

Local Rules of the United States Bankruptcy Court for the Western District of Missouri

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 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. Unless otherwise ordered, any objection to such motion shall 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.