

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

In re

ROBERT DAVID NEYMAN, III,

Debtor.

Case No. 02-22694-L
Chapter 7

**ORDER DENYING MOTION TO REQUEST VACATING OF ORDER
GRANTING MOTION TO LIFT AUTOMATIC STAY, ETC.**

BEFORE THE COURT is a document styled “Motion to Request Vacating of Order Granting Motion to Lift Automatic Stay with Prejudice Combined with Motion for Rehearing of the Case -&- a Motion for T.R.O. including Judicial Punishment of Said Creditors -&- Notice of Appeal” which was filed in this case on April 22, 2002, as an attachment to another document styled, “Motion to Correct Deficiency Filing (As Per Clerk’s Office) of Date & Case Number in Re: Motion to Request Vacating of Order Granting Motion to Lift Automatic Stay With Prejudice Combined With Motion For Rehearing of The Case -&- a Motion For T.R.O. Including Judicial Punishment of Said Creditors -&- Notice of Appeal.” By order of even date, the court has denied the motion to correct deficiency. As a courtesy to the debtor, the court has instructed the Bankruptcy Court Clerk to treat the attachment to that motion as if it were separately filed in this case on April 22, 2002. The court thoroughly dealt with the substance of this motion in its order denying the motion to correct deficiency, which is incorporated herein by reference. Specifically, the motion is not timely if it is intended as a motion pursuant to FED. R. BANKR. PROC. 9023 and raises no grounds pursuant to FED. R. BANKR. PROC. 9024 for relief from the prior order granting relief from the automatic stay.

As the court has repeatedly stated, for whatever reason, the debtor chose to file a Chapter 7 bankruptcy case. Chapter 7 is intended to provide an orderly process for liquidation of a debtor's non-exempt assets and payment of creditors. The automatic stay in Chapter 7 functions to protect the assets from the collection efforts of creditors during the administrative period in which the Chapter 7 trustee discovers what assets are available for liquidation. Secondly, the automatic stay protects the debtor from collection efforts and gives the debtor an opportunity to negotiate for the reaffirmation of certain obligations. The automatic stay does not indefinitely stay secured creditors from obtaining possession of collateral, nor should it indefinitely protect a debtor who is a tenant under a defaulted lease from eviction. The debtor, at most, has an oral, month to month lease of the property known as 2799 Beechmont, Memphis, Tennessee. The lease, if any, adds no value to the bankruptcy estate. The debtor has no income, no job, and no job prospects. The debtor has occupied the property for more than seven months without paying rent. The landlord, Mr. Eung, demonstrated more than adequate cause for obtaining relief from automatic stay. The debtor's motion contains no information indicating that the court should reconsider its prior decision. Accordingly the Motion to Request Vacating of Order, etc., is denied.

IT IS SO ORDERED.

BY THE COURT

JENNIE D. LATTA
United States Bankruptcy Court

Date: _____

cc: Debtor

In re Robert David Neyman, III
Chapter 7 Case No. 02-22694-L
Order Denying Motion to Request Vacating of Order Granting Motion to Lift Automatic Stay, etc.

Creditor
Chapter 7 Trustee
United States Trustee