



# New Consumer Lift Stay Procedures

## United States Bankruptcy Court for the Southern District of Texas

This is an educational presentation. If there is a conflict between this presentation and the rules, the rules control.

# Executive Summary

- Procedures adopt use of standardized forms for motions and orders
- New procedures effective October 17, 2005.
- Procedures apply only to motions for stay relief on exempt residences and vehicles.
- Use is mandatory throughout the Southern District of Texas.
- Implemented by new local rules .

# Procedures are Mandatory

- New BLR 4001(f)(1):  
“Parties who file motions for relief from the stay on exempt residences or exempt vehicles in chapter 7 and chapter 13 cases must comply with this BLR 4001(f) and must use the forms promulgated by the court from time to time.”

# Conferences Now Required

- Movant must attempt pre-filing conference.
- Movant must provide a contact person with a direct telephone number for future conferences.
- Respondent has two days to respond to the conference.
- Certificate of conference included with motion.

# Agreed Relief

- Motions for agreed orders for relief save filing fees, hearing time and inconvenience.
- No attendance is necessary at hearing, unless ordered by Court.
- Court will usually issue order before date set for hearing.
- Must use mandatory motion and form.

# Form of Motion for Agreed Order (Form M-1)

## MOTION FOR ENTRY OF AGREED ORDER CONDITIONING AUTOMATIC STAY [AND CO-DEBTOR STAY] REGARDING EXEMPT PROPERTY

**THIS IS A MOTION FOR ENTRY OF AN AGREED ORDER CONDITIONING THE AUTOMATIC STAY. IF YOU OBJECT TO THE GRANTING OF RELIEF, YOU SHOULD CONTACT THE MOVANT IMMEDIATELY TO TRY TO REACH AN AGREEMENT. IF YOU CANNOT REACH AN AGREEMENT, YOU MUST FILE A WRITTEN RESPONSE AND SEND A COPY TO MOVANT WITHIN 15 DAYS OF THE DATE THIS MOTION WAS MAILED TO YOU. IF NO TIMELY OPPOSITION IS FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

Must give street address and legal

Applies before exemptions allowed

1. Movant: \_\_\_\_\_
2. Movant, directly or as agent for the holder, holds a security interest in [describe property. If real property, must list street address and legal description.] \_\_\_\_\_
3. The Debtor's exemptions \_\_\_\_\_ have \_\_\_\_\_ have not been allowed.
4. Type of collateral (e.g., Home, Manufactured Home, Car, Truck, Motorcycle): \_\_\_\_\_
5. Debtor's scheduled value of property: \$ \_\_\_\_\_
6. Movant's estimated value of property: \$ \_\_\_\_\_.
7. Total amount owed to movant: \$ \_\_\_\_\_.
8. Estimated equity (paragraph 6 minus paragraph 7): \$ \_\_\_\_\_.
9. Total pre and post-petition arrearages: \$ \_\_\_\_\_.
10. Total post-petition arrearages: \$ \_\_\_\_\_.
11. Amount of unpaid, past due property taxes, if applicable: \$ \_\_\_\_\_.
12. Expiration date on insurance policy, if applicable: \_\_\_\_\_.
13. Movant and Debtor [and co-debtor, if applicable] have agreed to condition the automatic stay pursuant to the terms of the attached agreed order. Accordingly, the parties request entry of the agreed order.

Date: \_\_\_\_\_

\_\_\_\_\_  
Movant's counsel

### Certificate of Service and Certificate of Compliance with BLR 4001

A copy of this motion was served on the persons shown on exhibit "1" at the addresses reflected on that exhibit on [date] by prepaid United States first class mail. Movant certifies that movant has complied with Bankruptcy Local Rule 4001.

\_\_\_\_\_  
Movant's counsel

# Forms of Agreed Orders (Forms O-2, O-4, O-5 and O-6)

**AGREED ORDER GRANTING RELIEF FROM AUTOMATIC STAY [AND THE CO-DEBTOR STAY, IF APPLICABLE]  
(This Order Resolves Docket # \_\_\_\_)**

Form O-2

\_\_\_\_\_ (“Movant”) filed a motion for relief from the automatic stay [and co-debtor stay] against [describe property. If real property, must list street address and legal description.] (the “Property”). Movant represented to the Court that it had served the motion in accordance with all applicable rules and provided notice of the hearing. As shown by Debtor(s) or Debtor(s)’ counsel signature below, Debtor(s) have agreed to the requested relief.

