

**INSTRUCTIONS FOR PREPARING:
LANDLORD’S MOTION FOR RELIEF
FROM THE AUTOMATIC STAY**

I. General Instructions

NOTE: CORPORATE LANDLORDS MAY ONLY APPEAR THROUGH COUNSEL.

- a. The information in this document and the prompts contained in the attached motion package are not legal advice and are not a substitute for legal advice.
- b. A motion is a formal request for relief from the court. These instructions and the prompts contained in related documents will help you prepare the motion. A “motion package” typically consists of five documents: 1) a Notice of Motion; 2) a Certification in Support of the Motion, including any Exhibits; 3) a Certification as to Why No Brief is Necessary (Some motions require the filing of a brief or memorandum of law where the litigant provides legal arguments setting forth why they believe they are entitled to the relief sought.), a 4) a Certification of Service; and 5) a proposed Order. See Local Rule 9013-1 and 9013-3.
- c. When you submit your motion to the clerk’s office, you must provide 1 original set of documents and 1 copy.
 - i. If you file the motion in person at the clerk’s office, the copy will be given back to you marked “Filed.”
 - ii. If you mail the motion to the clerk’s office, you must include a self-addressed, stamped envelope for the return of your filed motion. See clerk’s office addresses listed under Resources.
- d. There is a fee due at the time of the filing of your motion and it must be submitted with your motion package. Payment must be in the form of certified check, money order or attorney check – the clerk’s office will not accept personal checks or cash. Registered efilers may make payment by credit card.
 - i. Motion for Relief from the Automatic Stay - **\$188.00**
- e. You do not have to appear in court on the hearing date unless someone objects or responds to your motion. If a party objects or files a response and you do not appear at the hearing your motion may be denied. See Local Rule 9013-3.
- f. Complete the blank forms in this package by following the prompts.

- g. Hearing date: Each judge's hearing dates are available on the court's web site: <http://www.njb.uscourts.gov/judges-info/hearing-dates>. The hearing date on this motion must be scheduled for at least 21 days after the date the motion is filed. See Local Rule 9013-2.
 - i. If you do not have internet access, you may contact the clerk's office concerning hearing dates.
- h. Signatures: All documents must be signed and dated.
- i. After the hearing on your motion, you will receive a copy of the order the judge signed in the mail.

II. TERMS RELATED TO YOUR MOTION:

Motion: A formal request for relief filed with a court.

Notice of Motion: A "notice" to interested parties indicating that a request for relief has been filed. The Notice informs other litigants that if they object to the relief sought they must file an objection or response to the motion; it also includes the time within which the objection/response must be filed. The notice sets forth the hearing date, time and location.

Certification in Support of Motion: The Certification contains the facts that the filer believes the court needs to know to decide the motion. The Certification must be completed by someone with "personal knowledge" of the facts.

Service: The act of providing a copy of the filed stamped motion package to all parties who may have an interest in the outcome of the motion. See Local Rule 9013-2.

Certification of Service: The filer must set forth in the Certification of Service the name and address of each party served, their relationship to the case, and the manner in which they were served. The Certification must be signed by the person who served the documents. See Local Rule 9013-2.

Proposed Order: The proposed order contains the relief the filer seeks. The judge will decide at the hearing whether to grant the filer's request for relief. If the relief is granted, the judge will sign the proposed order. See Local Rule 9013-4.

Automatic Stay: An injunction that automatically stops lawsuits, foreclosures, garnishments, and most collection activities against the debtor the moment a bankruptcy petition is filed.

