

LBR 4001-1. STAY OF 11 U.S.C. § 362

- (a) **General.** Except as provided by this rule, the requirements of LBR 9013-1 through LBR 9013-4 apply to a motion for relief from the automatic stay, extension of the stay, imposition of the stay, or confirmation that the stay is terminated or no longer in effect. If the motion is filed in a chapter 13 case, the moving party must also comply with LBR 3015-1(r).
- (b) **Form Motions and Orders.**
- (1) **Motions.** An entity seeking relief from the automatic stay, extension of the stay, imposition of the stay, or confirmation that the stay is terminated or no longer in effect, must file a motion using the court-mandated F 4001-1 series of form motions. The failure to use the mandatory forms may result in the denial of the motion or the imposition of sanctions.
- (2) **Orders.** In addition to the requirement that all orders on § 362 motions comply with LBR 9021-1:
- (A) **Mandatory Form Orders.** Any order granting relief from the automatic stay, extension of the stay, imposition of the stay, or confirming that the stay is terminated or no longer in effect, must be lodged using the court-mandated F 4001-1 series of form orders. The failure to use the mandatory form orders may result in the court not signing or entering the order; and
- (B) **Motions Settled by Stipulation.** Any order granting a motion regarding the stay, as settled by stipulation, must be prepared using the court-mandated F 4001-1 series of form orders and is exempt from the requirements of LBR 9021-1(b)(2). Compliance with the CM/ECF Procedures contained in the [Court Manual](#) is required regarding signatures of parties and/or counsel to the stipulated terms.
- (c) **Motion for Relief from Automatic Stay.**
- (1) **Filing and Service.** The motion, notice of hearing, and all supporting documents must be served by the moving party in the time and manner prescribed in LBR 9013-1(d) on the following parties:
- (A) **Residential Unlawful Detainer Motions.** If the motion seeks relief from the stay to proceed with an unlawful detainer action involving a residential property with a month-to-month tenancy, tenancy at will, or a tenancy terminated by an unlawful detainer judgment, the movant must serve only the debtor and debtor's attorney (if any).
- (B) **Motions Requesting Relief Applicable in Future Cases, Including Under 11 U.S.C. § 362(d)(4).** If a motion seeks relief from the stay applicable in future cases (sometimes called "in rem" or "ex parte" relief), the movant must serve the person(s) who executed the documents through which the

movant asserts its interest in the property (sometimes referred to in the mortgage context as the “original borrower”, and in the leasehold context, the “original lessee”), in addition to those persons and entities required by LBR 4001-1(c)(1)(C).

- (C) Other Relief from Automatic Stay Motions. In all other cases, the movant must serve:
- (i) The debtor and debtor’s attorney (if any);
 - (ii) The trustee or interim trustee (if any);
 - (iii) Any applicable codebtor where relief is sought from the codebtor stay under 11 U.S.C. §§ 1201 or 1301;
 - (iv) If relief is sought as to property of the estate, the holder of a lien or encumbrance against the subject property that is known to the movant, scheduled by the debtor, or appears in the public record; and
 - (v) Any other party entitled to notice under FRBP 4001.
- (2) Hearing. Unless the court orders otherwise at the time of the hearing, the preliminary hearing under 11 U.S.C. § 362(e) is consolidated with the final hearing under 11 U.S.C. § 362(d).
- (3) Continuance By Stipulation. A stipulation by the moving party to continue a hearing under 11 U.S.C. § 362(d) to a later date is deemed a waiver of the applicable portions of 11 U.S.C. § 362(e) until the conclusion of the hearing on such later date. Unless otherwise ordered, an order by the court to continue a hearing under 11 U.S.C. § 362 to a later date is deemed to include an order continuing the stay in effect until the conclusion of the hearing on such later date.
- (4) Separate Motion. A motion for relief from the automatic stay must be filed separately from, and not combined in the same document with, any other request for relief, unless otherwise ordered by the court.
- (d) **Motion for Extension or Imposition of Stay.**
- (1) A party in interest seeking an extension of the stay under 11 U.S.C. § 362(c)(3)(B) or imposition of the stay under 11 U.S.C. § 362(c)(4)(B) must file a motion and serve the motion, notice of hearing, and supporting documents as provided in subsection (c)(1) of this rule and upon all other parties in interest against whom extension or imposition of the stay is sought.
 - (2) The motion must be filed promptly after the petition date to be timely considered and, if necessary, accompanied by a separate motion under LBR 9075-1(b) for a hearing on shortened notice.

(e) Motion for Order Confirming Termination of Automatic Stay.

- (1) A party in interest requesting an order under 11 U.S.C. § 362(j) confirming termination of the automatic stay must file a motion supported by a declaration containing competent evidence establishing that the stay has terminated or was never in effect under 11 U.S.C. § 362(c).
- (2) The motion and supporting declaration must be served as provided in subsection (c)(1) of this rule.

(f) Deposit of Rent under 11 U.S.C. § 362(l).

- (1) Any rent deposited with the clerk of the court pursuant to 11 U.S.C. § 362(l)(1)(B) must be in the form of a certified or cashier's check or money order payable to the lessor or landlord in the amount of any rent that would become due during the 30-day period after the filing of the bankruptcy petition.
- (2) The rent must be deposited with the clerk of the court at the time the bankruptcy petition is filed. The rent deposit and the bankruptcy petition must be accompanied by a copy of the judgment for possession and Official Form 101A, Initial Statement About an Eviction Judgment Against You.
- (3) As the certification to be filed and served pursuant to 11 U.S.C. § 362(l)(2), debtor must use Official Form 101B, Statement About Payment of an Eviction Judgment Against You. This certification must be filed and served within 30 days after the filing of the bankruptcy petition in accordance with 11 U.S.C. § 362(l)(2).
- (4) Pursuant to 11 U.S.C. § 362(l)(5)(D), the clerk will transmit the payment to the lessor at the address listed Official Form 101A, Initial Statement About an Eviction Judgment Against You.

