

PROCEDURES CONCERNING
MOTIONS FOR RELIEF FROM STAY IN
CASES DISMISSED PURSUANT TO
GENERAL ORDER 96-06

Pursuant to General Order 96-06, bankruptcy cases are dismissed as a matter of course by the clerk's office with a 180-day bar against the debtor's refiling if the debtor fails to file complete case commencement documentation, schedules or other required documents in a timely manner. These dismissals occur even if, prior to the date of the dismissal, a party in interest has filed a motion for relief from the automatic stay in the case. The order and notice of dismissal generated by the clerk's office provides that, "The case is dismissed, the automatic stay is vacated, and all pending motions and adversary proceedings are moot and dismissed."

In most instances, termination of the automatic stay coupled with a 180-day prohibition on refiling will provide sufficient protection to the party that moved for relief from the automatic stay to obviate the need for the Court to proceed to hearing on the motion. However, if the moving party requested forms of extraordinary relief other than or in addition to a 180-day bar on the debtor's refiling, the moving party may wish to proceed to hearing on its motion notwithstanding the dismissal in an effort to obtain these additional forms of extraordinary relief. Therefore, in order to provide an opportunity for the moving party in such cases to proceed to hearing on its motion notwithstanding the dismissal, while ensuring that the debtor and other parties in interest receive adequate notice of the movant's intention to proceed notwithstanding the dismissal, Judge Bluebond has adopted the following procedures:

Any motion for relief from stay filed in a case prior to the dismissal of the case pursuant to General Order 96-06 between the date of the filing of the motion and the date of hearing on the motion will itself be dismissed as moot, unless (a) the moving party requested extraordinary relief other than or in addition to a 180-day prohibition against the debtor's refiling in its original moving papers and (b) the moving party does both of the following:

1. Serves the following on the debtor, counsel for the debtor (if any), any trustee appointed in the case, the United States Trustee and all other parties entitled to receive notice of the hearing on its motion within 2 business days after the moving party's receipt of notice that the case has been dismissed: (a) a written notice, advising the parties that the moving party intends to proceed to hearing on its motion for relief from stay notwithstanding dismissal of the underlying case, and setting forth the date, time and place of the hearing on the motion; **and** (b) a copy of this local, local rule.

2. Files with the court, at or before the commencement of the hearing on the motion, a declaration under penalty of perjury evidencing that it has served the documents described in paragraph 1 above in a timely manner upon the appropriate parties.

Provided the moving party satisfies the foregoing conditions, Judge Bluebond will hear the motion for relief notwithstanding dismissal of the underlying case and, if the motion is granted, will vacate the dismissal of the underlying bankruptcy case to the extent necessary to permit the entry of an order granting the motion.