Lou Jones Breakfast Club Outline
August 12, 2008
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ISSUES SURROUNDING MOTIONS TO CONTINUE OR IMPOSE THE AUTOMATIC STAY

I. Practical Tips for All § 362 Motions

A.. *STEP ONE*: Check to see whether your client has had one, two or more cases dismissed within the last year.

1. Ideally, the debtor's attorney will run a PACER search (by Social Security number, to catch variations in the debtor's name/names) before filing the petition. This way, the attorney knows, prior to filing, that a motion to continue (or impose) the automatic stay will be necessary.

2. Note that debtors who obtained a *discharge* within the previous year do not trigger the provisions of § 362(c). You need to file a motion to continue/impose *only* if the debtor had cases ***dismissed*** within the last year.

3. It doesn't matter if the Court dismissed the case per your client's request (a voluntary dismissal). If the Court dismissed your client's case within the year prior to the petition for *any* reason, you need to file the motion.

B. *STEP TWO*: Contact chambers for a hearing date as soon as you know that your client has a § 362 problem. The Court does not automatically schedule a hearing date on a motion to continue (or impose) the automatic stay.

1. The best practice is to file the petition, then immediately call the Court and request a hearing date.

2. If your client has had only *one* case dismissed in the past year, you MUST schedule the hearing for a date within thirty (30) days of the petition date.

3. If your client has had *two or more* cases dismissed in the past year:

   a. The motion is a motion to "impose" the stay, not to "continue" the stay. It is important to note this fact because there is no stay in effect until the Court grants the motion to impose the stay.

   b. You must *file* the motion within thirty (30) days of the petition date. You do *not*, however, have to schedule the *hearing* for a date within 30 days of the petition date. That is necessary only in cases where the debtor had only one case dismissed within the past year.

C. *STEP THREE*: Once you get a hearing date from the Court's staff, make sure to file your motion, notice of motion and certificate of service as soon as possible. Preferably, the debtor's attorney will file the motion, the notice and the certificate of service on the petition date–this gives ample time for creditors to learn of the hearing date, and if you are trying to avoid a hearing by using negative notice, gives ample time for the objection period to run. (More on this below.)

D. *MINOR DETAIL*: It is helpful to the Court if you put the case number for the previously-dismissed case (or cases) in your motion. We do look at the reason for the previous dismissal.

II. Tips on Avoiding a Hearing on Your § 362 Motion: Negative Notice

1. The required notice period for a hearing on a motion to continue the stay is ***twenty (20) days***. This is another reason you want to send out the notice of the hearing as soon as possible.

2. Do not schedule the deadline for objecting to the motion for the same day that you've scheduled the hearing. If objections are due on June 5, that means that they are due *by the close of business* on June 5. If you've scheduled your hearing for 11:00 a.m. on June 5, then the objection deadline has not yet run, and the Court will expect you and your client to appear at the hearing, prepared to present evidence.

3. Make clear in the notice of motion that anyone who wishes to object to the continuation of the stay must do so *in writing*, and that the written objection *must be received* by a date certain. Also make it clear that if the Court does not receive any written objections by the objection deadline,

the Court may grant the motion without a hearing. (**See attached sample notice of motion to continue the automatic stay.)**

4. If you hope to avoid a hearing on your motion, keep in mind that you still need to meet the burden of proof (discussed in more detail below). Keep in mind that "mere statements by a party in a motion or a brief do not carry any evidentiary weight." In re Wilson, 336 B.R. 338, 347 (Bankr. E.D.Tenn. 2005) (citations omitted). As such, be sure to include an accompanying affidavit by the debtor along with the motion to extend (or impose) the automatic stay.

5. Be very specific in your motion and attached affidavit. Tell the Court what has changed since the debtor's last case was dismissed, and why the debtor feels that he/she will be able to succeed this time. If you are not specific, the Court may require you and your client to attend the hearing even if no one objects to your motion.

6. Follow up with the Court. Once the deadline for filing written objections has passed, contact the Court as soon as possible to ask to take the hearing off of the Court's calendar. Include the Chapter 13 trustee in that call.

III. Practical Tips for Hearings on § 362 Motions

A. Prepare your client regarding the types of questions you plan on asking. It may be a good practice to compile a list of typical questions that you ask at these hearings, as well as a list of the questions a trustee might ask.

