

RULE 3022-2 - CONSUMMATION - EXTENSION OF TIME

In the event that the plan is not consummated within the time contemplated by the plan, the debtor or the trustee, as appropriate, shall, within thirty (30) days thereafter, file with the Court a request for an extension of time within which to consummate the plan. Such request shall demonstrate cause for the extension or shall otherwise show cause why the case should not be converted or dismissed.

RULE 3070-1 - CHAPTER 13 - PAYMENTS [RESERVED]

RULE 4001-1 - AUTOMATIC STAY - RELIEF FROM

(a) Service. A motion for relief from the automatic stay shall be served on the debtor, the debtor's attorney, the trustee (if a trustee has been appointed), the U.S. Trustee, any co-debtor, any co-debtor's attorney of record, and on such other entities as the Court may direct. In a Chapter 11 case, the motion shall also be served on any committee appointed under the Bankruptcy Code or its authorized agent, any such committee's attorney, or, if no committee has been appointed, the motion shall be served upon all creditors included in the list filed pursuant to Fed. R. Bankr. P. 1007(d). For motions for relief from stay necessitated by the imminent threat of irreparable damage, filed pursuant to 11 U.S.C. § 362(f), service shall be made, to the extent possible, upon the debtor, the debtor's counsel, the trustee (if one has been appointed), the U.S. Trustee, any committee appointed under the Bankruptcy Code or its authorized agent, and upon any other entities known or believed to claim an interest in property that is the subject of the motion. For cause shown, the Court may dispense with notice requirements for § 362(f) motions.

(b) Basis for Relief.

- (1) *Liens, Mortgages and Security Interests.* If the motion requests relief to foreclose upon a mortgage, security interest or other lien upon any interest of the debtor or of the estate in property, the basis of the movant's entitlement to relief must be stated with particularity in the motion. At a minimum, the motion shall set forth: the value of the subject property; the nature of the movant's interest in the property; the manner in which the movant has perfected its interest; all other material liens and encumbrances; the amount of the movant's claim as of the date of the petition; a specification of pre- and post-petition arrearages, costs and interest accruals; and the payment schedule for the claim secured by the property.

If the motion requests relief to foreclose an individual debtor's interest in real property, then the motion shall be filed with a completed verification in accordance with Local Bankruptcy Form 4001-1 (b), appended thereto and signed by an authorized representative of the moving party, unless (1) the movant has obtained the debtor's written consent to the relief requested prior to the motion being filed, or (2) the debtor has indicated an intent to surrender the property pursuant to 11 U.S.C. Section 521 (a)(2).

Failure to append a completed and verified LBF 4001-1(b) to the motion may result in denial of the motion and/or sanctions.

- (2) *Other Motions.* As to all motions not provided for in paragraph (b)(1) of this rule, a full and complete recitation of the basis for which relief is sought shall be provided in the motion. For motions filed under § 362(f) of the Bankruptcy Code,

the movant shall set forth a full and complete explanation of the grounds upon which it asserts that irreparable damage may occur absent expedited treatment.

- (3) *Additional Information.* In addition to the foregoing, the movant shall set forth all information required by D. Me. LBR 9014-1(b) and, by narrative or otherwise, any additional information that is material to the motion.

(c) Scheduling Hearings.

- (1) *Hearing Date.* It is the movant's responsibility to obtain an appropriate hearing date, providing sufficient time for adequate notice and response, using the hearing dates found on the Court's web site or by contacting the Clerk's office.

Scheduling of hearings, and special arrangements for expedited, emergency and ex parte, hearings are governed by the provisions of D. Me. LBR 9013-1.

- (2) *Notice of Hearing Date - Certification.* The movant shall provide notice of the time and date set for hearing to all parties-in-interest. The movant shall file with the Clerk and attach to its motion a certificate of service complying with D. Me. LBR 9042-1.

(d) Response Required.

- (1) *Parties Respondent.* A response to a motion for relief from the automatic stay may be filed by the trustee; the debtor; in Chapter 12 and 13 cases any co-debtor; or by any other party-in-interest wishing to be heard.

- (2) *Time for Response.* A response to a motion for relief from the automatic stay shall be filed in accordance with the notice of hearing and the provisions of D. Me. LBR 9013-1(d) and (e). If the motion is scheduled for expedited or

emergency hearing, the response shall be filed in accordance with the terms of D. Me. LBR 9013-1(i)(3) or (j)(3).

(e) Content of Response. Every response to a motion for relief from the automatic stay shall admit or deny each allegation of the motion and assert such defenses or other matters as may be required to inform the Court of the scope of issues raised by the motion. If value is at issue, the response shall set forth the respondent's position regarding value. In addition, if "adequate protection" is at issue, the responding party shall explain the character of adequate protection offered in lieu of relief from stay. The response shall, as well, provide all additional information, by narrative or other means, that the respondent considers material to a decision on the motion.

(f) Default. If any party-in-interest wishes to be heard in connection with the motion for relief from the automatic stay, it must file a timely written response to the motion in accordance with the response date set in the notice and the pertinent provisions of D. Me. LBR 9013-1. In the absence of a timely and complete response, the Court may enter an appropriate order without further notice or hearing.

(g) Consent to Relief - Chapters 7, 12 and 13. In Chapter 7, 12 and 13 cases, the debtor, the trustee and the moving party may stipulate to the relief requested. In cases under Chapter 7 in which a committee has been elected pursuant to § 705 of the Bankruptcy Code, an authorized agent of the committee must join in the stipulation. Uncontested motions for relief from stay may be filed if the motion is accompanied by signed consents to relief. Such signed consents may be provided in the form of orders, stipulations or motions bearing signed consents of counsel or the parties. A written representation of consent by the moving party will not suffice to permit the motion to be filed as an uncontested motion. A motion that meets the requirements

of this subparagraph qualifies for filing with such reduced or eliminated filing fees as are established for consented to motions for relief from stay.

RULE 4001-2 - CASH COLLATERAL

(a) Motion: Service. A motion or stipulation for authorization to use cash collateral shall be served in accordance with Fed. R. Bankr. P. 4001(b)(1), upon any federal or state taxing authority having a claim against the debtor and upon the U.S. Trustee. A motion or stipulation for authority to obtain credit shall be served in accordance with Fed. R. Bankr. P. 4001(c)(1), upon any federal or state taxing authority having a claim against the debtor and upon the U.S. Trustee.

(b) Basis for Motion. A motion or stipulation for use of cash collateral or for authority to obtain credit shall state the amount of the request, a narrative and budget reflecting the intended use(s) of the funds, the debtor's proposed budget for the use of the funds, the amount of debt encumbering the collateral, and any proposal for providing adequate protection.

(c) Certain Provisions Restricted. Except as provided in section (d), the following provisions in an agreement approving or authorizing the use of cash collateral, obtaining credit, or providing adequate protection, shall be unenforceable:

- (1) Any acknowledgement of the validity, amount, perfection, priority, extent or enforceability of the secured claim, if the agreement or order purports to bind any party other than the debtor, unless the agreement or order affords an objection period of not less than sixty (60) days after the earlier of (i) the Court's approval of the retention of counsel to the creditor's committee, or (ii) an order authorizing the appointment of a trustee, during which period parties may challenge the secured claim on any basis;
- (2) Any release of claims or waiver of defenses by the debtor or estate representative;