

## Rule 4001-1. Automatic Stay - Relief From

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A. **General.** A motion for relief from the automatic stay under 11 U.S.C. § 362 shall bear the caption “Motion for Relief From the Automatic Stay.” Proceedings for relief from the automatic stay shall conform to the requirements of Fed. R. Bankr. P. 4001(a)(1) as supplemented by this Local Rule. **This procedure is different from, and not governed by, [Neb. R. Bankr. P. 9013-1](#).**

B. **Co-Debtor Stay.** Motions for relief pursuant to 11 U.S.C. §§ 1201 or 1301 shall contain the caption “Motion for Relief From Co-debtor Stay.” The motion shall specifically identify the co-debtor and the amount of the debt.

A motion for relief from the co-debtor stay of §§ 1201 and 1301 shall proceed pursuant to [Neb. R. Bankr. P. 9013-1](#), provided that the 21-day notice period shall commence to run on the date the motion is filed with the Clerk.

C. **Hearing.** Upon the filing of a motion for relief from the automatic stay, the Clerk shall (1) set a date by which resistances must be filed; (2) schedule the matter for a final hearing to take place within 30 days in conformity with Fed. R. Bankr. P. 4001; and (3) provide notice thereof to the moving party. The hearing may be treated as a preliminary hearing pursuant to 11 U.S.C. § 362(e) if the Court so elects. Unless otherwise ordered, the hearing will be upon affidavits or declarations and documentary evidence. Unless otherwise ordered, oral arguments will be scheduled in the courtroom or by telephone conference.

D. **Notice.** The moving party shall serve notice of the motion for relief from the automatic stay in the manner prescribed in Fed. R. Bankr. P. 7004 upon the debtor and the debtor’s attorney, if any, and those parties specifically designated in Fed. R. Bankr. P. 4001(a)(1). In all cases in which a trustee has been appointed, the trustee or interim trustee shall be named and served as an additional responding party. The moving party shall immediately serve on all parties-in-interest the motion, proposed affidavit or declaration evidence or a detailed summary thereof, notice of the hearing date and the specific calendar date which any resistance with evidentiary summary must be filed and served. Movant must file with the Court a Certificate of Service at least five days prior to the hearing. The notice shall state that [Neb. R. Bankr. P. 4001-1](#) applies.

1. If no timely resistance is filed, the Court will rule on the motion for relief from stay without further notice or hearing.
2. If a timely resistance is filed and served, with evidentiary material or summary, a hearing will take place as scheduled pursuant to this Local Rule, and the moving party and resisting party shall appear at the hearing.
3. Expedited Hearing. If the movant requires an earlier hearing date, movant must file a separate Motion for Expedited Hearing containing the specific

date on which the 30-day period expires.

- E. **Relief from Stay - Applicability of Neb. R. Bankr. P. 9013-1.** Motions for relief under 11 U.S.C. § 362(d) filed by a county respecting tax claims and motions to approve stipulations or agreements which provide for relief from 11 U.S.C. § 362 may proceed under [Neb. R. Bankr. P. 9013-1](#) upon notice and opportunity to request hearing.
  
- F. **Evidentiary Materials.** Exhibits for hearings shall be filed with the Clerk in accordance with the requirements of [Neb. R. Bankr. P. 9017-1](#). Evidence offered at the hearing shall be presented by affidavit pursuant to [Neb. R. Bankr. P. 9017-1](#). Affidavits and exhibits shall be electronically filed with the Clerk's office at least three days prior to the hearing.