



IT IS ORDERED as set forth below:

Date: May 19, 2009

James E. Massey

**James E. Massey
U.S. Bankruptcy Court Judge**

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:		CASE NO. 08-74645
Frances Kate Copeland,		
		CHAPTER 13
Debtor.		JUDGE MASSEY

Saxon Mortgage Services, Inc.,		
Movant,		
v.		CONTESTED MATTER
Frances Kate Copeland,		
Respondent.		

ORDER DENYING MOTION FOR RELIEF FROM STAY

On December 3, 2008, Saxon Mortgage Services, Inc. filed in this case a motion for relief from stay and scheduled a hearing for January 7, 2009. On January 7, 2009 at 10:49 a.m., an attorney who appeared on Movant's behalf announced that a consent order would be presented to resolve the motion. Thereafter, Movant failed to present a consent order. On May 18, 2009, an

attorney for Movant (not the same attorney who appeared at the hearing) uploaded in the Court's E-Order system a proposed order lifting the automatic stay that states in part as follows:

Movant's Motion for Relief was scheduled for hearing on January 7, 2009, a Notice of Assignment of Hearing was served upon each of the above-captioned parties in interest and Debtor failed to tender funds as stipulated at the hearing.

...

At the January 7, 2009, hearing, the parties stipulated that the post-petition arrearage owed to Movant totaled \$4,239.75. Debtor agreed to pay \$2,900.00 to Movant, through Debtor's attorney by February 10, 2009. Debtor has failed to tender funds to Movant as stipulated at the January 7, 2009, hearing.

These representations to the Court do not square with the announcement made at the second calendar call on January 7, 2009. (Nor do they square with notes made on January 7, 2009 by the Courtroom Deputy Clerk with respect to what transpired in the courtroom.)

Bankruptcy Local Rule 9013-2(a) provides in part:

All proposed orders (including findings of fact and conclusions of law or other rulings orally announced by the Bankruptcy Judge and orders submitted following the call of a matter at a scheduled hearing as to which there is no opposition) shall: (1) be prepared in writing and signed by the attorney for the prevailing party, unless the Bankruptcy Court directs otherwise; (2) include the scheduled hearing date, if applicable; and (3) be submitted to the Bankruptcy Judge within seven days from the date of pronouncement or scheduled hearing, if applicable.

The failure of Movant to comply with this rule by submitting a proposed order within seven days of the hearing is alone a proper ground for denying the motion. Delaying four months after the hearing date to submit a proposed order also justifies denial of the motion for failure to prosecute it. Although the proposed order may have been intended to assert not what happened at the hearing, notwithstanding what the document states, but rather what happened outside the courtroom at the time of the hearing, the absence of evidence supporting the motion, which was not scheduled for a hearing, is also a more than sufficient reason to deny it.

Based upon the foregoing discussion, Movant's motion for stay relief (document no. 27) is DENIED.

END OF ORDER