

RELIEF FROM AUTOMATIC AND CODEBTOR STAY PROCEDURES

1. Filing Fee and Motion - The moving party must pay the filing fee if the motion is for relief from the stay of 11 USC §362(a), and file a written motion:
 - a. If it relates to debtor relief in a chapter 7 or 13 case, use [Local Form 720.80](#).
 - b. Otherwise, by preparing 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 choose between, and completely fill out:
 - a. Chapter 7 & 13 cases including chapter 13 codebtor stay: Use [Local Form 720](#).
 - b. Chapter 11 & 12 cases: Use [Local Form 1124](#). You must obtain the date, time and location of hearing from the court before service.
 - c. Chapter 12 codebtor relief. Use [Local Form 1220](#).
3. 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. In chapter 11 & 12 cases, this service must be made **within 2 business days** of obtaining a hearing date, except if chapter 12 codebtor relief is sought.
4. Filing of Motion and Notice with Clerk's Office - The moving party must file the motion and notice of motion with the clerk of court on the day that the motion and notice are served.
5. Response - To resist the motion, a party must file a written response stating the specific facts upon which the motion is resisted 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 [Local Form 721](#). Information about obtaining a hearing date is available on [Local Form 721](#).
 - 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 [Local Form 1220.5](#). The notice must be served within 2 business days of obtaining the hearing date from the court.
6. Failure to Respond/Object or Serve Notice of Hearing - If a timely response and notice of hearing, if applicable, are not filed, then:
 - a. The Court may sign an ex parte 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 USC §362(e)], or (2) expire 20 days after a motion for codebtor relief is filed in chapter 12 & 13 cases [per 11 USC §1201(d) & §1301(d)].
7. Orders/Stipulations - If necessary, a proposed order for relief from debtor stay in chapter 7 and 12 cases, and for debtor and codebtor relief in chapter 13 cases, must be submitted using [Local Form 720.90](#) (Order Re: Relief from Stay).