6-29/118.00 Conversion

The trustee, United States trustee, or a party in interest may attempt to convert or dismiss a bankruptcy case when the debtor fails to comply with filing requirements or pay filing fees. The court has *sua sponte* powers to convert and may issue an order to show cause why the case should not be converted or dismissed for lack of compliance with the law. A case cannot be converted to another Chapter unless the debtor is eligible to be a debtor under that Chapter. Debtors under Chapter 7 and 13 have an absolute right to convert under certain circumstances. (11 USC 706(a), (d), 1112(f), 1208(a), (e), 1307(a), (f)) The court should not accept a new petition under the Chapter to which conversion is sought because a petition is not required to effect a conversion.

Conversion constitutes a new order for relief under the Chapter to which the case is converted requiring the setting of a date for a new 341 meeting of creditors. (11 USC 341(a)) Conversion also creates a new period for filing a: proof of claim; complaint objecting to discharge; complaint to determine the dischargeability of a debt; and, a motion by the United States trustee for dismissal of a Chapter 7 for substantial abuse. The original filing date of the case does not change. Conversion terminates the service of any trustee or examiner. (11 USC 348(e))

Upon conversion from one bankruptcy Chapter to another, an automatic stay is not reimposed so as to make one who obtained relief apply again. (Cowans, Bankruptcy Law and Practice, 11.3(f) "… an order lifting the automatic stay remains effective notwithstanding subsequent conversion of the bankruptcy case, e.g., from Chapter 13 to Chapter 7"; In re Ramirez, 188 BR 413; In re State Airlines, Inc., 873 F 2d 264) Thus, manipulative debtors are prevented from filing a Notice of Conversion simply to avoid the terms of an earlier stay order. (In re Campos, 128 BR 790)