

PART IV.
AUTOMATIC STAY; DEBTOR'S DUTIES AND BENEFITS

4001-1. Motions For Relief From Stay.

(a) Procedure and Supporting Documents.

A motion for relief from stay shall be so titled and shall be accompanied by the declaration of an individual competent to testify which sets forth the factual basis for the motion. The motion shall describe the relief sought and shall advise the respondent to appear personally or by counsel at the preliminary hearing.

(b) Cover Sheet.

Every motion for relief from stay shall be filed with a completed Relief From Stay Cover Sheet. Relief From Stay Cover Sheets shall be available in the Office of the Clerk and on the Bankruptcy Court's website.

(c) Preliminary Hearings.

Unless otherwise ordered, motions shall be set for preliminary hearing not less than 14 days after service. Motions shall be served the same day they are filed or sent for filing.

(d) Hearing Dates.

The Clerk shall make available a list of available hearing dates. It is the responsibility of the moving party to select a hearing date which satisfies the notice requirements of this rule.

(e) Oral Testimony.

Unless otherwise ordered, no oral testimony will be received by the Court at any hearing on a motion for relief from stay.

(f) Response.

A respondent will not be required to, but may, file responsive pleadings, points and authorities, and declarations for any preliminary hearing.

(g) Inclusion of an Account Statement.

(1) As to motions for relief from the automatic stay wherein the movant alleges that the debtor has failed to maintain post-petition payments on an obligation, the motion shall include a post-petition account statement and a declaration attesting to the statement's accuracy. Both documents shall be written in language comprehensible to a lay person, and shall include the following information:

- a. a description of the post-petition obligations that have accrued and are unpaid;
- b. all payments received post-petition;
- c. the date each post-petition payment was received;
- d. the date each post-petition payment was posted to the subject account, if different from the date received.

If, for any reason, the timing or amount of the last payment which fell due pre-petition is different from any payments which have accrued post-petition, the moving party must briefly state the reason for the change and whether the debtor was given written notice of the changed amount.

As to defaults in post-petition payments to a Chapter 13 trustee, a printout from the Chapter 13 trustee's on-line information system itemizing post-petition payments will suffice.

(2) If the motion for relief from the automatic stay is based upon a failure to make pre-petition payments, then the requirements for an account statement referenced in paragraph (g)(1)(a) through (d) shall extend to all pre-petition obligations that have accrued and are unpaid.

(3) If a moving party fails to comply with paragraphs (g)(1) or (2) of this rule, the Court may, in its discretion, impose such monetary or nonmonetary remedies as it deems appropriate.

4001-2. Motions to Extend or Impose the Automatic Stay.

(a) Motion Required.

Any party in interest seeking to extend the automatic stay pursuant to 11 U.S.C. § 362(c)(3)(B) or to impose the stay pursuant to 11 U.S.C. § 362(c)(4)(B) must file a motion in accordance with Bankruptcy Rule 9013, thus initiating a contested matter under Bankruptcy Rule 9014.

(b) Contents.

The moving party must state whether continuation or imposition of the automatic stay is sought with respect to all creditors or only specified creditors, who must be identified by name. The moving party must also set forth facts in support of the motion, established by declarations as appropriate, showing that the filing of the present case is in good faith as to the creditors to be stayed and describing the circumstances that led to the dismissal of any prior case(s) concerning the debtor.