III. RESOURCES:

Clerk's Office Locations and Contact Information:

U. S. Bankruptcy Court
Clerk's Office
U. S. Post Office and Courthouse
401 Market Street
Camden, NJ 08101
609-361-2300

U. S. Bankruptcy Court
Clerk's Office
Martin Luther King, Jr. Federal Building
50 Walnut Street
Newark, NJ 07102
973-645-4764

U. S. Bankruptcy Court
Clerk's Office
Clarkson S. Fisher U. S. Courthouse
402 East State Street
Trenton, NJ 08608
609-858-9333

United States Bankruptcy Court, District of New Jersey: www.njb.uscourts.gov

Local Rules for the U. S. Bankruptcy Court for the District of New Jersey:

www.njb.uscourts.gov/local-rules-and-orders

Pacer (To view documents in the court's electronic filing system): www.pacer.uscourts.gov

Glossary of Legal Terms: <http://www.uscourts.gov/glossary>

Bankruptcy Basics: <http://www.uscourts.gov/services-forms/bankruptcy/bankruptcy-basics>

General Resources: <http://www.njb.uscourts.gov/understanding-bankruptcy/resources>

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)
[Enter your name, address and telephone number]

In Re:
[Enter the debtor's name(s)]

Case No.: _____
[Enter the case number]

Chapter: _____
[Enter the chapter; example: 13]

Hearing Date: _____
[Enter the hearing date]

Judge: _____
[Enter the Judge's last name]

**NOTICE OF MOTION
FOR RELIEF FROM THE AUTOMATIC STAY**

[Enter your name] _____, the debtor's landlord, has filed papers with the court requesting relief from the automatic stay in order to initiate or resume an action in the state court of New Jersey for possession of the premises rented by the debtor(s) located at:

YOUR RIGHTS MAY BE AFFECTED. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one).

If you do not want the court to grant this motion, or if you want the court to consider your views, you or your attorney must file with the clerk at the address listed below, a written response explaining your position no later than 7 days prior to the hearing date.

Hearing Date: _____
[Enter the date of the hearing]

Hearing Time: _____
[Enter the time of the hearing]

Hearing Location: _____
[Enter the location of the hearing]

Courtroom Number: _____
[Enter the courtroom number]

If you mail your response to the clerk for filing, you must mail it early enough so the court will receive it on or before 7 days prior to the hearing date.

You must also mail a copy of your response to:

[Enter the trustee's name and address]

[Enter the name and address of all other parties who will be affected by this motion]

If you, or your attorney, do not take the steps outlined above, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Date: _____
[Enter the date this document is signed]

Signature *[Of the party seeking relief]*

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)
[Enter your name, address and telephone number]

In Re:
[Enter the debtor's name(s)]

Case No.: _____
[Enter the case number]

Chapter: _____
[Enter the chapter]

Hearing Date: _____
[Enter the hearing date]

Judge: _____
[Enter the judge's last name]

**CERTIFICATION OF LANDLORD IN SUPPORT
OF MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

I, *[Enter the name of the person that has personal knowledge of the facts set forth below]*

_____, landlord in the above captioned case, submits this
Certification in support of the Motion for Relief from the Automatic Stay filed on *[Enter the date the
motion was filed]* _____.

1. I am fully familiar with the debtor's rental payment history because I am the landlord of the property rented by the debtor.
2. The property is located at: *[Enter the address of the property]* _____
_____.
3. The debtor filed for bankruptcy on *[Enter the date the debtor filed their petition]* _____.

4. Pre-petition *[check one]*:

I started an eviction action in the New Jersey state court and a copy of the complaint is attached as Exhibit A, or

I did not start an eviction action.

5. Pre-petition *[check one]*:

I obtained a Judgment for Possession and a copy of the Judgment is attached as Exhibit B, or

I did not obtain a Judgment for Possession

6. I am seeking relief from the automatic stay to *[check all that apply]*:

enforce the Judgment of Possession;

pursue my state court rights because of the debtor's nonpayment of rent;

pursue my state court rights because of debtor's endangerment of the property in the 30 days before the petition date *[explain below]*

pursue my state court rights because the debtor illegally used, or allowed to be used, controlled substances on the property in the thirty (30) days before the petition date *[explain below]*

other *[explain]* _____

7. The amount of the debtor's monthly rental payment is \$_____.

8. Pre-petition, the debtor owed rent totaling \$_____, which represents unpaid rent for _____ months.

9. The debtor's post-petition payment history is as follows [Enter requested information for each payment due]:

	Amount Due	Payment Due Date	Date Payment Received	Amount Received	How Payment Was Applied
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					

10. Post-petition, the debtor owes rent totaling \$_____, which represents unpaid rent for _____ months, plus late charges totaling \$_____.

