

Rule 4001-1 Automatic Stay - Relief from

Tue, 2010-10-05 10:19 | by **admin**

- a. **Order Establishing Response and Hearing Dates.** When a motion for relief from the automatic stay is filed, the clerk will provide to the movant an order setting an answer date and a hearing date. Unless service is made electronically through the ECF system, the movant must serve the order upon the persons specified under [F.R.B.P. 4001](#) and [L.B.R. 4001-6](#). In the alternative, a self-scheduled motion for the relief from the automatic stay will proceed as outlined in [L.B.R. 9002-1](#).
- b. **Combination of Motions.** A motion for relief from the stay may not be combined with a request for any other relief.
- c. **Proposed Order.** Each motion for relief from the automatic stay must be accompanied by a proposed order granting the relief requested in the motion.
- d. **Contents of Motion.** The motion seeking relief must state the following:
 1. the location of the property;
 2. the priority of the movant's lien relative to any other liens against the property, if known without further inquiry;
 3. the contract amount of current monthly installments; and
 4. the stage to which debt enforcement or foreclosure actions had progressed when the order for relief was entered.
- e. **Debtor's Principal Residence.** If relief is sought for a post-petition default in a chapter 11 or 13 case with respect to property that is a debtor's principal residence, the movant must file [L.B.F. 4001-1](#) with the motion.
- f. **Concurrence in Motion.** The movant must seek the concurrence of the debtor and of the trustee, if one has been appointed in the case. The movant must file a certificate with the motion for relief stating whether concurrence was obtained. If a certificate of concurrence/nonconcurrence is not filed with the motion for relief, the court may deny the motion *sua sponte*.