

## 4001-1 **AUTOMATIC STAY - RELIEF FROM**

### **(a) Requirement of Proof of Claim**

Any motion for relief from the automatic stay shall be filed with a copy of the proof of claim and specify whether the movant seeks to terminate, annul, modify, or condition the stay.

### **(b) Service**

Parties for the purpose of service in connection with relief from stay proceedings shall include, but are not limited to:

- (1) the debtor or debtor-in-possession and the debtor's or debtor-in-possession's attorney;
- (2) any applicable co-debtor where relief is sought from the co-debtor stay under [11 U.S.C. §1201](#) or [§1301](#);
- (3) the trustee, if any, appointed in the case;
- (4) the chairperson and counsel for any committee appointed in the case; and
- (5) any party known to the movant holding or claiming an interest in the property.

### **(c) Requirements for Motion**

Except as provided in Local Rule [9013-1](#), a motion for relief from the automatic stay shall be filed separately and not combined in the same motion with any other requests for relief.

### **(d) Effect of No Response to Motion in Chapter 7 Case**

In a Chapter 7 case, if no response to the stay motion is filed within fourteen (14) days, the relief requested will be granted.

### **(e) Hearing for Good Cause in Chapter 7 Case**

A hearing will be scheduled within thirty (30) days of the date of filing the motion if:

- (1) the response is filed within fourteen (14) days of the date of service of the stay motion; and
- (2) good cause for a hearing is stated in the response. Additional time to obtain reaffirmation agreements does not constitute good cause.

### **(f) Chapter 13 Motions**

(1) Upon filing a motion to terminate or modify the stay, the Court will set a hearing no earlier than twenty (20) and no later than thirty (30) days from the date filed.

(2) All motions to terminate or modify the stay that involve real property mortgage arrearages must include a payment history in a format similar to [Appendix to Motion for Relief from Stay - Chapter 13 Real Property, Local Form A](#). The payment history will begin from the later of either the filing of the petition or the month the arrearage started. The following must be included:

- (A) the month the first delinquent payment was due;

- (B) whether any payments were paid subsequent to the date of the first default and how the payment was applied; and
  - (C) the amount of the payment.
- (3) Failure to include the payment history will result in the motion being denied.
- (4) The debtor will have fourteen (14) days to respond to the motion. Any response that contests the amount of arrearage must contain a payment history in a format similar to [Appendix to Motion for Relief from Stay - Chapter 13 Real Property, Local Form A.](#) The payment history shall contain:
- (A) the date the payment was tendered;
  - (B) the amount of the payment;
  - (C) the check or money order number;
  - (D) the month(s) the payment was intended to cover; and
  - (E) copies of the checks or money order receipts or a statement as to why those checks or receipts are not available and when they can be furnished