

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA**
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GUIDELINES FOR MOTIONS FOR RELIEF FROM THE AUTOMATIC STAY

As provided by Local Rule 4001-1(B), the following guidelines apply to the contents of all motions for relief from the automatic stay. Failure to comply may result in denial of relief even if no objection to the motion is filed.

A. Contents of Motion - General.

All motions for relief from the automatic stay must contain:

- (1) a short and plain statement of the facts upon which the request for relief is based, including a statement of any “cause” if based on 11 U.S.C. §362(d)(1);
- (2) a statement of the amount of the debt, the estimated value of the collateral and the source of the valuation if based on 11 U.S.C. §362(d)(2); and
- (3) if a chapter 7 individual case, a statement whether or not the property has been claimed exempt by the debtor or abandoned by the trustee.

B. Contents of Motion - Required exhibits for motions for relief to enforce a lien.

If the motion seeks relief to enforce a lien, the following exhibits must be attached to the motion:

- (1) a copy, showing recording information, of any security agreement, mortgage or other evidence of the lien that the moving party seeks to enforce;
- (2) a copy of any note or evidence of the obligation secured by the lien; and
- (3) an affidavit attesting that the amount of the indebtedness and the nature and extent of default set forth in the motion is information derived from records that were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters, the records were kept in the course of the regularly conducted activity and were made by the regularly conducted activity as a regular practice. The affidavit must also certify that all of the documents attached to the motion as an exhibit are true and accurate copies of the original documents. The affidavit must be signed under penalty of perjury as being true and correct based on personal knowledge of the movant’s books and business records.

C. Contents of Motion - Requirements for any motion for relief to enforce a lien secured by an interest in real property.

If the motion seeks relief to enforce a lien secured by an interest in real property, the motion must include all of the following (or indicate in the motion whether any of the following information is not applicable):

- (1) The name of the movant, and if the movant is not the holder of the note and mortgage or other security instrument (the “Lender”), a description of the movant’s standing to bring the motion on behalf of the Lender;
- (2) A description of the real property that is the subject of the motion including the address and legal description;
- (3) A description of the mortgage and other lien documents including the date of the instrument, the original parties to the instrument (if not the debtor or the movant), and the applicable recording information;
- (4) The post-petition payment address;
- (5) The total pre-petition and post-petition indebtedness at the time of the filing of the motion allegedly owed by debtor to the movant (or to the Lender if the movant is not the Lender) expressed as a total number, which number must match the number on the Indebtedness Worksheet referenced below;
- (6) The movant’s estimated market value of the real property and the source of that estimated value.
- (7) The motion must have the following attachments, identified clearly by exhibit number:
 - (a) The Indebtedness Worksheet that is included in these Guidelines;
 - (b) Copies of the documents that support the movant’s interest in the real property. For purposes of example only, these documents should include a complete and legible copy of the promissory note or other debt instrument together with a complete and legible copy of the copy of the mortgages recorded in the public record as well as all assignments in the chain from the original mortgagee to the current moving party; and
 - (c) Copies of all documents establishing proof of movant’s standing to bring the motion for stay relief.

- (8) Notwithstanding subparagraphs (1) through (7), if a final judgment of foreclosure has been entered with respect to the real property in favor of Lender or movant, then the motion for relief from stay need only include a signed copy of the final judgment, the information required in subparagraph (6) and, if the movant is not the named judgment holder, the information required in subparagraph (7)(c).

D. Exceptions

The following motions shall not be subject to these Guidelines:

- (1) Motions for relief from the automatic stay where the Debtor holds only a fractional interest in the subject property as a result of a transfer of such interest to the Debtor by a non-affiliate third party without the Debtor's acceptance.
- (2) Motions seeking relief solely from the co-debtor stay imposed by 11 U.S.C. §1301.

INDEBTEDNESS WORKSHEET

DEBT AS OF THE PETITION DATE

A. Total pre-petition indebtedness of debtor(s) to movant (if movant is not the lender, this refers to the indebtedness owed to the lender) as of petition filing date:
\$ _____

1. Amount of principal: \$ _____

2. Amount of interest: \$ _____

3. Amount of escrow (taxes and insurance): \$ _____

4. Amount of forced placed insurance expended by movant: \$ _____

5. Amount of attorneys' fees billed to debtor(s) pre-petition: \$ _____

6. Amount of pre-petition late fees, if any, billed to debtor(s): \$ _____

7. Any additional pre-petition fees, charges or amounts charged to debtors/debtors account and not listed above: _____ (if additional space is needed, list the amounts on a separate sheet and attach the sheet as an exhibit to this form; please list the exhibit number here: _____.)

B. Contractual interest rate: _____ (if interest rate is (or was) adjustable, list the rate(s) and date(s) the rate(s) was/were in effect on a separate sheet and attach the sheet as an exhibit to this form; list the exhibit number here: _____.)

AMOUNT OF ALLEGED POST-PETITION DEFAULT
(AS OF <MM/DD/YYYY>)

C. Date last payment was received: _____ <mm/dd/yyyy>

D. Alleged total number of payments due postpetition from filing of petition through payment due on <mm/dd/yyyy>: _____.

E. All postpetition payments alleged to be in default:

Alleged Amount Due Date	Alleged Amount Due	Amount Received	Amount Aplied To Principal	Amount Applied To Interest	Amount Applied To Escrow	Late fee Charged (If any)
Totals: \$	\$	\$	\$	\$	\$	\$

F. Amount of movant’s attorneys fees billed to debtor for the preparation, and filing and prosecution of this motion: \$ _____

G. Amount of movant’s filing fee for this motion: \$ _____

H. Other attorneys’ fees billed to debtor post-petition: \$ _____

I. Amount of movant’s post-petition inspection fees: \$ _____

J. Amount of movant’s post-petition appraisal broker’s price opinion: \$ _____

K. Amount of forced placed insurance or insurance provided by the movant post-petition: \$ _____

L. Sum held in suspense by movant in connection with this contract, if applicable: \$ _____

M. Amount of other post-petition advances or charges, for example taxes, insurance incurred by debtor etc (itemize each charge): \$ _____