Accordingly, it is ordered that Movant is granted leave from the automatic stay [and the co-debtor stay, if applicable] to pursue its state law remedies against the Property, including repossession, foreclosure and/or eviction.

[OPTIONAL: The stay imposed by Bankruptcy Rule 4001(a)(3) does not apply.]

Reserved for Judge Signature

Agreed:

\_\_\_\_\_  
DEBTOR(S) OR THEIR COUNSEL

Date: \_\_\_\_\_

\_\_\_\_\_  
CO-DEBTOR OR COUNSEL

# Form O-4

## CHAPTER 13 AGREED ORDER CONDITIONING AUTOMATIC STAY (HOME)

(This Order resolves Docket # \_\_\_\_\_)

1. This Order concerns the note that is secured by the Debtor(s)' home and that is held, directly or in its capacity as agent for the holder, by \_\_\_\_\_, "Movant". The property that is the subject of this motion is [describe property, including street address and legal description.] (the "Property"). Notices sent pursuant to this Order must be sent to \_\_\_\_\_ (if to Movant") and to \_\_\_\_\_ (if to Debtor).

2. *By signing below, the Debtor(s) represent to the Court that the Debtor(s):*

*A. If they are a salaried or wage employee, are currently operating under a wage order or have submitted all information to the chapter 13 trustee for the presentation of a wage order to the Court.*

*B. If they are not a salaried or wage employee, are currently operating under an automated clearinghouse order or have submitted all information to the chapter 13 trustee for the presentation of an automated clearinghouse order to the Court.*

3. The parties stipulate that unpaid amounts due post-petition total \$ \_\_\_\_\_ and that Movant should be awarded attorneys fees and costs in the amount of \$ \_\_\_\_\_ (not to exceed \$650.00), for a total post-petition amount owed of \$ \_\_\_\_\_. This amount will be reduced by any payments previously made by the Debtor(s) that have not been properly credited by Movant. Proof of any such payments must be provided to Movant within 30 days of the date of entry of this Order. Within 30 days after entry of this Order, the Debtor(s) must file a proposed modification of any confirmed plan or must amend any proposed plan to include this amount, with interest at an annual rate of \_\_\_\_%. If the Debtors fail to do so, it is a Final Default under this Order. At the hearing on modification of the plan, the Debtors must be current on all payments to the chapter 13 trustee pursuant to the terms of the proposed modification. If the Debtors fail to do so, it is a Final Default under this Order.

4. The Debtor(s) must:

A. Timely make all regular payments concerning the Property that come due after entry of this Order, including all payments of principal, interest and escrows. Regular payments must be made directly to the Movant (addressed to: \_\_\_\_\_) or through the Chapter 13 Trustee, depending on the plan confirmed or proposed in this case.

B. Maintain insurance and pay all ad valorem taxes on the property and provide continuous proof of insurance and payment of ad valorem taxes to the holder of the note. This provision does not apply to escrowed taxes and insurance, payment of which is governed by paragraph 4A.

C. Make all payments due to the chapter 13 trustee after the date of this Order, with the amount of such payments being made in the amount required under the proposed modification..

5. If the Debtor(s) fail to comply with paragraph 4 of this Order or make a payment by insufficient check, the Movant must give the Debtor(s) and Debtor(s)' counsel written notice by regular and by certified mail. If the Debtor(s) fail to comply within 10 days of the date that notice was sent, it is a Final Default under this Order. Movant is only required to send two notices of default under this order. If there is a third failure to comply with paragraphs 3 or 4, it is a Final Default and no further notice of an opportunity to cure must be given.

