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In Re:  
William J Leavitt,  
Debtor,

Case No. 04-31030  
Chapter 13 Case

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**NOTICE OF HEARING AND MOTION FOR RELIEF FROM THE STAY**

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TO: Debtor(s) and other entities specified in Local Rule 9013-3.

1. Ford Motor Credit Company moves the Court for the relief requested below and gives notice of hearing.
2. The Court will hold a hearing on this motion on October 19, 2004 at 10:30 AM o'clock, in Courtroom No. 228B, at the United States Courthouse, 316 North Robert Street, St. Paul, MN.
3. Any response to this motion must be filed and delivered not later than October 14, 2004, which is three days before the time set for the hearing (excluding Saturdays, Sundays, and holidays), or filed and served by mail not later than October 8, 2004, which is seven days before the time set for the hearing (excluding Saturdays, Sundays and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**
4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§157 and 1334, Fed. R. Bankr. P. 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this case was filed on February 24, 2004. The case is now pending in this court.
5. This motion arises under 11 U.S.C. §362(d) and Fed. R. Bankr. P. 4001. This motion is filed under Fed. R. Bankr. P. 9014 and Local Rules 9006-1, 9013-1 through 9013-3, and 9017-1. Movant seeks relief from the automatic stay in §362(a) to foreclose its lien against the 1999 DODGE INTREPID (the collateral), and requests the court permit Movant to immediately enforce the order requested, lifting the 10 day stay imposed by Rule 4001(a)(3).

6. Movant requests relief from the stay for cause under §362(d)(1). Debtor is delinquent under the terms of the confirmed Chapter 13 Plan. Movant requests relief under §362(d)(2). The Debtor has no equity in the collateral, and the collateral is not necessary to an effective reorganization.
7. Movant gives notice that it may, if necessary, call the person who signed the verification to this motion, or some other representative of Movant, from Movant's offices in Minnesota, to testify regarding the debt and value.
8. This notice of motion and motion also serve as notice of default required by Cobb v. Midwest Recovery Bureau Co., 295 N.W.2d 232 (Minn.1980). If the default is not cured before the hearing, Movant will repossess the property promptly upon the Court signing the Order.
9. A separate Memorandum of Fact and Law is attached hereto and made a part hereof.

**WHEREFORE**, Ford Motor Credit Company moves the Court for an order modifying the automatic stay of §362(a) and the codebtor stay of §1301(a), if applicable, and such other relief as may be just and equitable.

Dated: September 28, 2004

**STEWART, ZLIMEN & JUNGERS, LTD.**

/e/ Linda Jeanne Jungers

Linda Jeanne Jungers, Atty ID #5303X

Attorneys for Movant

430 Oak Grove Street #200

Minneapolis, MN 55403

612-870-4100

This is a communication from a debt collector attempting to collect a debt. Any information obtained will be used for that purpose.

MINNESOTA DEPARTMENT OF PUBLIC  
DRIVER & VEHICLE SERVICES DIVISION  
445 MINNESOTA ST., ST. PAUL, MN 551  
CONFIRMATION OF LIEN PERFECTION - DEL.

0012946032  
EB A146 60K9

LEAVITT WILLIAM JOSEPH JR  
839 S 17TH AV  
ST CLOUD MN 56301

Permit No. 171  
St. Paul, MN

ECR379

99 Year	DODG Make	4DINT Model	F0670M009 Title (V/R)
2B3HD46R9XH665409 VIN	01/18/00 Security Date	NO Rebuilt	

1ST SECURED PARTY

LIEN HOLDER

RETAIN THIS DOCUMENT - See revc,sc  
side of this form for removing this lien.

FORD MOTOR CREDIT CO C/O ASG  
PO BOX 105704  
ATLANTA GA 30348-5704

22389887

EXHIBIT A

**MINNESOTA SIMPLE INTEREST VEHICLE RETAIL INSTALLMENT CONTRACT**

DATE 01/18/2000

Buyer (and Co-Buyer) Name and Address (Including County):  
**WILLIAM JOSEPH LEAVITT**  
 839 SO 17TH AVE  
 ST CLOUD MN 56301  
 STEARNS

Code) CREDITOR (Seller Name and Address)  
**ELK RIVER FORD**  
 17219 HWY 10  
 ELK RIVER, MN 55330

2409539  
 (Handwritten signature/initials)

You, the Buyer (and Co-Buyer, if any), may buy the vehicle described below for cash or on credit. The cash price is shown below as "Cash Price." The credit price is shown below as "Total Sale Price." By signing this contract, you choose to buy the vehicle on credit under the agreements on the front and back of this contract.

