

4001-1 AUTOMATIC STAY — RELIEF FROM AND CONTINUATION OR IMPOSITION OF

(a) Procedure for Obtaining Relief from the Automatic Stay. A request for relief from the automatic stay in accordance with § 362 of the Code or the codebtor stay in accordance with § 1201 or § 1301 of the Code, shall be made by motion.

(1) Arrearage. The motion shall state the month and year that the arrearage began.

(2) Real Estate. If the motion relates to real estate, movant shall attach LBR Form 4001-1(a) to the motion. Movant shall also attach to such motion a copy of the deed upon which the debtor acquired title to the property, note(s), mortgages, and other evidence of security interests upon which movant bases its secured claim. The deed and mortgage(s) as attached shall be a copy as recorded with the applicable public recording agency and bearing notations evidencing such recordation. The address of the real estate shall be included in the caption of the motion. The address of the real estate shall be included in the docketing event of the motion in the court's ECF System.

(3) Motor Vehicle. If the motion relates to a motor vehicle, movant shall set forth in the motion the value of such motor vehicle based upon a valuation from any recognized used motor vehicle guide, and the balance claimed due by movant. Movant shall also attach to the motion a copy of the certificate of title to the motor vehicle showing notation of any lien thereon evidencing movant's secured claim and indicating proper perfection under applicable state law.

(4) Personal Property. If the motion relates to personal property other than a motor vehicle, movant shall set forth in such motion a description of the personal property, the estimated value or the appraised value of the personal property, and the balance claimed due for movant's secured claim. Movant shall also attach a copy of the security agreement and/or retail installment contract and, if applicable, copies of financing statements bearing notations of filing with the appropriate public recording agency and indicating proper perfection of such liens under applicable state law.

(5) Parties for Service. Parties who must be served shall include the parties set forth in LBR 9013-3, any applicable codebtor when relief is sought from the codebtor stay, and all holders of liens or encumbrances known to the movant or scheduled by the debtor on the property concerning which relief is sought.

(6) Notice. The motion shall be accompanied by the notice required in LBR 9013-1(a) and shall specify that a failure to file a response and accompanying memorandum on a timely basis may cause the stay to be lifted.

(7) Response. Any response to a motion for relief from stay shall state with particularity the reasons that the motion is opposed and, if appropriate, make a specific offer of adequate protection.

(8) Procedure in Reorganization Cases. Upon the filing of a motion for relief from the stay in chapters 11, 12, or 13 or from the codebtor stay in chapters 12 or 13, the court will issue an order providing that a hearing shall be held on a date set within thirty (30) days of the filing of the motion, fixing a day for the filing of any response to the motion, providing that the stay shall be continued pending the hearing, and providing that the hearing will not be held should a timely response not be filed. In Columbus, this subsection applies only in chapter 11 cases; the Columbus procedure for chapters 12 and 13 cases is available on the court's website.

(9) Preliminary Hearing. Any party may request a preliminary hearing on the motion, supported by a memorandum providing the grounds for the request. Any such request shall be filed no later than seven (7) days after entry of the order setting the final hearing or service of the motion. The request for a preliminary hearing may be included in the motion or the response.

(10) Separate Motion. A motion for relief from the stay or for relief from the codebtor stay shall be filed separately from and not combined in the same filing with any other request for relief except:

(A) a request in the alternative for adequate protection may be included; and

(B) a motion for relief from the stay imposed by § 362 of the Code may be combined with a motion for relief from the codebtor stay imposed by § 1201 or § 1301 of the Code.

(11) Effect of Relief in Chapter 12 and 13 Cases. In chapter 12 and 13 cases the effect of relief from stay upon an entity holding an allowed secured claim is governed by LBR 3001–1(d)(4).

(b) Procedure for Continuation or Imposition of the Automatic Stay. A motion to continue the automatic stay under § 362(c)(3) of the Code or to impose the automatic stay under § 362(c)(4) of the Code filed within five (5) days of the petition filing date need not be accompanied by a motion for an expedited hearing or a motion for a shortened notice period.

(c) Rent. Any deposit of rent made by the debtor or an adult dependent of the debtor pursuant to § 362(l)(1)(B) of the Code shall be in the form of a certified check, cashier's check, or money order payable to the order of the lessor. The deposit shall be delivered to the clerk along with the petition, the certification made under § 362(l)(1)(A) of the Code, and a copy of the judgment of possession. Upon receipt of all of the above, the clerk shall

transmit the certified check, cashier's check or money order to the lessor, by certified mail/return receipt requested, at the lessor's address listed on the petition.