

## After the Case is Dismissed - Effect of Dismissal and Reinstatement of Cases and Related Topics.

By John B Butler III

### I. Once the case is dismissed is there a stay of any kind? Possibilities:

- A. Automatic Stay? **No.** The automatic stay of 11 U.S.C. §362(a) terminates pursuant to 11 U.S.C. §362(c)(2)(B). See, *Fish Mkt. Nominee Corp. v. Pelofsky*, 72 F.3d 4, 6 (1st Cir. 1995); *In re De Jesus Saez*, 721 F.2d 848, 851 (1st Cir. 1983); *In re Singleton*, 358 B.R. 253, 261 (D.S.C. 2006); *In re Heghmann*, 316 B.R. 395, 401-402 (Bankr. 1st Cir. 2004) aff'd 326 F.Supp.2d 227 (D.N.H.,2004); *Shaw v. Erlich*, 294 B.R. 260, 275 (W.D.Va. 2003), aff'd, *Wiencko v. Erlich* (In re *Wiencko*), 99 Fed.Appx. (4th Cir.2004) (unpublished); *In re Heghmann* 316 B.R. 395, 401-402 (Bankr. 1st Cir. 2004) aff'd 326 F.Supp.2d 227 (D.N.H.,2004); *Nicholson v. Nagel* (In re *Nagel*), 245 B.R. 657,662 (D. Ariz.1999); *In re Sewell*, 345 B.R. 174, 179 (Bankr. 9th Cir. 2006); *In re Diviney*, 225 B.R. 762, 770 (Bankr. 10th Cir. 1998); *In re Streett*, 2012 WL 1413100 (Bankr. D.N.M. Apr. 23, 2012); *In re Webb Mtn, LLC*, 414 B.R. 308, 335 (Bankr. E.D. Tenn. 2009)(*The automatic stay terminated by operation of law, however, when the Plaintiff's case was dismissed on September 17, 2007, pursuant to 11 U.S.C. § 362(c)(2).*"); *In re Garcia*, 2005 WL 2452122, at \*1 (Bankr. S.D. Fla. Apr. 11, 2005)(*The debtor argues that the ten-day period during which he may move for reconsideration or rehearing pursuant to F.R.B.P. 9023 or 9024, or the ten-day stay of enforcement of judgments provided pursuant to F.R.B.P. 7062, precluded the dismissal order from becoming effective to terminate the stay prior to March 23, 2005. This is incorrect. Rule 7062, which provides for a 10–day stay of proceedings to enforce judgments, has never applied to orders dismissing a bankruptcy case.... Moreover, because Rule 9014 was amended effective December 1, 1999 to remove F.R.C.P. 62 from applicability to contested matters, the ten-day stay applies only in adversary proceedings, and not to orders of dismissal.... Similarly, Rules 9023 and 9024 do not provide for a stay of the effectiveness or enforcement of an order unless a separate stay order is entered by the court. Consequently, there is no rule currently in force that stays the effectiveness of an order of dismissal whether for ten days or for any other period.... "); *In re Hill*, 305 B.R.*

100, 104-05 (Bankr. M.D. Fla. 2003) ; In re Hanson, 282 B.R. 240, 245-246 (Bankr. D.Colo. 2002); In re Rivera, 280 B.R. 699 (Bankr.S.D.Ala.2001); Jennings v. R&R Cars & Trucks (In re Jennings), 2001 WL 1806980, slip op. at \* 3 (Bankr. D.S.C. Sept. 17, 2001); Frank v. Gulf States Fin. Co. (In re Frank), 254 B.R. 368, 374 (Bankr. S.D. Tex. 2000); Johnson v. Countrywide Home Loans (In re Johnson), 1999 WL 528653 (Bankr. W.D. Tenn. July 16, 1999); In re Weston, 101 B.R. 202, 205 (Bankr. E.D. Cal. 1989) aff'd, 123 B.R. 466 (B.A.P. 9th Cir. 1991) aff'd, 967 F.2d 596 (9th Cir. 1992) and aff'd sub nom. Weston v. Cibula, 123 B.R. 466 (B.A.P. 9th Cir. 1991) aff'd sub nom. In re Weston, 967 F.2d 596 (9th Cir. 1992).

