§ 362 MOTION FOR RELIEF FROM STAY (NOTES)
Updated 11/18/2021

Description: This document describes situations that may arise relating to § 362 Motions and Amended § 362 Motions. After determining your course of action, refer to the detailed instructions showing the steps required for an external user to complete an Amended § 362 Motion on CM/ECF.

WHAT TO DO IF.....

A Motion for Relief from Stay is filed in the right case, but with the wrong image (i.e., image is anything other than the intended motion) and the filing fee HAS been paid:

File the correct Motion for Relief from Stay image using the **Relief From Stay - Amended event (refer to this Participants Guide for details).**

- Attach the correct .pdf image of the Amended Motion for Relief from Stay.
- Type the reason for the amendment (i.e., incorrect image).
- Enter the date the correct motion was served.
- **ALWAYS** enter the hearing information, even if it has not changed.
- Check the box for "Refer to Existing Event" and select the original Motion for Relief from Stay for which this Amended Motion is associated.
- Submit the filing.

WHAT TO DO IF.....

A Motion for Relief from Stay is filed in the right case, but with the wrong image (i.e., image anything other than the intended motion) and the filing fee has NOT been paid:

Pay the fee and then follow the same steps as above.

WHAT TO DO IF.....

A Motion for Relief from Stay is filed, but a portion of the document is incorrect or missing pages:

File the entire package of the Amended Notice/Motion/Certification of Facts & Certificate of Service

using the **Relief From Stay - Amended event.**

- Attach the entire .pdf image of the Motion for Relief from Stay.
- Type the reason for the amendment (i.e., incorrect/missing pages of image)
- Enter the date the correct motion was served.
- **ALWAYS** enter the hearing information, even if it has not changed.
- Check the box for "Refer to Existing Event" and select the original Motion for Relief from Stay for which this Amended Motion is associated.
- Submit the filing.

WHAT TO DO IF.....

A Motion for Relief from Stay is filed and the image of the document is correct, but the hearing information and related text was entered into CM/ECF incorrectly:

File the entire package of the Amended Notice/Motion/Certification of Facts & Certificate of Service using the **Relief From Stay - Amended event.**

- Attach the entire same .pdf image as originally submitted.
- Type the reason for the amendment (i.e., incorrect hearing information/text).
- Enter the service date that this original motion was served.
- **ALWAYS** enter the corrected hearing information.
- Check the box for "Refer to Existing Event" and select the original Motion for Relief from Stay for which this Amended Motion is associated.
- Submit the filing.

WHAT TO DO IF.....

A Motion for Relief from Stay is filed in the wrong case:

If the fee **HAS** been paid and the receipt docketed:

- File the Motion for Relief from Stay using the **Relief from Stay - Amended event** in the correct case, so a new filing fee will not be assessed.
- Contact the Court at 803-253-3624 so that the filing fee may be transferred to the correct case.

If the fee has **NOT** been paid:

- File a **Withdrawal** of the Motion for Relief from Stay in the incorrect case. (formal withdrawal).
- Contact the Court at 803-765-5436 so that the filing fee may be voided.
- File the Motion for Relief from Stay in the correct case as a new motion (which will generate the appropriate fee).

WHAT TO DO IF.....

A Motion for Relief from Stay is filed in error using an incorrect Event (i.e., a 362 motion is filed and it should be a 1301 motion) and the filing fee HAS been paid:

- File a **Withdrawal** of the Motion for Relief from Stay (formal withdrawal).
- File a Motion to Refund. The Motion should include the request for the refund, the refund of the amount paid and the reason for the request. The Motion should also be linked to the incorrect Motion that was filed in error.
- File the document (that was originally intended to be filed) using the correct event.

WHAT TO DO IF.....

A Motion for Relief from Stay is filed in error using an incorrect Event and the filing fee HAS NOT been paid:

- File a **Withdrawal** of the Motion for Relief from Stay (formal withdrawal).
- Contact the Court at 803-765-5436 and request that the fee be voided.
- File the document (that was originally intended to be filed) using the correct event.

WHAT TO DO IF.....

A Motion for Relief from Stay is filed with an incorrect creditor (party filer) selected:

File the entire package of the Amended Notice/Motion/Certification of Facts & Certificate of Service using the **Relief From Stay - Amended event.**

- Attach the same .pdf image as originally submitted.
- Type the reason for the amendment (i.e., incorrect creditor chosen).
- Enter the service date that this original motion was served.
- **ALWAYS** enter the hearing information, even if it has not changed.
- Check the box for "Refer to Existing Event" and select the original Motion for Relief from Stay for which this Amended Motion is associated.
- Submit the filing.

WHAT TO DO IF.....

A Motion for Relief from Stay is filed, but is combined with a 1301 Motion for Relief of Co-Debtor Stay:

Leave the Motion for Relief from Stay entry as is, unless something needs to be amended. If so, see the corresponding item above.

- File the 1301 Motion for Relief of Co-Debtor Stay using the **Relief of Co-Debtor Stay** event.
- Attach the entire Motion for Relief from Stay/Co-Debtor Stay .pdf document image.
- Enter the service date that this original motion was served.
- Enter the passive hearing information for this motion.
- Submit the filing.

WHAT TO DO IF.....

A Certificate of Service needs to be amended or filed for any number of reasons:

Use the **Certificate of Service** event.

- Attach the Certificate of Service .pdf image.
- Enter the date the document was served.
- Check the box for "Refer to Existing Event" and select the original Motion for Relief from Stay or the Motion for Relief from Stay - Amended event, whichever applies.
- Submit the filing.