

## **§ 362 MOTIONS (Judge Waites)**

If the settlement order in a Chapter 13 case contains an *ex parte* stay relief provision, the settlement order may be approved without a hearing if it provides for such relief for a failure to make cure payments or a failure to make future direct payments for a period of up to 1 year after the expiration of the cure period.

Prior to consenting to a settlement order, the payment obligations set forth in the order, including the amounts, method, and timing of payments, and consequences of default shall be reviewed with and agreed to by the debtor(s).

**Affidavits of Default on Settlement Orders.** An affidavit of default under a settlement order in a Chapter 13 case shall include an attachment which demonstrates all direct post petition payments and their application and indicate payments which have not been received since the entry of the settlement order.

**Rule 4001(a)(3) Stay.** If the movant/declarant seeks a finding in a proposed order granting relief from stay that the 14-day stay of Fed. R. Bankr. P. 4001(a)(3) does not apply to the order, the attorney for the movant/declarant shall state in the affidavit of default one of the following applicable circumstances: the debtor(s) did not object to a request for a such a finding or the debtor(s) expressly agreed to such relief as a part of a previously entered settlement order. In such event, the language of a proposed order requesting that finding may indicate the stay is not applicable to the order based thereon by the following language: “Based upon the debtor(s)’ prior agreement or failure to object to the movant’s request regarding the Fed. R. Bankr. P. 4001(a)(3) stay, this order is effective immediately.”

**Motions to Extend the Automatic Stay.** For all motions to extend the automatic stay filed in cases before Judge Waites, an affidavit of the movant shall be filed supporting such motion, which provides the information necessary to determine whether the requirements of 11 U.S.C. Section 362(c)(3) are met. The affidavit must be filed at the same time as the motion to extend the automatic stay. The chapter 13 plan and all schedules must be filed by no later than five (5) business days prior to the scheduled hearing on the motion to extend the automatic stay. The motion may be granted in advance of the hearing if the affidavit is timely submitted, there are no objections by parties in interest, and the trustee consents to the extension.