

## Motion to Impose/Reimpose Automatic Stay

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### Docketing Event

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

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**Negative Notice:** N/A

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**Accompanying Orders:** No.

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### Code and Rule References:

[11 U.S.C. § 362](#)

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

[Local Rule 4001-1](#)

[Administrative Order FLMB-2020-7](#)

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**Fee:** N/A

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**Applicable Chapters:** 7, 11, 12, 13

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**Implemented:** 2/9/2016

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**Last Revision:** 8/14/2020

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### Description

Upon filing a bankruptcy petition, an automatic stay is imposed in most cases with certain exceptions. The stay requires creditors to cease actions against the debtor, the debtor's property and property of the estate as described in 11 U.S.C. § 362(a). The automatic stay will continue in the case as provided under 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.

Interested parties, usually debtors, may file a motion pursuant to 11 U.S.C. § 362 requesting to **extend** the stay when a debtor has filed one prior bankruptcy case that has been dismissed within the preceding one-year period. These motions are often titled Motion to Extend the Automatic Stay, although other titles may be used. Motions to extend are addressed in a separate procedure.

Interested parties, usually debtors, may file a motion pursuant to 11 U.S.C. § 362 requesting to **impose** the stay when a debtor has filed two or more prior bankruptcy case that have been dismissed within the preceding one-year period. These motions are often titled Motion to Impose the Automatic Stay, although other titles may be used. This procedure addresses a motion to impose the automatic stay.

In a Chapter 13 bankruptcy case, the model plan (Sections C.5(i-k)) states the automatic stay does not apply when a debtor directly pays a secured creditor outside of the Chapter 13 case, surrenders collateral to the secured creditor, or fails to include payments within the Chapter 13 Plan to the secured creditor. Under paragraph 10 of the Chapter 13 Administrative Order FLMB-2020-7, if the Debtor files an amended or modified Chapter 13 Plan that includes payments to a secured creditor or lessor in the Plan payments, then the automatic stay is reimposed as to that secured creditor or lessor automatically upon the filing of the amended or modified Plan *unless* the secured creditor or lessor already has concluded its state law foreclosure or repossession remedies. Debtor

must serve the amended or modified Plan upon the affected creditor or lessor. No motion or order is needed to reimpose the automatic stay.

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### **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 any 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.

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### **Helpful Information**

[Chapter 13 Model Plan](#)

[Chapter 13 Model Plan \(Non Fillable Form\)](#)

[Chapter 13 Model Plan \(Fillable Form\)](#)