

# Motion for Order Confirming Absence or Termination of Automatic Stay

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## Docketing Event

Bankruptcy > Motions/Applications/Objections > Motion for Order Confirming Absence or Termination of Automatic Stay

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**Negative Notice: Chapters 7, 12, and 13 only**

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**Fee: N/A**

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## Code and Rule References

[11 U.S.C. § 362\(j\)](#)

[Fed. R. Bankr. P. 4001](#)

[Fed. R. Bankr. P. 7014](#)

[Fed. R. Bankr. P. 9014](#)

[Local Rule 2002-4](#)

[Local Rule 4001-1\(b\)](#)

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## Description

Upon the filing of a 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.

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.

There are two exceptions to the imposition of the automatic stay: (1) when a new case is filed and the debtor had **one** previous case dismissed within the previous year, the automatic stay is imposed for only 30 days. (The debtor may request to extend the stay by filing a Motion to Extend the Automatic Stay.); and (2) when a new case is filed and the debtor had two or more cases dismissed within the previous year, the automatic stay is not imposed. (The debtor may request to have the stay imposed by filing a Motion to Impose the Automatic Stay).

When there is no stay in effect, either due to a discharge being entered or denied, or due to a prior filing where no stay was imposed or was only imposed for 30 days and the time has expired, a party may ask the court to enter an order to confirm there is no stay in effect.

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## Filing Checklist

Review the motion to determine if it:

- Is signed;
- Has the attorney's name and address are complete and consistent with the filing attorney's name and address in CM/ECF;
- Includes negative notice that contains the correct language and is located on the first page;
  - ❖ **Note:** Response period is 21 days (plus 3 days for mailing).
- Is properly served and includes a proper certificate of service;
  - ❖ **Note:** If service on the matrix, a copy of the matrix must be included.