

N.D.W.V. LBR 4001-1

Automatic Stay - Relief From.

(a) Generally

Upon filing of a motion for relief from the automatic stay provisions of 11 U.S.C. 362(a), the Court shall enter an order setting the matter for a preliminary telephonic hearing. The proponent of the motion shall initiate the call. All such motions shall be accompanied by an order granting the relief requested as set forth in N.D.W.V. LBR 9013-1.

(b) Contents

At a minimum, a motion for relief from stay shall contain the following information and be accompanied by the following exhibits:

1. Information:

- A. Debtor(s)
- B. Secured party
- C. Amount due
- D. Current value
- E. Petition value
- F. Current arrearage
- G. Interest rate

2. Exhibits:

A. Real Estate:

- (1.) Note
- (2.) Deed of Trust - including recording information (attach copy)

B. Motor Vehicle:

(1.) Date of loan (attach copy of loan documents)

(2.) Certificate of Title (attach copy)

C. Personal property under UCC:

(1.) Loan documents (attach copy)

(2.) UCC-1 recording (attach copy)

D. Additional collateral held:

(1.) Loan documents (attach copy)

(2.) Any indicia of perfection (attach copy)

(c) Notice.

Counsel for the moving party shall serve the motion for relief from stay upon the debtor(s), the debtor(s)'s attorney, the trustee, and any other party which may be affected by the relief sought; notice shall be evidenced by a certificate of service. (See N.D.W.V. LBR 5005-4.10 re: electronic service)

(d) Fee.

A filing fee as set forth in Appendix A is required under this Rule unless the debtor and creditor agree to relief from the stay and submit an agreed order at the time of the filing of the motion.

(e) Response.

Any opponent of the motion should file and serve a responsive pleading prior to the date of the preliminary hearing.

(f) Preliminary Telephonic Hearing.

1. Participants at the preliminary telephonic hearing shall be counsel for the proponent,

the attorney for the debtor(s), and any other party in interest. As set forth in N.D.W.V. LBR 9074-1, the proponent shall initiate the telephonic hearing.

2. The Judge may designate his or her Law Clerk as the Court's representative at the telephonic hearing.

3. If it appears that genuine issues of fact exist between the interested parties, then the telephonic hearing will allow an opportunity to discuss the dispute, set necessary deadlines, and schedule the matter for final hearing. If it appears that only legal issues exist, then the Court will set a briefing schedule.

Cross Reference

11 U.S.C. 362

11 U.S.C. 1301

Rule 16(b) Fed. R. Civ. Pro.

Bankruptcy Rules 4001; 9014

N.D.W.V. LBR 9074-1; 9013-1

Appendix K, Forms K-1, 1a, 1b, & 2,

Appendix A (fees)