

LBR 4001-1. STAY OF 11 U.S.C. § 362

- (a) **General.** Except as provided by this rule, the requirements of LBR 9013-1 through LBR 9013-4 apply to a motion for relief from the automatic stay, extension of the stay, imposition of the stay, or confirmation that the stay is terminated or no longer in effect. If the motion is filed in a chapter 13 case, the moving party must also comply with LBR 3015-1(r).
- (b) **Form.**
- (1) **Motions.** An entity seeking relief from the automatic stay, extension of the stay, imposition of the stay, or confirmation that the stay is terminated or no longer in effect, must file a motion using the court-mandated F 4001-1 series of form motions. The failure to use the mandatory forms may result in the denial of the motion or the imposition of sanctions.
- (2) **Orders.** In addition to the requirement that all orders on § 362 motions comply with LBR 9021-1:
- (A) **Mandatory Form Orders.** Any order granting relief from the automatic stay, extension of the stay, imposition of the stay, or confirming that the stay is terminated or no longer in effect, must be lodged using the court-mandated F 4001-1 series of form orders. The failure to use the mandatory form orders may result in the court not signing or entering the order; and
- (B) **Motions Settled by Stipulation.** Any order granting a motion regarding the stay, as settled by stipulation, must be prepared using the court-mandated F 4001-1 series of form orders and is exempt from the requirements of LBR 9021-1(b)(2). Compliance with the CM/ECF Procedures and Court Manual is required regarding signatures of parties and/or counsel to the stipulated terms.
- (c) **Motion for Relief from Automatic Stay.**
- (1) **Filing and Service.** The motion, notice of hearing, and all supporting papers must be served by the moving party in the time and manner prescribed in LBR 9013-1 on the following parties:
- (A) **Residential Unlawful Detainer Motions.** If the motion seeks relief from the stay to proceed with an unlawful detainer action involving a residential property with a month-to-month tenancy, tenancy at will, or a tenancy terminated by an unlawful detainer judgment, the movant must serve only the debtor and debtor's attorney (if any).
- (B) **Other Relief from Automatic Stay Motions.** In all other cases, the movant must serve:
- (i) The debtor and debtor's attorney (if any);

- (ii) The trustee or interim trustee (if any);
 - (iii) Any applicable codebtor where relief is sought from the codebtor stay under 11 U.S.C. §§ 1201 or 1301;
 - (iv) If relief is sought as to property of the estate, the holder of a lien or encumbrance against the subject property that is known to the movant, scheduled by the debtor, or appears in the public record; and
 - (v) Any other party entitled to notice under FRBP 4001.
- (2) Hearing. Unless the court orders otherwise at the time of the hearing, the preliminary hearing under 11 U.S.C. § 362(e) is consolidated with the final hearing under 11 U.S.C. § 362(d).
- (3) Continuance By Stipulation. A stipulation by the moving party to continue a hearing under 11 U.S.C. § 362(d) to a later date is deemed a waiver of the applicable portions of 11 U.S.C. § 362(e) until the conclusion of the hearing on such later date. Unless otherwise ordered, an order by the court to continue a hearing under 11 U.S.C. § 362 to a later date is deemed to include an order continuing the stay in effect until the conclusion of the hearing on such later date.
- (4) Separate Motion. A motion for relief from the automatic stay must be filed separately from, and not combined in the same pleading with, any other request for relief, unless otherwise ordered by the court.
- (d) Motion for Extension or Imposition of Stay.**
- (1) An entity seeking an extension of the stay under 11 U.S.C. § 362(c)(3)(B) or imposition of the stay under 11 U.S.C. § 362(c)(4)(B) must file a motion and serve the motion, notice of hearing, and supporting papers as provided in subsection (c)(1) of this rule and upon all other parties in interest against whom extension or imposition of the stay is sought.
- (2) The motion must be filed promptly after the petition date to be timely considered and, if necessary, accompanied by a separate motion under LBR 9075-1(b) for a hearing on shortened notice.
- (e) Motion for Order Confirming Termination of Automatic Stay.**
- (1) An entity requesting an order under 11 U.S.C. § 362(j) confirming termination of the automatic stay must file a motion supported by a declaration containing competent evidence establishing that the stay has terminated or was never in effect under 11 U.S.C. § 362(c).
- (2) The motion and supporting declaration must be served as provided in subsection (c)(1) of this rule.

(f) Deposit of Rent under 11 U.S.C. § 362(l).

- (1) Any rent deposited with the clerk of the court pursuant to 11 U.S.C. § 362(l)(1)(B) must be in the form of a certified or cashier's check or money order payable to the lessor or landlord in the amount of any rent that would become due during the 30-day period after the filing of the bankruptcy petition.
- (2) The rent must be deposited with the clerk of the court at the time the bankruptcy petition is filed. The rent deposit and the bankruptcy petition must be accompanied by a copy of the judgment for possession.
- (3) As the certification to be filed and served pursuant to 11 U.S.C. § 362(l)(2), debtor may use the court-approved form F 4001-1.2, Debtor's Further Certification of Cure of Monetary Default Underlying Judgment for Possession of Residential Property and Proof of Deposit (11 U.S.C. § 362(l)(2)). This certification must be filed and served within 30 days after the filing of the bankruptcy petition in accordance with 11 U.S.C. § 362(l)(2).
- (4) Pursuant to 11 U.S.C. § 362(l)(5)(D), the clerk will transmit the payment to the lessor at the address listed in the section on page 2 of the bankruptcy petition entitled "Statement by a Debtor Who Resides as a Tenant of Residential Property."

- (g) Relief from Automatic Stay to Proceed in Another Forum.** If the court grants a motion to lift the automatic stay and to proceed in another forum, the prevailing party must promptly file a copy of the entered order in that forum.

LBR 4001-2. CASH COLLATERAL AND FINANCING ORDERS

- (a) General.** The requirements of LBR 9013-1 through LBR 9013-4 apply to a motion to obtain credit or to approve the use of cash collateral, debtor in possession financing, and/or cash management under 11 U.S.C. §§ 363 or 364 (collectively, "Financing Motion"), except as provided by this rule.
- (b) Provisions to be Identified.** To the extent not otherwise required by FRBP 4001(b)(1)(B) and (c)(1)(B), a Financing Motion must identify whether the proposed form of order and/or underlying cash collateral stipulation or loan agreement contains any provision that:
- (1) Grants cross-collateralization protection (other than replacement liens or other adequate protection) to the prepetition secured creditors (*i.e.*, clauses that secure prepetition debt by postpetition assets in which the secured creditor would not otherwise have a security interest by virtue of its prepetition security agreement or applicable law);
 - (2) Binds the estate or all parties in interest with respect to the validity, perfection, or amount of the secured creditor's prepetition lien or debt or the waiver of claims against the secured creditor;
 - (3) Waives or limits the estate's rights under 11 U.S.C. § 506(c);