

## **RULE 4001-1**

### **RELIEF FROM AUTOMATIC STAY**

(a) **Motions for Relief from Stay.** A motion for relief from the automatic stay must be filed and served, with a notice of hearing, on the debtor, the debtor's attorney, the trustee, those parties designated in Fed. R. Bankr. P. 4001(a)(1), if applicable, and any codebtor and codebtor's attorney. The notice must substantially conform to Official Form 20A and identify the date by which objections must be filed and served. A notice required by this rule may include a statement that the relief requested may be granted without a hearing unless an objection is timely filed.

(b) **Objections to Motions for Relief from Stay.** An objection to a motion for relief from stay must be filed and served within the response period set forth in Local Rule 9006-1(b)(2). The objection must admit or deny each factual allegation of the motion. A factual allegation is admitted for the purpose of the hearing on the motion unless the objecting party denies the factual allegation, or sets forth the reason why the party cannot admit or deny the factual allegation. The movant may file a reply to the response within the time period fixed by Local Rule 9006-1(c).

(c) **Hearings on Motions for Relief from Stay.** Hearings on motions for relief from stay may be set as evidentiary hearings or a time for hearing objections to a motion for relief from stay may be reserved on the courts law and motion calendar.

(1) **Set Hearing.** If the movant obtains from the court a set date for the hearing on its motion for relief from stay in accordance with Local Rule 9013-1, the hearing will be conducted as an evidentiary hearing. Unless otherwise ordered by the Court, the parties should be prepared to present evidence and live testimony at the hearing. The notice of

hearing required under subsection (a) should state that the hearing will be an evidentiary hearing. If an objection is not timely filed the moving party may request, and the court may grant, the relief requested without a hearing pursuant to Local Rule 9013-1(f).

(2) Opportunity for hearing. If the movant reserves a time for hearing on its motion for relief from stay on the court's law and motion calendar in accordance with Local Rule 9013-2, and if an objection is timely filed, the initial hearing will be conducted as a preliminary hearing. At the preliminary hearing detailed offers of proof should be made but no live testimony will be taken. The detailed offer of proof should describe the evidence to be presented, what the evidence tends to show and identify the grounds for admitting the evidence. If following the preliminary hearing there appears to be no genuine issues of material fact, the court may rule on the motion. If genuine issues of material fact are demonstrated at the preliminary hearing, the court may set the matter for a final hearing, which may be an evidentiary hearing. If an objection is not timely filed the moving party may request, and the court may grant, the relief requested without a hearing pursuant to Local Rule 9013-2(f).

(d) Waiver of Stay of Order Under Fed. R. Bankr. P. 4001(a)(3). Requests for waiver or reduction of the automatic 14-day stay of an order granting a motion for relief from stay shall set forth concisely but with specificity the basis for the proposed waiver or reduction of the 14-day stay.