- B. The Stay imposed by Fed. R. Civ. P. 62(a) and Fed. R. Bankr. 7062? **No.** Fed. R. Civ. P. 62(a) automatically applies a fourteen day stay to the execution or enforcement of judgments. Fed. R. Bankr. 7062 simply states "Rule 62 F.R.Civ.P. applies in adversary proceedings." Fed. R. Bankr. P. 9014(c), however applies to Contested Matters and specifically exempts Fed. R. Bankr. 7062 from applying in Contested Matters, unless the court orders otherwise, thus limiting Fed. R. Bankr. P. 7062 and the stay of Fed. R. Civ. P. 62(a) to judgments in Adversary Proceedings in bankruptcy cases. See, In re Anderson, 05-07387-D, 390 B.R. 812 (Bankr. D.S.C. 1/23/07)(DD)(*Chapter 13 Debtors filed motion for stay pending appeal of an order conditioning continuation of stay on the requirement that Debtors make adequate protection payments to mortgage creditor which filed motion for relief from stay for failure of the Debtors to make post-confirmation regular mortgage payments directly to creditor. The Court held the day stay of Fed. R. Bankr. P. 4001(a)(3) was not applicable, because the Court did not lift the stay but continued the stay on certain conditions. The Court held that the Debtors were not entitled to a stay pending appeal pursuant to Fed. R. Civ. P. 62, because Fed. R. Bankr. P. 9014 did not make Fed. R. Bankr. P. 7062 applicable in contested matters and Fed. R. Civ. P. 62 was applicable to money judgments and not orders of injunctive relief such as an order conditioning continuation of the stay.*).

Prior to December 1, 1999, Fed. R. Bankr. P. 7062 stated that in addition to the exceptions listed in F.R.C.P. 62(a), the following orders were not subject to the 14

day stay of Fed.R.Civ.P. 62(a):

1. "An order granting relief from an automatic stay provided by § 362, § 922, § 1201, or § 1301 of the Code...."
2. "[A]n order authorizing or prohibiting the use of cash collateral...."
3. "[A]n order authorizing or prohibiting ...the use, sale or lease of property of the estate under § 363...."
4. "[A]n order authorizing the trustee to obtain credit pursuant to § 364...."
5. "[A]n order authorizing the assumption or assignment of an executory contract or unexpired lease pursuant to § 365...."

The 1999 amendment of Fed. R. Bankr. P. 7062 removed these additional instances where the stay of Fed. R. Civ. P. 62(a) was applied to matters other than adversary proceedings. The stays in some of these situations were addressed by amendments to other Bankruptcy Rules. The following cases hold the stay of Fed. R. Bankr. 7062 does not apply after dismissal of the case. *Fish Mkt. Nominee Corp. v. Pelofsky*, 72 F.3d at 6-7 (*"To conclude, the dismissal of the chapter 11 proceeding was a proper disposition on the present record. As for the adversary proceeding, we conclude that Fed.R.Civ.P. 62(a) does not extend section 362(a)'s automatic stay for 10 days after a chapter 11 case is dismissed.... "*); *In re Heghmann*, supra; *In re Garcia*, *In re Hill*, supra; *In re Hanson*, supra; *In re Rivera*, 280 B.R. at 701 (*"The law as to the status of a dismissed case is 'almost unanimous' that an order dismissing a case is not stayed pursuant to Fed. R. Bankr.P. 7062."*); *Frank v. Gulf States Fin. Co. (In re Frank)*, 254 B.R. at 374 (*"The authority is almost unanimously to the contrary. An order dismissing a case is not subject to the limitations of FRBP 7062. It is effective immediately upon entry and the stay terminates immediately."*); *In re Worldwide Wholesale Lumber, Inc.*, 06-01499-W, n. 2 (Bankr. D.S.C. 4/6/07)(JW) ; *In re Anderson*, 05-07387-D, 390 B.R. 812 (Bankr. D.S.C. 1/23/07)(DD); *Dawkins v. Principal Residential Mortgage, Inc. (In re Dawkins)*, 96-70602-W, Adversary No. 96-8431-W (Bankr. D.S.C. 5/9/96)(JBD)(*Court held F.R.B.P. 62 did not apply to bar mortgage creditor from restoring previously stayed foreclosure sale to the active roster within 10 days of the dismissal of debtor's previous chapter 13 case.*); *In re Weston*, 101 B.R. at 205 (Bankr. E.D. Cal. 1989).

