

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

In re:

Case No. 8:12-bk-14850-KRM  
Chapter 13

LLOYD H. HANNA, III,

Debtor.

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**ORDER GRANTING DEBTOR'S  
EMERGENCY MOTION TO ENFORCE THE AUTOMATIC STAY**

THIS CASE came on for hearing on October 17, 2012, on the debtor's Emergency Motion to Enforce the Automatic Stay (Document No. 5) (the "Motion"). Through the Motion, debtor seeks the entry of an order directing the Circuit Court of the Thirteenth Judicial Circuit, Hillsborough County, Florida, to cease any and all actions pertaining to the continuation or adjudication of the mortgage foreclosure action (Case No. 09-CA-32782) until such time as the automatic stay imposed by 11 U.S.C. § 362(a)(1) is dissolved by order of this Court. Present at the hearing were Mark P. Stopa, Esq., counsel for debtor, and Kevin Hing, Esq., counsel for the law firm of Shapiro, Fishman & Gache, LLP.

By operation of 11 U.S.C. § 362(a), the automatic stay came into effect on September 28, 2012, when Mr. Hanna filed a petition for Chapter 13 relief. A suggestion of bankruptcy was filed in the pending state court foreclosure case. Notwithstanding this notice, matters continued to be set in the foreclosure case, including what is denominated as a case management or status conference.

The automatic stay prohibits the continuation of any judicial proceeding against the debtor that was commenced prior to the bankruptcy filing. The fact that the state

court plans to conduct a “Case Management Conference” or a “Status Conference,” as opposed to the adjudication of a substantive motion, does not change this Court’s ruling. When the automatic stay under 11 U.S.C. § 362(a) is in place, even administrative matters cannot take place.

Debtor and his counsel cannot be required to attend hearings in the face of the stay, as that creates a burden the statute is designed to prevent. While this Court appreciates the desire of the state court to be informed as to matters that effect the administration of that court, nonetheless, such proceedings place an additional burden on the debtor and his counsel to attend hearings that should be suspended by operation of the automatic stay.

The Court notes that the state court’s scheduling of a Status Conference has exposed a creditor’s attorney to possible sanctions for continuing the foreclosure case when it was stayed. By separate order of this Court, Debtor’s Motion for Contempt and Sanctions (Document No. 18) will be scheduled for hearing on November 26, 2012, at 10:00 a.m. For the reasons stated orally on the record in open court, that shall constitute the decision of the Court, it is

**ORDERED** that:

1. The debtor’s Emergency Motion to Enforce the Automatic Stay is granted to the extent set forth herein and is otherwise continued for November 26, 2012, at 10:00 a.m.
2. The state court foreclosure action pending before the Circuit Court of the Thirteenth Judicial Circuit, Hillsborough County, Florida (Case No. 09-CA-32782), will remain subject to the automatic stay until further order of this Court.

3. Debtor's counsel, Mark P. Stopa, Esq., is hereby directed to file a copy of this Order in the foreclosure case.

**DONE** and **ORDERED** in Chambers at Tampa, Florida, on October 31, 2012.



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K. Rodney May  
United States Bankruptcy Judge

Copies Furnished To:  
Debtor  
Debtor's Attorney  
Chapter 13 Trustee  
Shapiro, Fishman & Gache, LLP