

GUIDELINES FOR CONSENT ORDERS RESOLVING STAY RELIEF MOTIONS IN CONSUMER CASES

1. Proposed orders need not recite facts
 - a. Prior acts or omissions, including a history of prior payments made or missed, need not be separately described.
 - b. The order should prescribe only future obligations, including for example required payments or filing amended or modified plans.
 - c. If you believe prior acts or omissions must be included, please describe them in the preamble, not in the ordering paragraphs.
2. Required Notice
 - a. The proposed order must provide for service of the ex parte motion, affidavit and other supporting materials on debtors and their attorney (if debtors have counsel).
 - b. To ensure that debtors (and their counsel) receive adequate notice of the request for default relief, the judge typically holds the proposed orders for five days before considering them.
3. Attorney Fee Limitations
 - a. Consent orders/APOs containing requests for fees and costs totaling more than \$526.00 must be set for hearing.
4. Relief Not Permitted in Consent Orders
 - a. The judge will not sign proposed orders that:
 - i. provide for abandonment of property in the event of default.
 - ii. include language stating that any relief granted is *res judicata* if the case is converted to a proceeding under another chapter of the Bankruptcy Code.
 - iii. recite that default relief will be granted on submission of an affidavit only. Local Rule 4001-3 requires that a party seeking stay relief for default of a consent order file a motion for relief, affidavit and copy of the consent order.
 - iv. immediately place the debtor in default. For example, the judge will not sign a consent order requiring the filing of an amended plan by a date already past, if no amended plan was filed by that date.
 - v. state a creditor can "immediately" foreclose in the event of default.