UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI

NOTICE REGARDING REQUIREMENTS FOR
MOTION TO EXTEND AUTOMATIC STAY
MOTION TO IMPOSE AUTOMATIC STAY
MOTION TO CONFIRM TERMINATION OF AUTOMATIC STAY

Attached hereto are requirements and instructions regarding the above motions, and the proper method of filing same with this Court.

Please read the instructions carefully and adhere to them. If you should have any questions, please call the Clerk's Office.

U. S. Bankruptcy Court
P. O. Drawer 2448
Jackson, MS 39225-2448
Telephone No. 601-965-5301

U. S. Bankruptcy Court
Dan M. Russell, Jr. U.S. Courthouse
2012 15th Street, Suite 244
Gulfport, MS 39501
Telephone No. 228-563-1792

Dated: July 18, 2008

Danny L. Miller, Clerk

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI

Due to constraints on the judges' calendars and the requirement that a hearing be held within 30 days from the date a petition is filed, it is of the utmost importance that any motion involving the automatic stay, as it pertains to the below references and related events, be filed with the voluntary petition. File motion only. Do not file or send to all parties a 20 day notice to file objections.

AUTOMATIC STAY under BAPCPA 07/17/08

References and Related Events:

11 U.S.C. §362(c)(3)(B) - Motion to Extend Automatic Stay
11 U.S.C. §362(c)(4)(B) - Motion to Impose Automatic Stay
11 U.S.C. §362(c)(4)(A)(ii) - Motion to Confirm Absence of Automatic Stay
11 U.S.C. §362(j) - Motion to Confirm Termination of Automatic Stay

Limit on Automatic Stay for Repeat Filers

30-day limit on automatic stay for filers with one previous case:

Under §362(c)(3), the automatic stay terminates on the 30th day after there is a filing in an individual case under Chapter 7, 11 or 13 within one year after the prior case (under any chapter) was dismissed (except for a case refiled in another chapter after dismissal of a Chapter 7 case based on the means test).

Party in interest can motion for continuation:

A party in interest (including the debtor) may move to extend the stay and show that the filing is in good faith. A case is presumed to be in bad faith for this purpose if more than one case was pending in Chapters 7, 11 or 13 and at least one such case was dismissed for:

(1) failure to file required documents without substantial excuse
(2) failure to provide adequate protection
(3) failure to complete a plan, or
(4) there is no showing that the debtor's financial situation has changed to allow a final discharge or completion of a plan.

No automatic stay for filers with two or more previous cases:

Under §362(c)(4), the automatic stay does not go into effect at all if an individual had two or more cases filed (under any chapter) and dismissed during the prior year until the Court so orders after a hearing and demonstration that the filing was made in good faith. Upon request by a party in interest, the Court shall promptly enter an order confirming that no stay is in effect.

Party in interest can motion for continuation:

The same bad faith factors noted above are also applicable to this determination.

Motion to Extend Automatic Stay

30-day limit on automatic stay for filers with one previous case:
In an individual or joint case filed by or against an individual debtor under Chapter 7, 11 or 13 and the debtor had a pending case in the previous year that was dismissed, the stay in the current case expires thirty (30) days after the filing date. On request of a party in interest the court can extend the stay.

Timeliness of filing Motion to Extend Automatic Stay:

1. **Must** be filed at the same time the Voluntary Petition is filed *{hearing of motion **must** be held 30 days from the date the petition is filed}.*

Motion to Extend Automatic Stay Requirements:

1. Motion
2. Certificate of Service to all affected parties (all creditors)
3. Proposed Order

Docketing of Motion to Extend Automatic Stay:

1. Docket motion as: Bankruptcy>Motions/Applications>Extend Automatic Stay
2. Proposed order is docketed as an attachment to the motion *{under the browse window is "Attachments to Document", select the "Yes" radio button}.*

Motion to Impose Automatic Stay

No automatic stay for filers with two or more previous cases:
In an individual or joint case filed by or against an individual debtor under Title 11 (any chapter) and the debtor had two or more cases pending within the previous year that were dismissed, the stay shall not go into effect. On request of a party in interest, the court can impose the stay. If a party in interest requests, the court shall enter an order that no stay is in effect.

Timeliness of filing Motion to Impose Automatic Stay:

1. **Must** be filed at the same time the Voluntary Petition is filed *{hearing of motion **must** be held 30 days from the date the petition is filed}.*

Motion to Impose Automatic Stay Requirements:

1. Motion
2. Certificate of Service to all affected parties (all creditors)
3. Proposed Order

Docketing of Motion to Impose Automatic Stay:

1. Docket motion as: Bankruptcy>Motions/Applications>Impose Automatic Stay
2. Proposed order is docketed as an attachment to the motion *{under the browse window is "Attachments to Document", select the "Yes" radio button}.*

Motion to Confirm Termination or Absence of Automatic Stay

In an individual or joint case filed by or against an individual debtor under Chapter 7, 11 or 13 and the debtor had a pending case in the previous year that was dismissed, the stay in the current case expires thirty (30) days after the filing date. On request of a party in interest the court can extend the stay.

In an individual or joint case filed by or against an individual debtor under Title 11 (any chapter) and the debtor had two or more cases pending within the previous year that were dismissed, the stay shall not go into effect. On request of a party in interest, the court can impose the stay.

If a party in interest requests, the court shall enter an order that no stay is in effect.

Timeliness of filing Motion to Confirm Termination or Absence of Automatic Stay:

1. **Must** be filed at the same time the Voluntary Petition is filed {hearing of motion ***must*** *be held 30 days from the date the petition is filed}.*

Motion to Confirm Termination or Absence of Automatic Stay Requirements:

1. Motion
2. Certificate of Service to all affected parties (all creditors)
3. Proposed Order (attached to motion)

Docketing of Motion to Confirm Termination or Absence of Automatic Stay:

1. Docket motion as: Bankruptcy>Motions/Applications>Termination or Absence of Stay.
2. Proposed order is docketed as an attachment to the motion *{under the browse window is "Attachments to Document", select the "Yes" radio button}.*