B. The main factor that the Court considers in deciding whether to grant the motion is the question of whether there has been a "substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case." Arguing that the debtor "really needs bankruptcy relief" does not constitute such a change.

C. If the reason the Court dismissed your client's last case related to medical problems, let the Court know whether those problems have been resolved. (No need to go into detail–the Court respects the client's medical privacy. But the issue is whether these same medical problems are likely to crop up and cause problems in the new case.)

D. There is no need to ask your client if he/she thinks the second (or third or

fourth) case was filed in good faith. It is likely a *very* rare debtor who will say, "Why, no, as a matter of fact–I did *not* file this case in good faith!" :~)

IV. Legal Issues

A. Burden of Proof/Evidentiary Standard

1. If the debtor had only ***one*** case dismissed within the past year, and there is ***no*** presumption of bad faith under § 362(c)(3)(C), the debtor must prove by ***a preponderance of the evidence*** that he/she filed the subsequent case in good faith in order to have the stay continued.

   a. "Preponderance of the evidence" is defined as "[t]he greater weight of the evidence; superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other." Black's Law Dictionary 547 (2d Pocket ed. 2001).

2. If the debtor had only ***one*** case dismissed within the past year, and there ***is*** a presumption of bad faith under § 362(c)(3)(C), the debtor must prove by ***clear and convincing evidence*** that he/she filed the subsequent case in good faith.

   a. At least one court has defined clear and convincing evidence as "that measure or degree of proof which will produce in the mind of the trier of fact a firm belief or conviction as to the allegations sought to be established." In re Wilson, 336 B.R. 338, 347 (Bankr. E.D.Tenn. 2005) (citations omitted).

   b. The following circumstances listed in § 362(c)(3)(C) raise the presumption of bad faith *as to all creditors*:

      i. The debtor had more than one previous case dismissed within the preceding 1-year period; *See* 11 U.S.C. § 362(c)(3)(C)(i)(I);

      ii. The Court dismissed the previous case because the debtor failed to (A) file or amend the petition or schedules as required by the Code or the Court without a substantial excuse; (B) provide adequate

protection as ordered by the Court; or (C) perform the terms of a confirmed Chapter 13 plan. *See* 11 U.S.C. § 362(c)(3)(C)(i)(II)**.**

iii. The debtor has not had a substantial change in financial or personal circumstances since the dismissal of the next most previous case, or there is "any other reason to conclude that the later case will not be concluded . . . if a case under Chapter 7, with a discharge; or . . . if a case under chapter 11 or 13, with a confirmed plan that will be fully performed . . . ." *See* 11 U.S.C. § 362(c)(3)(C)(i)(III).

c. As to *an individual creditor*, the filing is presumed to be in bad faith if that creditor filed a motion to terminate, annul, modify or condition the automatic stay in the previous case and, at the date of dismissal that motion was still pending or "had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor . . . ." *See* 11 U.S.C. § 362(c)(3)(C)(ii).

3. If the debtor had ***more than one*** case dismissed within the previous year, and thus files a motion to *impose* the stay, the burden of proof always is by clear and convincing evidence.

B. What Constitutes a Sufficient Change in Circumstances?

This is an area that is intensely fact-based, and the types of scenarios that the Court may find constitute a substantial change in circumstances are endless. The Virginia bankruptcy court noted in In re Taylor that, in making a good faith determination,

> the court must be satisfied that the plan in the new case will succeed where the plan in the prior case did not. Usually this will require a finding that some change in the financial or personal affairs of the debtor has occurred that will allow the debtor to perform under the terms of the plan in the new case. But the inquiry does not end there. The court needs to determine that the repetitive filing does not violate the spirit of the Bankruptcy Code. The new case must not be a ploy to frustrate creditors. It must represent a sincere effort on the part of the debtor to advance the goals and purposes of Chapter 13.

In re Taylor, 2007 WL 1234932 *2 (Bankr. E.D.Va. 2007) (citations omitted). The

Taylor court further noted that

> A nonexclusive list of the militating factors a court may consider in making a good faith determination includes "the percentage of proposed repayment, ... the debtor's financial situation, the period of time payment will be made, the debtor's employment history and prospects, the nature and amount of unsecured claims, the debtor's past bankruptcy filings, the debtor's honesty in representing facts, and any unusual or exceptional problems facing the particular debtor."