C. Court ordered Injunction. **Possibly**. See discussion below.

## II. **What actions may a creditor take after a case is dismissed?**

Courts have also been uniform in finding a creditor may pursue its legal and contractual rights against a debtor whose case has been dismissed, because the stay was terminated under 11 U.S.C. §362(c)(2) and there is simply no longer a stay in effect unless as discussed below the court enters a specific order staying any action against the debtor or the debtor's property. After dismissal of a case, creditors have proceeded with foreclosure actions, eviction, repossession of a car, or entry of a judgment. See, *In re Singleton*, 358 B.R. 253, 261 (D.S.C. 2006) ("*It is undisputed that the foreclosure sale of the property at 2012 Irving Avenue proceeded in accordance with South Carolina law. **There was no violation of the automatic stay because the foreclosure sale took place after the Bankruptcy Court's dismissal order and before the Bankruptcy Court vacated the dismissal order.** For the reasons as discussed above, the reinstatement of the case cannot give retroactive effect to the automatic stay and thereby cause the foreclosure sale to be a violation of the automatic stay. Therefore, the Bankruptcy Court correctly found that neither Countrywide's foreclosure of its mortgage on the subject property, nor the subsequent transfers of the subject property to Federal National, Keyes, and Rock, were not in violation of the automatic stay.*" Emphasis added.).

## III. **What Effect Does a Motion to Reconsider the Dismissal of the Case Have on any Stay?**

A Motion to reinstate the case or reconsider the order dismissing the case is essentially a Motion to Alter or Amend a Judgment under Fed. R. Civ. P. 59(e) and Fed. R. Bankr. P. 9023 or a Motion for Relief from a Judgment under Fed. R. Civ. P. 60(b) and Fed. R. Bankr. P. 9024 depending on how many days after the entry of the order of dismissal the Motion to reconsider is filed. *In re Singleton*, 358 B.R. at 258 ("*Accordingly, the court considers Singleton's motion to vacate the dismissal and the transcript of the hearing upon that motion to determine whether Rule 60(b) authorized the Bankruptcy Court to vacate its dismissal Order.*"); *In re Garcia*, 434 B.R. 638, 643 (Bankr. D.N.M. 2010) ("*The Motion to Vacate is really in the nature of a motion for reconsideration. Although the federal rules do not recognize a motion for reconsideration, these motions are dealt with under either Rule 59 or 60.*"); *In re Hill*, 305 B.R. at 108 ("*A motion to vacate an order of dismissal of a bankruptcy case, such as the one filed by the Debtor in this case, has generally been considered as a motion pursuant to Rule 9024.*"); Johnson

v. Countrywide Home Loans (In re Johnson), 1999 WL 528653, at \*2 (*"The debtors' motion is styled one to reinstate the case. The term reinstatement is commonly used by practitioners, but the effect of such a motion is to seek the remedy of vacating the dismissal order; essentially, this is relief under Fed. R. Bankr. P. 9024 ...."*).

A Motion under Fed. R. Civ. P. 59(e) or Fed. R. Civ. P. 60(b) does not stay any action a creditor may take after dismissal of the case. In re Hill, 305 B.R. at 108 ; In re Garcia, 2005 WL 2452122 at \*1 (*"Similarly, Rules 9023 and 9024 do not provide for a stay of the effectiveness or enforcement of an order unless a separate stay order is entered by the court."*).

**IV. Actions taken after reinstatement of the case and the concurrent reimposition of the automatic stay are of course violative of the automatic stay once the automatic stay was reimposed.** See, In re Diviney, 225 B.R. at 771 (*"We hold that reinstatement of the Third Case restored the automatic stay as of August 26, 1996, so the stay was in effect on September 7, 1996, when the Bank repossessed the Car."*); In re Webb Mtn, LLC, 414 B.R. at 339 (*"Although the automatic stay terminated by operation of law upon entry of the Dismissal Order, it went into effect once again when the Plaintiff's case was reinstated following its successful appeal of the Dismissal Order."*); Jennings v. R&R Cars & Trucks (In re Jennings), 2001 WL 1806980 at \*3 (*"However, by reinstating Debtors' case, the Court simultaneously reimposed the automatic stay from the date of reinstatement."*).

