

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF ARKANSAS
LITTLE ROCK DIVISION**

IN RE: DONALD WAYNE HAMILTON

4:05-bk-40134E
CHAPTER 13

ORDER STRIKING MOTION TO EXTEND AUTOMATIC STAY

Now before the Court is a *Motion to Extend Automatic Stay* filed by the Debtor on November 17, 2005. The Court notes that such motions are necessitated by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, specifically 11 U.S.C. § 362(c)(3) which provides that the automatic stay expires as to the Debtor on the 30th day after filing if Debtor had a pending bankruptcy case in the prior year which was dismissed (unless such case was dismissed under § 707(b) and refiled under another chapter). Section 362(c)(3)(B) allows the Debtor (or another interested party) to file a motion to continue the automatic stay beyond thirty days. This Court's procedure with respect to such motions is to set such motions for hearing before the thirty-day period expires. However, the instant motion is so replete with errors and omissions, the Court cannot set it for hearing, but must strike it. The errors and omissions are as follows:

1. There is no case number reflected on the caption.
2. The heading reflects the case is a chapter 13, but the body of the pleading states that it is a Chapter 7 liquidation proceeding.
3. A space for excepting certain creditors from the extension of the stay is left blank (rather than just removed altogether).
4. The pleading fails to allege that the instant case is filed in good faith as to the creditors to be stayed as required by § 362(c)(3)(B).
5. There is no certificate of service indicating who was served with the motion; the

Clerk's office needs this information to enter these parties into the ECF system so that it will generate hearing notices and send such notices to these parties.

These errors and omissions and other typographical errors in this pleading indicate that the responsible attorney did not review the pleading and/or took no care in its accuracy. For these reasons, it is hereby

ORDERED that the *Motion to Extend Automatic Stay* is **STRICKEN** from the Court's Record.

IT IS SO ORDERED.



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HONORABLE AUDREY R. EVANS
UNITED STATES BANKRUPTCY JUDGE

DATE: November 28, 2005

cc: Thomas W. Byarlay, attorney for Debtor
Donald Wayne Hamilton, Debtor
Joyce Bradley Babin, Trustee
U.S. Trustee