6. The automatic stay remains in effect until (i) there is a Final Default under this order; (ii) this case is dismissed; or (iii) the Debtor(s) receive their bankruptcy discharge. If the stay terminates because there is a Final Default, the Movant must file a notice of termination of the automatic stay. The Debtor may challenge any notice of termination by filing a motion to set aside the notice of termination. The motion must be filed within 10 days of the filing of the notice of termination. Pending consideration of the motion by the Court, the Movant may proceed with all actions preparatory to foreclosure, but may not consummate a foreclosure of the Property.. Any co-debtor stay terminates at the time that the automatic stay terminates.

**SO ORDERED:**

Reserved for Judge Signature

AGREED AND ENTRY REQUESTED:

Debtor

Debtor

Debtor(s)' counsel

Movant's counsel



# Form O-4

## CHAPTER 13 AGREED ORDER CONDITIONING AUTOMATIC STAY (HOME)

(This Order resolves Docket # \_\_\_\_\_)

1. This Order concerns the note that is secured by the Debtor(s)' home and that is held, directly or in its capacity as agent for the holder, by \_\_\_\_\_, "Movant". The property that is the subject of this motion is [describe property, including street address and legal description.] (the "Property"). Notices sent pursuant to this Order must be sent to \_\_\_\_\_ (if to Movant") and to \_\_\_\_\_ (if to Debtor).

2. *By signing below, the Debtor(s) represent to the Court that the Debtor(s):*

A. *If they are a salaried or wage employee, are currently operating under a wage order or have submitted all information to the chapter 13 trustee for the presentation of a wage order to the Court.*

B. *If they are not a salaried or wage employee, are currently operating under an automated clearinghouse order or have submitted all information to the chapter 13 trustee for the presentation of an automated clearinghouse order to the Court.*

3. The parties stipulate that unpaid amounts due post-petition total \$ \_\_\_\_\_ and that Movant should be awarded attorneys fees and costs in the amount of \$ \_\_\_\_\_ (not to exceed \$650.00), for a total post-petition amount owed of \$ \_\_\_\_\_. This amount will be reduced by any payments previously made by the Debtor(s) that have not

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6. The automatic stay remains in effect until (i) there is a Final Default under this order; (ii) this case is dismissed; or (iii) the Debtor(s) receive their bankruptcy discharge. If the stay terminates because there is a Final Default, the Movant must file a notice of termination of the automatic stay. The Debtor may challenge any notice of termination by filing a motion to set aside the notice of termination. The motion must be filed within 10 days of the filing of the notice of termination. Pending consideration of the motion by the Court, the Movant may proceed with all actions preparatory to foreclosure, but may not consummate a foreclosure of the Property.. Any co-debtor stay terminates at the time that the automatic stay terminates.

**SO ORDERED:**

Reserved for Judge Signature

AGREED AND ENTRY REQUESTED:

Debtor

Debtor

Debtor(s)' counsel

Movant's counsel

# Form O-4

## CHAPTER 13 AGREED ORDER CONDITIONING AUTOMATIC STAY (HOME)

(This Order resolves Docket # \_\_\_\_\_)

1. This Order concerns the note that is secured by the Debtor(s)' home and that is held, directly or in its capacity as agent for the holder, by \_\_\_\_\_, "Movant". The property that is the subject of this motion is [describe property, including street address and legal description.] (the "Property"). Notices sent pursuant to this Order must be sent to \_\_\_\_\_ (if to Movant") and to \_\_\_\_\_ (if to Debtor).

2. *By signing below, the Debtor(s) represent to the Court that the Debtor(s):*

*A. If they are a salaried or wage employee, are currently operating under a wage order or have submitted all information to the chapter 13 trustee for the presentation of a wage order to the Court.*

*B. If they are not a salaried or wage employee, are currently operating under an automated clearinghouse order or have submitted all information to the chapter 13 trustee for the presentation of an automated clearinghouse order to the Court.*

3. The parties stipulate that unpaid amounts due post-petition total \$ \_\_\_\_\_ and that Movant should be awarded attorneys fees and costs in the amount of \$ \_\_\_\_\_ (not to exceed \$650.00), for a total post-petition amount owed of \$ \_\_\_\_\_. This amount will be reduced by any payments previously made by the Debtor(s) that have not been properly credited by Movant. Proof of any such payments must be provided to Movant within 30 days of the date of entry of this Order. Within 30 days after entry of this Order, the Debtor(s) must file a proposed modification of any confirmed plan or must amend any proposed plan to include this amount, with interest at an annual rate of \_\_\_\_%. If the Debtors fail to do so, it is a Final Default under this Order. At the hearing on modification of the plan, the Debtors must be current on all payments to the chapter 13 trustee pursuant to the terms of the proposed modification. If the Debtors fail to do so, it is a Final Default under this Order.