Id. (quoting Deans v. O'Donnell, 692 F.2d 968, 972 (4th Cir.1982)).

C. To what extent does the automatic stay terminate if the Court denies the motion?

In a situation where the debtor moves to continue the automatic stay and the Court denies that motion, does the stay terminate as to all of the property of the debtor and the estate, or only as to the debtor and the property of the debtor?

This is an issue that courts around the country are addressing. The majority view holds that, where the Court denies the debtor's motion to continue the automatic stay, the stay terminates only as to the debtor and the property of the debtor, and remains in effect for property of the estate. The minority view holds that the automatic stay terminates as to the entire property of the estate when a court denies the debtor's motion to continue the stay.

In this district, Judge Pepper has adopted the minority view, and has ruled that the stay terminates entirely. *See* In re Johns, 08-24311-pp (July 11, 2008). As of today's date, none of the other judges in the Eastern District of Wisconsin have issued a ruling on this issue. The following represents a summary of the majority and minority opinions on the issue.

1. *Majority View*

The majority view "is that the automatic stay terminates under § 362(c)(3)(A) only with regard to the debtor and property of the debtor, *not* property of the estate." In re Stanford, 373 B.R. 890, 894 (Bankr. E.D.Ark.2007). This view argues that the phrase "with respect to the debtor" is plain, and a plain reading of those words means that the automatic stay terminates only as to the debtor and the property of the debtor, not the property of the estate.

In In re Holcomb, the 10th Circuit BAP followed the majority view. The Court stated:

> we see no ambiguity in the language of the statute. . . . Nowhere in § 362 does Congress use the phrase "with respect to the debtor" as incorporating the debtor, the debtor's separate property, and property of the estate. In fact, "[s]ection 362(a) differentiates between acts against the debtor, against property of the debtor and against property of the estate." *Jones*, 339 B.R. at 363. As observed in *Jones*, "a plain reading of those words ["with respect to the debtor"] makes sense and is entirely consistent with other provisions of § 362 and other sections of the Bankruptcy Code." *Id.*

> Reading this statute according to its plain meaning is also consistent with the policies behind bankruptcy law. At the core of bankruptcy law is the policy of "obtaining a maximum and equitable distribution for creditors." *BFP v. Resolution Trust Corp.*, 511 U.S. 531, 563, 114 S.Ct. 1757, 128 L.Ed.2d 556 (1994); *Research-Planning, Inc. v. Segal (In re First Capital Mortgage Loan Corp.)*, 917 F.2d 424, 428 (10th Cir.1990) (noting that the preference provisions found in 11 U.S.C. § 547 further this important policy). The minority approach circumvents this policy by allowing a single creditor, who may be oversecured, full access to property that would otherwise be property of the estate. Such property may be necessary to implement a debtor's Chapter 13 plan; or, in a Chapter 7

> case, equity in the property above the creditor's security interest could be realized by the trustee to pay a dividend to creditors. This dividend could potentially be lost if we adopt the reasoning of the bankruptcy court. Maintaining the stay with respect to such property is an important creditor protection.

In re Holcomb, 380 B.R. 813, 816 (10th Cir.BAP.2008).

In In re Jones, a North Carolina bankruptcy court noted that § 362(a) "differentiates between acts against the debtor, against the property of the debtor and against the property of the estate." 339 B.R. 360, 363 (Bankr. E.D.N.C. 2006). The court noted that § 362(a)(1) and (a)(2) stay actions against the debtor, whereas § 362(a)(3) and (a)(4) stay actions against the estate; therefore, the court reasoned, Congress knows how to differentiate between these different concepts and would have done so if it had intended for the automatic stay to terminate as to the entire estate. The court also noted that § 521(a)(6) states that the stay is terminated "with respect to the personal property of the estate or of the debtor" if the debtor fails to reaffirm or redeem property within 45 days after the first § 341 meeting. Id. at 364. From this the Jones court deduced that "[i]f Congress had intended that the automatic stay would terminate under § 362(c)(3)(A) as to property of the estate, it would have specifically said so, as it did in § 521(a)(6)." Id.

