Rule 4001-1

AUTOMATIC STAY

(a) ***Motions to Extend or Impose the Automatic Stay.*** A motion to extend the automatic stay under 11 U.S.C. § 362(c)(3) must be filed and served upon interested parties within seven days of the filing of the petition. A motion to impose the automatic stay under 11 U.S.C. § 362(c)(4) must be filed and served upon interested parties as soon as practicable after the filing of the petition. Motions to extend the automatic stay under 11 U.S.C. § 362(c)(3) and motions to impose the automatic stay under 11 U.S.C. § 362(c)(4) must be filed using the Court's mandatory form which is available on the Court's website, www.flmb.uscourts.gov.

(b) ***Motions to Confirm that No Automatic Stay Is in Effect Under 11 U.S.C. § 362(j).*** No filing fee is required for motions filed under 11 U.S.C. § 362(j) to confirm that the automatic stay or the codebtor stay is terminated under 11 U.S.C. § 362(c)(3) or did not become effective under 11 U.S.C. § 362(c)(4). The motion must include the date of filing and date of dismissal of the debtor's prior bankruptcy case(s), and, if the prior bankruptcy case(s) were in another district, copies of court records reflecting this information.

(c) ***Motions for Relief from Stay.***

(1) ***Chapters 7 and 11.*** Motions for relief from the automatic stay in Chapter 7 and 11 cases must include the following:

(A) copies of loan documents, including filing and recording information necessary to establish a perfected security interest;

(B) if the basis for the motion is lack of equity under 11 U.S.C. § 362(d)(2)(A), evidence of value; and

(C) a statement of indebtedness, including information regarding any default under the loan.

(2) ***Chapters 12 and 13.***

(A) ***Generally.*** The Court discourages secured creditors whose claims are being paid through the debtor's Chapter 12 or Chapter 13 plan payments from seeking relief from the automatic stay based upon the debtor's default in plan payments. In most instances, the Court will rely upon the trustee to monitor payments under the plan and to file a motion to dismiss, if appropriate.

(B) ***Plan Provides for Surrender of Property, Direct Payment to Secured Creditor, or Does Not Provide for Claim.*** If the debtor's Chapter 12 or Chapter 13 plan provides for the surrender of collateral to the movant, for the debt to be paid by the debtor directly to the movant rather than through the Chapter 13 trustee's office, or does not provide for

the movant's claim under the plan, the movant must include a statement to that effect. If the statement is in the form of an affidavit or declaration by the movant's attorney, the Court's negative notice procedures do not apply and an order granting the motion will be entered without a hearing. If the stay has terminated as a result of the treatment of the movant's claim under the plan and the Court's administrative order prescribing procedures for Chapter 13 cases, the movant may use this procedure to file a motion to confirm that the automatic stay is not in effect. No filing fee is required for a motion filed under this subsection.

(C) ***Motions for Relief from Codebtor Stay.*** Motions for relief from the codebtor stay imposed by 11 U.S.C. §§ 1201(a) or 1301(a) must establish that the debtor's Chapter 13 plan does not provide for payment in full of the movant's claim or that the movant's interest will be irreparably harmed by continuation of the codebtor stay. The moving party may combine a request for relief from the codebtor stay with a request for relief from stay as to the debtor in a single motion. However, if a motion for relief from the codebtor stay is combined with a motion for relief from stay as to the debtor using the negative notice procedures of Local Rule 2002-4, the moving party waives the right to enforce the 20-day deadline contained in 11 U.S.C. §§ 1201(d) or 1301(d) and the stay will remain in effect until the Court's ruling on the requested relief.

(3) ***Requests for Waiver of the 14-Day Stay Under Fed. R. Bankr. P. 4001(a)(4).*** Generally, the Court will grant a request for waiver of the 14-day stay under Fed. R. Bankr. P. 4001(a)(4) if the request is included in a motion for relief from stay as to real property. Absent compelling circumstances, the Court will deny a request for waiver of the 14-day stay with respect to motor vehicles.

(4) ***Standing.*** Unless the issue of standing is actually litigated and determined by the Court, the Court's order granting or denying a motion for relief from stay will not make a determination that the movant has standing to seek the relief requested in the motion or any related action pending in another court.

(5) ***Effect of Conversion on Pending Motion.*** If a case is converted from one chapter to another while a motion for relief from stay is pending, the Court's order of conversion will provide for the abatement of the motion until the movant files an amended motion and serves the amended motion upon all appropriate parties, including the trustee appointed in the converted case. No filing fee will be assessed for the amended motion.

(6) ***Effect of Dismissal on Pending Motion.*** If a case is dismissed while a motion for relief from stay is pending, the Court's dismissal order will confirm that the stay is terminated by operation of law upon the effective date of the dismissal order and will deny all pending motions that do not fall within the exceptions below. All pending hearings will be cancelled except for the following, over which the Court will retain jurisdiction:

(A) motions for relief from stay that:

(i) are scheduled for hearing within 14 days of the date of the dismissal order; or

(ii) request an order binding upon the debtor in subsequently filed cases;

(B) any pending motion or order to show cause for dismissal with prejudice; and

(C) motions for sanctions arising from alleged violations of the automatic stay.

