

NOTICE

TO COUNSEL AND PARTIES IN INTEREST

RELIEF FROM STAY MOTIONS

Revised 1/9/08

Beginning January 22, 2008 (and until further notice), Judge Bufford will require that a moving party on a relief from stay motion based on a promissory note bring to court for inspection the original promissory note. (Note: do not file the note with the court – bring it to the hearing). Production of the note will be excused only under circumstances such as those provided in Evidence Code Rule 1004 or Cal. Comm. Code § 3301 (as shown by competent evidence).

This requirement will apply because developments in the secondary market for mortgages and other security interests cause the court to lack confidence that presenting a copy of a promissory note is sufficient to show that movant has a right to enforce the note or that it qualifies as a real party in interest (as required by Rules 7017 and 9014). Pursuant to Cal. Comm. Code § 3412, an obligation to pay is only owing to a “person entitled to enforce an instrument” (as defined in § 3301). Thus, the court cannot admit copies of promissory notes in these circumstances under Evidence Code § 1003.