

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MISSOURI**



**2012 GENERAL ORDER AMENDING LOCAL RULES 4001-2 and 9060-1 H
RELATED TO EXTENSION OR IMPOSITION OF THE AUTOMATIC STAY**

For good cause shown, and pending revision to this Court's local rules, it is hereby ORDERED that Local Rules 4001-2 and 9060-1 H are amended to read:

Rule 4001-2 Automatic Stay - Extension or Imposition

A. Scope of Rule. This rule applies to motions to extend the automatic stay pursuant to § 362(c)(3) or to impose the automatic stay pursuant to § 362(c)(4).

B. Contents of Motion. A motion to extend or impose the automatic stay filed pursuant to this rule shall include the following information: the number of previous cases under the Bankruptcy Code involving the debtor and pending within the one-year period preceding the filing of the current case; the jurisdiction and case number of each such case; the date and reason for dismissal of each such previous case; whether any presumption of lack of good faith arises pursuant to § 362(c)(3)(C) or § 362(c)(4)(D); and the facts upon which the movant relies to rebut any such presumption.

C. Service of the Motion. The motion shall be served by the debtor (or other party in interest filing the motion) in the manner required by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and these rules, upon each party against whom the movant seeks to extend or impose the stay.

D. Notice of Motion and Hearing. Upon the filing of a motion subject to this rule, the Court shall issue a notice setting a hearing on the motion (~~to be held regardless of whether a response is filed~~) on the next available docket after the 14-day period subsequent to the filing of the motion. Movant shall serve the notice in the same manner as required for service of the motion and file a certificate of such service with the Court. If the movant requires an earlier hearing, it shall file with the motion a request to expedite the hearing, which the Court may grant or deny in its discretion. ~~A response to the motion may be filed no later than 24 hours prior to the hearing.~~

Unless otherwise ordered, any objection to such motion should be filed within 14 days subsequent to the service of the motion.

E. Order Entered Without Hearing. The Court may grant the motion in accordance with Fed. R. Civ. P. 43(c) and Fed. R. Bankr. P. 9017, without hearing, only if: (i) the movant files and serves, along with the motion, an Affidavit signed by the movant, containing the facts upon which the movant relies to rebut any presumption under § 362(c)(3)(C) or § 362(c)(4)(D); (ii) no objection to such motion is filed within 14 days subsequent to the service of the motion (or such shorter time as is ordered); and (iii) the Court determines that the motion complies with this rule and that the information contained in the Affidavit is sufficient to rebut any presumption under § 362(c)(3)(C) or § 362(c)(4)(D). If no Order has been entered by 48 hours prior to the scheduled hearing, parties should assume the hearing will be held as scheduled, and failure to appear will result in the motion being denied.

* * * *

Rule 9060-1 H. Set for Hearing.

1. Unless otherwise ordered by the court, certain motions will be set for hearing and the hearing will be held even if no response has been filed. The Court will schedule the hearing and the movant is responsible for promptly serving the hearing notice on all parties not receiving electronic notice. These motions include:

- a. Creditor's motion to convert - all chapters
- b. Creditor's motion to dismiss - all chapters
- c. Motion for hardship discharge
- d. ~~Motion to extend the stay~~
- e. ~~Motion to impose the stay~~
- df. Objection to confirmation
- eg. Trustee's motion to dismiss - chapter 7
- fh. Trustee's motion to dismiss for "bad faith" or "with prejudice" - chapter 13

2. Unless otherwise ordered, certain motions will be set for hearing and, the hearing will be held unless an order disposing of the motion is entered prior to the hearing date. The Court will schedule the hearing and the movant is responsible for promptly serving the hearing notice on all parties not receiving electronic notice. These motions include:

- a. Motion to extend the stay
- b. Motion to impose the stay

23. Creditor's Objection to Chapter 13 Plan/Amended Plan. Unless otherwise ordered by the court, a creditor's objection to chapter 13 plan/amended plan will be set for hearing. The Court will schedule the hearing and the objector is responsible for promptly serving the hearing notice on all parties not receiving electronic notice. The following

factors will determine whether and when the hearing is held:

- a. If an amended plan is filed no later than the seventh (7th) day before the scheduled hearing on the creditor's objection to a previous chapter 13 plan or amended plan, the hearing on the creditor's objection will be cancelled and the creditor's objection deemed moot unless the creditor files a request to hold the hearing on the scheduled date or on a continued date. The creditor's request to hold the hearing on the scheduled date or on a continued date must be filed by the fourth (4th) day before the scheduled hearing on the creditor's objection.
- b. If an amended plan is filed after the seventh (7th) day before the scheduled hearing on the creditor's objection to a previous chapter 13 plan/amended plan, the hearing on the creditor's objection will be held unless the creditor files a request to continue the hearing or withdraws the objection in accordance with Local Rules 9060-1 C. or D.
- c. When an order denying confirmation pursuant to a trustee's motion is entered and a creditor's objection to a chapter 13 plan or amended plan is pending and scheduled for hearing, the court will reschedule the hearing to a date no sooner than seven (7) days after the deadline for filing an amended plan as specified in the order denying confirmation. The procedures set forth in paragraphs a. and b. above shall apply to the rescheduled hearing.

This General Order is effective for cases filed on or after June 1, 2012 and shall remain in effect until further order or notice of this court.

/s/ Arthur B. Federman
Arthur B. Federman, Chief Bankruptcy Judge

/s/ Jerry W. Venters
Jerry W. Venters, Bankruptcy Judge

/s/ Dennis R. Dow
Dennis R. Dow, Bankruptcy Judge

Kansas City, Missouri
Dated: May 24, 2012