

DOCKETED

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In the Matter of Section 362(d) Motions
that Improperly Require That Opposition
Be in Writing

STANDING ORDER

Whereas there has been a large increase in the number of Motions to Lift Stay that are accompanied by Notices of Motion that incorrectly state that if anyone wishes to oppose the Motion he or she must file a written objection, and

Whereas Rule 9014 FRBP specifically states that "No response is required [in a contested matter] unless the court orders an answer to a motion," and

Whereas Local Rules 9013-1 and 9014-1 do not require written responses, and

Whereas falsely informing a debtor that a written response is required clearly has the effect of improperly chilling opposition and the effect of needlessly increasing the costs of representation, it is now

ORDERED, effective immediately, that except for motions made returnable in Rochester, New York and Watkins Glen, New York, pursuant to Local Rule 9013-1, the Clerk shall perform the following as to any Motion to Lift Stay under 11 U.S.C. § 362, in a case concerning natural persons, which is accompanied by a Notice of Motion which states that opposition must be in writing:

- (1) Accept the Motion and Notice of Motion for filing.
- (2) Accept and receipt the fee therefor.
- (3) Bring the filing promptly before a judge, and if the judge so directs, then docket same, noting that it is filed in improper form.
- (4) Unless the judge orders otherwise, do not calendar the motion nor schedule any return date.
- (5) Unless the judge orders otherwise, mail to the filing party a notification of these events, together with a copy of this Order, and the party therein must either

(A) If time permits, serve an amended notice on all parties previously served which conspicuously states that the prior notice was in error when it stated that written opposition was required, or

(B) Properly serve notice on all parties previously served, that the matter will *not* be heard on the day and the time noticed *because* the Notice of Motion incorrectly stated that written opposition was required and may properly refile.

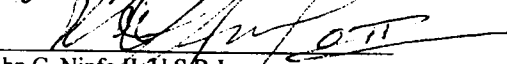
In all instances in which the Judge has directed treatment under the Standing Order, it is now Ordered, effective immediately, that

1. The filing party must promptly obey this Order regarding prompt service, and
2. The filing fee is fully earned upon the filing of a deficient motion, and
3. No additional fee is due under subparagraphs 5(A) or 5(B), and
4. When refiled under subparagraphs 5(A) or 5(B), the filing party must conspicuously identify said filings as Amended.

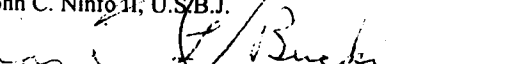
Dated: March 16 1999



Michael J. Kaplan, Chief, U.S.B.J.



John C. Ninfo II, U.S.B.J.



Carl L. Bucki, U.S.B.J.