

Information & Instructions: Agreed Order Granting Relief From The Stay

PREVIEW

1. Use this form to obtain the right for a creditor to repossess secured property after the creditor has filed a motion to lift the automatic stay and the debtor has agreed to bring the debt current and agrees to having the stay lifted if he or she fails to continue making timely payments.

2. A creditor is prohibited from repossessing a debtor's property after the court signs the Order which lifts the automatic stay and authorizes the repossession.

3. Consequently, the creditor wants the right to repossess the property, if the debtor fails to comply with the agreed order. The debtor does not want to have to re file the motion a second time.

4. Be sure to check the local rules concerning the court's practice on obtaining the court's signature on the order.

5. Some courts require the creditor's & debtor's attorney and the trustee to attend the hearing in order to obtain a signed order, even though it is an agreed one.

6. The creditor should not repossess the property until the court has signed the order, even if the debtor, debtor's attorney and creditor's attorney have signed the order.

7. The court could disapprove the order or the trustee could object to the order. Consequently the safest practice is to obtain a signed order.

8. This agreed order assumes that the creditor is secured and the debtor purchased an automobile and then failed to pay the bank the debt on the vehicle.

9. The form also assumes the debtor will make the past due payments current and then keep the note current.

10. In the event the debtor defaults, the creditor can repossess the vehicle without further court action.

Form: Agreed Order Granting Relief From The Stay

THIS DOCUMENT

THANK YOU

FOR THE [NAME] DISTRICT OF TEXAS [NAME] DIVISION

In Re
[Debtor's Name]

Case No. _____
Chapter _____

[Plaintiff's Name]
v.

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[Defendant's Name]

PREVIEW

Case No. _____

AGREED ORDER MODIFYING STAY

At [Division] the above entitled and numbered cause, in the aforesaid District, came on for hearing, Movant's, [Name], Motion to Lift the Automatic Stay seeking modification of Section 362 (Automatic Stay) pursuant to 11 U.S.C. Section 362; the said Motion was filed on [Date].

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The Debtor, Trustee and Unsecured Creditors were served, and no objections or pleadings were filed therein opposing Movant's Motion to lift the Automatic Stay.

Thereafter, Movant and Debtor, by and through their counsel of record, presented unto the Court before the conclusion of the preliminary hearing on the said complaint an Agreed Order to Lift the Automatic Stay as to [Name].

The Agreed Order having been presented and considered the Court finds:

THIS DOCUMENT
1. That the Debtor herein is justly and duly indebted to [Name] as evidenced by the Promissory Notes and Security Agreements made by [Name], individually and as owners of [Name] to the order of [Name].

2. That the debts are secured by valid and duly perfected liens and security interests in the following collateral:

[explain], as more fully described in Exhibit "A" hereto.

THANK YOU
3. That the Debtors have defaulted in the payment of the aforesaid Note and in the performance of the above referenced instruments creating said liens and security interests.

4. That a Chapter [Number] Case was commenced by the filing of a Petition by

Debtors and that cause exists under Section 362(d) in the Bankruptcy Code to modify this stay provided by Section 362 of the Bankruptcy Code in accordance with the terms of this

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Order and the modifications as set forth herein are necessary to adequately protect Movant's interest and the property security payment owed on the above said Note.

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5. That all summons and notices of the complaint to modify stay of this Order as required by law and the Bankruptcy Rules have been properly and timely given and that no further Order or further notices are necessary in the entry of this Order and it is in the best interest of the Debtor's estate that Movant's Motion be granted.

6. That the parties have agreed that Debtor shall execute a modified Promissory Note and Security Agreement covering the above said equipment and commence making

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payments on the same on or before [Date], and to further evidence Debtor's intentions to repay the same, Debtor has signed a Reaffirmation Agreement of even date therewith.

The parties have further agreed that as long as Debtor is current on his said payment in the aforesaid modified Promissory Note, Debtor shall be allowed to retain possession of the equipment referred to herein.

THIS DOCUMENT

The parties have, however, agreed that in any event Debtor fails to make said payments on a timely basis and in the event said Debtor defaults on the modified Note described above, Movant shall be entitled to exercise any and all rights, privileges and duties granted under the aforesaid Security Agreement and/or Promissory note, including but not limited to immediate repossession of the same without further notice or Order of this Court.

IT IS THEREFORE ORDERED that the automatic stay provisions afforded Debtor pursuant to 11 U.S.C. Section 362, be and are hereby modified as to [Name] and

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IT IS FURTHER ORDERED that Debtor have released said property from the Bankruptcy Estate to [Name].

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IT IS THEREFORE ORDERED that the automatic stay as to [Name] shall be terminated as of the date of this Order.

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[Name] may exercise any and all of the rights and remedies afforded by its Promissory Note and Security Agreement, and also including, but not limited to, private and non-judicial repossession of the collateral described above and in the Exhibits attached hereto.

Signed on
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UNITED STATES BANKRUPTCY JUDGE

MOVANT HAS COMPLIED WITH LOCAL BANKRUPTCY RULE 4001

[Add the notice if required by local rules.]

APPROVED AS TO FORM AND SUBSTANCE:

[Law Firm's or Attorney's Name]
Attorney for [Name]
[Address]
[Telephone & facsimile numbers]
Federal Bar no. [Number]

THIS DOCUMENT

APPROVED AS TO FORM ONLY:

[Law Firm's or Attorney's Name]
Attorney for [Name]
[Address]
[Telephone & facsimile numbers]
Federal Bar no. [Number]

THANK YOU

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