

UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN

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In re:

INTERIM AMENDMENT OF LBR 4001-  
1(b) AND DEEMED WAIVER OF TIME  
LIMITS UNDER 11 U.S.C. § 362(e)(1).

Administrative Order No. 2021-2

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LBR 4001-1(b) governing motions for relief from the automatic stay allows interested parties to obtain stay relief using the “notice and opportunity” or “negative notice” procedure in LBR 9013(c). In some cases, however, the negative notice procedure may inadvertently and adversely affect the estate or other interested parties, given the 30 day statutory deadline governing requests for stay relief in these cases. *See* 11 U.S.C. § 362(e)(1).

More specifically, the Bankruptcy Code provides in some cases that the automatic stay of any act against property of the estate terminates, automatically, 30 days after the filing of a request for relief from the automatic stay unless the court expressly extends the stay “after notice and a hearing.” 11 U.S.C. § 362(e)(1). The use of the “notice and opportunity” procedure under LBR 4001-1(b) and 9013(c) may, as a practical matter, preclude the court from making the determination to extend the stay pending the final hearing, if the court is unable to schedule the final hearing before expiration of the 30 day period.

To address this risk, the court has determined that, after the date of this Administrative Order, it will treat the use of the “notice and opportunity” procedure under LBR 9013(c) and 4001-1(b) as a waiver of the time limits stated in 11 U.S.C. § 362(e). Parties who wish to enjoy the benefit of the 30 day period in 11 U.S.C. § 362(e)(1) should simply file a motion under LBR 4001-1(c).

Pursuant to LBR 9029(b), this Administrative Order shall serve as an interim rule pending adoption of an amendment of the court’s Local Bankruptcy Rules to similar effect under Fed. R. Bankr. P. 9029.

NOW, THEREFORE, IT IS HEREBY ORDERED that after the date of this Administrative Order and for all motions filed under 11 U.S.C. § 362(d), the court will treat the use of the “notice

and opportunity” procedure under LBR 9013(c) and 4001-1(b) as the moving party’s knowing waiver of the deadlines stated in 11 U.S.C. § 362(e) and consent to the extension of the automatic stay pending the conclusion of the final hearing, if any.

IT IS SO ORDERED.

Dated: June 2, 2021

FOR THE COURT

  
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Scott W. Dales  
Chief Judge