

Rule 4001-1

Automatic Stay

(A) **Motion for Relief from Stay.** All motions requesting relief from the automatic stay must contain the following information:

- A title which includes the relief sought and “Notice of Time to Object;”
- The name of the movant;
- The amount owed by the debtor to the movant;
- A complete description, including the value, of any property on which relief is requested; and
- Copies of all documents showing proof of debt must be attached to the motion and include, where applicable, a copy of a vehicle certificate of title showing perfection of a lien or a copy of the mortgage on real property showing recording information by the county clerk, and/or a copy of documents showing perfection of a security interest with filing information.

(1) **Movant.** The movant’s name must be set forth both in the pleading and above the signature line of the attorney for the movant. The attorney’s written name, address, and telephone number must be set forth as required by LBR 9004-1(B).

(2) **Service.** In addition to the service required by Fed. R. Bankr. P. 4001 and 9014, the movant must serve the notice and the motion on the debtor, the debtor’s attorney, and any joint owner or co-borrower who is not a debtor in the case.

(3) **Notice.** A 17 day notice of time to object must be set forth after the motion. The 17 day period includes three (3) days for service by mail allowed by Fed. R. Bankr. P. 9006(f).

The form of the notice is:

NOTICE OF TIME TO OBJECT

YOU ARE HEREBY NOTIFIED that if you desire to oppose this motion, you are required to file with this court and serve on _____, attorney for the movant, whose address is shown above, a written objection to the motion on or before _____, or the relief requested may be granted by the Court.

Dated: _____.

_____(movant)_____

By _____

(4) **Court Action.** In the absence of a timely objection, the Court will consider the motion and may grant relief 18 days after the motion is served.

If a timely objection is filed, the Court will notice and hold a telephonic preliminary hearing on the motion. If after the preliminary hearing an evidentiary hearing is required, the Court will set and hold a final hearing on the motion.

(5) **Proposed Order.** Contemporaneous with the filing of the motion, the movant must submit a proposed order containing a complete description of the property on which relief is requested. The proposed order must be a separate document from the motion and may not contain an attorney's heading in the upper left hand corner. When relief is requested to permit a creditor to exercise its state law remedies with regard to its collateral, the proposed order must contain language which provides that the creditor shall provide an accounting to the trustee or debtor in possession after any sale of the creditor's collateral.

(B) **Motion to Extend the Stay under 11 U.S.C. § 362(c)(3)(B) or Impose the Stay Under 11 U.S.C. § 362(c)(4)(B).** A motion to extend or impose the stay should be filed with the petition or promptly thereafter. The motion must be verified and identify the creditors to be affected by the relief requested and must explain why the present case is filed in good faith as to those creditors.

The movant must obtain a hearing date from the Judge's chambers which shall be within 28 days from the date of filing of the petition. The movant must give at least 10 days notice (seven (7) days plus three (3) days for mailing) prior to the date of the hearing to all creditors against whom relief is sought and must file a certificate evidencing such service. The notice must include a copy of the motion.