

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO

IN THE MATTER OF COMPLIANCE  
WITH THE SERVICEMEMBERS CIVIL  
RELIEF ACT OF 2003

Filed  
June 27, 2005  
U. S. Bankruptcy Court  
District of Colorado  
Bradford L. Bolton, Clerk

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GENERAL PROCEDURE ORDER NUMBER 2005-2

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Effective August 1, 2005, in order to comply with the provisions of the Servicemembers Civil Relief Act of 2003 ("SCRA"), 50 App. U.S.C. § 501 et seq., regarding the entry of default judgments and other applicable parts of the SCRA as to individuals, the Court requires the following:

1. Default Judgments. At the time of the filing of a motion for default judgment in an adversary proceeding pursuant to Fed. R. Bankr. P. 7055, the plaintiff must file an affidavit with the Court which states (a) whether or not the defendant is in the military service, and indicating the necessary facts to support said affidavit; or (b) if the plaintiff is unable to determine whether or not the defendant is in the military service, a statement that the plaintiff is unable to so determine. See Section 521(b)(1). If a plaintiff moving for a default judgment does not submit the required affidavit, the motion will be denied. If the Court is unable to ascertain the defendant's military status from the presented affidavit, it may require the plaintiff to file a bond before entering any default judgment. Section 521(b)(4) states that the affidavit requirement "may be satisfied by a statement, declaration, verification, or certificate, in writing, subscribed and certified or declared to be true under penalty of perjury."
2. Motions for Relief from the Automatic Stay. At the time of the filing of a motion for relief from stay under Fed. R. Bankr. P. 4001, after the effective date of this order, the movant must file an affidavit with the Court which states (a) whether or not the respondent is in the military service, and indicating the necessary facts to support said affidavit; or (b) if the movant is unable to determine whether or not the respondent is in the military service, a statement that the movant is unable to so determine. See Section 521(b)(1). The Court will deny motions to lift the stay if the movant does not supply the required affidavit. If the Court is unable to ascertain the respondent's military status from the presented affidavit, it may require the movant

to file a bond before entering any order lifting the stay.

3. Debtor's Information. In order to assist the Court in its determination of a debtor's status under SCRA, a debtor should inform the Court if he or she is a servicemember subject to the provisions of SCRA at the time of the filing of the bankruptcy petition by submitting a separate writing in the form of L.B.F. Misc. SCRA Declaration. If, at any time during the pendency of the bankruptcy proceedings a debtor becomes entitled to the protections of SCRA, he or she shall inform the Court of the change in military status within ten (10) days of the change in status. **Failure by the debtor to inform the Court of his or her military status does not in any way constitute a waiver of the debtor's protections under SCRA, and does not alter the responsibility of a party to investigate the debtor's servicemember status before filing any of the papers referred to in subparagraphs (1) through (3) of this General Procedure Order.**
4. Verification. Information on how to obtain verification of the military status of an individual is available from the Clerk's office or on the Court's web site.

Dated: June 27, 2005

BY THE COURT:

Sidney B. Brooks, Chief Judge  
A. Bruce Campbell, Judge  
Elizabeth E. Brown, Judge  
Howard R. Tallman, Judge  
Michael E. Romero, Judge