

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF VERMONT**

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**In re:  
MODIFICATION OF THE LOCAL RULES  
OF PRACTICE AND PROCEDURE  
IN THE U.S. BANKRUPTCY COURT  
FOR THE DISTRICT OF VERMONT**

**REVISING LOCAL RULE 4001-3**

**STANDING ORDER # 20-06**

**TO ESTABLISH THE PROCEDURE FOR SEEKING TO  
CONTINUE OR IMPOSE THE AUTOMATIC STAY,  
PURSUANT TO 11 U.S.C. § 362(C)(3) AND (4)**

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When a debtor files a bankruptcy case within one year of when they had a previous bankruptcy case pending, the stay otherwise imposed by 11 U.S.C. § 362(a) does not automatically apply to the current case: if the debtor had one case pending during the prior year, the automatic stay is only effective for thirty (30) days, see § 362(c)(3), and if the debtor had more than one case pending during that prior year, no stay comes into effect upon the filing of the current case, see § 362(c)(4), unless and until the Court determines a stay for the pendency of the case is warranted.

Since the timeframe for filing a motion to continue or impose the stay in these repeat-filer cases is short, the statutory prerequisites to obtain the benefits of the stay are substantial, and the thoroughness of the motion can be determinative of the results achieved, this Court, after considering input from the Vermont bankruptcy bar, has decided to modify the Local Rules, and to create new Local Forms, in order to streamline the process for determining whether a repeat-filer debtor is entitled to have the stay continued or imposed in their current case.

Thus, IT IS HEREBY ORDERED that Vt. LBR 4001-3 is revised to read as follows, with the changes noted in red:

**Vt. LBR 4001-3. AUTOMATIC STAY – CONTINUATION; IMPOSITION; VERIFICATION.**

**(a) Motion for Continuation of Automatic Stay.**

A party in interest seeking to continue the automatic stay pursuant to § 362(c)(3) of the Bankruptcy Code must file a motion for that relief within 14 days of the filing of the petition and contact the courtroom deputy to schedule an evidentiary hearing with 7 days' notice (Vt. LB Form A-1). See Vt. LBR 9014-1(b)(2). The movant must serve the motion and notice of hearing on the debtor, the debtor's attorney (if any), the case trustee, the United States trustee, and all creditors. ~~The movant and a~~Any other party in interest who wishes to join or oppose the motion must file a Fed. R. Bankr. P. 9014(e) notice of evidentiary hearing (Vt. LB Form V) no later than 3 business days before the hearing.

**(b) Motion for Imposition of Automatic Stay.**

A party in interest seeking to impose the automatic stay pursuant to § 362(c)(4) of the Bankruptcy Code must file a motion for that relief ~~within 30 days of as soon as possible~~ after the filing of the petition and contact the courtroom deputy to schedule an evidentiary hearing with 7 days' notice (Vt. LB Form A-2). See Vt. LBR 9014-1(b)(2). The movant must serve the motion and notice of hearing on the debtor, the debtor's attorney (if any), the case trustee, the United States trustee, and all creditors.) ~~The movant and a~~Any other party in interest who wishes to join or oppose the motion must file a Fed. R. Bankr. P. 9014(e) notice of evidentiary hearing (Vt. LB Form V), no later than 3 business days before the hearing.

...

IT IS FURTHER ORDERED new Local Forms for a motion, certificate of service, notice of motion, and proposed order for continuing the stay, under § 362(c)(3), as well as a motion, certificate of service, notice of motion, and proposed order for imposing the stay, under § 362(c)(4), are attached and posted on the Court's website.

IT IS FURTHER ORDERED this revision to the Local Rule and the attached new Local Forms are effective upon entry of this Order.

February 25, 2020  
Burlington, Vermont



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Colleen A. Brown  
United States Bankruptcy Judge

Attached: New Vt. LB Form A-1 and A-2.

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF VERMONT

\_\_\_\_\_  
In re: \_\_\_\_\_,  
Debtor(s)

Case # xx-xxxxx  
Chapter \_\_\_\_

**DEBTOR’S EMERGENCY MOTION TO CONTINUE THE AUTOMATIC STAY UNDER 11 U.S.C. § 362(c)(3)**  
**WITH CERTIFICATE OF SERVICE AND NOTICE OF MOTION**

The Debtor, \_\_\_\_\_, by counsel, \_\_\_\_\_, files this motion seeking an extension of the automatic stay in a repeat-filer case, pursuant to 11 U.S.C. § 362(c)(3)(B).

