

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
OFFICE OF THE CLERK**



January 13, 2006

CLERK'S NOTICE 06-02

**Debtor's Testimony Required at Evidentiary Hearing and Notice Required For
Continuation of the Automatic Stay**

When seeking a continuation of the automatic stay under 11 U.S.C. § 362(c)(3)(B), the debtor or debtor's attorney must file a motion seeking such a continuation, and must set the motion for hearing on notice to all parties against whom the debtor seeks to continue the stay. The motion should specifically identify the creditor or creditors to be stayed if the motion is granted. The motion should be filed promptly upon the commencement of the case so that the motion can be heard without the need for an expedited or emergency hearing.

At the hearing on the motion, the debtor must present evidence demonstrating that the new case is filed in good faith as to the creditor(s) to be stayed. Normally, this evidence will come from the debtor's actual testimony at the hearing. If the debtor does not testify, it will be difficult for the debtor to overcome the presumption of bad faith found in 11 U.S.C. § 362(c)(3)(C).

FOR THE COURT
Tawana C. Marshall
Clerk of Court