New/Used	Year and Make	Model	GVW if Truck (lbs.)	Vehicle Identification Number
USED	1999 DODGE	INTREPID		2B3HD46R9XH665409



Trade-in 95 EAGL VISI \$ 10050.00 Gross Allowance \$ 7865.00 Amount Owning

**ITEMIZATION OF AMOUNT FINANCED**

- Cash Price..... \$20641.43 (1)
- Down Payment
  - Manufacturer's Rebate Assigned to Creditor..... \$ N/A
  - Cash Down Payment..... \$ 2000.00
  - Trade-in (description above)..... \$ 2185.00
  - Total Down Payment..... \$ 4185.00 (2)
- Unpaid Balance of Cash Price (1 minus 2)..... \$ 6456.43 (3)
- Amounts paid on your behalf (Seller may be retaining a portion of these amounts)
  - To Public Officials
    - (i) for license, title & registration fees \$ 289.00;
    - (ii) for filing fees \$ N/A;
    - (iii) for taxes (not in Cash Price) \$ N/A
  - To Insurance Companies for:
    - Credit Life Insurance..... \$ N/A
    - Credit Disability Insurance..... \$ N/A
    - N/A..... \$ N/A
  - To DEALER for DOC FEE \$ 24.95
  - To \_\_\_\_\_ for \_\_\_\_\_ \$ N/A
  - To \_\_\_\_\_ for \_\_\_\_\_ \$ N/A
  - To N/A for \_\_\_\_\_ \$ N/A
  - Total..... \$ 313.95 (4)
- Amount Financed (3 plus 4)..... \$16770.38 (5)

**INSURANCE**

YOU MAY OBTAIN VEHICLE INSURANCE FROM A PERSON OF YOUR CHOICE.

LIABILITY INSURANCE COVERAGE FOR BODILY INJURY AND PROPERTY DAMAGE CAUSED TO OTHERS IS NOT INCLUDED.

CREDIT LIFE, CREDIT DISABILITY AND OTHER OPTIONAL INSURANCE ARE NOT REQUIRED TO OBTAIN CREDIT AND WILL NOT BE PROVIDED UNLESS YOU SIGN AND AGREE TO PAY THE PREMIUM.

Credit Life WESTERN DIVERSIFIED Insurer  
 N/A  
 \$ Premium Insured(s)  
 Signature(s)

Disability WESTERN DIVERSIFIED Insurer  
 N/A  
 \$ Premium Insured  
 Signature

N/A Term N/A  
 Type of Insurance \$ N/A Premium  
 N/A Insurer  
 Signature

Credit Life and Credit Disability insurance are for the term of the contract. The amount and coverages are shown in a notice or agreement given to you today.

You are required to insure the vehicle. If a charge is shown below, the Creditor will try to buy the coverages checked for the term shown. Coverages will be based on the cash value of the vehicle at the time of loss, but not more than the limits of the policy.

- Comprehensive  \$ N/A Deductible Collision
- Fire-Theft-Combined Additional Coverage
- Towing and Labor
- Term N/A Months (Estimate)  
 Premium \$ N/A

**FEDERAL TRUTH-IN-LENDING DISCLOSURES**

ANNUAL PERCENTAGE RATE	FINANCE CHARGE	Amount Financed	Total of Payments	Total Sale Price
The cost of your credit as a yearly rate <b>16.90 %</b>	The dollar amount the credit will cost you <b>\$ 8358.22</b>	The amount of credit provided to you or on your behalf <b>\$ 16770.38</b>	The amount you will have paid when you have made all scheduled payments <b>\$25128.60</b>	The total cost of your purchase on credit, including your downpayment of \$ <u>4185.00</u> <b>\$ 29313.60</b>

Payment Schedule	<input checked="" type="checkbox"/> Number of payments	Amount of Each payment	When Payments are due
Your payment schedule will be:	<u>59</u>	\$ <u>418.81</u>	monthly starting <u>03/03/2000</u>
	<input type="checkbox"/> 1 final	\$ <u>418.81</u>	

**Prepayment:** If you pay off your debt early, you will not have to pay a penalty.

**Security Interest:** You are giving a security interest in the vehicle being purchased.

**Contract:** Please see this contract for additional information on security interest, nonpayment, default, the right to require repayment of your debt in full before the scheduled date, and prepayment penalty.