In support of this relief, the Debtor alleges the following:

**A. Pertinent procedural history:**

1. Filing date and chapter of the prior bankruptcy case(s): \_\_\_\_\_
2. Docket number of the prior bankruptcy case(s): \_\_\_\_\_
3. Date the prior bankruptcy case(s) were dismissed: \_\_\_\_\_
4. Reasons for dismissal(s) of the Debtor’s prior bankruptcy case(s): \_\_\_\_\_  
\_\_\_\_\_
5. Did the Court attach any conditions to the prior dismissals? If so, specify docket # and conditions:  
\_\_\_\_\_
6. The creditors to whom the Debtor seeks to have the automatic stay apply in the current, new bankruptcy case:  
 All creditors  
 Only the following creditors:  
\_\_\_\_\_

**B. The substantial changes in the Debtor’s financial or personal affairs since the Debtor’s most recent previous bankruptcy case was dismissed [if additional space is needed, attach additional pages and/or affidavit as an exhibit]:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**C. Any other facts or circumstances that support extension of the automatic stay in this case:**

\_\_\_\_\_

**D. Evidentiary Hearing<sup>1</sup>**

- The Debtor **is** requesting an evidentiary hearing at this time and attaches a Notice of Evidentiary Hearing pursuant to Vt. LBR 9014-1(b)(2).
- The Debtor **is not** requesting an evidentiary hearing at this time and will file that separately, at least 7 days prior to the hearing as required by Vt. LBR 9014-1(b)(2).

**E. Prayer for Relief**

WHEREFORE, the Debtor prays that the Court grant this motion and extend the automatic stay, with respect to [name creditors], for the pendency of this case.

[Date filed]  
\_\_\_\_\_, Vermont

\_\_\_\_\_  
Name of attorney  
[address, telephone email of attorney]

**Certificate of Service**  
[pursuant to Fed. R. Bankr. Proc. 7004(a)-(h)]

The undersigned hereby certifies they have served a copy of this pleading and any attachments on the entire mailing matrix (which is attached to this motion as an exhibit), by serving it electronically to all parties who accept service through the ECF system and on paper to the following parties, using the following methods:

(i) via U.S. first class mail, postage prepaid to the following parties on [date]:  
\_\_\_\_\_

OR:

(ii) via certified or priority overnight mail, return receipt requested, postage prepaid to the following parties on [date]:  
\_\_\_\_\_

OR:

(iii) via personal delivery, fax transmission or e-mail to the following parties on [date]:  
\_\_\_\_\_

[Date filed]

\_\_\_\_\_  
[name, address, telephone, email of  
the person signing this certificate]

Attachment: list of all parties on master mailing list who were served electronically

<sup>1</sup> When a debtor files a bankruptcy case within one year of when they had a previous bankruptcy case pending, the stay otherwise imposed by 11 U.S.C. § 362(a) does not automatically apply to the current case: if the Debtor had one case pending during the prior year, the automatic stay is only effective for thirty (30) days, unless and until the Debtor demonstrates cause to grant a stay for the pendency of the instant bankruptcy case. See 11 U.S.C. § 362(c)(3).

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF VERMONT**

\_\_\_\_\_  
In re:

\_\_\_\_\_,  
Debtor(s)

Case # xx-xxxxx  
Chapter \_\_

**NOTICE OF MOTION  
REGARDING DEBTOR'S EMERGENCY MOTION TO CONTINUE THE AUTOMATIC STAY  
UNDER 11 U.S.C. § 362(c)(3)**

**NOTICE IS HEREBY GIVEN** to all parties entitled to notice that a motion has been filed seeking an order continuing the automatic stay in this bankruptcy case under 11 U.S.C. § 362(c)(3).

**IF YOU OPPOSE THE MOTION** you must file a written opposition with the Clerk of the Court, by [date], and serve a copy of your opposition on the movant, the movant's counsel, the U.S. trustee, and the case trustee. Addresses for those parties are set forth below.

**IF AN OPPOSITION IS TIMELY FILED**, the Court will hold a hearing on the Motion and any opposition at [time] on [date] at the following location: [*indicate Rutland or Burlington location*].

**IF NO OPPOSITION IS TIMELY FILED**, the Court may issue an order granting the Motion and directing the parties to proceed with the mortgage mediation without further notice or hearing.