4. The Debtor(s) must:

\*Stipulation as to amount owed.

\*Stipulation on attorneys fees.

\*Attorneys fees and costs limited to \$650.00.

\*Plan modification must be filed within 30 days.

\*Debtor must be current on modification payments on date of modification hearing.

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filing a motion to set aside the notice of termination. The motion must be filed within 10 days of the filing of the notice of termination. Pending consideration of the motion by the Court, the Movant may proceed with all actions preparatory to foreclosure, but may not consummate a foreclosure of the Property.. Any co-debtor stay terminates at the time that the automatic stay terminates.

**SO ORDERED:**

Reserved for Judge Signature

AGREED AND ENTRY REQUESTED:

Debtor

Debtor

Debtor(s)' counsel

Movant's counsel

# Form O-4

## CHAPTER 13 AGREED ORDER CONDITIONING AUTOMATIC STAY (HOME)

(This Order resolves Docket # \_\_\_\_\_)

1. This Order concerns the note that is secured by the Debtor(s)' home and that is held, directly or in its capacity as agent for the holder, by \_\_\_\_\_, "Movant". The property that is the subject of this motion is [describe property, including street address and legal description.] (the "Property"). Notices sent pursuant to this Order must be sent to \_\_\_\_\_ (if to Movant") and to \_\_\_\_\_ (if to Debtor).

2. *By signing below, the Debtor(s) represent to the Court that the Debtor(s):*

*A. If they are a salaried or wage employee, are currently operating under a wage order or have submitted all information to the chapter 13 trustee for the presentation of a wage order to the Court.*

*B. If they are not a salaried or wage employee, are currently operating under an automated clearinghouse order or have submitted all information to the chapter 13 trustee for the presentation of an automated clearinghouse order to the Court.*

3. The parties stipulate that unpaid amounts due post-petition total \$ \_\_\_\_\_ and that Movant should be awarded attorneys fees and costs in the amount of \$ \_\_\_\_\_ (not to exceed \$650.00), for a total post-petition amount owed of \$ \_\_\_\_\_. This amount will be reduced by any payments previously made by the Debtor(s) that have not been properly credited by Movant. Proof of any such payments must be provided to Movant within 30 days of the date of entry of this Order. Within 30 days after entry of this Order, the Debtor(s) must file a proposed modification of any confirmed plan or must amend any proposed plan to include this amount, with interest at an annual rate of \_\_\_\_%. If the Debtors fail to do so, it is a Final Default under this Order. At the hearing on modification of the plan, the Debtors must be current on all payments to the chapter 13 trustee pursuant to the terms of the proposed modification. If the Debtors fail to do so, it is a Final Default under this Order.

4. The Debtor(s) must:

A. Timely make all regular payments concerning the Property that come due after entry of this Order, including all payments of principal, interest and escrows. Regular payments must be made directly to the Movant (addressed to: \_\_\_\_\_) or through the Chapter 13 Trustee, depending on the plan confirmed or proposed in this case.

B. Maintain insurance and pay all ad valorem taxes on the property and provide continuous proof of insurance and payment of ad valorem taxes to the holder of the note. This provision does not apply to escrowed taxes and insurance, payment of which is governed by paragraph 4A.

C. Make all payments due to the chapter 13 trustee after the date of this Order, with the amount of such payments being made in the amount required under the proposed modification..

5. If the Debtor(s) fail to comply with paragraph 4 of this Order or make a payment by insufficient check, the

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Debtor must maintain insurance and pay taxes.

