

**Rule 4001-1 Automatic Stay-Relief From**

(a) Motion Requirements

(1) All Motions for Relief From the Automatic Stay shall state with particularity the basis for relief or offset.

(2) The moving party shall attach legible copies of any documents in support of its claim that it has an interest in the debtor's property. Mortgages on real property shall show the recording information. If the documents are voluminous, the first and last page only should be attached to the motion and filed with the Court. A full copy shall be served upon any party in interest who makes a request.

(b) Motions for Relief From the Automatic Stay in cases filed under Chapter 7 shall contain the following legend featured prominently on the first page of the motion:

**PURSUANT TO LBR 4001-1, THE MOVING PARTY SEEKS RELIEF FROM THE AUTOMATIC STAY. UNLESS A RESPONSE IS FILED WITH THE COURT, AND SERVED UPON THE MOVING PARTY 21 DAYS FROM THE DATE OF SERVICE OF THIS MOTION, THE MOTION MAY BE GRANTED BY THE COURT WITHOUT FURTHER NOTICE OR HEARING.**

(c) Motions for Relief from Stay in cases under Chapter 13 shall not be subject to the negative notice provisions as set out hereinabove. Each motion shall be set for hearing.

(1) If an agreement reached between the parties includes a provision for payment of a post petition monetary default through the Chapter 13 Plan (a Hoggle amendment) the agreement shall indicate a single amount, which includes both the amount of the prepetition monetary default and the post petition monetary default, without

deduction for any amounts paid by the Chapter 13 Trustee.

(2) The parties shall not submit a proposed order to the Court unless they have first obtained a determination from the Chapter 13 Trustee that feasibility of the Plan is not affected. If feasibility of the plan is affected, the plan will be modified by the terms of the order.

(d) Motions for relief from the automatic stay to permit a party in a civil action to pursue its claim against a debtor are granted only to the extent of available insurance coverage, unless the Court specifically orders otherwise after notice and hearing.

(e) Any motion for relief from the automatic stay which fails to comply substantially with this rule is subject to dismissal, without prejudice, without notice or a hearing.

(f) An objection to a motion for relief from the automatic stay may be overruled, without a hearing, when the allegations contained in the response fail to allege a legally sufficient basis to oppose the motion or where it appears that a response has been filed in bad faith or for the purposes of delay. Well-pleaded allegations contained in motions which are not specifically denied, may be deemed admitted.

(g) Notwithstanding the language of any motion filed hereunder:

(1) waivers of the 14-day period under Bankruptcy Rule 4001(a)(3) are not permitted, except pursuant to an agreement among the parties or upon a specific finding made by the Court at a hearing held upon notice to the debtor;

(2) relief granted under this rule shall not operate to waive any right a debtor may have with

respect to property under nonbankruptcy law, including the right to notice of sale, notice of disposition of property, or rights of redemption;

(3) unless otherwise ordered, relief from the automatic stay granted under this rule shall apply only to the case in which the motion is filed and shall not be operative in any subsequent case;

(4) unless otherwise ordered, relief granted under this rule shall not operate to grant *in personam* relief.