

**PROCEDURES CONCERNING**  
**MOTIONS FOR RELIEF FROM STAY IN**  
**DISMISSED CASES**

Bankruptcy cases are generally dismissed as a matter of course by the clerk's office 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 resulting from dismissal 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 requests extraordinary relief or a 180-day bar on the debtor's refile, the moving party may wish to proceed to hearing on its motion notwithstanding the dismissal in an effort to obtain these 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 prior to the dismissal of a case that has not been resolved before the dismissal of the case will be denied as moot, unless (a) the moving party requested extraordinary relief 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.