**COMMERCIAL OR AGRICULTURAL USE CONTRACTS:** If you purchased the vehicle for commercial or agricultural use, you must pay a late charge on the portion of each payment received more than 10 days late of 7.5 percent of the late amount or \$50.00, whichever is less.

**NOTICE TO THE BUYER**

Do not sign this contract before you read it or if it contains any blank spaces. You are entitled to an exact copy of the contract you sign.

You acknowledge receipt of a true and completely filled in copy of this contract, signed by both yourself and the seller, at the time of signing.

**IMPORTANT: THIS MAY BE A BINDING CONTRACT AND YOU MAY LOSE ANY DEPOSITS IF YOU DO NOT PERFORM ACCORDING TO ITS TERMS.**

Buyer Signs \_\_\_\_\_ (Co) Buyer Signs \_\_\_\_\_

By signing below, the Seller accepts this contract. If no other Assignee is named in a separate assignment attached to this contract, the Seller assigns it to Ford Motor Credit Company.

Seller **ELK RIVER FORD/CHRYSLER** By \_\_\_\_\_ Title **BUS. MOR**

**QUESTIONS?**



PLEASE CALL US AT 1-800-727-7000

SEE BACK FOR ADDITIONAL AGREEMENTS

99-001

ORIGINAL

**EXHIBIT B**

**ADDITIONAL AGREEMENTS**

**A. Payments:** You must make all payments when they are due. You may prepay your debt at any time without penalty. This is a simple interest contract. The actual finance charge you agree to pay will depend on your payment patterns. The actual finance charge may exceed the disclosed Finance Charge if you make your payments later than the scheduled dates or in less than the scheduled amount. Your payment will be applied first to the earned and unpaid part of the Finance Charge and then to the unpaid Amount Financed. The Finance Charge is earned by applying the Annual Percentage Rate to the unpaid Amount Financed for the actual time that the unpaid Amount Financed is outstanding.

**B. Security Interest:** You give the Creditor a security interest in:

1. The vehicle and all parts or other goods put on the vehicle;
2. All money or goods received for the vehicle; and
3. All insurance premiums and service contracts financed for you.

This secures payment of all amounts you owe under this contract. It also secures your other agreements in this contract.

**C. Use of Vehicle - Warranties:** You must take care of the vehicle and obey all laws in using it. You may not sell or rent the vehicle, and you must keep it free from the claims of others. You will not use or permit the use of the vehicle outside of the United States, except for up to 30 days in Canada or Mexico, without the prior written consent of the Creditor. **If the vehicle is of a type normally used for personal use and the Creditor, or the vehicle's manufacturer, extends a written warranty or service contract covering the vehicle within 90 days from the date of this contract, you get implied warranties of merchantability and fitness for a particular purpose covering the vehicle. Otherwise, you understand and agree that there are no such implied warranties.**

**D. Insurance:** You must insure yourself and the Creditor against loss or damage to the vehicle. The type and amount of insurance must be approved by the Creditor. If the Creditor obtains a refund on insurance or service contracts, the Creditor will subtract the refund from what you owe. **Whether or not the vehicle is insured, you must pay for it if it is lost, damaged, or destroyed.**

If a charge for vehicle insurance is shown on the front, the Creditor will try to buy the coverages checked for the term shown. The Creditor is not liable, though, if he cannot do so. If these coverages cost more than the amount shown for insurance, the Creditor may buy them for a shorter term or he may give you credit for the amount shown. If he cannot buy any insurance, he will give you credit for the amount shown. The credit will be made to the last payments due.

**E. Late Payments:** You must pay any cost paid by the Creditor to collect any late payment, as allowed by law. Acceptance of a late payment does not excuse your default or mean that you can keep making payments after they are due. The Creditor may take the steps set forth if there is any default.

**F. Default:** You will be in default if:

1. You do not make a payment when it is due; or
2. You gave false or misleading information on your credit application relating to this contract; or
3. Your vehicle is seized by any local, state, or federal authority and is not promptly and unconditionally returned to you; or
4. You file a bankruptcy petition or one is filed against you; or
5. You do not keep any other promise in this contract.

