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DENNIS M. DAVIS  
MARK A. ELLINGSEN  
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& Toole, P.S.  
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CLERK OF DISTRICT COURT  
03 DEC 19 PM 12:04  
CLERK OF DISTRICT COURT  
OF IDAHO

Attorneys for Shriners Hospitals for Crippled Children

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF IDAHO

<p>In Re:</p> <p>FRANK L. CHAPIN and SYDNEY L. GUTIERREZ-CHAPIN,</p> <p>Debtors.</p>	<p>Case No. 02-20218</p> <p>SHRINERS HOSPITALS' OBJECTION RE STAY RELIEF</p>
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COMES NOW, Shriners Hospitals for Crippled Children, by and through its attorneys, Dennis M. Davis and Mark A. Ellingsen of Witherspoon, Kelley, Davenport & Toole, P.S., and states its objections to the Motion of Fredrick A. Leaf for Order Clarifying Inapplicability of Stay. In support of its objection, Creditor alleges:

- 1) Trustee joins in the objection by Debtor and Trustee filed herein.
- 2) The claim of Frederick Leaf is not fixed and liquidated. See Claim No. 13. The stated basis of the claim is pending litigation subject to final adjudication. The allowance of and amount of a claim is a core proceeding. 28 U.S.C. §157(b)(2)(B). The Bankruptcy Court has exclusive jurisdiction on the allowance and amount of the claim. For the State Court to proceed with the Bonner County action, the claim of Leak, will need to be fixed and liquidated which can only be determined by the Court.
- 3) The claims raised in the State Court action are in substance the same claims raised by Leaf in Adversary No. 02-6137 filed and pending in this Court and therefore this Court has jurisdiction to hear such claims.
- 4) The claims in the State Court action seek relief against property of the Estate and

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proceeding with the State Court action would therefore be in violation of the §362 stay.

5) Allowing Creditor Leaf to proceed against assets of the Estate could deprive this Creditor of its interest in said property.

6) Movant has failed to demonstrate that he is not adequately protected.

DATED this 19 day of December, 2003.



Dennis M. Davis  
Mark A. Ellingsen  
Witherspoon, Kelley, Davenport & Toole, P.S.  
Attorneys for Shriners Hospitals for Crippled Children

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CERTIFICATE OF MAILING

I HEREBY CERTIFY this 19<sup>th</sup> day of December, 2003, that I caused to be served the within and foregoing creditor SHRINERS HOSPITALS' OBJECTION RE STAY RELIEF on the parties as shown below by causing true and correct copies thereof to be deposited in the U.S. Mail, postage prepaid thereon, addressed as follows:

Frank L. Chapin  
Sydney L. Chapin, aka Sydney L. Gutierrez-  
Chapin and Sydney L. Gutierrez  
P.O. Box 781  
Sandpoint Idaho 83864

U.S. Mail  
 Hand Delivered  
 Overnight Mail  
 Facsimile

Frank L. Chapin  
Sydney L. Gutierrez-Chapin  
aka Sydney L. Gutierrez and Sydney Chapin  
P.O. Box 2028  
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John R. Rizzardi  
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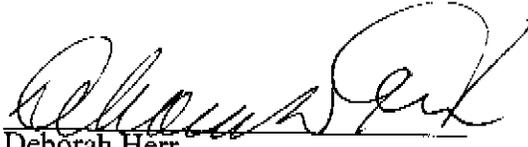
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United States Trustee Office  
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Deborah Herr

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