The Jones court also noted that the language used in § 362(c)(3)(A) is "very different than that of § 362(c)(4)(A)(i)," and the court was "persuaded that the difference meant that the scope of the stay termination under § 362(c)(3)(A) is different and more limited than the stay termination in § 362(c)(4)(A)(i)." Id. The Jones court concluded that "§ 362(c)(3)(A) terminates the stay with respect to actions taken against

the debtor and against property of the debtor, but does not terminate the stay with respect to property of the estate." Id. at 365. The Jones court dismissed the legislative history, which suggests that the stay terminates as to the property of the estate, because the Court concluded that the language of the statute that states "with respect to the debtor" is clear and hence it would be inappropriate to consult the legislative history. Id.

2. *Minority View*

The minority view "holds that the automatic stay terminates in its entirety under § 362(c)(3)(A)." Stanford, 373 B.R. at 895. The Holcomb court summarized the minority view as follows:

> These courts begin with the premise that the plain language rule does not apply because the language of § 362(c)(3)(A) is capable of more than one interpretation and is inconsistent with the overall statutory scheme. See, e.g., *In re Curry*, 362 B.R. 394, 400-01 (Bankr. N.D.Ill. 2007). Using the "broader context of BAPCPA changes" and the legislative history, the minority approach concludes that in § 362(c)(3)(A) Congress intended to terminate the stay in its entirety. Id. at 398, 401-02.
>
> The minority approach reasons that the term "with respect to the debtor" is an ambiguous phrase because it appears to run contrary to the statutory scheme. They reason that the term "property of the estate" incorporates virtually all property. Only property that is abandoned or exempt or otherwise is excluded from the definition "property of the estate." They state that if the phrase "with respect to the debtor" is read to refer only to the debtor and the debtor's property, then the rest of the sentence which reads "the stay ... with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate" does not make sense and the phrase is superfluous. These courts conclude that the phrase "with respect to the debtor," must be meant to address situations where there are co-debtors and one debtor has filed a successive case and the other has not.

In re Holcomb, 380 B.R. 813, 815 (10th Cir.BAP.2008).

In In re Curry, 362 B.R. 394 (Bankr. N.D.Ill. 2007), the court looked at the issue of whether the stay in § 362(c)(3)(A) terminates only as to the property of the debtor or as to the property of the debtor and the property of the estate. The court began its analysis by noting that

> [g]iven the view of most bankruptcy judges that the statute is ambiguous and garbled, it is difficult to see how recognition that it 'is susceptible to conflicting interpretations,' In re Paschal, 337 B.R. 274, 279 (Bankr. E.D.N.C. 2006) can nonetheless lead to a conclusion that any ultimate interpretation is "supported by the plain meaning of § 362(c)(3)(A), § 101(12) and § 102(2). . . ." In re Jones, 339 B.R. 360, 365 (Bankr. E.D.N.C. 2006).

Id. at 397. The Curry court concluded that § 362(c)(3)(A) is ambiguous, and therefore, that "its language must be interpreted with reference to both the statutory wording and the broader context of BAPCPA changes." Id. at 398.

The Curry court looked at the difference between "the property of the debtor" and the "property of the estate." The court first looked to § 541, which creates property of the estate, and concluded that the "property of the estate" includes all of the debtor's property as of the commencement of the case. The court noted that, in a Chapter 13 case, the "estate is larger than the Chapter 7 estate as it includes all property specified in § 541, and also all property that a debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted." Id. at 399 (citing 11 U.S.C. § 1306(a)(1)). The court opined that "[b]ased on the inclusiveness of §§ 541 and 1306, 'presumably the only property that would be property of the Debtor and not property

of the estate is that property which has been abandoned or which is exempt or which is otherwise excluded from the definition of 'property of the estate.' " Id. (quoting In re Jupiter, 344 B.R. 754, 757 (Bankr. D.S.C. 2006)).

The Curry court argued that the phrase

> "with respect to the debtor" does two things: (1) it makes the stay protection end as to debtor and debtor's property . . . and (2) it defines the debtor affected by this provision. Thus, in a joint case a debtor may not necessarily mean both debtors if one debtor did not have a case dismissed within the year prior to the current petition date. . . . So, even if the stay fully terminates, the automatic stay would continue with respect to a joint debtor who is not affected by § 362(c)(3) or (c)(4). Using that interpretation, all the statutory language is seen to have meaning.

