

Appendix 15

(Chapter 15-Uninsured & Insolvency Situations)

1. Sample Bankruptcy Forms.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:) Chapter 13 (or 7 or 11)
)
John Debtor,) CASE NO: 00-00000-D
)
)
) **NOTICE OF MOTION FOR RELIEF**
Debtor.) **FROM AUTOMATIC STAY**
) **(11 U.S.C. §362)**
)
_____)

TO: DEBTOR, TRUSTEE (if applicable), AND THOSE NAMED IN THE ATTACHED MOTION

PLEASE TAKE NOTICE THAT a hearing will be held on the attached Motion on

Date: Month Day, Year
Time: 00:00 a.m.
Place: U.S. Bankruptcy Court, 1100 Laurel Street, Columbia, South Carolina

Within 10 days after service of the attached Motion, the Notice of Motion and the movant's Certification of Facts, any party objecting to the relief sought shall:

- (1) File with the clerk a written objection to the 11 U.S.C. §362 Motion;
- (2) File with the clerk a Certification of Facts;
- (3) Serve on the movant items 1 and 2 above at the address shown below; and
- (4) File a Certificate of Service with the clerk.

If you fail to comply with this procedure, you may be denied the opportunity to appear and be heard on this proceeding before the Court.

DATE OF SERVICE: Month day, Year
MOVANT: Calvin Claimant
ATTORNEY: Alvin Attorney
ATTORNEY'S ADDRESS: Mailing Address
City, State Zip Code

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:) Chapter 13 (or 7 or 11)
John Debtor,)
) CASE NO: 00-00000-D
)
)
Debtor.)
_____)

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

COMES NOW Calvin Claimant and, pursuant to Rule 4001 and Rule 9014 of the Federal Rules of Bankruptcy Procedure and SC LBR 4001-1, moves this Court to grant Calvin Claimant relief from the automatic stay provisions of 11 U.S.C. §362 (the "Automatic Stay"). The movant would show this Court the following:

1. An Order for Relief under 11 U.S.C. Chapter 13 was entered on a petition filed by the above-named Debtor on Month Day, Year, and Trustee _____, Esquire, was subsequently named Trustee in said Chapter 13 (or 7 or 11) bankruptcy proceedings.

2. Claimant was/is employed by the Debtor and suffered an injury by accident which is compensable and covered by the SC Workers Compensation Act.

3. The Debtor has a workers compensation insurance policy with _____ company to pay the claim and cover the cost of defense.

4. The Debtor would further show that his recovery should be limited to the insurance proceeds and would therefore not diminish the assets of the estate nor be an administrative burden.

WHEREFORE, Calvin Claimant prays that:

(i) Pursuant to 11 U.S.C. §362(d), this Court grant relief from the provisions of the Automatic Stay, the provisions of 11 U.S.C. §524 (the stays effective upon discharge) and any and all other stays or injunctions which are or may be in effect, by terminating, annulling, modifying or conditioning said stays or injunctions as the insurance proceeds, so as to permit Calvin Claimant to exercise any and all remedies available to him under any applicable law or contractual agreement between Calvin Claimant and Debtor, including without limitation, the right to implement or continue proceedings before the South Carolina Workers' Compensation Commission;

(ii) Calvin Claimant be authorized to immediately enforce and collect any award or settlement from the insurance proceeds only it is awarded pursuant hereto; and

(iii) For such other and further relief as may be just, equitable and proper.

ALVIN ATTORNEY
District Court ID No. 0000
Mailing Address
City, State Zip Code
Telephone Number

Attorney for Calvin Claimant

City, State
Month Day, Year

ALVIN

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:) Chapter 13 (or 7 or 11)
)
John Debtor,) CASE NO: 00-00000-D
)
)
Debtor.)
_____)

CERTIFICATION OF FACTS

For the above-entitled proceeding, in which relief is sought from the Automatic Stay in accordance with 11 U.S.C. §362, I do hereby certify to the best of my knowledge the following:

1. Nature of Movant's Interest:
Workers Compensation Claim
2. Brief Description of Calvin Claimant's Interest, copy attached
Workers Compensation Claim
3. Description of Property Encumbered by Stay:
Insurance Proceeds
4. Basis for relief:
11 U.S.C. §362
5. Prior Adjudication by Other Courts:
N/A
6. Valuation of Property:
Unliquidated
7. Amount of Debtor's estimated equity:
N/A

ALVIN ATTORNEY
District Court ID No. 0000
Mailing Address
City, State Zip Code
Telephone Number

Attorney for Calvin Claimant

City, State
Month Day, Year

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:) Chapter 13 (or 7 or 11)
John Debtor,)
Debtor.)
ORDER

This matter comes before the Court upon the Claimant's Notice of Motion for Relief from Automatic Stay (11 U.S.C. §362) filed by Calvin Claimant on Month Day, Year.

It appears that the Movant / Claimant is the holder of a Workers Compensation claim. It further appears that the Defendant / Debtor is insured by a policy with Workers Compensation coverage. No prejudice will occur to the Debtor or the Creditors if relief is granted.

WHEREFORE, IT IS ORDERED THAT

The Claimant is granted relief from the stay to pursue his claim before the South Carolina Workers Compensation Commission. The Claimant's recovery shall be limited to insurance proceeds only.

AND SO IT IS ORDERED.

UNITED STATES BANKRUPTCY JUDGE

Columbia, South Carolina

Dated: _____

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:) Chapter 13 (or 7 or 11)
John Debtor,) CASE NO: 00-00000-D
Debtor.) AFEIDAVIT OF SERVICE BY MAIL

PERSONALLY APPEARED before me Jane Doe who, being duly sworn, deposes and says that she mailed a copy of Notice of Motion for Relief from Automatic Stay (11 U.S.C. §362), Calvin Claimant's Motion for Relief from the Automatic Stay and completed Certification of Facts to Debtor, to the Debtor's attorney and to the Trustee as addressed below, by depositing same in the Post Office, postage prepaid, at City, State, and that same was mailed on Month Day, Year:

Mr. John Debtor
Mailing Address
City, State Zip Code

Mr. John Debtor's Attorney, Esquire
Mailing Address
City, State Zip Code

Mr. John Debtor's Trustee, Esquire
Mailing Address
City, State Zip Code

Jane Doe

SWORN TO AND SUBSCRIBED before me on
this 00 day of Month, Year.

NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: _____

Submitted by:

ALVIN ATTORNEY

District Court ID No. 0000

Mailing Address

City, State Zip Code

Telephone Number

Attorney for Calvin Claimant