



  
THOMAS J. CATLIOTA  
U.S. BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MARYLAND**

In re: \*  
COVID-19 PANDEMIC PROCEDURES \* Miscellaneous Proceeding No.  
\* 20-90006  
\* \* \* \* \* \* \* \* \* \* \* \* \*

**MEMORANDUM ADDRESSING THE CONTINUATION OF HEARINGS AND THE  
EXTENSION OF FILING DEADLINES IN STANDING ORDER 2020-05 OF THE  
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND**

The United States District Court for the District Maryland issued Standing Order 2020-05, *Court Operations Under the Exigent Circumstances Created by COVID-19*, Misc. No. 00-308, on March 20, 2020 (the “Standing Order”). The Standing Order postpones all civil, criminal and bankruptcy proceedings scheduled to occur from March 16, 2020 through April 24, 2020, unless the presiding judge in an individual case orders otherwise. The Standing Order further provides:

All filing deadlines now set to fall between March 16, 2020, and April 24, 2020, are EXTENDED by forty-two (42) days, unless the presiding judge in an individual case sets a different date by an order issued after the date of this Order. Chambers will contact counsel to reschedule proceedings when appropriate[.]

Standing Order at 2. The Standing Order states that the Court remains open for emergency matters, and expressly states it does not toll any applicable statute of limitations. The Standing

Order applies to bankruptcy proceedings.<sup>1</sup> In light of the current unique circumstances faced by parties involved in bankruptcy proceedings in this District, the Court issues this Memorandum to provide guidance to the Bar and unrepresented parties on the application of the Standing Order.

A.

The District Court entered the Standing Order in response to the state of emergency declared by the Governor of Maryland over the spread of the coronavirus known as COVID-19. The Standing Order is one of a series of administrative orders entered by the District Court, and this Court intended to reduce the possibility of the spread of the virus. As this Court previously recognized, the continuance of hearings and extension of deadlines ordered in prior administrative orders and the Standing Order are a necessary and important response to the COVID-19 pandemic. To the greatest extent allowed in the exercise of this Court's discretion, the Court finds that the exceptional and emergent circumstances created by the pandemic constitute, as the context dictates, "cause" and are "compelling" and "extraordinary" circumstances as those terms are used in the Bankruptcy Code. More specifically, and not in limitation of the foregoing, the Court finds the emergency circumstances described in the Standing Order are compelling circumstances, as described in 11 U.S.C. §362(e)(1),<sup>2</sup> and the actions taken therein are for good cause as described in §362(e)(2). For any hearing that is continued under the Standing Order, the lack of availability of access to the court, except in emergency cases as described therein, limits the opportunity for a hearing under these particular circumstances, and therefore the court finds that the continuation is appropriate under the circumstances, as provided by §102(1). The continuations and extensions mandated by the

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<sup>1</sup> Consistent with its earlier administrative orders, this Court adopts the Standing Order to the extent necessary in recognition of Local Rule 402 of the United States District Court for the District of Maryland.

<sup>2</sup> Unless otherwise noted, all statutory references herein are to the Bankruptcy Code, 11 U.S.C. §101 *et seq.*, as currently in effect.

Standing Order are authorized under §105(a), including the authority that no provision of the Bankruptcy Code “providing for the raising of an issue by a party in interest” shall preclude the Court “from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.” §105(a).

B.

The Court turns to the applicability of the phrase “[a]ll filing deadlines” as used in the Standing Order. While a complete list of all filings that may come due under the period covered by the Standing Order is not practical, what follows below is intended as guidance for the Bar.<sup>3</sup>

The following are examples of “filing deadlines” under the Standing Order:

- The deadline under a court order, the Bankruptcy Code or Bankruptcy Rule,<sup>4</sup> other than a statute of limitations, to file any motion, application or claim objection, or any response to the foregoing, that falls within the Standing Order Period, is extended 42 days from the deadline date.
- The deadline to file documents—such as, but not exclusively, Schedules of Assets and Liabilities, Summary of Your Assets and Liabilities, Declarations About an Individual Debtor’s Schedules, Statement of Financial Affairs, Disclosure of Compensation to Debtor’s Attorney, Statement of Intention for Individuals Filing under Chapter 7, and Chapter 7 Statement of Your Current Monthly Income—that falls within the Standing Order Period is extended 42 days from the deadline date.

