

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN

In re: John and Jane Debtor

Chapter X
Hon. Roy Bean

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**DEBTOR'S [EX-PARTE] FIRST DAY MOTION TO IMPOSE STAY PURSUANT TO
11 USC §362(C)(4)**

[Note: review 11 USC §362(c)(4), Rule 7065 FRBP, Rule 65, FRCP, LBR 9001-1, LBR 9013-1, LBR 9013-4, LBR Guideline1]

1. The debtor(s) is/are an individual(s) and have had pending two or more single or joint cases within the previous year which were dismissed, other than a case refilled under 11 USC §707(b). The prior cases were:
 - a. Case No. XX-XXXXX, filed (singly/jointly), and
 - b. Case No. XX-XXXXX, filed (singly/jointly).

2. This new case is filed in good faith. The debtor offers the following evidence to rebut the presumption of filing not in good faith:
 - a. The debtor had substantial excuse (not negligence or inadvertence) for failure to file or amend [state document not filed or amended] because [state the reason for the failure to file].
 - b. There has been a substantial change in the financial and/or personal affairs of the debtor since the dismissal of the next most previous case and

imposition of a stay [as to all creditors/as to enumerated creditors; list them here] is appropriate, to wit:

- i. [E.g.] the debtor has become employed, re-employed, or has received a substantial raise in salary.
- ii. [E.g.] the debtor has recovered from [crippling accident/injury/illness].
- iii. [E.g.] the debtor has received a substantial back award of social security disability/workers compensation and expects a future income stream of benefits from same.
- iv. [E.g.] the debtor no longer has to provide for the following dependents who were dependents on the debtor in the prior case [insert names].
- v. [E.g.] the debtor's house/car/other secured asset has been foreclosed/repossessed and sold, thereby significantly lightening the debtor's debt load.
- vi. [any other reason to conclude that this case will not be concluded with a discharge (if chapter 7) or with a confirmed and performable plan (if chapter 11 or 13)].

3. The debtor requests that the court impose the following conditions or limitations:

- a. [E.g.] condition continuance of the stay on the debtor providing insurance; making the collateral available for inspection/appraisal; providing adequate protection.
4. [If requesting ex-parte relief] Immediate and irreparable harm will result to the debtor before [creditor(s) name] or its attorney can be heard in opposition because (affidavit attached):
- a. foreclosure sale is scheduled for [date]. [if available: a copy of the foreclosure notice is attached as Exhibit A. The name of the creditor is [ABC Mortgage Company]. The address provided on the last two correspondences from ABC is [123 Main Street, Anywhere, USA]. The law firm advertising for foreclosure is [Dewey, Cheatum, and Howe].
 - b. personal property has been repossessed and can be sold after [date] at private sale without further notice. The name of the creditor is [ABC Mortgage Company]. The address provided on the last two correspondences from ABC is [123 Main Street, Anywhere, USA]. The law firm advertising for foreclosure is [Dewey, Cheatum, and Howe].
 - c. the sheriff is scheduled to levy and/or auction personal property on [date]. The name of the creditor is [ABC Mortgage Company]. The address provided on the last two correspondences from ABC is [123 Main

Street, Anywhere, USA]. The law firm advertising for foreclosure is
[Dewey, Cheatham, and Howe].

- d. other reasons constituting irreparable harm.
5. By signing this motion, debtor's attorney certifies to the court that he/she has made the following efforts to give notice and/or the reasons notice should not be given:
- a. [insert efforts to provide notice here]
 - b. [insert reasons not to give notice here]
6. A proposed order is attached as Exhibit A.

WHEREFORE, Debtor respectfully requests that the court impose an automatic stay as set forth in this motion.

Dated:

John Attorney PXXXXX
[address]
[city/state/ZIP Code]
[telephone number]
[e-mail address]