Dated: \_\_\_\_\_

By: \_\_\_\_\_

[Signature]

[typed name, with address, email  
address, and telephone number]

[Name] Case Trustee  
[Name of Law Firm, if any]  
[Street Address or P.O. Box]  
[City, State, Zip Code]

Counsel for Other Party to Mortgage  
[Name of Law Firm, if any]  
[Street Address or P.O. Box]  
[City, State, Zip Code]

[Debtor's Name]  
[Street Address or P.O. Box]  
[City, State, Zip Code]

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF VERMONT**

\_\_\_\_\_  
In re:

\_\_\_\_\_,  
Debtor(s)

Case # xx-xxxxx  
Chapter \_\_

**[PROPOSED] ORDER**

**GRANTING DEBTOR'S MOTION TO CONTINUE THE AUTOMATIC STAY, PURSUANT TO § 362(C)(3)**

The Debtor filed a motion on *[date]*, by counsel *[attorney's name]*, seeking an extension of the automatic stay in this repeat-filer case, pursuant to 11 U.S.C. § 362(c)(3)(B).

The Court has considered the Debtor's motion, any objections that were filed, the testimony and arguments made at the hearing held on *[date]*, as well as the evidence admitted at that hearing, in support of the Debtor's motion. Based on that record, **THE COURT FINDS**

1. the Debtor has satisfied the time requirements of this statute;
2. the Debtor has demonstrated a substantial change in the Debtor's financial or personal affairs since the Debtor's most recent previous bankruptcy case was dismissed, and
3. the Debtor has demonstrated cause to extend the stay in this case as to:

all creditors

only the following creditors: \_\_\_\_\_

**THEREFORE, IT IS HEREBY ORDERED** that the automatic stay imposed by 11 U.S.C. § 362(a) is extended, as to the specified creditors, for the pendency of this case.

**SO ORDERED.**

Date:  
Burlington, Vermont

\_\_\_\_\_  
Colleen A. Brown  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF VERMONT

\_\_\_\_\_  
In re: \_\_\_\_\_,  
Debtor(s)

Case # xx-xxxxx  
Chapter \_\_\_\_

**DEBTOR’S EMERGENCY MOTION TO IMPOSE THE AUTOMATIC STAY UNDER 11 U.S.C. § 362(c)(4)**  
**WITH CERTIFICATE OF SERVICE AND NOTICE OF MOTION**

The Debtor, \_\_\_\_\_, by counsel, \_\_\_\_\_, files this motion seeking imposition of the automatic stay in a repeat-filer case, pursuant to 11 U.S.C. § 362(c)(4)(B).

In support of this relief, the Debtor alleges the following:

**A. Pertinent procedural history:**

1. Filing date and chapter of the prior bankruptcy cases: \_\_\_\_\_
2. Docket number of each of Debtor’s prior bankruptcy cases: \_\_\_\_\_
3. Dates each of the prior bankruptcy cases were dismissed: \_\_\_\_\_
4. Reasons for dismissal of each of the Debtor’s prior bankruptcy cases: \_\_\_\_\_

5. Did the Court attach any conditions to the prior dismissals? If so, specify docket # and conditions: \_\_\_\_\_

6. The creditors to whom the Debtor seeks to have the automatic stay apply in the current bankruptcy case:

All creditors

Only the following creditors: \_\_\_\_\_

**B. The substantial changes in the Debtor’s financial or personal affairs** since the Debtor’s most recent previous bankruptcy case was dismissed [*if additional space is needed, attach additional pages and/or affidavit as an exhibit*]:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**C. Any other facts or circumstances** that support imposition of the automatic stay in this case:

\_\_\_\_\_

**D. Evidentiary Hearing<sup>1</sup>**

- The Debtor **is** requesting an evidentiary hearing at this time and attaches a Notice of Evidentiary Hearing pursuant to Vt. LBR 9014-1(b)(2).
- The Debtor **is not** requesting an evidentiary hearing at this time and will file that separately, at least 7 days prior to the hearing as required by Vt. LBR 9014-1(b)(2).

**E. Prayer for Relief**

WHEREFORE, the Debtor prays that the Court grant this motion and impose the automatic stay, with respect to [name creditors], for the pendency of this case.