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AGREED AND ENTRY REQUESTED:

Debtor

Debtor

Debtor(s)' counsel

Movant's counsel

# Form O-4

## CHAPTER 13 AGREED ORDER CONDITIONING AUTOMATIC STAY (HOME)

(This Order resolves Docket # \_\_\_\_\_)

1. This Order concerns the note that is secured by the Debtor(s)' home and that is held, directly or in its capacity as agent for the holder, by \_\_\_\_\_, "Movant". The property that is the subject of this motion is [describe property, including street address and legal description.] (the "Property"). Notices sent pursuant to this Order must be sent to \_\_\_\_\_ (if to Movant") and to \_\_\_\_\_ (if to Debtor).

2. *By signing below, the Debtor(s) represent to the Court that the Debtor(s):*

*A. If they are a salaried or wage employee, are currently operating under a wage order or have submitted all information to the chapter 13 trustee for the presentation of a wage order to the Court.*

*B. If they are not a salaried or wage employee, are currently operating under an automated clearinghouse order or have submitted all information to the chapter 13 trustee for the presentation of an automated*

\*Notices of default to Debtor and Debtor's counsel.

\*Two, ten day cure notices.

\*Debtor has 10 days to challenge a default notice.

\*If Debtor challenges, movant may proceed with posting and notices

\*Co-debtor stay terminates with debtor stay.

insurance, payment of which is governed by paragraph 4A.

C. Make all payments due to the chapter 13 trustee after the date of this Order, with the amount of such payments being made in the amount required under the proposed modification..

5. If the Debtor(s) fail to comply with paragraph 4 of this Order or make a payment by insufficient check, the Movant must give the Debtor(s) and Debtor(s)' counsel written notice by regular and by certified mail. If the Debtor(s) fail to comply within 10 days of the date that notice was sent, it is a Final Default under this Order. Movant is only required to send two notices of default under this order. If there is a third failure to comply with paragraphs 3 or 4, it is a Final Default and no further notice of an opportunity to cure must be given.

6. The automatic stay remains in effect until (i) there is a Final Default under this order; (ii) this case is dismissed; or (iii) the Debtor(s) receive their bankruptcy discharge. If the stay terminates because there is a Final Default, the Movant must file a notice of termination of the automatic stay. The Debtor may challenge any notice of termination by filing a motion to set aside the notice of termination. The motion must be filed within 10 days of the filing of the notice of termination. Pending consideration of the motion by the Court, the Movant may proceed with all actions preparatory to foreclosure, but may not consummate a foreclosure of the Property.. Any co-debtor stay terminates at the time that the automatic stay terminates.

**SO ORDERED:**

Reserved for Judge Signature

AGREED AND ENTRY REQUESTED:

Debtor

Debtor

Debtor(s)' counsel

Movant's counsel

# Form O-5

**CHAPTER 13  
AGREED ORDER CONDITIONING AUTOMATIC STAY (VEHICLE)  
(This order resolves docket #\_\_\_\_\_)**

1. This Order concerns the note that is secured by the Debtor(s)' vehicle and that is held, directly or in its capacity as agent for holder, by \_\_\_\_\_ "Movant". The vehicle is [vehicle description] (the "Property").  
Not \_\_\_\_\_  
\_\_\_\_\_

Generally, the same as O-4,  
but this one is for cars.

Attorneys fees may not  
exceed equity in car.

If notice of default is challenged,  
lender may repossess,  
but may not transfer title pending final hearing.

consummate a sale of the Property; provided, any repossession undertaken as a consequence of an erroneous Notice of Termination may subject Movant to damages. Any co-debtor stay terminates at the time that the automatic stay terminates.

**SO ORDERED:**

\_\_\_\_\_  
Reserved for Judge Signature

AGREED AND ENTRY REQUESTED:

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Debtor(s)' counsel

\_\_\_\_\_  
Movant's counsel

# Form O-6

**CHAPTER 7  
AGREED ORDER CONDITIONING AUTOMATIC STAY  
(This Order Resolves Docket # \_\_\_\_)**

1. This Order concerns the note that is secured by a security interest in the Debtor(s)' property and that is held, directly or as agent for holder, by \_\_\_\_\_ ("Movant"). The property is [describe property. If real property, include street address and legal description.] (the "Property"). Notices sent pursuant to this Order must be sent to \_\_\_\_\_ (if to Movant") and to \_\_\_\_\_ (if to Debtor).

