

Rule 4001-3: Cash Collateral

(a) Agreement for Immediate Use of Cash Collateral

~~**(a) (1) Conspicuousness Requirement for Cash Collateral Agreement.** In any motion seeking approval of an agreement for use of cash collateral pursuant to Code § 363, the first or second paragraph of the motion shall conspicuously state whether any of the kinds of relief identified in Local Rule 4001-4 are sought or granted and, if so, identify the pages of the motion and the attached exhibits that support such relief.~~

(2) Interim Order. Where the debtor and one or more parties with an interest in the cash collateral have agreed to the immediate use of cash collateral, the court, upon motion, may enter an interim order approving the agreement, with or without a hearing.

~~**(b) (3) Service and Form of Notice.** The debtor shall serve notice of the interim order and bar date for objections on parties to the agreement, parties in interest, the United States trustee, and entities entitled to notice under Rule Fed. R. Bankr. P. 4001(d). The notice shall contain: (1) a detailed description of the terms of the agreement and the interim order, or in lieu of a detailed description, a copy of the agreement and interim order; (2) the date by which objections must be filed and served, which shall be 14 days from the date the notice is served, unless otherwise ordered by the court; and (3) the names and addresses of those persons upon whom objections must be served. The notice shall state that, if no objection is timely filed and served, the court may direct that the interim order shall continue in effect until a specified date or that the interim order shall become the operative order on the use of cash collateral until modified by the court.~~

~~**(e) (4) Certificate of Service.** The debtor shall file a certificate of service evidencing compliance with this Local Rule and Rule Fed. R. Bankr. P. 4001(d).~~

~~**(d) (5) Procedure If No Objection.** If no objection is timely filed and served, the court may direct that the interim order shall continue as noted in subsection (ba) (3).~~

~~**(e) (6) Procedure Upon Objection.** If a timely objection is filed and served, the debtor shall obtain a hearing date, according to the process in subsection (c) and notice all parties entitled to notice under this Local Rule, and Fed. R. Bankr. P. 4001(d).~~

~~Committee Notes 2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009. **(7) Meet and Confer.** Prior to the hearing related to an objection to the use of cash collateral, the parties are strongly encouraged to meet and confer at least 24 hours, and preferably at least 72 hours, prior to the hearing and attempt to resolve any and all disputes regarding the use of cash collateral.~~

(b) Motion for Use of Cash Collateral

(1) Conspicuousness Requirement for Cash Collateral Motion. In any motion for use of cash collateral pursuant to Code § 363, the first or second paragraph of the motion shall conspicuously state whether any of the kinds of relief identified in Local Rule 4001-4 are sought and, if so, identify the pages of the motion and the attached exhibits that support such relief.

(2) Interim Order. Where the debtor seeks to use cash collateral, without the consent of a secured creditor with an interest in such collateral, the court, upon motion and after a hearing, may enter an interim order for use of cash collateral, as authorized by Fed. R. Bankr. P. 4001(b)(2).

(3) Service and Form of Notice. The debtor shall serve notice of any interim order, the bar date for objections, and the date of the final hearing on the motion for use of cash collateral on all parties in interest, the United States trustee, and entities entitled to notice under Fed. R. Bankr. P. 4001(b). The notice shall contain: (i) a detailed description of the terms of the proposed use and the interim order; (ii) the date by which objections must be filed and served, which shall be no less than 14 days from the date the notice is served, unless otherwise ordered by the court; (iii) the names and addresses of those persons upon whom objections must be served; and (iv) the date of the final hearing on the motion for use of cash collateral.

(4) Certificate of Service. The debtor shall file a certificate of service evidencing compliance with this Local Rule and Fed. R. Bankr. P. 4001(b).

(5) Meet and Confer. Prior to any hearing related to an objection to the use of cash collateral, the parties are strongly encouraged to meet and confer at least 24 hours, and preferably at least 72 hours, prior to the hearing and attempt to resolve any and all disputes regarding the use of cash collateral.

(c) Procedure to Obtain a Hearing. If a hearing is required regarding a motion or agreement for use of cash collateral, the party requesting a hearing should contact the courtroom deputy to request a hearing date and time. If an expedited hearing is required, the party requesting the expedited hearing should file a Motion for Accelerated Hearing in compliance with Local Rule 9013-1(h). After such motion is filed, the movant should contact the courtroom deputy, to obtain an expedited hearing date and time. Such party must provide the court with courtesy copies of all pleadings filed, all exhibits, and all proposed orders, in the format requested by the court, and as soon as practicable before the hearing.

(d) First Day Motion Regarding Cash Collateral. Notwithstanding the provisions of this Local Rule or Fed. R. Bankr. P. 4001(d), every motion for use of cash collateral for which an accelerated hearing or interim relief is sought within the first 30 days after the filing of a chapter 11 petition, shall be considered a first day motion, and will be controlled by Local Rule 4001-4, rather than this Local Rule.

Committee Notes 2015: Local Rule was updated to add provision for Cash Collateral Motion, to clarify that that First Day Cash Collateral relief is controlled by Local Rule 4001-4, and create a “meet and confer” requirement.