

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In Re:

**CASES UNDER CHAPTER 13
OF THE BANKRUPTCY CODE**

**ORDER RELATING TO MOTIONS FOR RELIEF FROM THE
AUTOMATIC STAY; AND REQUIRING THE FILING OF CHAPTER
13 DEBTOR'S CERTIFICATION IN OPPOSITION TO CREDITOR'S
MOTION OR CERTIFICATION OF DEFAULT AND RELATED FORMS**

A proposal for an Order of the Court resolving certain payment dispute issues commonly arising in cases under Chapter 13 of the Bankruptcy Code having been reviewed by the Court, and the Court having considered the benefit to the bench, bar, and parties in interest, and good cause having been shown;

IT IS ORDERED that:

1. No appearances will be required for *uncontested* Chapter 13 Motions relating to the automatic stay. This procedural transition contemplates amendment to *D.N.J. LBR 4001-1, Automatic Stay-Relief From*, pending approval of Local Bankruptcy Rule Amendments by the United States District Court for the District of New Jersey pursuant to the Court's Annual Rule Making Cycle for the year 2005.

2. A new form entitled *Chapter 13 Debtor's Certification in Opposition to Creditor's Motion or Certification of Default* (attached as *Exhibit A*) must be filed with the Court and served upon the creditor and the Standing Chapter 13 Trustee, at least seven (7) days before the return date, pursuant to *DNJ LBR 9013-1(d), Motion Practice*, if filed in opposition to a *Motion for Relief*

from the Automatic Stay; and within 10 days of the filing of a *Creditor's Certification of Default* under an *Order Resolving Motion to Vacate Stay and/or Dismiss with Conditions*. Absent the filing of this mandatory new form, the creditor's stay relief motion will be deemed uncontested, and the creditor's appearance at the hearing will *not* be required.

4. Local Forms 16 (Post Petition Payment History On Note and Mortgage) or 16A (Post Petition Payment History on Vehicle Loan/Lease) must be filed by secured creditors in conjunction with the filing of a *Creditor's Certification of Default*.

5. Secured creditors shall be required to accept debtors' post petition payments, and to apply those payments to debtors' accounts; any such acceptance shall be without any prejudice to, waiver of, or estoppel as to the position of secured creditors in disputes with debtors, including payment and accounting disputes.

6. A new form entitled *Scheduling Order Regarding Certain Chapter 13 Payment Dispute Issues Relating To Motions for Relief From the Automatic Stay*, will be entered by the Court, requiring the exchange of payment records before the hearing, on the terms and conditions set forth therein.

7. The establishment on the Court's website www.njb.uscourts.gov, of a new Creditor Address Database for purposes of forwarding post petition payments is approved, subject to timely implementation of this Database subsequent to the effective date of this General Order.

8. This General Order becomes effective January 17, 2005 upon which date, the above referenced procedural transitions are to be implemented; use of Local Forms 16, or 16A in conjunction with a *Creditor's Certification of Default* is to become mandatory; as is use of the new mandatory form *Chapter 13 Debtor's Certification In Opposition to Creditor's Motion*.

9. Notice to the Bar of this Order shall be provided on the Court's website:

www.njb.uscourts.gov.

Dated: January 4th, 2005

/s/ Rosemary Gambardella
Hon. Rosemary Gambardella, Chief Judge
United States Bankruptcy Court
District of New Jersey

Exhibit A

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-2(c)

In Re:

Case No.: _____

Judge: _____

Chapter: 13

**CHAPTER 13 DEBTOR'S CERTIFICATION IN OPPOSITION
TO CREDITOR'S MOTION OR CERTIFICATION OF DEFAULT**

The debtor in the above-captioned chapter 13 proceeding hereby objects to the following
(choose one):

1. Motion for Relief from the Automatic Stay filed by creditor
_____. A hearing has been scheduled for
_____, at _____ m.

OR

2. Certification of Default filed by creditor, _____.
I am requesting a hearing be scheduled on this matter.

I am objecting to the above for the following reasons **(choose one)**:

- Payments have been made in the amount of \$ _____, but have
not been accounted for. Documentation in support is attached hereto.

- Payments have not been made for the following reasons and debtor proposes
repayment as follows **(explain your answer)**: _____

Other (explain your answer): _____

3. This certification is being made in an effort to resolve the issues raised by the creditor in its motion.
4. I certify the above facts to be true. I am aware that if the above facts are willfully false, I am subject to punishment.

Date: _____

Debtor's Signature

Date: _____

Debtor's Signature

NOTE: Pursuant to the Court's General Orders entered on January 4th, 2005, this form must be filed with the Court and served upon the creditor and the Standing Chapter 13 Trustee, **at least seven (7) days before the return date, pursuant to DNJ LBR 9013-1(d), Motion Practice**, if filed in opposition to a *Motion for Relief from the Automatic Stay*; and **within 10 days of the filing of a Creditor's Certification of Default under an Order Resolving Motion to Vacate Stay and/or Dismiss with Conditions**. Absent the filing of this mandatory new form, the creditor's stay relief motion will be deemed uncontested, and the creditor's appearance at the hearing will *not* be required.