Id. at 400-01 (internal quotations omitted).

In support of its analysis, the court pointed to § 362(j), which states that "[o]n request of a party in interest, the court shall issue an order under subsection (c) confirming that the automatic stay has been terminated." The Curry court noted that

> [t]hrough this provision, Congress provided a procedure by which a party in interest may confirm that the automatic stay terminated pursuant to § 362(c). . . . Section 362(j) allows a party in interest to obtain an order confirming the termination of the automatic stay under § 362(c). If § 362(c)(3)(A) did not terminate the automatic stay in its entirety, § 362(j) would be rendered inconsistent "because § 362(j) does not carve out exceptions for property that remains protected by the stay but broadly and summarily allows parties to confirm that the stay has been terminated under § 362(c)."

Id. at 401 (quoting In re Jupiter, 34 4 B.R. 754, 760 (Bankr. D.S.C. 2006)).

In Professor Laura B. Bartell's article *Staying the Serial Filer - Interpreting the New Exploding Stay Provisions of § 362(c)(3) of the Bankruptcy Code*, Professor Bartell states:

> The practical consequences of interpreting § 362(c)(3) to terminate the stay only with respect to property of the debtor are also hard to reconcile with the notion that Congress intended a severe punishment for serial filers. In a chapter 13 case, there is no "property of the debtor" as to which the absence of the automatic stay would benefit creditors. Under § 1307, "property of the estate" includes not only all property described in § 541 but property the debtor acquires after the commencement of the case, including postpetition earnings. If the exploding stay of § 362(c)(3) affects none of that property, the serial chapter 13 filer is not punished as severely as the serial chapter 7 filer. Because the introduction to § 362(c)(3) makes clear that Congress intended that provision to apply to a serial filer "in a case under chapter 7, 11, *or* 13," interpreting § 362(c)(3) not to apply to one of the chapters to which it expressly applies cannot be a legitimate exercise in statutory construction or consistent with Congressional intent.

82 Am. Bankr. L.J. 201, 226-27 (2008). Professor Bartell also noted that

> If § 362(c)(3) were drafted to mirror § 362(a), its termination of the stay "with respect to the debtor" would have to be interpreted even more narrowly than [the majority] courts suggest. Congress did not say that the stay was to terminate with respect to *property of the debtor*, only with respect to *the debtor*. Therefore, the view of these courts that § 362(c)(3) lifts the stay with respect to property of the debtor has no basis in the statutory language.
>
> Courts justify their refusal to retain the stay for property of the estate by pointing to the phrase "with respect to a debt or property securing such debt" in § 362(c)(3). But an action with respect to property securing a debt may be brought (and generally is brought) not against the property, but against the debtor. The judicial foreclosure of a mortgage, for example, is commenced by bringing an action against the debtor, not an in rem proceeding against the property. Therefore, the reference to property securing a debt does not suggest that the phrase "with respect to the debtor" should be read any more broadly than the words require.
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> Because the only provisions of § 362(a) that explicitly bar actions against the debtor are §§ 362(a)(1) and 362(a)(2), the only way to give literal effect to § 362(c)(3) would be to confine the exploding stay to the actions or proceedings and enforcement of judgments described in those two

> sections. But if Congress intended the exploding stay to have such a limited scope, why does the introductory language of § 362(c)(3)(A) refer to "the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease" rather than simply "the stay under subsection (a)(1) or (a)(2)"? The natural reading of § 362(c)(3)(A) suggests Congress must have meant the exploding stay to apply to all parts of § 362(a), not just those barring acts against the debtor.

Id. at 219-20.

Professor Bartell argued that, by adding the phrase "with respect to the debtor," Congress "intended to indicate that the stay would remain in effect with respect to a second debtor who filed jointly with the serial debtor even if the stay were lifted with respect to the serial debtor." Id. at 220 (citing In re Jupiter, 344 B.R. 754 (Bankr. D.S.C. 2006)).