**V. Is the Reinstatement of the Stay Retroactive?**

Most courts hold later reinstatement of the case does not retroactively reinstate the automatic stay during the period between when the case was dismissed and the time the case was reinstated. In Nicholson v. Nagel (In re Nagel), 245 B.R. at 662; In re Hill, 305 B.R. at 104-05; Frank v. Gulf States Finance Company (In re Frank), 254 B.R. at 374; In Jennings v. R & R Cars and Trucks (In re Jennings), 2001 WL 1806980 at \*3; Johnson v. Countrywide Home Loans (In re Johnson), 1999 WL 528653 at \*4 . In fact some courts have held it was error for a bankruptcy court to reinstate the automatic stay retroactively to reimpose the stay on acts taken between the date of the dismissal and the date of the reinstatement of the stay. In re Singleton, 358 B.R. at 261 (*"In this case, for the reasons as explained by the Court in Nagel, the court finds that the Bankruptcy Court had no*

*authority to re-impose the automatic stay on property no longer included in the bankruptcy estate. While the Bankruptcy Code grants a bankruptcy court the power to retroactively grant relief from a stay ... this court is unaware of any authority that grants the bankruptcy court power to retroactively impose a stay.... Accordingly, the court finds that the April 18, 2005 Order is a nullity and is not binding upon the Appellees."*); In re Nagel, 245 B.R. at 662 ("A review of the case law provided by the parties and the court's own research reveals no basis in law for the proposition that the automatic stay continues after dismissal of a case. A retroactive reinstatement of the automatic stay is not consonant with this conclusion. Indeed, the bankruptcy court's retroactive reinstatement of the 'automatic stay' is squarely at odds with the plain reading of subsection 362(c)(2) and Congress' intent that the parties be returned to the status quo ante."); In re Sewell, 345 B.R. at 180 ("We also question whether retroactive imposition of the automatic stay as if it had never terminated would be appropriate in these circumstances. A title company or purchaser at a foreclosure sale can verify within a short time after the sale is completed whether a bankruptcy petition was filed before that time, but if reinstatement orders were to retroactively impose the automatic stay there would be no way to protect against the sale being rendered retroactively void at some future date.").

## **VI. What Should you do?**

### **A. Debtor's Attorney**

A debtor who is not appealing the dismissal of his case but nonetheless desires to protect his assets between the date of the dismissal of his case and the date of the hoped for reinstatement of his case must either obtain reinstatement of the case on an emergency basis before the creditor in question repossesses and sells the car or has the real estate sold at foreclosure sale, **or** the debtor must obtain an order from the bankruptcy court specifically staying any actions until the case is reinstated. As to obtaining a court order staying actions see further discussion below.

If you instead decide to file an appeal, be aware that with limited exceptions, a party's appeal of an order dismissing a case deprives the bankruptcy court from hearing any matters on the case while the appeal is pending. See, Cotton v. Stalzer (In re Cotton), 250 F. App'x 968, 969-70 (11th Cir. 2007)("In this case, the bankruptcy court dismissed the Chapter 7 case while the appeal of its earlier

*order denying Cotton's motion for the voluntary dismissal of the Chapter 13 case and converting it to a Chapter 7 case was pending in the district court.... [W]e hold that the bankruptcy court lacked jurisdiction to enter the order of dismissal."); Neary v. Padilla (In re Padilla,) 222 F.3d 1184, 1190 (9th Cir. 2000)( "[W]e hold that the bankruptcy court lacked jurisdiction to proceed with Padilla's bankruptcy during the pendency of this appeal. "). Furthermore, you must obtain a stay pending appeal pursuant to Fed. R. Bankr. P. 8005 to prevent creditors from taking action while the appeal is pending. The burden of proof for a stay pending appeal is the same as the test for injunctive relief set forth below. See, Lanier v. BB&T (In re Lanier), 3:12-416-MBS, 2012 WL 667034 (D.S.C 2/28/12) Motion for Reconsideration denied 2012 WL 689275 (D.S.C. 3/2/12).*

B. Creditor's Attorney.

Make sure your client knows if they intend to pursue remedies after dismissal of the case, that anything they want to do (repossess and sell personal property, foreclosure sale, eviction, etc.) must be accomplished **before the entry of the order reinstating the case** and that any such action taken after the reinstatement of the case may result in liability for a willful violation of the automatic stay.

