

**FILED**

at \_\_\_\_\_ O'clock &amp; \_\_\_\_\_ M

**MAY 16 2003****BRENDA K. ARGOE, Clerk**  
United States Bankruptcy Court  
Columbia, South Carolina (30)

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

Bryan T. Gailey and Marion E. Gailey,

Debtors.

C/A No. 01-04640-W

**ORDER**

Chapter 13

**ENTERED****MAY 16 2003****D.L.L.**

THIS MATTER comes before the Court upon the ex parte Motion (the "Motion") and Order submitted by Washington Mutual to vacate an earlier order of the Court entered March 26, 2003 and to reinstate the automatic stay.

According to a Settlement Order entered March 20, 2002, Debtors and Washington Mutual resolved a prior Motion for Relief from the Automatic Stay. Upon Debtors' default under the terms of the Settlement Order as attested to by an affidavit of its counsel, Washington Mutual received relief from the automatic stay by Order entered March 26, 2003.

The ex parte Motion seeks to vacate the March 26, 2003 Order and requests the reinstatement of the automatic stay because Washington Mutual accepted payments after the stay had been lifted.

Upon the enactment of Local Rule 4001-1(L) in October 2001, this Court clearly promulgated that, absent extraordinary circumstances, it would not grant the relief sought in the Motion. This Court has a heavy burden of cases and considers hundreds of relief from stay motions each month. It should not face an additional burden of reinstating relief from stay and vacating orders merely upon the agreement of the parties. Such a procedure could produce a seemingly endless series of orders granting relief from the stay upon each monthly default and then reinstating the automatic stay as the creditor seeks to collect one more monthly payment. To provide debtors with a means to retain collateral as well as an incentive to continue to perform in Chapter 13 cases, the Court will, by order, authorize the Chapter 13 Trustee to resume arrearage payments to secured

creditors through the confirmed plan under a specific form order if the debtors and creditor reach some out-of-court agreement to allow debtors to retain collateral critical to the plan. Additionally, if specifically stated grounds exist under Federal Rules 59 or 60 for vacating the prior order, the Court will consider such requests. This has been the well announced procedure employed by the undersigned for several years, and the bar should be aware of this procedure.

This order further and formally announces this procedure to the bar in this district and requests it to observe the requirements of Local Rule 4001-1(L). It further serves to caution that repeated violations exhaust the resources of the Court and therefore may subject the movants and their counsel to sanctions.

Regarding the matter before the Court, the Motion filed by Washington Mutual is denied.

**AND IT IS SO ORDERED.**

  
UNITED STATES BANKRUPTCY JUDGE

Columbia, South Carolina  
May 16, 2003.