

Make It Stop! – The Power of the Automatic Stay

By Arizona Bankruptcy Attorney John Skiba

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When you fall behind on your bills you feel helpless. Like it is you against the world. The first thing that happens is the phone calls. The phone rings off the hook night and day. After a while you stop answering because you realize there is no purpose. The collector is there to get you to pay money and could care less about the reasons that got you into this position.

Next, you face lawsuits, repossessions, and even foreclosure. After filing hundreds of bankruptcies for clients I understand that bankruptcy is not always the best option, but bankruptcy has tools that can greatly improve your situation and dramatically reduce your stress. One of the most powerful tools provided by the Bankruptcy Code is the Automatic Stay.

Automatic Stay

One of the great benefits of a bankruptcy over other approaches is the Automatic Stay. Immediately upon the filing of your bankruptcy case the court issues an order that stops all collection efforts against you and your property. This means that creditors will not be allowed to call you on the phone, send you letters, sue you, garnish your wages, repossess your property, or even foreclose on your home.

Once your case is filed the bankruptcy court will mail out notices to your creditors to let them know of your bankruptcy filing and that they are not to continue to try and collect money from you. It generally takes 2 to 3 business days for your creditors to get notice. However, the Automatic Stay goes into effect immediately upon filing, not when your creditor gets notice. This means that if you have a foreclosure sale set for noon and it is 10:00 a.m., the filing of your bankruptcy case will stop the foreclosure sale. This is true of wage garnishment as well.

How Long Does The Automatic Stay Last?

The Automatic Stay is a shield that protects you from your creditors; however it does not last forever.

- **Discharge:** The Automatic Stay terminates once your case is discharged. The bankruptcy discharge is the order issued by the court at the end of your case that eliminates your debts. Once your case is over, so is the Automatic Stay.
- **Dismissal:** If your case is dismissed for any reason the Automatic Stay terminates upon dismissal.
- **Motion to Lift Automatic Stay:** Sometimes a creditor will ask the bankruptcy court to lift or remove the Automatic Stay so that they can repossess or foreclose on the collateral that is securing their loan. Typically this only happens if you are not making the monthly payment. For instance, if you are not making your house payment after your case is filed, the

mortgage lender will likely go to the bankruptcy court and ask them to remove or lift the Automatic Stay so that they can foreclose on the house.

- **Multiple Bankruptcy Cases:** If you file more than one bankruptcy in a year there are special rules that will limit the length or time period that they Automatic Stay will be in place.

The Automatic Stay is designed to give you some breathing room from your creditors while you deal with your debts through the bankruptcy process. I offer a free bankruptcy consultation where we can discuss your specific situation and help you determine if bankruptcy is a good option for you.

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