

# Motion for Relief from Stay—Chapter 11

---

## Docketing Event

- Bankruptcy > Motions/Applications/Objections > Motion for Relief from Stay (Not for Amended Motions)
  - Bankruptcy > Motions/Applications/Objections > Amended Motion for Relief from Stay
- 

**Negative Notice: Yes, but only if Debtor and any Trustee or Committee consent, in which case Negative Notice applies to the 20 Largest Unsecured Creditors**

---

**Accompanying Orders: Only if a Committee has been appointed and Debtor and Trustee (if any) consent.**

---

## Code and Rule References:

[11 U.S.C. § 362](#)

[28 U.S.C. § 1930](#)

[Fed. R. Bankr. P. 4001](#)

[Fed. R. Bankr. P. 9014](#)

[Fed. R. Bankr. P. 7004](#)

[Local Rule 4001-1](#)

---

**Fee: \$199**

---

**Applicable Chapters: 11**

---

**Implemented: 2/9/2016**

---

**Last Revision: 2/5/2024 2:51:59 PM**

---

## Description

Under 11 U.S.C. § 362(a), the filing of a bankruptcy petition operates as a stay (the “automatic stay”) of all actions to collect or enforce a debt against the debtor or property of the estate. The automatic stay remains in effect as to property of the estate until the property is no longer property of the estate (i.e., revested in the debtor or abandoned) and the automatic stay as to individual debtors remains in effect as to the debtor until the granting or denial of the debtor’s discharge, whichever happens first. 11 U.S.C. § 362(c).

Creditors may file a motion seeking relief from the automatic stay. The motion is most often titled Motion for Relief from Stay, although other titles may also be used, such as a motion to terminate, modify, annul, lift, or condition the automatic stay.

Note: §§ 362(c)(3) and (c)(4) apply to individual debtors who had one or more pending bankruptcy cases in the preceding year. Those debtors are required to file a motion to extend or to impose the automatic stay within 30 days from the date of the petition. After the expiration of the 30-day period, creditors may move for a “comfort order” to confirm that the automatic stay is not in effect.

---

## Filing Checklist

Review the motion to determine if it:

- ☐ Is signed by the filing attorney (may be “scanned in signature” or “/s/” signature block);
- ☐ Includes attorney’s complete name and address, consistent with the filing attorney’s name and address in CM/ECF;

- ☐ Includes
  - For real property, the legal description of the property
  - For vehicles, the year, make, model, and VIN number; and
- ☐ Is properly served and includes a proof of service on Debtor, Debtor's attorney, Trustee (if any); Committee of Unsecured Creditors (if any), and if no Committee, on the Twenty Largest Unsecured Creditors. *See* Rules 4001(a)(1) and (d); 9014(b); 7004(b)(9) and (g).

Review the Motion to determine if it is consented. Appropriate forms of consent include:

- ☐ Motion states it is consented to by Debtor, Trustee (if any), and Committee (if any) (signature of opposing parties is not necessary);
- ☐ A consent is filed with the Motion;
- ☐ Proposed order contains signatures of both the movant and opposing parties (or their attorneys);
- ☐ Proposed order states in the first paragraph that submitting party has the consent of the opposing parties;
- ☐ Response filed indicating consent;
- ☐ If the Motion is filed with negative notice, includes the correct Negative Notice Legend on the first page of the Motion.

Note: In cases in which a Committee has not been appointed, negative notice is permitted to provide notice to the Twenty Largest Unsecured Creditors. Response period is 14 days (plus an additional three days for service if any party was served by U.S. Mail) Note: Negative Notice does not apply to Motions for Prospective Relief from Stay.

Upon conclusion of the docketing process in CM/ECF, pay the filing fee. A filing fee is not required if:

- Movant is an U.S. Agency (including the FDIC);
- Movant is a child support creditor or its representative, and the movant files the Appearance of Child Support Creditor or Representative Procedural Form found [here](#);
- The motion is accompanied by consent of the Debtor, the Creditor's Committee, and Trustee (if any) to the relief requested in the motion.

---

## Forms

[Motion for Relief from Stay – Chapter 11](#)