

1 H. JAMES MAGNUSON
Attorney at Law
2 1250 Northwood Center Court
P.O. Box 2288
3 Coeur d'Alene, Idaho 83816
Telephone: (208) 666-1596
4 Fax: (208) 666-1700
5 Attorney for Trustee

U.S. COURTS
2003 NOV 14 A 10: 09
FILED
CAMERON S. BURKE,
CLERK IDAHO

6 UNITED STATES BANKRUPTCY COURT
7 FOR THE DISTRICT OF IDAHO

8 IN RE:

CASE NO. 02-20218

9
10 FRANK L. CHAPIN and
SYDNEY L. GUTIERREZ-CHAPIN,

**TRUSTEE'S STATEMENT OF
OBJECTION RE STAY RELIEF**

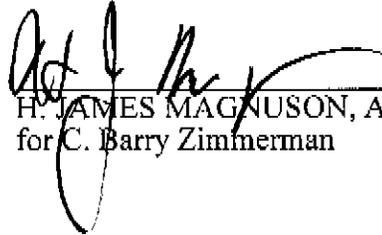
11
12
13 Debtors.
14

15 COMES NOW, C. Barry Zimmerman, Chapter 7 Trustee, by and through H. James
16 Magnuson, his attorney, and states specific objections to Motion of Frederick A. Leaf for Order
17 Clarifying Inapplicability of Stay. Trustee raises the following objections:

- 18 1. Trustee joins in the objection by Debtor. (Docket No. 183.)
19 2. The claim of Frederick Leaf is not fixed and liquidated. See Claim No. 13. The
20 stated basis of the claim is pending litigation subject to final adjudication. The allowance of and
21 amount of a claim is a core proceeding. 28 U.S.C. §157(b)(2)(B). The Bankruptcy Court has
22 exclusive jurisdiction on the allowance and amount of the claim. For the State Court to proceed
23 with the Bonner County action, the claim of Leaf, will need to be fixed and liquidated which can
24 only be determined by the Court.
25 3. The claims raised in the State Court action are the same claims raised by Leaf in
26 Adversary No. 02-6137 in this Court.
27 4. The claims in the State Court action seek relief against property of the Estate which
28 is a violation of the §362 stay.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED this 12th day of November, 2003.


H. JAMES MAGNUSON, Attorney
for C. Barry Zimmerman

CERTIFICATE OF MAILING

I hereby certify that a true and exact copy of the foregoing TRUSTEE'S OBJECTION RE STAY RELIEF was sent by United States mail, first class, postage prepaid, on November 12, 2003, to:

John R. Rizzardi
Cairncross & Hempelmann, P.S.
524 Second Ave., Ste. 500
Seattle, WA 98104-2323

FAX (206) 587-2308

Bruce Anderson
Elsacsser, Jarzabek, Anderson,
Marks & Elliott
1400 Northwood Center Ct.
Coeur d'Alene, ID 83814

FAX (208) 667-2150

Frank L. Chapin
Sydney Chapin
PO Box 781
Sandpoint, ID 83864

U.S. Trustee
304 N. 8th St., Rm. 347
Boise, ID 83702

Dennis Davis
Witherspoon Kelley
608 Northwest Blvd., Ste. 401
Coeur d'Alene, ID 83814