This is chapter 7 form for cars or homes.

Single notice of default.

Agreed amounts of additional  
adequate protection payments.

Must make post-petition regular payments.

Chapter 7 trustee not bound—  
without trustee's agreement—  
if property is not exempt.

Debtor

Debtor

Debtor(s)' counsel

Movant's counsel

Chapter 7 Trustee

# Motion if No Agreement (Form M-2)

- File only if no agreement is reached after conference.
- If agreement is later reached, utilize identical forms as already displayed.
- Answers must comply with FRBP 9011. Responses must be based on reasonable investigation and must not be filed for delay or other improper purpose. A response stating that the debtors' attorney has not been able to contact the debtors or a general denial not based on reasonable investigation may not be sufficient to prevent default relief.



# Defaults

If a sufficient response has not been timely filed, the movant must submit a proposed form of default order with a certification of default. The proposed form of default order and certification must comply with the Court's Form O-3 as promulgated from time to time. The Court may issue a default order if an adequate response is not filed at least five days before the hearing. If the Court issues a default order prior to the hearing, counsel need not appear at the hearing. If the Court has not issued a default order and a party who has failed to respond appears at the hearing, the Court may nevertheless grant default relief or may set a date for an evidentiary hearing.



# Form of Motion (Form M-2)

## MOTION FOR RELIEF FROM THE STAY [AND CO-DEBTOR STAY, IF APPLICABLE] REGARDING EXEMPT PROPERTY

THIS IS A MOTION FOR RELIEF FROM THE AUTOMATIC STAY. IF YOU OBJECT TO THE GRANTING OF RELIEF FROM THE AUTOMATIC STAY, YOU SHOULD CONTACT THE MOVANT IMMEDIATELY TO TRY TO REACH AN AGREEMENT. IF YOU CANNOT REACH AN AGREEMENT, YOU MUST FILE A WRITTEN RESPONSE AND SEND A COPY TO MOVANT NOT LATER THAN [DATE] AND YOU MUST ATTEND THE HEARING. THE COPY SENT TO THE MOVANT MUST BE DELIVERED BY HAND OR ELECTRONIC DELIVERY IF IT IS SENT LESS THAN FIVE BUSINESS DAYS PRIOR TO THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE HEARING MAY BE AN EVIDENTIARY HEARING AND THE COURT MAY GRANT OR DENY RELIEF FROM THE STAY BASED ON THE EVIDENCE PRESENTED AT THIS HEARING. THE COURT WILL CONDUCT A HEARING ON THIS MOTION ON [DATE] AT [TIME] IN COURTROOM [ADDRESS].

1. Movant: \_\_\_\_\_
2. Movant, directly or as agent for the holder, holds a security interest in [describe property. If real property, must list street address and legal description.]
3. The Debtor's exemptions \_\_\_\_\_ have \_\_\_\_\_ have not been allowed. If allowed, they were allowed on [date].
4. Type of collateral (e.g., Home, Manufactured Home, Car, Truck, Motorcycle): \_\_\_\_\_
5. Debtor's scheduled value of property: \$ \_\_\_\_\_.
6. Movant's estimated value of property: \$ \_\_\_\_\_.
7. Total amount owed to movant: \$ \_\_\_\_\_.
8. Estimated equity (paragraph 6 minus paragraph 7): \$ \_\_\_\_\_.
9. Total pre and post-petition arrearages: \$ \_\_\_\_\_.
10. Total post-petition arrearages: \$ \_\_\_\_\_.
11. Amount of unpaid, past due property taxes, if applicable: \$ \_\_\_\_\_.
12. Expiration date on insurance policy, if applicable: \_\_\_\_\_.
13. Debtor(s)' payment history is attached as exhibit "A", in the form required by Local Rule 4001(a)(6).
14. If applicable: Name of Co-Debtor: \_\_\_\_\_.
15. Based on the foregoing, movant seeks termination of the automatic stay [and the co-debtor stay, if applicable] to allow movant to foreclose or repossess the debtor(s)' property and seeks to recover its costs and attorneys' fees in an amount not to exceed the amount listed in paragraph 8.
16. Movant certifies that prior to filing this motion an attempt was made to confer with the Debtor(s)' counsel (or with Debtor(s), if *pro se*) by the following person on the following date and time: \_\_\_\_\_.