VII. **Obtaining a Court Ordered Stay**

A. In general.

As one Court stated:

The debtors were not attempting a hollow reinstatement of their dismissed case; they were obviously attempting to "reinstate" the automatic stay. They did not seek extraordinary relief to accomplish that result. Knowing that a foreclosure sale was scheduled, the debtors' safest course after dismissal of a chapter 13 case would have been to file an adversary proceeding and motion seeking a temporary restraining order to prevent the foreclosure sale from going forward while their reinstatement motion was pending.

In re Hill, 305 B.R. at 108. See also, In re Garcia, 2005 WL 2452122 at \*1 (*"Similarly, Rules 9023 and 9024 do not provide for a stay of the effectiveness or enforcement of an order unless a separate stay order is entered by the court."*).

Presumably any order staying actions by creditors after dismissal of the case would be in the form of a temporary restraining order or a preliminary injunction. A request for injunctive relief must be commenced by complaint. Fed. R. Bankr.

P. 7001(7). In re Catalano, 155 B.R. 219 (Bankr. D.Neb. 1993). A temporary restraining order is governed by the same general standards that govern the issuance of a preliminary injunction. Hoechst Diafoil Co. v. Nan Ya Plastics Corp., 174 F.3d 411, 422 (4th Cir. 1999); , Lanier v. Branch Bank and Trust Co. (In re Lanier), C.A. No. 3:12-00628-MBS, 2012 WL 693983 (D.S.C. 3/5/12). Even if relief is available by Motion, the burden of proof and test would presumably be the same as for injunctive relief.

B. Obtaining an Injunction

The party seeking injunctive relief has the burden of proving: (1) He is likely to succeed on the merits; (2) He is likely to suffer irreparable harm in the absence of relief; (3) The balance of equities tips in his favor; (4) Injunction is in public interest. In applying this four part test the Fourth Circuit stated:

Because of its differences with the Winter test, the Blackwelder balance-of-hardship test may no longer be applied in granting or denying preliminary injunctions in the Fourth Circuit, as the standard articulated in Winter governs the issuance of preliminary injunctions not only in the Fourth Circuit but in all federal courts.

Thus, we review the district court's denial of the preliminary injunction under the Winter standard, considering in light of the stated requirements the district court's findings and holdings (1) that Real Truth is not likely to succeed on the merits; (2) that Real Truth will not be irreparably harmed if the injunction is denied; and (3) that the injunction requested would not be in the public interest.

Real Truth About Obama, Inc. v. Federal Election Commission, 575 F.3d 342, 347 (4th Cir. 2009); Lanier v. Branch Bank and Trust Co. (In re Lanier), C.A. No. 3:12-00628-MBS, 2012 WL 693983 (D.S.C. 3/5/12); In re Carolina Park Associates, LLC, 02:10-1805-DCN (D.S.C. 7/12/10) order later vacated as moot (D.S.C. 9/30/10)(*After Bankruptcy Court dismissed Debtor's Chapter 11 case and denied the Debtor's Motion for a Stay Pending Appeal, the Debtor asked the District Court to stay the Order of Dismissal pending the appeal. Initially the District Court held the old Blackwelder four part test for granting injunctive relief in the Fourth Circuit was replaced by the Supreme Court's test as set forth in Winter v. Natural Resources Defense Council, Inc., \_ U.S. \_, 129 S.Ct 365 (2008).*).

C. Irreparable injury

To make a showing of irreparable harm, a movant must usually show money

damages or a later court decision will be inadequate to remedy the harm suffered. *MicroAire Surgical Instruments, LLC v. Arthrex, Inc.*, 726 F. Supp. 2d 604.634 (W.O. Va. 2010) (quoting *Canon, Inc. v. GCC Intl., Ltd.*, 263 Fed. Appx.57, 62 (Fed. Cir. 2008)); *In re Forest Grove, LLC*, 10-05542- D (Bankr. D.S.C. 4/8/11)(DD)(*The Court applied the test of Winter v. Natural Resources Defense Council*, 555 U.S. 7 (2008) for injunctions and denied the Motion to Stay the Dismissal Order stating: "Debtor did not meet this test. First, Debtor did not set forth any specific facts or arguments in its Stay Motion that would satisfy any of these elements. Additionally, at the hearing on its Stay Motion, Debtor did not establish the four requirements set forth in Winter. Most significantly, Debtor did not establish it would suffer irreparable harm if the Court's Order was not stayed. To make a showing of irreparable harm, a movant must usually show that money damages or a later court decision will be inadequate to remedy the harm suffered.... A possibility that irreparable harm could occur is not sufficient; rather, a movant must show that irreparable injury is likely.... Debtor's counsel stated at the hearing that Debtor is currently attempting to exercise its rights in state court. Debtor's counsel also stated that Debtor would attempt to purchase the property at the foreclosure sale. Under these circumstances, Debtor has not shown irreparable harm. It is clear that Debtor has an alternative avenue for relief, as Debtor is already moving forward in state court. Additionally, it appears that the harm to Debtor, if any, could be adequately remedied by an award of monetary damages.... Debtor did not show that it will suffer irreparable harm in the absence of a stay of the Court's Order." Citations omitted.).

