

**LOCAL RULE 4001-1**  
**Procedure for Motions for Relief from the Automatic Stay**

(a) *Scope and Purpose of this Rule* - This Rule governs all motions made pursuant to FED. R. BANKR. P. 4001(a) for relief from the automatic stay provided for in section 362(a) of the Code.

(b) *Filing, Notice and Service* - All motions for relief from the automatic stay shall be filed with the Clerk as directed in LBR 5001.

(1) Relief from the automatic stay may be requested by using the procedure described in LBR 9013(c), subject to the requirements of subsection (b)(2) below, except that in a chapter 7 case, the procedure may not be used without the consent of the chapter 7 trustee until after the section 341 meeting has been commenced. Use of this procedure will be deemed to constitute a waiver by the movant of the time limitations stated in section 362(e) of the Code. If a hearing is requested or a response is filed by a party to these proceedings, only the final hearing will be scheduled under LBR 9013(c)(3). The automatic stay shall continue in effect until such hearing is held. Nothing in this subsection shall prohibit a party from seeking relief from stay under section 362(e) of the Code without using the procedure described in LBR 9013(c).

(2) *Documentation Required for Use of LBR 9013* - Any party filing a motion for relief from the automatic stay under section 362(e) of the Code pursuant to subsection (b)(1) above shall attach to its motion documentary proof that the lien has been perfected in accordance with applicable law.

(3) If the movant decides not to use the procedure outlined in LBR 9013(c), or if the Court determines, in its discretion, that the relief from stay action should proceed by preliminary and final hearing, the Clerk shall schedule the preliminary hearing on the motion for a date within 30 days from the filing of the motion, and a final hearing for a date within an additional 30 days. Whenever such scheduling would violate the time limits of the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, or these Local Bankruptcy Rules, the Clerk shall make such alternative provisions as are required to remain in compliance with section 362(e) of the Code. The Clerk shall return a time-stamped copy of the motion, together with a copy of the notice, to the movant for service. The movant must file a proof of service before the preliminary hearing, and in any event, before any relief may be granted on the motion.

(c) *Preliminary and Final Hearings* - At the preliminary hearing the Court shall determine (1) whether material, disputed issues of fact exist, and (2) whether there is a reasonable likelihood that the party opposing the relief will prevail. These issues will be decided solely upon the arguments of counsel and may be limited to one hour or less, unless the Court upon prior request of counsel permits another procedure. The parties may further request that a preliminary hearing be treated as a final hearing. If the Court finds the existence of material, disputed facts and a likelihood that the party opposing relief will prevail, the hearing may be adjourned to a final hearing. At the preliminary hearing the Court may decide questions of law, may define factual or legal issues to be decided at the final hearing, and may issue an appropriate scheduling order. If the preliminary hearing is adjourned to the final hearing, the stay shall remain in place until the final hearing. The Court may take necessary actions to adequately protect the moving party's property interests in the interim. Testimony at the final hearing will be limited to one hour unless a party requests and obtains a time and date for a longer hearing prior to, at, or as soon as practicable after the preliminary hearing.

(d) *Settlements* - Nothing in this Local Bankruptcy Rule shall prohibit the parties from concluding a stipulated settlement of the motion in accord with LBR 7090 or 4001-3.