If you default, the Creditor may require you to pay at once the unpaid Amount Financed, the earned and unpaid part of the Finance Charge and all other amounts due under this contract. He may repossess (take back) the vehicle, too. He may also take goods found in the vehicle when repossessed and hold them for you.

If the vehicle is taken back, he will send you a notice. The notice will say that you may redeem (buy back) the vehicle. It will also show the amount needed to redeem. You may redeem the vehicle up to the time the Creditor sells it or agrees to sell it. If you do not redeem the vehicle, it will be sold.

The money from the sale, less the allowed expenses, will be used to pay the amount still owed on this contract. Allowed expenses include those paid as a direct result of having to retake the vehicle, hold it, prepare it for sale, and sell it. You must also pay attorney fees not to exceed 15% of the amount due and payable under the contract, and court costs payable by Ford Credit to obtain, hold, and sell the vehicle, collect amounts due and enforce Holder's rights under the contract. If there is any money left (a surplus), it will be paid to you. If the money from the sale is not enough to pay off this contract and costs, you will pay what is still owed to the Creditor, if allowed by law. If you do not pay this amount when the Creditor asks, the Creditor may charge you interest at the highest lawful rate until you pay.

**G. General:** To contact Ford Motor Credit Company about this account, call 1-(800) 727-7000. Any change in this contract must be in writing and signed by you and the Creditor. The law of Minnesota applies to this contract. If that law does not allow all the agreements in this contract, the ones that are not allowed will be void. The rest of this contract will still be good.

**FTC NOTICES**

**NOTICE - ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.\***

**Used Motor Vehicle Buyers Guide.** If you are buying a used vehicle with this contract, federal regulations may require a special Buyers Guide to be displayed on the window of the vehicle. **THE INFORMATION YOU SEE ON THE WINDOW FORM FOR THIS VEHICLE IS PART OF THIS CONTRACT. INFORMATION ON THE WINDOW FORM OVERRIDES ANY CONTRARY PROVISIONS IN THE CONTRACT OF SALE.**

\*Does not apply if purchased for commercial or agricultural use. In that case, you (debtor) will not assert against any assignee or subsequent holder of this Contract any claims, defenses, or setoffs which you may have against the Seller or manufacturer of the vehicle.

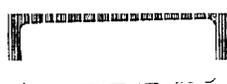
**GUARANTY**

To cause the Seller to sell the vehicle described on the front of this contract to the Buyer, on credit, each person who signs below as a "Guarantor" guarantees the payment of this contract. This means that if the Buyer fails to pay any money that is owed on this contract, each one who signs as a guarantor will pay it when asked. Each person who signs below agrees that he will be liable for the whole amount owed even if one or more other persons also signs this Guaranty. He also agrees to be liable even if the Creditor does one or more of the following: (a) gives the Buyer more time to pay one or more payments, or (b) gives a release in full or in part to any of the other Guarantors, or (c) releases any security. Each Guarantor also states that he has received a completed copy of this contract and this Guaranty at the time of signing.

Guarantor \_\_\_\_\_ Address \_\_\_\_\_

Guarantor \_\_\_\_\_ Address \_\_\_\_\_

FC 17622-SI AUG 99 (Previous editions may NOT be used)





WILLIAM JOSEPH LEAVITT

50  
 MICHAEL J. FARRELL  
 Case #  
 Printed Case #  
 Comp %  
 Expense %  
 Min Balance

Employer D:

Employer J:

