

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

In re:

LANPHEAR TOOL WORKS, INC.,

Debtor.

Case No. DK 12-06794

Chapter 11

Hon. Scott W. Dales

ORDER REGARDING MOTION FOR CONTINUATION OF STAY

PRESENT: HONORABLE SCOTT W. DALES
United States Bankruptcy Judge

Chapter 11 Debtor Lanphear Tool Works, Inc. ("Debtor") filed Debtor's Motion for Continued Automatic Stay Pursuant to 11 U.S.C. § 362 (the "Motion," DN 24). Although the Motion itself does not refer to any particular subsection of Section 362, the docket entry, presumably prepared by Debtor's counsel when he electronically filed the Motion, refers to Section 362(c). For the following reasons, the court will deny the Motion.

First, the Motion is unnecessary, because the automatic termination of the automatic stay under Section 362(c)(3)(A) applies only to "a debtor who is an individual . . ." This Debtor is a corporation. The Motion, therefore, is unnecessary.

Second, even assuming Section 362(c) applies to corporate debtors, the Motion is untimely: the stay would have terminated on the "30th day after the filing of the later case." *See* 11 U.S.C. § 362(c)(3)(A). Here, the Debtor filed the petition on July 24, 2012, and counsel filed the Motion on August 23, 2012 at 11:10 P.M. -- at the end of the "30th day after the filing of the later case." Filing such a motion on the 30th day makes it impossible to provide "notice and a hearing *completed* before the expiration of the 30-day period . . ." *Id.* § 362(c)(3)(B) (emphasis added).

Accordingly, because the automatic stay could not have terminated by operation of law under 11 U.S.C. § 362(c)(3), the court will deny the Motion as unnecessary. In addition, if and when counsel seeks approval of his attorney fees, he should either exclude from his application the fees and costs related to the Motion, or be prepared to explain to the court why the estate and its creditors should bear the expense of the Motion, given that a glance at the statute should have dissuaded him from filing it.

NOW, THEREFORE, IT IS HEREBY ORDERED that the Motion (DN 24) is DENIED as unnecessary.

IT IS FURTHER ORDERED that the Clerk shall serve a copy of this Order pursuant to Fed. R. Bankr. P. 9022 and LBR 5005-4 upon Lanphear Tool Works, Inc., Robert J. Sayfie, Esq., the United States Trustee, and all parties appearing on the Debtor's mailing matrix.

END OF ORDER

IT IS SO ORDERED.

Dated August 24, 2012



A handwritten signature in black ink, appearing to read "S. W. Dales".

Scott W. Dales
United States Bankruptcy Judge