

# MANDATORY USE OF L.O.U. FOR Section 362 Orders

**Hon. Robert N. Kwan**

*USBC Central District of California*

**Effective January 1, 2009**

*These guidelines apply to orders on motions: (1) for relief from the automatic stay; (2) to impose the stay; or (3) to continue the stay (collectively “Section 362 Orders”).*

*The guidelines will add certainty to the process and minimize costs/delay by:*

- 1) Utilizing electronic processes of filing documents (“CM/ECF”), Lodged Order Upload (“LOU”), and service by Notice of Electronic Filing (“NEF”);
- 2) Clarifying the “Service List for Entered Order”; and
- 3) Eliminating the need to provide envelopes and copies of orders.

## **A. Check Tentative Rulings**

Judge Kwan posts tentative rulings one court day prior to hearings.  
Check to see if relief will be granted without a hearing, and if so, what relief.  
Go to [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov).

## **B. Lodge Proposed Orders via LOU**

All CM/ECF users must lodge Section 362 Orders via LOU. **NO** exceptions.

## **C. When Should a Proposed Order be Lodged?**

**Lodged via LOU** - Proposed orders may be lodged via LOU after tentative rulings are posted; if a tentative ruling is not posted, lodge the proposed order after the hearing.

**Lodged at Intake Window – Non CM/ECF** users may only lodge proposed orders after the hearing.

## **D. Are F 4001-1 Form Orders Mandatory?**

**MANDATORY FORMS** — All Section 362 Orders must be prepared using a mandatory F 4001-1 order available at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov) under Local Bankruptcy Rules (“LBR”) and Forms.

## E. Preparing Proof of Service of Proposed Order

**1. Proposed Orders on Unopposed Motions** - There is no obligation to serve a proposed form of order on any person, entity, or attorney *who did not file an opposition to the motion. This includes a case trustee or the United States trustee.*

**2. Proposed Orders on Opposed Motions** - Pursuant to LBR 9021-1(b)(4) and 9021-1(b)(3)(A), a proposed order must be served only upon any person, entity, or attorney who filed an opposition to the motion. *There is no obligation to serve the proposed order on any other person or entity.*

## F. Prepare Service List for Entered Order

### Parties who will be served by the Court:

- Debtor
- Debtor's Counsel (if any)
- Case Trustee
- U.S. Trustee
- Movant
- Any person, entity, or attorney who filed an opposition to the motion

### METHOD OF SERVICE

- 1. Served Electronically by the Court** - List the names and email addresses *only* of attorneys who are listed in CM/ECF on the Electronic Mail Notice List to receive an e-mail notice. *The U.S. trustee and case trustee will always be in this category.* (See the Court Manual for help in determining who receives electronic service.)
- 2. Served via U.S. Mail by the Court** - list the names and mailing addresses of persons, entities, and/or attorneys listed in CM/ECF under Manual Notice List. *The debtor will always be in this category. DO NOT* list any of the same people being served electronically. **DO NOT** list anyone who is not one of the **Parties who will be served by the Court.** (See the Court Manual for help in determining who receives manual - U.S. Mail - service.)
- 3. Service by Movant** - If Movant desires to serve a copy of the entered order on persons or entities not listed in **Parties who will be served by the Court**, movant may do so. Movant must then file a Declaration re proof of service listing the parties' names addresses and method of service. Under this category, Movant can list other lien holders, co-borrowers, or persons/entities they want to serve.

## **G. Copies of Proposed Order; Envelopes**

All Section 362 Orders are served electronically by the Court via NEF to case trustees, the United States trustee, and to attorneys who are on the Electronic Mail Notice List for the particular bankruptcy case.

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All Section 362 Orders are served by the Bankruptcy Noticing Center (“BNC”) in Herndon, Virginia via U.S. Mail to debtor and to persons or entities that are on the Manual Notice List for the particular bankruptcy case.  
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### **1. Copies of All Proposed Orders, Regardless of How Lodged**

**DO NOT** provide any copies of the proposed order for mailing, because copies will be printed either by the BNC (for all relevant addresses on the Manual Notice List) or by the court (in the rare, unique case).

**ONLY SEND ONE COPY** to the court along with the LOU receipt per the LOU procedures, and do so the same day that the proposed order is lodged.

### **2. Stamped, Addressed Envelopes, Regardless of How Proposed Order is Lodged**

**DO NOT** provide envelopes for the debtor or other Manual Notice parties, as the BNC will prepare envelopes for them.

**DO NOT** provide envelopes for the case trustee or U.S. trustee or other Electronic Mail Notice parties, as they will be served electronically via NEF.

**DO NOT** provide envelopes for any other person or entity as it is the responsibility of the Movant to serve the entered order and provide the Court with a Declaration re proof of service.