Case Payment Schedule  
 PAYMENT 03/2004

900.00 MONTHLY DEBTOR

Attorney: CURTIS K. WALKER

CLAIM	CREDITOR	PAY SEQ	DISB CODE	DISB STATUS	CLASS	LAST DISB	INTEREST ARREARS	FIXED ARREARS	FIXED PAY	ALLOWED AMOUNT
002	FRANK C RAHN	25	FIX	Accrue	SEC	00/0000	0.00	0.00	87.00	1,400.00
005	FHA	35	PRO	Release	UNS	00/0000	0.00	0.00	0.00	Not Filed
006	FHA	35	PRO	Release	UNS	00/0000	0.00	0.00	0.00	Not Filed
007	FORD MOTOR CREDIT COMPANY	35	PRO	Release	UNS	00/0000	0.00	0.00	0.00	Not Filed
008	VETERANS ADMINISTRATION	35	PRO	Release	UNS	00/0000	0.00	0.00	0.00	Not Filed
009	INTERNAL REVENUE SERVICE	30	PRO	Accrue	PRI	00/0000	0.00	0.00	0.00	300.00
010	MN DEPT OF REVENUE	30	PRO	Accrue	PRI	00/0000	0.00	0.00	0.00	1,000.00
1	LITTON LOAN SERVICING, LP	25	FIX	Release	SEC	07/2004	0.00	0.00	562.00	9,778.70
2	FORD MOTOR CREDIT COMPANY	25	FIX	Release	SEC	07/2004	0.00	0.00	161.00	4,673.00
2	FORD MOTOR CREDIT COMPANY	35	PRO	Release	UNS	00/0000	0.00	0.00	0.00	7,311.70
3	RESURGENT CAPITAL SERVICES	35	PRO	Release	UNS	00/0000	0.00	0.00	0.00	634.70
799	CURTIS K. WALKER	15	PRO	Release	ATY	07/2004	0.00	0.00	0.00	1,469.00
TOTALS							0.00		810.00	26,567.30

**SUMMARY TO DATE**

RECEIPTS TO DATE	FUNDS ON HAND	UNALLOCATED FUNDS	CREDITOR PRIN PAID	DELINQUENT AMOUNT	LAST PAYMENT	LAST PAY DATE
3,600.00	1,251.02	1,251.02	885.43	1,800.00	900.00	08/11/2004

**PAID BY TRUSTEE**

ADMIN	ATTORNEY	SECURED	PRIORITY	UNSECURED	INTEREST	TRST. COMP	TRST. EXP	OTH. CC
0.00	1,250.00	885.43	0.00	0.00	0.00	213.55	0.00	

**BALANCE DUE**

ADMIN	ATTORNEY	SECURED	PRIORITY	UNSECURED	EST INT DUE	TRST. COMP	TRST. EXP
0.00	219.00	14,966.34	1,300.00	7,946.56	0.00	977.27	0.00

**ESTIMATED PAYOFFS**

	PRINCIPAL	INTEREST	INT ARREARS	CONTINUING	CONT. ARREARS	FEES	TOTAL DUE CLAIMS
IMMEDIATE	24,431.90	0.00	0.00	0.00	0.00	977.27	25,409.17
OVER THE LIFE	24,431.90	0.00	0.00	0.00	0.00	977.27	25,409.17

EXHIBIT D

<http://casepower.epiqsystems.com/CaseDetail.asp?systemNbr=0508&trusteeNbr...> 9/22/2004

## OF THE PLAN

The data displayed on this website is provided to EPIQ Systems, Inc. by trustee clients of EPIQ Systems, Inc. This PACER. It is the user's sole responsibility to verify data for accuracy.

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Case Detail Report: 09/22/2004

<http://casepower.epiqsystems.com/CaseDetail.asp?systemNbr=0508&trusteeNbr...> 9/22/2004

04-01044-0

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In Re:  
William J Leavitt, Debtor,

Case No. 04-31030  
Chapter 13 Case

VERIFICATION FOR MOTION FOR RELIEF FROM STAY

I, Carolyn Boynton, the Designated Agent for Ford Motor Credit Company, the Creditor herein, declare under penalty of perjury that the following is true and correct according to the best of my knowledge, information and belief, and based on the Creditor's business records:

1. I am legally competent to testify and am personally familiar with the debt owed by Debtor to the Creditor on account no. 22389887.
2. The Debtor owes the Creditor \$12,257.61, payoff amount as of September 22, 2004, plus accrued unpaid interest thereon since that date. The monthly loan payment is \$418.81. As of September 22, 2004, the loan payments are in arrears \$3,471.82 for payments owing since January 15, 2004.
3. The confirmed plan provides for Creditor to be paid on its secured claim through the Trustee disbursements from plan payments. Debtor is in arrears on such plan payments in the amount of \$1,800.00. Creditor has not received a payment since July 2004.
4. The debt owed to the Creditor is secured by a perfected lien on a 1999 DODGE INTREPID. At the time of filing, the current NADA published retail value of the collateral was \$5,775.00.
5. True and correct copies of the title documents are attached to the Motion as Exhibit "A". True and correct copies of the loan documents are attached as Exhibit "B".
6. Loan documents require insurance be maintained to protect the Creditor's interest in the collateral. No evidence of insurance has been provided since filing.

