

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF TENNESSEE

APR 12 2019

IN RE:

STANDING ORDER RELATING  
TO MOTIONS TO EXTEND  
THE AUTOMATIC STAY  
IN CHAPTER 13 CASES

ADMINISTRATIVE ORDER 19-3

This Order pertains to all Chapter 13 cases filed in the Middle District of Tennessee on and after May 1, 2019. The guidelines and procedures herein are adopted in connection with certain requests to extend the automatic stay of 11 U.S.C. § 362(a) in cases where there has been a previous dismissal of a case within the prior year. This Order effectively modifies the normal expedited procedures under L.B.R 9075-1 by creating an alternative for attorneys to satisfy certain criteria and potentially avoid the necessity of having Debtors appear as witnesses for hearings on motions to extend the automatic stay when there is no objection filed.

The Court may grant a motion to extend the automatic stay without the necessity of the Debtor(s) appearing in Court to testify under the following circumstances:

1. The motion to extend the automatic stay has been filed within five business days of the petition date.
2. There is an attorney of record who has filed the motion to extend the automatic stay on behalf of the Debtor(s).
3. The motion has been initiated by filing a Notice and Motion using the format in the document attached as Exhibit A.
4. For purposes of the Notice and Motion, counsel for the Debtor(s) has selected a hearing date from the Court's availability calendar, and
  - a. the Notice and Motion (in the form of Exhibit A) must contain an objection deadline that is at least 14 days after the filing and service of the Notice and Motion;
  - b. the deadline for objections must be at least four business days before the hearing date (typically the Thursday before a regular Wednesday Chapter 13 docket); and

- c. the scheduled hearing date must occur within 30 days of the filing of the petition.
5. The Notice and Motion includes a declaration under penalty of perjury signed by the Debtor(s) stating that all factual statements in the Notice and Motion are accurate.
  6. A Chapter 13 plan, all statements and schedules, and a mailing matrix have been filed in the case at the time the Notice and Motion is filed and served.
  7. The first payment provided under the Chapter 13 plan has been made at the time the Notice and Motion is filed or will be made by the deadline for objections.
  8. A copy of the Notice and Motion has been provided by counsel for the Debtor(s) to the United States Trustee and Chapter 13 Trustee via electronic service through the ECF filing system, and to all other creditors on the mailing matrix by first-class United States mail.
  9. A certificate reflecting the service of the Notice and Motion has been filed within three business days of the filing and service of the Notice and Motion.

If the above criteria have been satisfied and no timely objection is filed, an order in the format attached as Exhibit B will be entered by the Court. (This will be done automatically by the Clerk of the Court, and it will not be necessary for counsel to submit an order.)

If a timely objection is filed, counsel for the Debtor(s) shall be prepared to introduce proof on the scheduled hearing date to satisfy the provisions of 11 U.S.C. § 362(c)(3).

IT IS SO ORDERED.

Dated: 4/12/19

  
MARIAN F. HARRISON, CHIEF JUDGE

  
RANDAL S. MASHBURN, JUDGE

  
CHARLES M. WALKER, JUDGE

**EXHIBIT A TO ADMINISTRATIVE ORDER 19-3**

**IN THE UNITED STATES BANKRUPTCY COURT  
Middle District of Tennessee**

**In RE:**

}  
}  
}  
}  
}  
}

**Case No.  
Chapter 13  
Judge**

**Debtor(s)**

**SSN: xxx-xx-**

**NOTICE AND MOTION TO EXTEND AUTOMATIC STAY  
PROVISIONS OF 11 U.S.C. § 362**

---

**NOTICE:** A request is being made to extend the automatic stay. If no party files a timely objection, the Court may grant the request without conducting the scheduled hearing.

**DEADLINE TO FILE A TIMELY RESPONSE:**

**HEARING DATE:**

**HEARING LOCATION:**

---

Pursuant to 11 U.S.C. § 362(c)(3)(B), the Debtor(s) request(s), through counsel, that this Court extend the automatic stay provisions of 11 U.S.C. § 362(a), as to all creditors beyond the 30<sup>th</sup> day after filing of this case pending further orders of the Court. This Motion and Notice is being filed in accordance with Administrative Order 19-3, and all criteria set forth therein have been met. In support of the request, the following information is provided:

1. The Debtor(s) filed a Chapter 13 bankruptcy petition on \_\_\_\_\_. A prior bankruptcy by the Debtor(s) was dismissed within one year of the new filing.
2. A Chapter 13 plan, all statements and schedules, and a mailing matrix have been filed in this case.
3. The first payment provided under the Chapter 13 plan in the amount of \$ \_\_\_\_\_ has been made or will be made by the deadline for objections set forth herein.
4. The factual basis for demonstrating that this case is in good faith and for overcoming any presumption of a lack of good faith under 11 U.S.C. § 362(c)(3)(C) includes the following:
  - (a) The Debtor(s) filed the prior bankruptcy petition on \_\_\_\_\_.
  - (b) The prior bankruptcy was dismissed on \_\_\_\_\_.
  - (c) The reason for the dismissal of the prior bankruptcy was *[provide the legal grounds for dismissal in the relevant order as well as any pertinent underlying factual circumstances that led to the dismissal.]*

(d) The present case is expected to be successful for reasons including the following:  
*[provide information about change in income, employment, marital status, health, or other factors that reflect upon the change in circumstances that are asserted to provide a basis for this case to be successful when the prior case was not.]*

Accordingly, it is requested that this Court grant this motion and extend the automatic stay provisions of 11 U.S.C. § 362(a) in this case indefinitely pending further orders of this Court.

Respectfully Submitted,

/S/  
Name and bar #:  
Attorney for Debtor  
Address:  
Telephone:  
Facsimile:  
Email:

### **Declaration of Debtor(s) Under Penalty of Perjury**

Pursuant to 28 U.S.C. Sec. 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

### **CERTIFICATE OF SERVICE**

I certify that on \_\_\_\_\_ true and correct copies of the attached document were served in the following manner:

By Electronic Case Noticing to:

By U. S. Postal Service, postage prepaid to:

/s/  
Name and bar #:  
Attorney for Debtor

**EXHIBIT B TO ADMINISTRATIVE ORDER 19-3**

**IN THE UNITED STATES BANKRUPTCY COURT  
Middle District of Tennessee**

**In RE:**

}  
}  
}  
}  
}  
}

**Case No.  
Chapter 13  
Judge**

**Debtor(s)  
SSN: xxx-xx-**

**ORDER EXTENDING AUTOMATIC STAY**

Pursuant to 11 U.S.C. § 362(c)(3)(B), the Debtor(s) requested that this Court extend the automatic stay provisions of 11 U.S.C. § 362(a) beyond the 30<sup>th</sup> day after the filing of this case. A Notice and Motion was filed in accordance with Administrative Order 19-3, and no objections were filed. In the absence of any timely objection, the motion is granted.

Accordingly, the automatic stay provisions of 11 U.S.C. § 362(a) are hereby extended as to all creditors pending further orders of the Court.

IT IS SO ORDERED.