

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN THE MATTER OF:)
)
ROGER F. KNODERER) CASE NO. 08-12479
JOYCE D. KNODERER)
)
Debtors)

DECISION AND ORDER

At Fort Wayne, Indiana, on August 27, 2008.

This case, which is the second bankruptcy the debtors have filed during the past year, was commenced on July 28, 2008. Because their previous case was dismissed during the year prior to the date of the petition, the automatic stay in this case terminates after thirty days. 11 U.S.C. § 362(c)(3)(A). Although the stay can be extended at the request of a party in interest, such a request requires a hearing and some kind of notice to creditors, all of which must be completed before the 30-day stay expires. 11 U.S.C. § 362(c)(3)(B).

In this instance, the debtors filed a motion to continue the stay on August 22, 2008, nearly one month after the case was commenced. The court cannot act upon the debtors' motion without holding a hearing on some kind of notice to creditors, and it believes that at least fifteen days notice is required. See, Fed. R. Bankr. P. Rule 4001. In light of this, the court cannot possibly give creditors and parties in interest appropriate notice of a hearing on the debtors' motion and still complete that hearing before the automatic stay expires. See e.g., In re Williams, 346 B.R. 361, 370 ("it is incumbent upon [the debtor] to insure that his motion is filed and heard within the thirty day window."); In re Whitaker, 341 B.R. 336 (Bankr. S.D. Ga. 2006); In re Norman, 346 B.R. 181 (Bankr. N.D. W.Va. 2006); In re Garrett, 357 B.R. 128 (Bankr. C.D. Ill. 2006). The motion comes too late

and no purpose can be served by scheduling it for any proceedings. See, In re Whitaker, 341 B.R. 336 (Bankr. S.D. Ga. 2006); In re Norman, 346 B.R. 181 (Bankr. N.D. W.Va. 2006); In re Smith, 2007 WL 2459250 (Bankr. M.D. N.C. 2007). Debtors' Motion to Continue Stay is therefore DENIED.

SO ORDERED.

/s/ Robert E. Grant
Judge, United States Bankruptcy Court