

HEARING NOTICES ON MOTIONS FOR RELIEF
FROM THE AUTOMATIC STAY

Section 362(e) contains certain time deadlines for the scheduling of hearings on motions for relief from the automatic stay against property of the estate and time deadlines in individual cases for rendering a final decision on a motion for relief from stay. The Judges of this Court have permitted counsel to self-select hearing dates on motions for relief from stay for some time and this practice will continue after October 17, 2005. It has been and will continue to be movant's responsibility to schedule the hearing in such a way that the time deadlines set forth in § 362(e) will be met. However, in the event that the hearing cannot be held within the 30 days set forth in § 362(e)(1) or that the final decision cannot be issued within the 60 days set forth in § 362(e)(2), the Court suggests that parties include the following statement in the Notice of Hearing on a motion for relief from stay for any case filed on or after October 17, 2005. This suggested (not mandatory) language is intended to assist the bar and to facilitate the work of this Court.

“If a hearing on the motion for relief from the automatic stay cannot be held within thirty (30) days, Movant waives the requirement for holding a preliminary hearing within thirty days of filing the motion and agrees to a hearing on the earliest possible date. If a final decision is not rendered by the Court within sixty (60) days of the date of the request, Movant waives the requirement that a final decision be issued within that period. Movant consents to the automatic stay remaining in effect until the Court orders otherwise.”

10/06/05