

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF ARIZONA**

In re

) Chapter

) Case No.

) Debtors[s]. )

\_\_\_\_\_ )

) Movant[s], )

vs. )

) ORDER RE: FINAL EVIDENTIARY  
) HEARING FOR § 362 RELIEF

) Respondent[s]. )

\_\_\_\_\_ )

The Movant filed a Motion for Relief from the Stay or related relief. The debtor or an interested party objected. IT IS ORDERED THAT:

**Final Hearing**

1. A Final Hearing on the Motion shall be held on the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_.m., in Hearing Room 8212, 110 South Church, La Placita Acapulco Building, Tucson, Arizona 85701, to last no longer than \_\_\_\_\_ minutes/hours.

2. Should the parties require more time than has been allotted by the Court, the parties may request additional time by motion, setting forth the cause justifying such additional time.

3. Once the Final Hearing has been commenced, and if the allotted time is consumed, the Clerk will search the calendar for additional time to continue the hearing, in order to accommodate conclusion of the matter within the shortest possible time.

#### **List of Witnesses and Exhibits**

4. No later than two weeks prior to the Final Hearing, the parties are to exchange a list of witnesses and exhibits, together with copies of all exhibits to be utilized at the Final Hearing, including impeachment evidence, and are to file the list of witnesses and exhibits with the Court (but not the documents themselves). The pleadings filed with the Court shall bear the date and time of the Final Hearing, and the M caption and number assigned to that portion of the file.

5. Any witness not so timely disclosed, or any exhibit not so timely exchanged, will not be considered by the Court at the Final Hearing, except upon a showing of good cause.

#### **Declarations**

6. If all parties consent, direct testimony of all or some of the witnesses may be submitted by declaration. The following procedures will govern submission of testimony by declaration:

- a) All declarations will be made under penalty of perjury and will be subject to the Federal Rules of Evidence.
- b) If a witness' testimony is submitted by declaration, the witness must be available at the hearing to be cross examined by the other parties unless the other parties waive such appearance and the Court approves such waiver.
- c) If a witness' direct testimony is submitted by declaration, the only oral testimony such witness may give will be limited to rebuttal testimony.
- d) If a part of a witness' declaration concerns an exhibit to be admitted into evidence at the Final Hearing, the exhibit must be attached to the declaration.

- e) If a party intends to present the witness' testimony by a transcript of a deposition, a detailed summary of the testimony must be submitted with the transcript.
  - f) Notwithstanding the parties' agreement that a witness' testimony will be submitted by declaration, the Court may require any witness' testimony to be provided by direct examination. The Court will timely notify the parties if a witness' testimony may not be submitted by declaration.
7. Time for filing declaration and objections to declarations:
- a) All declarations must be filed with the List of Witnesses & Exhibits.
  - b) All evidentiary objections to declarations must be filed five (5) calendar days before the Final Hearing.
  - c) The Court will rule on evidentiary objections to the declarations at the time of the Final Hearing.
  - d) After the List of Witnesses & Exhibits is submitted, no other declarations will be allowed except by order of the Court.

**Settlement Notification**

8. If the matter settles, the parties shall immediately notify the Court of said fact, by communicating with the Judge's law clerk, courtroom deputy or judicial assistant, so that the Final Hearing scheduled in this matter may be vacated.

**Continuation Of The Stay**

9. Based on the initial review of the record in the pending case and all the pleadings, the Court finds it appropriate to continue the stay in full force and effect pending further order of this Court.

Dated: February 25, 2003

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THE HONORABLE EILEEN W. HOLLOWELL  
UNITED STATES BANKRUPTCY JUDGE

Copy mailed on  
\_\_\_\_\_ to:

Movant Atty:  
Rspt Atty:

By:  
Deputy Clerk

**EWHFH.not.frm**