[Date filed]  
\_\_\_\_\_, Vermont

\_\_\_\_\_  
Name of attorney  
[address, telephone email of attorney]

**Certificate of Service**

[pursuant to Fed. R. Bankr. Proc. 7004(a)-(h)]

The undersigned hereby certifies they have served a copy of this pleading and any attachments on the entire mailing matrix (which is attached to this motion as an exhibit), by serving it electronically to all parties who accept service through the ECF system and on paper to the following parties, using the following methods:

- (i) via U.S. first class mail, postage prepaid to the following parties on [date]:

\_\_\_\_\_  
OR:

- (iv) via certified or priority overnight mail, return receipt requested, postage prepaid to the following parties on [date]:

\_\_\_\_\_  
OR:

- (v) via personal delivery, fax transmission or e-mail to the following parties on [date]:

\_\_\_\_\_

[Date filed]

\_\_\_\_\_  
[name, address, telephone, email of  
the person signing this certificate]

Attachment: list of all parties on master mailing list who were served electronically

<sup>1</sup> When a debtor files a bankruptcy case within one year of when they had a previous bankruptcy case pending, the stay otherwise imposed by 11 U.S.C. § 362(a) does not automatically apply to the current case: if the Debtor had more than one case pending during that prior year, no stay comes into effect upon the filing of the current case, unless and until the Debtor demonstrates cause to grant a stay for the pendency of the instant bankruptcy case. See 11 U.S.C. § 362(c)(4).



**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF VERMONT**

In re:

\_\_\_\_\_  
\_\_\_\_\_,  
Debtor(s)

Case # xx-xxxxx  
Chapter \_\_

**NOTICE OF MOTION  
REGARDING DEBTOR'S EMERGENCY MOTION TO CONTINUE THE AUTOMATIC STAY  
UNDER 11 U.S.C. § 362(c)(4)**

**NOTICE IS HEREBY GIVEN** to all parties entitled to notice that a motion has been filed seeking an order imposing the automatic stay in this bankruptcy case under 11 U.S.C. § 362(c)(4).

**IF YOU OPPOSE THE MOTION you must file a written opposition with the Clerk of the Court, by [date], and serve a copy of your opposition on** the movant, the movant's counsel, the U.S. trustee, and the case trustee. Addresses for those parties are set forth below.

**IF AN OPPOSITION IS TIMELY FILED**, the Court will hold a hearing on the Motion and any opposition at [time] on [date] at the following location: [*indicate Rutland or Burlington location*].

**IF NO OPPOSITION IS TIMELY FILED**, the Court may issue an order granting the Motion and directing the parties to proceed with the mortgage mediation without further notice or hearing.

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
[Signature]  
[typed name, with address, email  
address, and telephone number]

[Name] Case Trustee  
[Name of Law Firm, if any]  
[Street Address or P.O. Box]  
[City, State, Zip Code]

*Counsel for Other Party to Mortgage*  
[Name of Law Firm, if any]  
[Street Address or P.O. Box]  
[City, State, Zip Code]

[Debtor's Name]  
[Street Address or P.O. Box]  
[City, State, Zip Code]

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF VERMONT**

\_\_\_\_\_  
In re:

\_\_\_\_\_,  
Debtor(s)

Case # xx-xxxxx

Chapter \_\_

**[PROPOSED] ORDER**

**GRANTING DEBTOR'S MOTION TO IMPOSE THE AUTOMATIC STAY, PURSUANT TO § 362(C)(4)**

The Debtor filed a motion on *[date]*, by counsel *[attorney's name]*, seeking an extension of the automatic stay in this repeat-filer case, pursuant to 11 U.S.C. § 362(c)(4)(B).

The Court has considered the Debtor's motion, any objections that were filed, the testimony and arguments made at the hearing held on *[date]*, as well as the evidence admitted at that hearing, in support of the Debtor's motion. Based on that record, **THE COURT FINDS**

1. the Debtor has satisfied the time requirements of this statute;
2. the Debtor has demonstrated a substantial change in the Debtor's financial or personal affairs since the Debtor's most recent previous bankruptcy case was dismissed, and
3. the Debtor has demonstrated cause to extend the stay in this case as to:
  - all creditors
  - only the following creditors: \_\_\_\_\_

**THEREFORE, IT IS HEREBY ORDERED** that the automatic stay of 11 U.S.C. § 362(a) is imposed, as to the specified creditors, for the pendency of this case.

**SO ORDERED.**

Date:  
Burlington, Vermont

\_\_\_\_\_  
Colleen A. Brown  
United States Bankruptcy Judge