

JUDGE RASURE'S POLICY REGARDING UNOPPOSED MOTIONS FOR RELIEF FROM STAY

Even in the absence of an objection, a Motion for Relief from Stay will not be granted unless the movant establishes a *prima facie* case for such relief. As a threshold matter, the Motion must establish that the movant has standing and is the real party in interest. If the movant requests modification of the stay in order to enforce remedies under a note and mortgage or other security instrument, the movant must establish that it is the holder of the original note and is the original mortgagee or the ultimate assignee of the mortgage or security agreement. If a copy of the original note is attached to the Motion, such note should contain all indorsements; generally, attaching a note payable to the movant, or a note indorsed to the movant or in blank will be sufficient to establish a *prima facie* case that the movant is the holder for the purposes of granting an unopposed motion. If the original noteholder has merged with another institution, a certificate of merger may be attached to the Motion. If the movant is a mortgage servicer, the Motion must establish by documentation that the noteholder has granted/assigned to the servicer the right to enforce the note and mortgage on its behalf; however, in such case, the real party in interest (the noteholder) must also be joined as a party to the Motion. See, e.g., In re Hwang, 396 B.R. 757 (Bankr. C.D. Cal. 2008); In re Hayes, 393 B.R. 259 (Bankr. D. Mass. 2008).