If a party is capable of protecting itself by bidding at a foreclosure sale, then the party will not suffer irreparable harm. See, *In re Sedgfield Associates*, 95-70386, Slip op. at 6 (Bankr. D.S.C. 6/1/95)(WTB). ("*The Debtor failed to show any 'irreparable harm,' other than monetary injury to justify the granting of a stay pending appeal.*"); *In re Oaks II Limited Partnership*, 90-00907, slip op. at 3 (Bankr. D.S.C. 7/25/90)(JBD)(*With regard to the debtor's motion for a stay pending the appeal of an order modifying the stay the court stated: "Because the debtor will have opportunity to protect itself by bidding at the foreclosure sale and because monetary injury is not irreparable harm ... the debtor has failed to show that it will `suffer irreparable injury,' if the stay is not granted.*"); *In re Drislor Associates*, 110 B.R. 937, 939 (D.Colo. 1990)(*In sustaining lower court*

*order denying Motion for Stay Pending Appeal of Order Modifying Stay on real estate, the District Court stated: "Although debtor contends that it may lose its purported equity in the property, this is an monetary injury that is by its nature not irreparable."*); *In re Hamilton*, 95 B.R. 564, 565 (N.D.Ill.,1989)(*"In Sandra Cotton, the court held that debtors in a position similar to the Hamiltons' could be adequately compensated by damages if they lost their interest in the property through a wrongful foreclosure. The Hamiltons have offered nothing to rebut this authority. Therefore, they have failed to persuade the court that they will suffer irreparable harm."*); *Asheville Bldg. Associates v. Carlyle Real Estate Ltd. Partnership*, VIII , 93 B.R. 920, 923 (W.D.N.C. 1988)(*"ABA will not suffer any irreparable harm if the stay is not granted because there are several remedies available to ABA. As Judge Hodges noted in his order dated September 8, 1988, ABA can seek to protect the Property's alleged value by bidding at the foreclosure sale or by finding and producing potential bidders at the foreclosure sale. The only harm ABA alleges is loss of equity, which is a monetary injury that is, by its nature, not irreparable."*); *Sandra Cotton, Inc. v. Bank of New York*, 64 B.R. 262, 263 (W.D.N.Y. 1986)(*"In this case, the debtor has failed to prove that it would be irreparably harmed because it could not be adequately compensated by legal damages for the loss of the property in question. Section 541(e) of the Bankruptcy Code, 11 U.S.C. § 541(e), provides that the debtor's estate may utilize all legal defenses available to the debtor, including personal defenses arising from a wrongful foreclosure of property. This section of the Code thus provides for the remedy of legal damages in situations where there is an unresolved dispute between a secured creditor and the debtor's estate, and the creditor wrongfully forecloses upon the disputed property. Given this fact, this Court must conclude that, in this case, the debtor has a legal remedy available to it, which availability precludes a determination that it would suffer irreparable harm if foreclosure proceeds as planned."*). See also, *Long v. Robinson*, 432 F.2d 977 (4th Cir. 1970)(*"However, 'mere injuries, however substantial, in terms of money, time and energy necessarily expended in the absence of a stay, are not enough."*); *In re Tubular Technologies, LLC*, 348 B.R.699, 714 (Bankr. D.S.C. 7/18/06)(JW) (*"This is a Court that necessarily deals with financial matters. Nearly every order issued in this Court impacts the financial condition of a party in interest and often results in the loss of property deemed critical by a debtor. For certain matters, such as the lifting of the automatic stay, Congress has*

*prescribed a mandatory stay, presumably because it has determined that such an order greatly impacts parties and therefore a temporary stay is necessary provide parties with time to seek appellate review.").*