

RULE 4001-1 AUTOMATIC STAY - RELIEF FROM

(a) Form of Motion.

(1) Generally a motion for relief from the automatic stay of 11 U.S.C. § 362(a) must be titled "Motion for Relief from Stay" or a similar phrase. The motion's caption must be in the format used in Official Bankruptcy Form 16D for an adversary proceeding. The motion may not be combined with a request for any other relief, except for adequate protection or for relief from the co-debtor stay of 11 U.S.C. § 1201(a) or § 1301(a).

(2) Prospective Relief

(A) Any motion for relief from stay that includes a request for the imposition of an equitable servitude, or any other prospective relief that would limit a stay arising under 11 U.S.C. § 362(a), must be titled in a manner that clearly and conspicuously so states.

(B) Any proposed order submitted by counsel, including any order consented to by adverse parties, must be titled in a manner that clearly and conspicuously so states.

(b) Contents of Motion for Relief from Stay. The following material, when applicable, must be included in a motion for relief from stay:

(1) A detailed statement of the debt owed to Movant;

(2) If periodic payments are in arrears, the amount of arrears accrued prepetition and postpetition;

(3) A description of the property encumbered;

(4) A description of the security interest involved, with attached documents that evidence the security interest and its perfection;

(5) A statement of the basis for the relief claimed, such as, a lack of adequate protection or the absence of equity and that the property is not necessary for an effective

reorganization. The specific facts constituting cause shall be set forth if a motion is brought for cause;

(6) If Movant asserts a valuation of the subject property, the motion should state the amount of the valuation, the date, and the basis therefor (appraisal, blue book, etc.);

(7) The specific nature of the relief from stay that is requested.

(c) Service of Motion and Notice of Hearing.

(1) The Clerk will maintain a list of dates available for hearings on motions for relief from stay for each judge of the court. The list will be posted on the court's website.

(2) Movant must select a hearing date from the list for the judge to whom the case is assigned that is more than twenty-one (21) days after the date of service.

(3) Movant must serve the motion for relief from stay with a hearing notice conforming to Local Bankruptcy Form B.

(d) Response to Motion for Relief from Stay.

(1) Time. An opposition to a motion for relief from stay must be filed within fourteen (14) days after service of the motion (plus any additional time required by Federal Bankruptcy Rules 9006(a) and (f)). The Court Hearing Scheduler (CHS) Program on the court's website and CM/ECF filing screen for this type of motion will compute the date that an objection is due.

(2) Form. The caption of the response must be the same as the form for the caption of the motion as set out in paragraph (a) above.

(3) Pleading. A response must include detailed answers to each numbered paragraph of the motion, in conformity with the requirements of Federal Rule of Civil Procedure 8(b) and (d). All defenses to the motion must be stated in the response.

(4) Response by Standing Chapter 12 and 13 Trustees. Standing Chapter 12 and Chapter 13 Trustees are

served for informational purposes and are not required to respond to motions for relief from stay.

(e) Unopposed Motion. If timely opposition is not filed, the court may grant or otherwise dispose of the motion prior to the scheduled hearing date.

(f) Requirements Under 11 U.S.C. § 362(e).

(1) Waiver. If Movant notices a hearing date more than thirty (30) days after the date of the filing of the motion, Movant is deemed to have consented to the inapplicability of 11 U.S.C. § 362(e) through the day of the hearing on the motion for relief from stay.

(2) Commencement of Measuring Period. A request for relief under 11 U.S.C. § 362(d) is complete to commence the thirty (30) day measuring period under § 362(e) only when filed and noticed in compliance with this Rule.

(g) Deadline for Pre-Filing Exhibits. In cases under Chapter 11, exhibits must be pre-filed as required by Local Bankruptcy Rule 7016-1(c) no later than seven (7) days prior to the noticed hearing date.