(7) ***Inspection of Property.*** Upon reasonable notice, the moving party will be entitled to inspect the property that is the subject of a motion for relief from the automatic stay. The notice must provide for inspection not less than seven days from the date of service of such notice, unless the time is shortened by the Court.

(8) ***Discovery Response Time.*** For the purpose of this rule, the time for responding to discovery requests under Fed. R. Bankr. P. 7030, 7034, and 7036 is reduced to 21 days, unless otherwise directed by the Court.

(9) ***Expert Witness Testimony.*** A party who intends to introduce the testimony of an expert witness at trial must make such witness available for deposition upon reasonable notice.

(10) ***Deemed Waiver of Time Limits Under 11 U.S.C. § 362(e)(1) and (2).*** A party seeking relief from the automatic stay using the negative notice procedures set forth in Local Rule 2002-4 waives the right to enforce the 30- or 60-day hearing requirements contained in 11 U.S.C. § 362(e), and the 30- or 60-day hearing requirements are extended until the Court's ruling on the relief requested by such party.

(d) ***Modification of the Automatic Stay for Forbearance Agreements.*** This section applies to forbearance agreements only and should not be interpreted by creditors as blanket relief from stay to pursue actions prohibited by 11 U.S.C. § 362(a). To the extent the automatic stay under 11 U.S.C. § 362(a) is in effect with respect to a debtor's pending case, it is modified to permit creditors to negotiate forbearance agreements regarding the deferral of payments on their claims, including, without limitation, postpetition payments for rent, mortgage, and automobile loans, and Chapter 11, 12, and 13 plan payments on account of prepetition claims, subject to the limitations below.

(1) If the debtor is represented by counsel, creditors or their attorneys must communicate with the debtor's attorney, unless and until the attorney advises the creditor or the creditor's attorney that they may communicate directly with the debtor.

(2) If the debtor is not represented by an attorney, creditors or their attorneys may communicate with the debtor only when the debtor has initiated a request for a forbearance agreement.

(3) If a debtor in a Chapter 11, 12, or 13 case successfully negotiates a forbearance agreement, the agreement must be incorporated, if appropriate, in the debtor's Chapter 11, 12, or 13 plan.

Notes of Advisory Committee

2025 Amendment

This amendment revises section (a) to state that motions to extend or impose the automatic stay must be filed using the Court's mandatory form. The amendment also revises section (c)(6) to add that if a case is dismissed while a motion for sanctions arising from alleged violations of the automatic stay is scheduled for hearing, the Court will retain jurisdiction over that issue, and the dismissal order will not deny the motion or cancel the hearing. The amendment also adds new section (d) incorporating provisions of *Administrative Order FLMB-2020-5 Regarding Modification of the Automatic Stay in Connection with Forbearance Agreements*. This amendment will supersede and replace the administrative order, and the administrative order will be archived. Other changes are stylistic. This amendment to the rule is effective August 15, 2025.

2024 Amendment

This amendment to section (c)(6) clarifies that, upon dismissal of a case, the Court will retain jurisdiction and hold hearings on motions for relief from stay that (i) are scheduled for hearing within 14 days of the date of the dismissal order or (ii) request an order binding upon the debtor in subsequently filed cases. This amendment to the rule is effective August 15, 2024.

2023 Amendment

This amendment revises section (c)(2)(C) to conform with the Court's current procedures that a request for relief by negative notice also waives the deadlines for relief from the codebtor stay in 11 U.S.C. §§ 1201(d) and 1301(d). This amendment to the rule is effective August 1, 2023.

2022 Amendment

This amendment adds new section (c)(10) which deems use of the negative notice procedure under Local Rule 2002-4 in connection with a request for relief from the automatic stay as an acknowledged waiver of the timing requirements for hearings contained in 11 U.S.C. § 362(e). This amendment to the rule is effective July 1, 2022.

2019 Amendment

Section (b) is amended to reflect that no filing fee is required for motions to confirm the absence of the automatic stay under 11 U.S.C. § 362(j) or because the debtor's Chapter 13 plan does not provide for payments to be made through the plan. Section (c)(2)(B) is amended to provide that creditors may file a motion to confirm that there is no stay in effect as a result of a Chapter 13 debtor's treatment of the creditor's claim in the debtor's plan and the Court's administrative order governing procedures in Chapter 13 cases. (Note: as of the effective date of this amendment, the reference to the Court's administrative order prescribing procedures for Chapter 13 cases in section (c)(2)(B) is to Administrative Order No. FLMB-2018-2 dated April 23, 2018.) In addition, section (c)(2)(C) is amended to permit a request for relief from the codebtor stay to be combined with a request for relief from stay as to the debtor in a single motion for relief from the automatic stay. This amendment to the rule is effective July 1, 2019.

2017 Amendment

This rule is revised to reflect the policy of the judges of the Middle District to grant requests for a waiver of the 14-day stay under Fed. R. Bankr. P. 4001(a)(3) with respect to motions for relief from stay as to real estate, but not for automobiles, absent compelling circumstances. Other changes are stylistic. This amendment to the rule is effective July 1, 2017.

2014

This new rule is effective July 1, 2014.