(g) Relief from Automatic Stay to Proceed in Another Forum. If the court grants a motion for relief from the automatic stay to proceed in another forum, the prevailing party must promptly file a copy of the entered order in that forum.

(h) Application Confirming Loan Modification Will Not Violate the Stay. An application for order confirming loan modification does not violate the automatic stay must be served on the debtor, debtor's attorney, and applicable lender, and may be ruled on without a hearing pursuant to LBR 9013-1(p).

LBR 4001-2. CASH COLLATERAL AND DEBTOR IN POSSESSION FINANCING

(a) Use of Mandatory Form for Cash Collateral and/or Debtor in Possession Financing Motions or Stipulations. Each motion to obtain credit or to approve the use of cash collateral, debtor in possession financing, and/or cash management under 11 U.S.C. §§ 363 or 364, or related stipulation (collectively, "Financing Motion") must be accompanied by mandatory court-approved form [F 4001-2.STMT.FINANCE](#).

- (b) **Final Hearing.** Ordinarily, the final hearing on a Financing Motion will be held at least 14 days after the appointment of the creditors' committee contemplated by 11 U.S.C. § 1102.

LBR 4002-1. DUTIES OF DEBTOR AT MEETING OF CREDITORS

- (a) **General.** In addition to the requirements of 11 U.S.C. § 521(h) and FRBP 4002(b), debtors must comply with the following duties at the meeting of creditors held pursuant to 11 U.S.C. § 341(a) and FRBP 2003.
- (b) **Chapter 11 Debtors.** A chapter 11 debtor must comply with LBR 2015-2.
- (c) **Chapter 13 Debtors.** Individuals who file a chapter 13 case must comply with the requirements set forth in LBR 3015-1(c), (e)(3)(C), (k)(1), and (m)(6)(C).
- (d) **Joint Debtors.** Individuals who file a case jointly pursuant to 11 U.S.C. § 302 must, upon request, present evidence to support their joint filing status, such as a copy of the marriage license.

LBR 4003-2. LIEN AVOIDANCE

- (a) **General.** The requirements of LBR 9013-1 through LBR 9013-4 apply to a motion to avoid a lien or other transfer of property pursuant to 11 U.S.C. § 522(f), except as provided by this rule.
 - (1) A motion to avoid a lien or other transfer of property under 11 U.S.C. § 522(f) may be brought under either LBR 9013-1(d) or (o).
 - (2) A motion to sell property free and clear of liens under 11 U.S.C. § 363(h) does not constitute a "proceeding to avoid a lien" within the meaning of this rule.
- (b) **Contents of Notice and Motion.**
 - (1) A creditor whose lien is to be avoided must be identified in the notice and motion. A separate notice and motion must be filed for each lien sought to be avoided.
 - (2) If the motion seeks to avoid a lien on real property, the motion and proposed order must include the legal description of the real property.
- (c) **Service.**
 - (1) The motion, notice, and supporting documents must be served on the holder of the lien to be avoided in the same manner as a summons and complaint under FRBP 7004.
 - (2) The motion, notice, and supporting documents also must be served on any other holder of a lien or encumbrance against the subject property.

- (d) **Evidence.** The motion must be accompanied by a declaration or other competent evidence establishing:
- (1) The balance remaining on the creditor's loan;
 - (2) The fair market value of the subject property;
 - (3) The identity of any other holder of a lien encumbering the subject property and the amount due and owing on such lien;
 - (4) The specific statutory authority for the claimed exemption; and
 - (5) The value or amount claimed exempt.

LBR 4008-1. REAFFIRMATION AGREEMENTS

- (a) **Form.** A reaffirmation agreement must conform to [Official Form 2400A/B ALT](#), Reaffirmation Agreement. If the reaffirmation agreement concerns a secured debt, a complete and legible copy of the security agreement, including the front and back of each page, must be attached.
- (b) **Reaffirmation without Representation or Certification by Debtor's Attorney.** In a case where the debtor is not represented by an attorney, or where the attorney is unwilling or unable to sign Part C: Certification by Debtor's Attorney, the debtor must move for approval of the reaffirmation agreement by the court by completing Part E: Motion for Court Approval of [Official Form 2400A/B ALT](#).
- (c) **Deadline for Filing.** A reaffirmation agreement and a motion for approval of the reaffirmation agreement under 11 U.S.C. § 524 must be filed by the debtor or creditor within 60 days following the conclusion of the first meeting of creditors under 11 U.S.C. § 341(a), unless otherwise ordered by the court.
- (d) **Hearing and Approval by Court.**
- (1) **Notice of Hearing.** The clerk will set a hearing on the motion for approval of the reaffirmation agreement and give notice to the debtor and creditor of the date, time, and place of such hearing if:
 - (A) The debtor was not represented by an attorney or the attorney representing the debtor was unwilling or unable to sign Part C: Certification by Debtor's Attorney; or
 - (B) Where a presumption of undue hardship arising under 11 U.S.C. § 524(m)(1) is not rebutted by the debtor to the satisfaction of the court.
 - (2) **Debtor Must Appear.** The court will not grant a motion to approve a reaffirmation agreement unless the debtor appears in person at the hearing to respond to questions by the court.

- (3) Order. If a hearing is required, the court will prepare and deliver an order either granting or denying the motion for approval of the reaffirmation agreement.
- (4) When Hearing Not Required. Under all other circumstances, unless otherwise ordered by the court, court approval is not required in a case where the debtor was represented by an attorney during the negotiation of the reaffirmation agreement.