

MEMORANDUM

TO: All Attorneys who file **Motions for Relief from Stay**

FROM: Judge Pat E. Morgenstern-Clarren

DATE: February 12, 2009

RE: Motions for Relief from Stay Update: Endorsement of Note by alleged Attorney-in-Fact

Recently, a number of motions for relief have been filed that present a new wrinkle in transfers of notes secured by mortgages: notes that state that they are endorsed to a third party by an attorney-in-fact on behalf of the note holder. In that circumstance, the written power of attorney granting the power to endorse a note should be attached to the motion to show that the endorsement is effective. Please note that many limited powers of attorney do *not* give the power to endorse a note. In that case, the limited power of attorney is insufficient to transfer the note by endorsement and the motion for relief will be denied. *See In re Foreclosure Cases*, No. 1:07CV2282, 2007 WL 3232430 (N.D Ohio Oct. 31, 2007).

Review of this issue before the motion is filed will save time for all parties, and will prevent a movant from having to file a new motion for relief with accompanying filing fee.

Thank you for your anticipated attention to this issue.