

<p>Attorney or Party Name, Address, Telephone &amp; FAX Nos., State Bar No. &amp; Email Address</p> <p>Lori Wade, # 213610 Olen Guiab, #273305 Manning &amp; Kass, Ellrod, Ramirez, Trester, LLP 801 South Figueroa Street, 15th Floor Los Angeles, California 90017 Phone: (213) 624-6900 Facsimile: (213) 624-6999</p> <p><input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Movant</p>	<p>FOR COURT USE ONLY</p> <div data-bbox="1049 264 1432 535"><p><b>FILED &amp; ENTERED</b></p><p><b>SEP 01 2016</b></p><p>CLERK U.S. BANKRUPTCY COURT Central District of California BY tatum DEPUTY CLERK</p></div> <p><b>CHANGES MADE BY COURT</b></p>
<p><b><u>NOT FOR PUBLICATION</u></b></p> <p><b>UNITED STATES BANKRUPTCY COURT</b> <b>CENTRAL DISTRICT OF CALIFORNIA –LOS ANGELES DIVISION</b></p>	
<p>In re:</p> <p>Darren Blankership</p> <p>Debtor(s).</p>	<p>CASE NO.: 2:16-bk-15839-RK</p> <p>CHAPTER: 7</p> <p><b>ORDER:</b></p> <p><input type="checkbox"/> GRANTING APPLICATION AND SETTING HEARING ON SHORTENED NOTICE</p> <p><input checked="" type="checkbox"/> DENYING APPLICATION FOR ORDER SETTING HEARING ON SHORTENED NOTICE</p> <p><b>[LBR 9075-1(b)]</b></p>
<p><b>Movant (name):</b> Dianne Street as authorized agent with power of attorney for Judith VerMehr</p>	

1. Movant filed the following motion together with supporting declarations and (if any) supporting documents:

- a. *Title of motion:* Motion for Relief from the Automatic Stay (Unlawful Detainer)
- b. *Date of filing of motion:* 8/30/2016

2. Pursuant to LBR 9075-1(b), movant also filed an Application for Order Setting Hearing on Shortened Notice (Application) together with supporting declaration(s):

*Date of filing of Application:* 8/30/2016

3. Based upon the court's review of the application, it is ordered that:

- a. ☒ The Application is denied. The motion may be brought on regular notice pursuant to LBRs. **Although the application for hearing of the renewed stay relief motion of Movant Dianne Street as agent with power of attorney for Judith VerMehr on shortened notice describes a hardship situation involving medical issues pertaining to**

This form is optional. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

Movant's principal, Ms. VerMehr, for which the court is sympathetic, the record in this case indicates, however, that we are not writing on a blank slate with Movant's current motion for stay relief. Counsel in the application, though new to the case, failed to mention the background facts that prior counsel on behalf of Movant acting as agent with power of attorney for Ms. VerMehr (as opposed to being a court appointed conservator for Ms. VerMehr) filed a prior motion for relief from stay (unlawful detainer) on May 16, 2016, ECF 9, which would have accommodated Movant's request to hear a stay relief motion prior to the scheduled September 7, 2016 trial date of the Unlawful Detainer Action in state court, based on a final evidentiary hearing scheduled by this court on the prior stay relief motion on an expedited basis for July 21, 2016, but for Movant by prior counsel voluntarily dismissing the prior stay relief motion, ECF 35, without explanation, but apparently to avoid complying with Debtor's pending discovery requests, including a noticed deposition of Movant's principal regarding her competency in order to determine whether appointment of a conservator for Movant's principal was necessary, which would negate the authority and standing of Movant to file and prosecute a motion for stay relief in this case. The court further notes that the declaration in support of the application for hearing on shortened notice is subscribed to, and signed by, new counsel, and not by Movant, who must have been aware of the prior stay relief motion proceedings, and while new counsel can plausibly claim ignorance of the prior stay relief litigation proceedings, new counsel lacks the required personal knowledge of the circumstances for seeking hearing on shortened notice under Federal Rule of Evidence 602. By this new motion for relief from stay, it appears that Movant, though now assisted by new counsel, is making an end run around Debtor's discovery requests as Movant still does not address the issue of whether Movant's principal should have had a conservator appointed to act on her behalf in filing and prosecuting a motion for stay relief to proceed with the unlawful detainer action. No mention of the prior litigation proceedings was made in the papers for the renewed stay relief motion now before the court, and no mention was made to discuss any recent contact on behalf of Movant with Debtor's counsel about the outstanding issues regarding standing of Movant to act for her principal. Furthermore, to file this application by Movant for an order setting hearing on shortened time on the new motion for relief from stay when the trial date is September 7, 2016 indicates a lack of reasonableness right before the long Labor Day holiday weekend without any effort on behalf of Movant to contact and confer with Debtor's counsel regarding scheduling, and under the circumstances discussed herein where the court had already scheduled a final hearing on the merits of Movant's prior stay relief motion on July 21, 2016, well before the September 7 trial date, and, therefore, Movant's application for hearing on shortened notice is denied. In so ruling on the application for hearing on shortened notice, the court does not intimate any tentative ruling on the merits on the substantive motion for stay relief which may be noticed for hearing on regular notice pursuant to the local rules of this court.