*See* §§521(a)(1)(B), (a)(2)(A), (b), and 707(b)(2)(C).

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<sup>3</sup> In this Memorandum, the time period between March 13, 2020 and April 24, 2020 is referred to as the “Standing Order Period.”

<sup>4</sup> In this Memorandum, “Bankruptcy Rule” means the Federal Rules of Bankruptcy Procedure and this Court’s Local Bankruptcy Rules.

- The deadline under a Court order or the Bankruptcy Code to file a Chapter 13 plan that falls within the Standing Order Period is extended 42 days from the deadline date.
- The deadline to file an adversary proceeding seeking a determination of dischargeability of debt or objecting to discharge that falls within the Standing Order Period is extended 42 days from the deadline date.
- For the sake of clarity and guidance, the requirement that a debtor must file with the petition a master mailing matrix and, in a Chapter 11 case, a list of twenty (20) largest unsecured creditors is not extended by the Standing Order.

There are actions a party must or may elect to take under the Bankruptcy Code that are not “filing deadlines.” The requirement to take an action that is not a “filing deadline” is not extended by the Standing Order and counsel should act accordingly. These actions include:

- The debtor’s initial use of cash collateral or continued use of cash collateral under an order that expires during the Standing Order Period.
- The deadline for the debtor to assume or reject a lease or executory contract under §365.
- Section 521(a)(2)(b), which requires a debtor to “perform his intentions” with respect to property that is the subject of a statement of intention.
- The requirement to file a motion under §362(c)(3) to extend the automatic stay or §362(c)(4) to impose the automatic stay in sufficient time for the Court to conduct a hearing on the motion. Once filed, the Court will address these motions through orders setting hearings.

- A utility's right to alter, refuse or discontinue service under the periods described in §366.

The Bankruptcy Code authorizes judges to extend certain deadlines upon making specific findings that would not be supported merely by the current COVID-19 emergency. An example is §1121(e)(3), which authorizes the extension of the deadline to file a plan and disclosure statement in a small business case only if the debtor demonstrates that it is more likely than not the court will confirm a plan. If counsel believes the extension of any deadline under the Standing Order requires specific factual findings that are not supported by the above findings concerning the current emergency, counsel should consider filing an extension request supported by declarations or other evidence that allows the court to make the necessary findings.

The Bankruptcy Code contains deadlines that a bankruptcy judge lacks authority to extend. The Standing Order does not extend these deadlines. Similarly, the Standing Order does not grant an extension of time that is (i) not permitted under Bankruptcy Rule 9006(b)(2), or (ii) longer than the maximum permitted under Bankruptcy Rule 9006(b)(3). Further, §108 and §546 are or may be in the nature of statutes of limitations for which no extension has been granted.

The Standing Order authorizes the presiding judge to establish a different deadline date by order. Any party may file a motion to shorten the time to respond to any filing or to take any action, supported by valid reasons, notwithstanding the deadline extension in the Standing Order.

The examples provided in this Memorandum are not intended to be exhaustive. The Court recognizes an attorney or unrepresented party may be unsure whether a particular action is a "filing deadline." The Standing Order does not prohibit counsel or unrepresented parties from filing any motion seeking clarification of whether a filing date has been extended, or more

directly and perhaps more efficiently, requesting the primary relief without need for the extension.

C.

The COVID-19 emergency is extraordinary. All constituents in the bankruptcy process—the Court, the Bar, debtors, creditors, the U.S. Trustee and case and standing trustees, among others—face challenges and uncertainties that surely no party anticipated just a very short time ago. The entire bench appreciates reports that the members of the Bar are working in cooperation to find practical and thoughtful solutions to these challenges. The Court encourages that spirit of cooperation to continue. In the absence of such solutions, the Court is available and ready to fulfill its statutory mission.

**End of Memorandum**