In addition, Professor Bartell answered the argument that "§ 362(c)(3) cannot be interpreted to terminate the stay entirely after thirty days because the language in § 362(c)(3) differs from § 362(c)(4), which provides that the stay 'shall not go into effect upon the filing of the later case.'" Id. at 221 (quoting 11 U.S.C. § 362(c)(4)). Professor Bartell noted that, while Congress generally is presumed to act intentionally when it includes particular language in one section of a statute but omits it from another section of that same statute, "the lack of parallelism between §§ 362(c)(3)(A) and 362(c)(4)(A)(i) undercuts the argument" because "Congress could not have used the phrase 'shall not go into effect' for a stay that does go into effect but terminates after thirty days under certain circumstances." Id. Furthermore, "[e]ven if one assumes

that § 362(c)(4)(A)(i) shows that Congress knew how to draft a provision specifying more clearly when the stay does not exist than § 362(c)(3) does, § 362(c)(4)(A)(i) was drafted after, not before, § 362(c)(3)(A)." Id.

V. Miscellaneous Issues

A. Comfort Orders: Be aware of §§ 362(c)(4)(A)(ii) and 362(j)–the statute specifically requires the court to issue a comfort order to any party in interest who asks for it, "confirming that no stay is in effect" or "confirming that the automatic stay has been terminated."

B. The Super, *In Rem* Relief: Be aware of 11 U.S.C. § 362(d)(4), which applies to stays of acts against real property by the creditor whose claim is secured by that real property. Section 362(d)(4) states that "if the court finds that the filing of the petition was part of a scheme to delay, hinder and defraud creditors" which involved either

1. "transfer . . . of . . . such real property without the consent of the secured creditor," *or*

2. "multiple bankruptcy filings affecting such real property,"

then the debtor may be barred from re-filing for *two (2) years*, and that relief is *in rem*. Thus, not only is *the debtor* barred from re-filing for relief on that particular property, but so is anyone else–a spouse, for example.

Section 362(d)(4) allows a court to terminate, annul, modify or condition the automatic stay, after notice and a hearing,

with respect to a stay of an act against real property under

subsection (a), by a creditor whose claim is secured by an interest in such real property, if the court finds that the filing of the petition was part of a scheme to delay, hinder, and defraud creditors that involved either —

> (A) transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval; or
>
> (B) multiple bankruptcy filings affecting such real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under paragraph (4) shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording.

11 U.S.C. § 362(d)(4).

SAMPLE NOTICE FOR A MOTION TO CONTINUE THE AUTOMATIC STAY

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WISCONSIN

In re: Debtor, Case no. xx-xxxx-xx

Debtor. Chapter X

NOTICE OF MOTION TO CONTINUE AUTOMATIC STAY

PLEASE TAKE NOTICE that on _____, 200_, the Debtor filed a motion to [continue the automatic stay pursuant to 11 U.S.C. § 362(c)(3)] [impose the automatic stay pursuant to 11 U.S.C. § 362(c)(4)] in this bankruptcy case.

Your rights may be affected. You should read these papers carefully and, if you have an attorney representing you in this bankruptcy case, discuss them with your attorney. (If you do not have an attorney, you may wish to consult one.)

If you do *not* want the Court to grant the motion to [continue] [impose] the automatic stay, then **on or before _____, 200_ [a date at least a couple of days in advance of the hearing date you've gotten from the court]**, you or your attorney must file a written objection with:

Wayne Blackwelder
Clerk, United States Bankruptcy Court
Eastern District of Wisconsin
Room 126
Milwaukee, WI 53202-4581

You also must provide copies of this motion to:

Trustee [Grossman] [King] [Debtor's Attorney]

You must file this motion it time for it to be ***received*** by the clerk by **_____, 200_.** If the clerk has not received your written objection by this date,

the Court may grant the motion, without further notice or hearing, once it has received from the Debtor's counsel an affidavit of no objection and a proposed order.

If, and only if, you file a timely written objection, a hearing will take place before [Judge, chambers location] at the following date and time: _____**, 200_ at _____ _.m.** The Debtor, the Debtor's attorney, the Objecting Party and/or the Objecting Party's attorney are expected to attend this hearing. If any party wishes to appear by telephone, that party must contact the Court at (414) 297-3291 x [ ] prior to the hearing, to provide the name and telephone number of the person who will participate in the hearing.

Date: _____ Signature: _____