

Rule 9013-3 MOTIONS SEEKING: (1) RELIEF FROM THE AUTOMATIC STAY; (2) LIEN AVOIDANCE; (3) ABANDONMENT; (4) SALE APPROVAL; AND/OR (5) TO EXTEND/IMPOSE THE AUTOMATIC STAY

(a) All motions seeking relief from the automatic stay shall plead the following with particularity:

- (1) the movant's name and proof of claim number, if any;
- (2) a description of any affected property and whether it appears in the schedules;
- (3) the value of any affected property and the source of the valuation;
- (4) the amount and date of the loan at origination;
- (5) the date and type of perfection (e.g., date of lien on title, date and location of UCC filing, date and mortgage book volume and page number, etc.);
- (6) the current balance (principal, interest, interest rate, charges, costs, fees, and accruing daily interest);
- (7) the balance owed as of the date of the motion;
- (8) an itemized statement of the default and the amount necessary to cure as of the filing date of the motion;
- (9) the amount of any plan payment arrearages;
- (10) a separate itemized statement of the postpetition default;
- (11) the value of any claimed exemption in the affected property;
- (12) the amount of any equity in the affected property; and
- (13) all known liens against any affected property, including:
 - (A) the name and address of the holder;
 - (B) the date incurred;
 - (C) the current balance owed; and
 - (D) the type of lien (e.g., mortgage, judgment, etc.).

(b) All motions seeking lien avoidance shall plead the following with particularity:

- (1) a description of the affected property and whether it appears in the schedules;

- (2) the name of each person or entity having an ownership interest in the affected property;
 - (3) the value of the affected property and the source of the valuation;
 - (4) the value of any claimed exemption in the affected property; and
 - (5) all known liens against the affected property, including:
 - (A) the name and address of the holder, and in the case of a judgment lien, counsel for the holder in the underlying lawsuit;
 - (B) the current balance owed;
 - (C) the date incurred;
 - (D) the type of lien (e.g., mortgage, judgment, etc.); and
 - (E) the identification of record location of each lien on the property subject to the action (i.e., in the case of a mortgage lien, the mortgage book volume and page number, and in the case of a judgment lien, the name of the court, identification of the case number, and date when the judgment was entered).
- (c) All sale motions shall plead the following with particularity:
- (1) the full name, address, and account number, if available, of all respondents, with only entities holding a lien, claim, or encumbrance against the affected property named as respondents;
 - (2) the value of the affected property and the source of the valuation, e.g., appraisal, book value, personal opinion, recent comparable sales;
 - (3) an appropriate description of the affected property and where it appears in the schedules:
 - (A) For sale of real estate, the formal deed description is not necessary. The current deed book and page number (or other recording information if deed book and page number are not available), street address, tax identification number, and basic description of the real estate use (e.g., commercial building, single-family residence) as well as a brief description any other relevant appurtenances, shall be included; and
 - (B) For sale of personalty, an itemized list of the specific property subject to sale, individually identified without an “in bulk” reference (unless it would be impractical to do otherwise), shall be included;

- (4) the name and address of each person or other entity having an ownership interest in the affected property;
- (5) the value of any claimed exemption in the affected property;
- (6) identification of the specific disbursements, costs, and expenses of sale to be made at the time of closing:
 - (A) Unless an exact payoff amount for the specific lien, claim, and/or encumbrances is capable of being set forth in a finite amount, the per diem and other charges or assessments to be made at closing shall be identified in the respective payoffs listed; and
 - (B) In the event a request for payment of attorney fees and expenses in excess of \$750 is requested to be paid at closing, an itemization of attorney time and billing in support of the request shall be appended to the motion as a separate exhibit, in a form consistent with the requirements of these Local Bankruptcy Rules;
- (7) all liens, claims, and encumbrances against the affected property, including:
 - (A) the name and address of the holder, and in the case of a judgment lien, counsel for the holder in the underlying lawsuit;
 - (B) the current balance owed;
 - (C) the date incurred;
 - (D) the type of lien (e.g., mortgage, judgment, etc.); and
 - (E) the identification of record location of each lien on the property subject to the action (i.e., in the case of a mortgage lien, the mortgage book volume and page number, and in the case of a judgment lien, the name of the court, identification of the case number, and date when the judgment was entered);
- (8) the name and address of the purchaser(s), including:
 - (A) the relationship, if any, of the purchaser to the debtor;
 - (B) the purchase price;
 - (C) all conditions of sale; and
 - (D) a copy of any agreement of sale to be approved by the Court as a separate attachment; and

- (9) a proposed order in the form required by the assigned Judge.
 - (A) The order shall include the identity of every respondent and identity of the respective liens, claims, and encumbrances to be transferred to proceeds of sale, in the same manner as required by W.PA.LBR 9013-3(c)(1); and
 - (B) Identity of the specific disbursements, costs, and expenses of sale to be paid at closing, in the same manner required by W.PA.LBR 9013-3(c)(6).
- (10) as to the procedural requirements for sale of estate property outside the ordinary course of business, see W.PA.LBR 6004-1.

(d) All motions seeking abandonment of property shall plead the following with particularity:

- (1) a description of the affected property and whether it appears in the schedules;
- (2) the value of the affected property and the source of the valuation;
- (3) the value of any claimed exemption in the affected property;
- (4) the basis for any assertion that the affected property is either burdensome to the estate or is of inconsequential value and benefit thereto; and
- (5) all known liens against the affected property, including:
 - (A) the name and address of the holder, and in the case of a judgment lien, counsel for the holder in the underlying lawsuit;
 - (B) the current balance owed;
 - (C) the date incurred;
 - (D) the type of lien (i.e., mortgage, judgment, etc.); and
 - (E) the identification of record location of each lien on the property subject to the action (i.e., in the case of a mortgage lien, the mortgage book volume and page number, and in the case of a judgment lien, the name of the court, identification of the case number, and date when the judgment was entered).

(e) All motions seeking to extend or re-impose the automatic stay shall plead the following with particularity:

- (1) all creditors against whom the relief is sought shall be listed in the caption, notice, and motion;
- (2) whether the automatic stay was in effect upon commencement of the case, and if so, the date on which the automatic stay expires;
- (3) each bankruptcy case number for all bankruptcy cases in which the debtor was a debtor within the one-year period prior to the date when the current case was filed;
- (4) the reasons that each of the debtor's previous bankruptcy cases was dismissed;
- (5) whether presumption is in effect that the debtor did not file the case at issue in good faith and the reason for the presumption;
- (6) with particularity the substantial change in circumstances that occurred since the dismissal of the previous case; and
- (7) a verification executed by the debtor attached to the motion.