

## **Rule 4001-5**

### **Continuation and Imposition of the Automatic Stay**

**(a) Content of Motion.** Any motion filed by a party in interest pursuant to § 362(c)(3)(B) or § 362(c)(4)(B) shall contain all of the following:

**(1) Case Information.** Identify the prior case filed by the debtor within the preceding year and its disposition and shall also state whether:

**(A)** the later filed case is a chapter 11 or 13 case that is being refiled after dismissal under 11 U.S.C. § 707(b);

**(B)** if any motion for relief from the stay was pending; and/or

**(C)** if any motion had been resolved by terminating, conditioning, or limiting the stay, in the prior case at the time of dismissal.

**(2) Extent of Stay.** Explain the extent to which the party in interest wishes the automatic stay to be continued, including the length of the proposed continuation and the parties affected (i.e. all creditors or only particular creditors).

**(3) Grounds for Relief.** Indicate the grounds for the relief requested.

**(b) Time for Filing.** A motion for the continuation of the automatic stay shall be filed as a separate document at the time of the filing of the petition, or three (3) days thereafter, in order to allow sufficient time for a hearing on notice, before the thirtieth (30<sup>th</sup>) day after the filing of the case. A motion for the imposition of the automatic stay under § 362(c)(4)(B) shall be filed within thirty (30) days from the filing of the petition.

**(c) Notice.** Service of the motion for continuation or imposition of the automatic stay shall be made to all creditors and parties in interest within three (3) days from the filing of the motion. A certificate of service must be filed within seven (7) days. If the certificate is not timely filed, the court may deny the motion for failure to provide notice. The motion shall allow fourteen (14) days from service to file an opposition, informing that if no timely objection is filed, an order may be entered granting the relief requested in the motion and continuing the automatic stay, or for an imposition motion the court may order the stay to take effect as requested.

**(d) Hearing on the Motion.** Immediately after the motion for continuation of the automatic stay is filed, the clerk shall schedule a hearing to be held within thirty (30) days from the filing of the petition. The hearing may be vacated, if no answer is filed in the fourteen (14) days provided to the parties.