11. The debtor's failure to pay rent is cause for relief from the automatic stay.

12. Through this motion, I request relief from the automatic stay so I may initiate or continue an action in the state court to remove debtor from the rented premises.

I certify under penalty of perjury that the above is true.

Date: _____
 [Enter the date this document is signed]

 Signature of Landlord

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)
[Enter your name, address and telephone number]

In Re:
[Enter the debtor's name(s)]

Case No.: _____
[Enter the case number]

Chapter: _____
[Enter the chapter; example: 13]

Hearing Date: _____
[Enter the hearing date]

Judge: _____
[Enter the Judge's last name]

STATEMENT AS TO WHY NO BRIEF IS NECESSARY

In accordance with D.N.J. LBR 9013-1(a)(3), it is respectfully submitted that no brief is necessary in the court's consideration of this motion, as it does not involve complex issues of law.

Date: _____
[Enter date this document is signed]

Signature *[Of party seeking relief]*

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

[Enter your name, address and phone number]

In Re:

[Enter the debtor's name(s)]

Case No.:

_____ *[Enter the case number]*

Chapter:

_____ *[Enter the chapter of the case]*

Hearing Date:

_____ *[Enter the hearing date]*

Judge:

_____ *[Enter the Judge's last name]*

CERTIFICATION OF SERVICE

1. I, _____:

represent _____, the landlord in this matter.

am the secretary/paralegal for _____, who represents _____, the landlord in this matter.

am the landlord in this case and am representing myself.

2. On *[Enter the date you served the documents]* _____, I sent a copy of the following pleadings and/or documents to the parties listed in the chart below.

[Place a check next to each document you served]

Notice of Motion for Relief from the Automatic Stay

Certification of Landlord in Support of Motion for Relief from the Automatic Stay

Statement as to Why No Brief is Necessary

Proposed Order Granting Motion for Relief from the Stay

Other *[Explain]* _____

3. I certify under penalty of perjury that the above documents were sent using the mode of service indicated.

Date: _____
[Enter the date you signed this document]

Signature [Of the person who served the documents]

Name and Address of Party Served	Relationship of Party to the Case	Mode of Service
<i>[Enter the name and address of the party you served]</i>	<i>[Enter the party's relationship to the case]</i>	<input type="checkbox"/> Hand-delivered <input type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/Return receipt requested <input type="checkbox"/> Other _____ (As authorized by the court or rule. Cite the rule if applicable.)
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[Enter your name, address and phone number]

In Re:
[Enter the debtor's name(s)]

Case No.: _____
[Enter the case number]

Chapter: _____
[Enter the case number]

Hearing Date: _____
[Enter the hearing date]

Judge: _____
[Enter the Judge's last name]

ORDER GRANTING MOTION FOR RELIEF FROM THE STAY

The relief set forth on the following page is **ORDERED**.

[Leave the rest of this page blank]

The Court having reviewed the movant's Motion for Relief from the Automatic Stay, and any related responses or objections, it is hereby

ORDERED that:

1. The automatic stay is vacated to permit the landlord to initiate or resume an action in the state court of New Jersey for possession of the debtor's rented premises located at:

_____.

2. The landlord shall serve a copy of this order on the debtor, debtor's attorney, if any, the Office of the U. S. Trustee and any trustee appointed in this case, and any other party who entered an appearance on the motion.

3. Other: *[Enter the relief sought or ordered by the Court at the hearing. Each item of relief must be set forth in a separate numbered paragraph]* _____
