

Form 1347

Motion Relief from Stay - Bonded Contract Completion

Surety Counsel  
Name and Address

Attorneys for Surety

UNITED STATES BANKRUPTCY COURT

DISTRICT OF \_\_\_\_\_

In re

Principal,

Debtor.

Case No.:  
Chapter 11

MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF MOTION  
TO LIFT STAY TO PERMIT SURETY TO  
PERFORM OBLIGATIONS UNDER  
PERFORMANCE BOND

Hearing:  
Date:  
Time:  
Place: United States Bankruptcy Court  
Courtroom \_\_\_\_\_

Surety hereby moves this Court in accordance with Sections 362(d)(1) and 362(d)(2) of the Bankruptcy Code to lift the automatic stay to allow it to perform its obligations under its performance bond with respect to the [Identify Contract] ("Bonded Contract"). As allowed under the General Agreement of Indemnity ("GAI") signed by Principal, Under § 362(d)(2), Principal's performance under the subcontract will not benefit the estate because, as a bonded contract, Principal has no right to the use such funds other than for the bonded project and, therefore, the subcontract is not necessary for an effective reorganization, even presuming Principal shows it has the ability to reorganize, something it has been unable to do to date.

Additionally, under § 362(d)(1), cause exists to lift the stay because of pre-petition defaults by Principal whereby the subcontract was assigned to Surety and is therefore not property of the estate. The stay should be lifted for cause under § 362(d)(1).

# Drafting A Motion For Relief From Stay

**Albert A Gayle**



## **Drafting A Motion For Relief From Stay:**

**Preliminary Draft of Proposed Bankruptcy Rules** Judicial Conference of the United States. Committee on Rules of Practice and Procedure,1985     Preliminary Draft of Proposed New Bankruptcy Rules and Official Forms Judicial Conference of the United States. Committee on Rules of Practice and Procedure,1982     Preliminary Draft of Proposed Style Revision of the Federal Rules of Civil Procedure Judicial Conference of the United States. Committee on Rules of Practice and Procedure,2005     Collier Bankruptcy Practice Guide ,2006     **California. Court of Appeal (4th Appellate District). Division 2. Records and Briefs** California (State)., Number of Exhibits 11     *United States Code Annotated* United States,1927     California. Court of Appeal (2nd Appellate District). Records and Briefs California (State)., Received document entitled APPENDIX TO PETITION FOR WRIT     *California Landlord-tenant Practice* ,2009     *The Attorney's Handbook on Small Business Reorganization Under Chapter 11* John H. Williamson,John Harvey Williamson,1998 More than 10 000 copies of this book have been sold nationwide Ideal for attorneys who are not familiar with the Chapter 11 process

**United States Code Service, Lawyers Edition** United States,1936     **California Rules of Court** ,1992     **Madigan V. J.T. Einoder, Inc** ,2014     *West's Federal Practice Digest 4th* ,2002 Locate federal cases decided in the U S Supreme Court Court of Appeals district courts Claims Court bankruptcy courts Court of Military Appeals the Courts of Military Review and other federal courts This Key Number Digest contains all headnotes classified according to West s Key Number System for federal court decisions reported from 1984 to the present The topics are listed in alphabetical order The Key Numbers within those topics are listed in numerical order Each topic begins with scope notes about subjects included and subjects excluded and covered by other topics Also there is an outline of the topic which includes a list of all Key Numbers in that topic Headnotes are collected by jurisdiction or court and filed according to the West Key Number System     **Federal Register** ,2002-08     *General Rules of Practice, Supreme Court, with Rules, Court of Appeals and Other Courts* New York (State),1881     *New Court Rules in Force March 1, 1881* George Miles White,1881     **Rental Property Owners Association of Kent County v. City of Grand Rapids, 455 MICH 246 (1997)** ,1997 102642     *In Re C &S Grain Company, Inc* ,1994     *New Jersey Rules of Court* ,2006     **Second Preliminary Draft of Proposed Amendments to Rules of Civil Procedure for the District Courts of the United States** United States. Supreme Court. Advisory Committee on Rules for Civil Procedure,1945

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## **Table of Contents Drafting A Motion For Relief From Stay**

1. Understanding the eBook Drafting A Motion For Relief From Stay
  - The Rise of Digital Reading Drafting A Motion For Relief From Stay
  - Advantages of eBooks Over Traditional Books
2. Identifying Drafting A Motion For Relief From Stay
  - Exploring Different Genres
  - Considering Fiction vs. Non-Fiction
  - Determining Your Reading Goals
3. Choosing the Right eBook Platform
  - Popular eBook Platforms
  - Features to Look for in an Drafting A Motion For Relief From Stay
  - User-Friendly Interface
4. Exploring eBook Recommendations from Drafting A Motion For Relief From Stay
  - Personalized Recommendations
  - Drafting A Motion For Relief From Stay User Reviews and Ratings
  - Drafting A Motion For Relief From Stay and Bestseller Lists
5. Accessing Drafting A Motion For Relief From Stay Free and Paid eBooks
  - Drafting A Motion For Relief From Stay Public Domain eBooks
  - Drafting A Motion For Relief From Stay eBook Subscription Services
  - Drafting A Motion For Relief From Stay Budget-Friendly Options

6. Navigating Drafting A Motion For Relief From Stay eBook Formats
  - ePub, PDF, MOBI, and More
  - Drafting A Motion For Relief From Stay Compatibility with Devices
  - Drafting A Motion For Relief From Stay Enhanced eBook Features
7. Enhancing Your Reading Experience
  - Adjustable Fonts and Text Sizes of Drafting A Motion For Relief From Stay
  - Highlighting and Note-Taking Drafting A Motion For Relief From Stay
  - Interactive Elements Drafting A Motion For Relief From Stay
8. Staying Engaged with Drafting A Motion For Relief From Stay
  - Joining Online Reading Communities
  - Participating in Virtual Book Clubs
  - Following Authors and Publishers Drafting A Motion For Relief From Stay
9. Balancing eBooks and Physical Books Drafting A Motion For Relief From Stay
  - Benefits of a Digital Library
  - Creating a Diverse Reading Collection Drafting A Motion For Relief From Stay
10. Overcoming Reading Challenges
  - Dealing with Digital Eye Strain
  - Minimizing Distractions
  - Managing Screen Time
11. Cultivating a Reading Routine Drafting A Motion For Relief From Stay
  - Setting Reading Goals Drafting A Motion For Relief From Stay
  - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Drafting A Motion For Relief From Stay
  - Fact-Checking eBook Content of Drafting A Motion For Relief From Stay
  - Distinguishing Credible Sources
13. Promoting Lifelong Learning
  - Utilizing eBooks for Skill Development
  - Exploring Educational eBooks
14. Embracing eBook Trends
  - Integration of Multimedia Elements

- Interactive and Gamified eBooks

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