

#### 4001-1 *Automatic Stay - Relief from*

**a. Limitation on Combined Motions.** A motion for relief from the § 362(a) stay shall not contain additional requests for relief, except for abandonment and/or adequate protection regarding the same asset. When other requests for relief are impermissibly combined with a motion for relief from the § 362(a) stay, the motion for stay relief (and any related abandonment and/or adequate protection) will be heard. The impermissible requests for relief will only be considered when separately filed.

**b. Procedure.** Procedure for prosecuting and responding to a request for relief from the stay is controlled by a Notice of Preliminary Hearing and Prehearing Order issued by the Clerk after the filing of the motion.

**c. Preliminary Hearing.** All motions for relief from the stay which are set in the Nashville Division for preliminary hearing on a particular day will be called in Courtroom One, Second Floor Customs House, 701 Broadway, at 8:30 A.M. for announcements.

**d. Continuance of Preliminary Hearing.** The agreement of all parties to continue the preliminary hearing of a request for relief from the stay excuses the attendance of counsel if a joint motion and agreed order to continue are filed before Noon on the third business day prior to the preliminary hearing. Otherwise, announcement of an agreement to continue may be made by counsel at the 8:30 A.M. call of the preliminary hearing docket if a joint motion and agreed order are filed no later than Noon of the third business day after the preliminary hearing. Agreed orders continuing the preliminary hearing of a request for relief from the stay shall specify the date and time of the continued hearing, shall continue the stay in effect and include a certificate of service consistent with LBR 9013-3.

**e. Order Granting Relief from Automatic Stay.** In Chapter 7, 12 and 13 cases, orders granting relief from the automatic stay in 11 U.S.C. ' 362(a) must comply with this LBR 4001-1(e).

(1) **Affected Collateral.** Real or personal property that is security for the movant's debt.

(2) **Form of Order.** The forms in Appendix H shall be used when there is Affected Collateral and: (a) no opposition to the motion for stay relief was filed; (b) any filed opposition was withdrawn; or, (c) any opposition was overruled by the court at the Scheduled Hearing. Appendix H forms are available at:

[www.tnmb.uscourts.gov](http://www.tnmb.uscourts.gov)

(3) **Abandonment by Trustee.** If the motion for stay relief states that the Affected Collateral is burdensome or of inconsequential value to the estate, and the trustee does not oppose stay relief, then the forms in Appendix H-3 or H-4

shall be used. Abandonment is only effective if the trustee approves the order for entry.

(4) **FED. R. BANKR. P. 4001(a)(3) Stay.** If the motion for stay relief requests that FED. R. BANKR. P. 4001(a)(3) not apply and there is no opposition to that request, then the forms in Appendix H-2 or H-4 shall be used.

(5) **Agreed Orders.** This LBR 4001-1(e) is not applicable when a motion for stay relief is resolved by agreed order.

**f. Agreement for Adequate Protection Resolving Request for Stay Relief.** Any agreement calling for adequate protection which resolves a request for relief from the stay shall be filed as a Motion for Approval of Agreed Order for Adequate Protection, and shall be filed pursuant to LBR 9013-1.

**g. Agreed Order Resolving Request for Stay Relief - Excusal of Counsel.** An agreed order resolving the merits of a request for relief from the stay excuses the attendance of counsel at a preliminary or final hearing if the parties comply with the notice requirements of FED. R. BANKR. P. 4001(d), and:

(1) for agreements that do not include adequate protection, the agreed order is filed no later than seven days after the preliminary hearing or before Noon of the third business day prior to a final hearing; or

(2) for adequate protection agreements, the LBR 9013-1 Motion for Approval of Agreed Order for Adequate Protection is filed no later than seven days after the preliminary hearing or before Noon of the third business day prior to a final hearing.