

## **JUDGE THORNE'S GUIDELINES FOR ORDERS MODIFYING STAY AND SAMPLE ORDER LANGUAGE**

Please follow the guidelines below for **ALL proposed order modifying the automatic stay** submitted to Judge Thorne, including proposed orders submitted when the motion is filed as well as agreed orders submitted as a draft order to follow .

**ALL orders, including agreed repayment orders, must be in fillable format** following these guidelines:

### **DO:**

1. Identify the motion and moving party;
2. Include language granting the motion;
3. Specify the relief provided by stating that they stay is modified to permit the movant to exercise its *in rem* rights under non-bankruptcy law against the collateral; and
4. If you seek a waiver of the stay in Rule 4001(a), state only that the 14-day stay in Rule 4001(a)(3) does not apply to the order.
5. Send all draft orders to follow to [thorne\\_dotf@ilnb.uscourts.gov](mailto:thorne_dotf@ilnb.uscourts.gov). **Do not file on docket.** The only orders that are to be filed on the docket are the required proposed orders submitted with original motions and any amended proposed orders filed **prior** to the originally set hearing date (and linked to the subject motion).

### **The following language is recommended:**

This case is before the court on the motion of Creditor to modify the automatic stay.

IT IS ORDERED that

The motion is granted as follows:

1. The automatic stay is modified to permit Creditor to exercise its *in rem* rights under non-bankruptcy law in the property located at [address] or “against the debtor’s 2010 Chevy Trailblazer, VIN optional.”
2. The stay in Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure does not apply to this order.

### **DO NOT:**

1. Identify any specific remedies that the creditor may pursue (*e.g.*, foreclose, evict, take possession).

2. Declare or suggest that the creditor has a valid security interest (*e.g.*, “creditor is permitted to foreclose on its security interest”).
3. Include findings of any kind in the introduction or body of the order (*e.g.*, “the court finding cause” or “the court finding that due notice has been given”).
4. Include unnecessary and/or meaningless introductory language, including:
  - the court has jurisdiction
  - “due” or “proper” notice has been given
  - the court is “advised in the premises”
  - “At Chicago, Illinois, before Judge Deborah L. Thorne this XX day of October, 2020”
5. Use “shall” – it is ambiguous; use “may,” “must,” or “will.”
6. Use any arcane language or legalese, including:
  - “said” – use “the” instead,
  - “heretofore” or “herewith”
  - “Aforementioned”
7. Use “hereby” – it is unnecessary. If you feel compelled to use it, ONE “hereby” is sufficient at the beginning: “It is hereby ordered.” Do not use it in every paragraph of the order.
8. Include language addressing issues not directly related to the permitted relief, including:
  - -authorizing the creditor to contact the debtor directly instead of through debtor’s counsel
  - -approving the creditor’s attorney fees

**Note** – if you include language like this, it is highly likely that your motion will be called in court even if the opposing party does not object. Please follow the above guidelines to avoid unnecessary court appearances and/or delays in getting your order entered.