

Section A Procedures for Motions for Relief from Stay

A. Relief from the automatic stay may be granted without the necessity of a hearing, if the relief requested is unopposed *and* the movant supplies with its motion:

1. Prima facie proof of the existence of the debt. For purposes of this requirement, an affidavit of the creditor attesting to:

- a. An account of the amounts owed itemized as to principal, accrued interest, and other charges;
- b. The payment history since the petition date;
- b. The rate of interest applied and if adjustable, all applicable rates charged since the date of last payment along with the period during which the rate was in effect;
- c. If the movant is not the obligee shown on the document evidencing the obligation, a full recitation of the chain of title from original obligee to movant;
- d. A copy of the document evidencing the obligations due as well as the location of the original.

2. A certified copy of the document evidencing the security interest in the property upon which relief from the stay is requested, along with proof of perfection of that interest.

3. Prima facie proof of the value of the collateral upon which relief from the stay is requested. For purposes of this requirement, an affidavit from a person regularly engaged in the valuation of property of a type similar to that involved may be submitted. The affidavit should recite the qualifications of the affiant as well as the method utilized to value the property in question. Other forms of proof may be considered if appropriate.

4. The motion must contain a short and plain statement of the alleged facts that support grounds for the relief requested. A recitation of the statutory grounds for relief without facts specific to the request is insufficient. This includes, if applicable, any facts to support a claim that sufficient “cause” exists to grant the relief requested.

5. A certificate of service attesting to the delivery of service of the motion and all attachments must also be filed by counsel to the movant.

B. Service of pleadings in §362 matters:

The following persons must receive service of the motion, with all attachments and notice of hearing:

1. Chapter 7 Cases. The debtor, debtor’s attorney, any co-debtor, the trustee, and if applicable, any other party holding a security interest upon, or claiming an interest in, the

property against which the movant seeks relief from the stay.

2. Chapter 11 Cases. The debtor, debtor's attorney, trustee, twenty (20) largest unsecured creditors (or the unsecured creditor's committee if such a committee has been designated), the Office of the United States Trustee, and if applicable, any other party holding a security interest upon, or claiming an interest in, the property against which the movant seeks relief.

3. Chapter 13 Cases. The debtor, debtor's attorney, any co-debtor, the trustee, and if applicable any other party holding a security interest upon, or claiming an interest in, the property against which the movant seeks relief from the stay.