificate of service.

The movant's attorney will be directed to prepare, serve, and docket the notice of hearing unless the debtor is *pro se*. If *pro se*, the Clerk's office will issue the notice to all parties and creditors.