

**RULE 4001-1 RELIEF FROM THE AUTOMATIC STAY**

- (a) **Motion Contents Generally.** A motion for relief from the automatic stay shall include the following information to the extent applicable:
- (1) The factual grounds that establish standing to bring the motion;
  - (2) The specific statutory basis and factual grounds for relief sought, including with specificity the contractual default of the debtor;
  - (3) The specific description of the collateral, including, where appropriate, the vehicle identification number (VIN), make, model, serial number, street address, and recording information (including the Clerk's office volume/page number);
  - (4) The names and purported interests of all parties known or, discovered after reasonable investigation, who claim to have an interest in the property;
  - (5) The amount of the outstanding indebtedness on each lien, admissible evidence as to value of the collateral, and the basis for the valuation;
  - (6) Legible and complete copies of movant's note, recorded mortgage, security agreement, modification(s), and assignment(s), if any; and
  - (7) Evidence of perfection of the movant's lien or interest.
- (b) **Motions Involving Real Property in Cases Where the Debtor is an Individual.** If the movant seeks stay relief with respect to a mortgage on real property and the basis for the motion is a payment default, and the debtor has not indicated in the petition and schedules or in a plan of reorganization that the debtor intends to surrender the real property, the movant shall file, as an exhibit to the motion, a completed copy of [Certification of Payment History on the Note and Mortgage Dated and Related Information](#). If the Certification is not required, the movant shall indicate the reason why in its motion.
- (c) **Objections.** A debtor objecting to the secured creditor's motion shall, to the extent applicable:
- (1) State with specificity those allegations of the secured creditor that the debtor disputes;
  - (2) Articulate the debtor's legal and factual basis for asserting that the secured creditor is not entitled to relief from stay; and

- (3) Include copies of records showing proof of any payments that the secured creditor has not acknowledged as having been received on the obligation or include an explanation as to why those records are not appended and the date they will be filed. If the motion is based upon a lack of equity in the property, then the debtor shall be required to include admissible evidence of value in the response.
- (d) **Grounds for Denial.** Upon the request of a party in interest, the Court may deny without prejudice a motion for relief from stay involving encumbered real or personal property that fails to include the items recited in paragraph (a) of this Rule and/or that fails to include a completed copy of the form required under paragraph (b) of this Rule.
- (e) **Failure to Support Opposition.** The debtor's failure to meet the requirements set forth in paragraph (c) of this Rule constitutes cause for the Court to deny the debtor's request for additional time to produce records and grant the motion as unopposed.
- (f) **Surplus Proceeds.** Movant shall include in the proposed order granting a motion for relief from the stay a directive that (i) the case trustee be added as a necessary party to receive notice of the report of sale and surplus money proceedings; and (ii) closure of the case shall not constitute an abandonment of the trustee's interest, if any, in any surplus proceeds.

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