

POLICY REGARDING RELIEF FROM STAY
DURING THE COVID-19 CRISIS

As part of the response to the Covid-19 crisis, several governmental agencies have placed moratoriums on foreclosure or repossession actions at the present time. These moratoriums are self-effectuating; the borrower need not request them. At least one news source has reported that a minimum of 65% of all real estate mortgages in the United States are presently subject to some form of moratorium. In other words, in these extraordinary times, nothing is business as usual.

We continue to see motions for relief from the automatic stay on real and personal property, many of which are unopposed. In most cases, when relief from the automatic stay is sought with respect to real property, the real property at issue is the debtor's residence, often claimed as an exempt homestead. It is impossible to determine whether the mortgages at issue in these motions are the subject of a moratorium. We are concerned that an order granting relief from the automatic stay may be interpreted by a state court or other entity as a finding by this court that: (1) the property at issue is not subject to a foreclosure moratorium; and/or (2) that cause has been found to excuse compliance with the moratorium, and either authorizing or directing that the foreclosure should proceed.

Therefore, with respect to all motions for relief from the automatic stay filed between April 20, 2020, and July 31, 2021, the motion shall contain a statement advising the court whether enforcement of the mortgage and/or security agreement that is the subject of the motion is subject to any form of moratorium on foreclosure. Failure to include this information may result in denial of the motion, or the setting of the motion for hearing, even when no resistance has been filed.

Your understanding and cooperation are appreciated. Thanks.