b. ☐ The Application is granted, and it is further ordered that:

(1) ☐ A hearing on the motion will take place as follows:

<b>Hearing date:</b>	<b>Place:</b>
<b>Time:</b>	<input checked="" type="checkbox"/> 255 East Temple Street, Los Angeles, CA 90012
<b>Courtroom:</b>	<input type="checkbox"/> 21041 Burbank Boulevard, Woodland Hills, CA 91367
	<input type="checkbox"/> 3420 Twelfth Street, Riverside, CA 92501
	<input type="checkbox"/> 411 West Fourth Street, Santa Ana, CA 92701
	<input type="checkbox"/> 1415 State Street, Santa Barbara, CA 93101

(2) ☐ No later than the deadlines given, **telephonic notice** of the hearing must be provided to all persons/entities listed:

(A) <u>Deadlines:</u>	(B) <u>Persons/entities to be provided with telephonic notice:</u>
Date:	Robert A Brown
Time:	
	<input type="checkbox"/> See attached page
	(C) <u>Telephonic notice is also required upon</u> the United States trustee

- (3) ☐ No later than the deadlines given, **written notice of the hearing** and a **copy of this order** must be served upon all persons/entities listed using: ☒ one of the methods checked ☐ all of the methods checked

(A) ☐ Personal Delivery ☐ Overnight Mail ☒ First class mail ☐ Facsimile\* ☐ Email\*

(B) Deadlines:

Date:

Time:

(C) Persons/entities to be served with written notice and a copy of this order:

Robert A. Brown

Darren Blankership

Inez Guatimia

☐ See attached page

(D) Service is also required upon:

-- United States trustee (*electronic service is not permitted*)

-- Judge's copy personally delivered to chambers  
(*see Court Manual for address*)

- (4) ☐ No later than the deadlines given, a copy of the motion, declarations, and supporting documents (if any), must be served on all persons/entities listed using: ☐ one of the methods checked ☐ all of the methods checked

(A) ☐ Personal Delivery ☐ Overnight Mail ☐ First Class Mail ☐ Facsimile\* ☐ Email\*

(B) Deadlines:

Date:

Time:

(C) Persons/entities to be served with motion, declarations, supporting documents:

Robert A. Brown  
Darren Blankership  
Inez Guatimia

☐ See attached page

(D) Service is also required upon:

- United States trustee (*no electronic service permitted*)
- Judge's copy personally delivered to chambers  
(*see Court Manual for address*)

- (5) ☐ Regarding **opposition to the motion**

☐ opposition to the motion may be made **orally** at the hearing

☐ no later than the deadlines given, **written opposition to the motion** must be filed with the court and served upon all persons/entities listed using: ☐ one of the methods checked ☐ all of the methods checked

(A) ☐ Personal Delivery ☐ Overnight Mail ☐ First Class Mail ☐ Facsimile\* ☐ Email\*

(B) Deadlines:

Date:

Time:

(C) Persons/entities to be served with written opposition to the motion:

- movant's attorney (or movant, if movant is not represented by an attorney)

(D) Service is also required upon:

- United States trustee (*electronic service is not permitted*)
- Judge's copy personally delivered to chambers  
(*see Court Manual for address*)

- (6) ☐ Regarding a **reply to an opposition:**

☐ a reply to opposition may be made **orally** at the hearing.

☐ no later than the deadlines given, a **written reply to an opposition** must be filed with the court and served on all persons/entities listed using: ☐ one of the methods checked ☐ all of the methods checked

(A) ☐ Personal Delivery ☐ Overnight Mail ☐ First Class Mail ☐ Facsimile\* ☐ Email\*

(B) <u>Deadlines:</u> Date:  Time:	(C) <u>Persons/entities to be served with written reply to opposition:</u> -- All persons/entities who filed a written opposition   (D) <u>Service is also required upon:</u> -- United States trustee ( <i>electronic service is not permitted</i> ) -- Judge's Copy personally delivered to chambers (see Court Manual for address)
---	--

(7) ☐ Other requirements:

(8) ☐ No later than the deadlines given, movant must file a **Declaration of Notice and Service** establishing that telephonic notice, written notice, and service of the motion and this order was completed as set forth above, and a **judge's copy** of the Declaration of Notice and Service must be personally delivered to the judge's chambers:

<input type="checkbox"/> at least 2 days before the hearing.
<input type="checkbox"/> no later than:      Date:                      Time:

\* Service by electronic means (facsimile or email) requires compliance with F.R.Civ.P. 5(b)(2)(E).

###

Date: September 1, 2016



Robert Kwan  
United States Bankruptcy Judge