An agreement could not be reached.

Date: \_\_\_\_\_

\_\_\_\_\_  
Movant's counsel

### Certificate of Service and Certificate of Compliance with BLR 4001

A copy of this motion was served on the persons shown on exhibit "1" at the addresses reflected on that exhibit on [date] by prepaid United States first class mail. Movant certifies that movant has complied with Bankruptcy Local Rule 4001.

\_\_\_\_\_  
Movant's Counsel

Payment history  
is mandatory

# Form of Order to be Submitted with Motion (Form O-1)

**ORDER GRANTING RELIEF FROM AUTOMATIC STAY [AND CO-DEBTOR STAY, IF APPLICABLE] AFTER HEARING  
[FORM SUBMITTED WITH ORIGINAL MOTION AND BROUGHT TO HEARING]  
(This Order Resolves Docket # \_\_\_\_\_)**

\_\_\_\_\_ (“Movant”) filed a motion for relief from the automatic stay against [describe property. If real property, must list street address and legal description.] (the “Property”). Movant represented to the Court that it had served the motion in accordance with all applicable rules and provided notice of the hearing.

\_\_\_\_\_ Although a response opposing the motion was filed, the respondent did not appear at the hearing. Therefore, the response is overruled for want of prosecution and the motion is granted.

\_\_\_\_\_ After hearing, and for the reasons stated on the record, relief from the stay is granted.

\_\_\_\_\_ No timely response was filed. Accordingly, the motion is granted by default.

\_\_\_\_\_ As shown by Debtor(s)’ counsel signature below, Debtor(s) have agreed to the requested relief.

Accordingly, it is ordered that Movant is granted relief from the automatic stay [and the co-debtor stay] to pursue its state law remedies against the Property, including foreclosure, repossession and/or eviction.

**Submit order with no boxes marked**

Additional rulings:

\_\_\_\_\_ Movant is awarded attorneys fees in the amount of \$\_\_\_\_\_.

\_\_\_\_\_ The stay imposed by Bankruptcy Rule 4001(a)(3) does not apply for the reasons stated on the record.

Reserved for Judge Signature

Approved by Debtor’s Counsel: \_\_\_\_\_  
(signature)

# Default Order (Form O-3)

## DEFAULT ORDER GRANTING RELIEF FROM AUTOMATIC STAY [AND CO-DEBTOR STAY, IF APPLICABLE]

(This Order Resolves Docket # \_\_\_\_\_)

[FORM TO BE FILED AT LAST TWO BUSINESS DAYS BEFORE THE SCHEDULED HEARING IF NO RESPONSE HAS BEEN FILED]

\_\_\_\_\_ (“Movant”) filed a motion for relief from the automatic stay [and the co-debtor stay, if applicable] against [describe property. If real property, must list street address and legal description.] (the “Property”). Movant represented to the Court that it had served the motion in accordance with all applicable rules and provided notice of the hearing. As certified by Movant’s counsel, no timely response has been filed. The Court grants default relief.

Accordingly, it is ordered that Movant is granted relief from the automatic stay [and the co-debtor stay, if applicable] to pursue its state law remedies, including foreclosure, repossession and/or with respect to the Property..

**Submit only IF AND AFTER default.**

Reserved for Judge Signature

Movant’s counsel’s certification:

Movant’s motion for relief from the stay was served in accordance with applicable bankruptcy rules on \_\_\_\_\_. I have not received an answer to the motion. Additionally, I have reviewed the docket sheet in this case. The docket sheet reflects that no answer was filed to Movant’s motion for relief from the stay.

\_\_\_\_\_  
COUNSEL FOR MOVANT

Date: \_\_\_\_\_

**Counsel certifies default only after review of file and of docket sheet**

# Use of Non-Conforming Motions or Orders

- Right to use non-conforming motions or orders must be first approved by motion.
- Court may require evidentiary hearing.
- Motion must demonstrate exceptional circumstances.
- Exceptional circumstances determined by a preponderance of the evidence.