

## PROCEDURES RE: MOTIONS FOR RELIEF FROM STAY

1. **Filing Fee and Motion.** The moving party must pay the filing fee if the motion is for relief from the stay of 11 U.S.C. § 362(a), and file a written motion as follows:
  - a. If the motion relates to debtor relief in a chapter 7 or 13 case, use [Local Bankruptcy Form \(LBF\) 720.80](#).
  - b. Otherwise, prepare a unique motion which states:
    - (1) The present balance owing to the moving party excluding any precomputed interest or other unearned charges;
    - (2) The date upon which the debt was incurred;
    - (3) Whether the moving party holds a security interest or lien upon the debtor's property;
    - (4) The nature of the security interest or lien, the date upon which the security interest or lien was obtained, and if applicable, the date upon which the security interest or lien was perfected;
    - (5) A description of the collateral sufficient for identification (e.g., street address);
    - (6) The fair market value of the collateral;
    - (7) A description of, and the amounts due upon, any other security interest or liens which have priority over that of the moving party;
    - (8) Whether the debtor is in default and, if so, the number of defaulted installments and the total sums in default;
    - (9) The subsection of § 362(d) under which relief is requested; and
    - (10) Any other facts which are relevant in determining whether relief should be granted.
2. **Notice of Motion.** The moving party must use the applicable notice form:
  - a. Chapter 7 & 13 cases, including chapter 13 codebtor stay: Use [LBF 720](#).
  - b. Chapter 11 & 12 cases: Use [LBF 1124](#). You must obtain the date, time and location of hearing from the [courtroom deputy](#) before service.
  - c. Chapter 12 codebtor relief. Use [LBF 1220](#).
3. **Filing and Service of Motion and Notice of Motion.** The moving party must serve the motion and notice of motion on all parties named in the certificate of service on the form and file them with the clerk. In chapter 11 & 12 cases, service must be made within 2 business days of obtaining a hearing date, except if chapter 12 codebtor relief is sought.

4. **Response.** To object to the motion, a party must file a written response stating the specific grounds for the objection within 14 days of the notice of motion's service date. The response must be filed as follows:
  - a. Chapter 7 & 13 cases, including chapter 13 codebtor relief. The response must be completed in the "Response" portions of the original motion and filed with a Notice of Hearing on [LBF 721](#). Hearing dates are available at [www.orb.uscourts.gov](http://www.orb.uscourts.gov).
  - b. Chapter 11 & 12 cases. The response must be filed with a certificate of service.
  - c. Chapter 12 codebtor relief. The response must be filed with a notice of hearing on [LBF 1220.5](#). The notice must be served within 2 business days of obtaining the hearing date from the [courtroom deputy](#).
5. **Failure to Respond or Serve Notice of Hearing.** If a timely response and notice of hearing, if applicable, are not filed and properly served, then:
  - a. The court may sign an order, submitted by the moving party, granting the relief;  
or
  - b. The automatic stay will either (1) expire 30 days after the motion was filed per 11 U.S.C. § 362(e), or (2) expire 20 days after a motion for codebtor relief is filed in chapter 12 and 13 cases per 11 U.S.C. §§ 1201(d) or 1301(d).
6. **Orders/Stipulations.** Any proposed order for relief from debtor stay in chapter 7 and 12 cases, and from debtor and codebtor stay in chapter 13 cases, must be submitted using [LBF 720.90](#) (Order Re: Relief from Stay).