

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

United States Courthouse
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Charleston, WV 25301



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CHAMBERS OF
RONALD G. PEARSON
JUDGE

February 12, 2008

Dear Creditors' Counsel:

As you know, this Court has an appearance policy to insure that when stay relief is granted with respect to residential property of an individual debtor, sufficient information is provided to allow adequate findings of fact to be made which justify the requested relief. This requirement also helps individuals explore the various means creditors are allowing for the care of delinquencies on home loans.

Securitization has done much, as you know, to bring down the costs of home financing and increase the number of financing options available to individuals. However, in case after case, several factors, including the growing impersonal nature of these transactions; the difficulty some lenders have in providing information about the status of loans and the status of payments; and, the difficulty lenders have in producing that information in a timely fashion as the statutes and rules require, have made it extraordinarily difficult to hold meaningful and timely hearings on motions for stay relief. Furthermore, I have often discovered that some of the charges and fees which are shown by creditors as due and owing include amounts that West Virginia (or other state) law does not authorize lenders to collect from individual homeowners.

For these reasons, this Court has done a number of things over the last several years to improve its understanding of the issues relating to stay relief on residential property. The Court has required payment records to be supplied before taking action on stay relief motions. The Court also has required counsel to move timely for continuances rather than continuing matters at the last minute by telephone, in an attempt to avoid having parties travel long distances at considerable expense when they weren't aware that a scheduled hearing has been cancelled.

Unfortunately, none of these actions is producing an acceptable rate of appearances or information for most relief motions on residential property scheduled for hearing. In fact, the only way debtors, debtors' counsel and the Court often obtain a good understanding of the basis for stay relief occurs when movants' counsel appears with payment histories at the preliminary or final hearing on stay relief for residential property.

Accordingly, commencing with hearings scheduled for February 27 and going forward, at every Chapter 7 and 13 preliminary and final hearing for stay relief on residential property, the Court will expect counsel for a moving creditor to appear, and have in his or her possession: (1) a payment history that supports the allegations contained in the motion; (2) a complete list of

fees and other charges added to the mortgage claim; and (3) disclosure of the current interest and possible future interest rate changes. In the absence of production of that information and appearance by counsel or adequate explanation such as family emergency that prevented that appearance, the stay relief motion will be denied and no further hearing scheduled with respect to it until the missing information is supplied and counsel certifies his or her intent and availability for future hearings. Furthermore, the practice of sending substitute counsel to the hearing, in lieu of counsel for the moving party, will not be accepted because it has been the Court's experience that substitute counsel almost without exception has no information or knowledge about the merits or facts related to the stay relief motion.

No calls to the Clerk's office or to my law clerk requesting appearance waivers will be accepted in lieu of these appearances unless a resolution of the motion on the merits has been reached or emergency situations due to weather, travel difficulties, family emergencies and the like.

I write to give you advance information about the procedural and requirement changes that will control future scheduling orders and hearings relative to home loans. Any valid objection or justified request to modify this general policy and the Orders that will be issued to implement it will also be considered on request.

Given that the number of cases where little or no information about payment history is so prevalent, I know of no other practical solution other than requiring face-to-face discussions among the movant, debtor's counsel and often the debtor, at the preliminary and final stay relief hearings. The number of residential stay motions now being filed in bankruptcy cases in this district is numerous and the national interest in searching for solutions to the mortgage foreclosures crisis dictate a need for improved disclosure of information by this Court.

Sincerely,



Ronald G. Pearson

cc: M. Jo Proops, Bankruptcy Clerk
Gary Kinder, Law Clerk