Dated: September 23, 2004

  
\_\_\_\_\_  
Carolyn Boynton

Ford Motor Credit Company  
National Bankruptcy Svc Center  
P.O. Box 537901  
Livonia, MI 48153-7901

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In Re:  
William J Leavitt,  
Debtor,

Case No. 04-31030  
Chapter 13 Case

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**MEMORANDUM OF FACT AND LAW**

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Ford Motor Credit Company ("Movant") submits this Memorandum of Fact and Law in support of its motion for relief from the stay.

**FACTS**

Movant is the holder of a secured claim, and is thus a party in interest. Movant has a valid and perfected security interest in the collateral. The collateral is in Debtor's possession or control.

The total net balance due on the Contract is \$12,257.61 as of September 22, 2004. On information and belief, the collateral has an NADA retail value of \$5,775.00. NADA pages showing the collateral value are attached as Exhibit "C".

Debtor's Chapter 13 Plan has been filed with the Court. The terms of the Chapter 13 Plan requires regular payments to the Chapter 13 Trustee for distribution through the Plan. Such payments are presently delinquent. The debt owed to Movant was to be paid through the payments made to the Chapter 13 Trustee. A printout showing the payments made to date to the Trustee and the delinquency is attached hereto as Exhibit "D".

Movant's collateral is subject to depreciation in that the collateral is being used, subjecting the same to wear and tear, while Debtor is failing to make payments. There has been a further material default; Debtor has failed to provide Movant with evidence of collateral insurance.

**ARGUMENT**

Pursuant to 11 U.S.C. §362(d)(1), a creditor is entitled to relief from the automatic stay "for cause, including the lack of adequate protection of an interest in property of such creditor." In this case,

there is a lack of adequate protection as follows:

- Failure to make monthly Plan payments to the Chapter 13 Trustee as required by the Plan. See Exhibit D.
- Failure to maintain physical damage insurance on the collateral.

Movant has not been provided with adequate protection of Movant's interest in the collateral.

Such circumstances constitute cause, within the meaning of §362(d)(1), justifying relief from the stay.

See, United States Association of Texas v. Timbers of Inwood Association, Ltd. (In re Timbers of Inwood Association, Ltd.), 484 U.S. 365, 108 S.Ct. 626, 98 L.Ed. 2d 740 (1988); In re Reinbold v. Dewey County Bank, 942 F.2d 1304, 1306 (8th Cir. 1991). Pursuant to 11 U.S.C. §362(g), the burden is on the Debtor to prove adequate protection and/or absence of cause.

Pursuant to 11 U.S.C. §362(d)(2), relief from the automatic stay is also appropriate if the Debtor has no equity in the property and the property is not necessary to an effective reorganization. See, In re Gellert, 55 B.R. 970 (Bkrcty. D.N.H. 1983). In the present case, the balance due Movant on the Contract is \$12,257.61. It appears Debtor has no equity in the collateral. No evidentiary hearing is required on the issue of equity unless Debtors dispute it. Powers v. American Honda Finance Corp., 216 B.R. 95, 97 (N.D.N.Y. 1997). Movant believes that the collateral is not necessary to an effective reorganization. Pursuant to 11 U.S.C. §362(g), the burden is on the Debtor to establish that this collateral is necessary to an effective reorganization.

Bankruptcy Rule 4001(a)(3) imposes a stay of 10 days which the court may, in its discretion, order is not applicable so that Movant may immediately enforce and implement the order granting relief.

Advisory Committee Notes to 1999 Amendments to Bankruptcy Rule 4001.

Dated: September 28, 2004

**STEWART, ZLIMEN & JUNGERS, LTD.**

/e/ Linda Jeanne Jungers

Linda Jeanne Jungers, Atty ID #5303X

Attorneys for Movant

430 Oak Grove Street #200

Minneapolis, MN 55403

612-870-4100

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In Re:  
William J Leavitt,  
Debtor,

Case No. 04-31030  
Chapter 13 Case

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**UNSWORN CERTIFICATE OF SERVICE**

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I, Linda Jeanne Jungers, declare under penalty of perjury that on September 29, 2004, I mailed copies of the attached Notice of Hearing and Motion for Relief from the Stay with Exhibits, Verification, Memorandum of Fact and Law, Certificate of Service, and proposed Order, by first class mail postage prepaid to each entity named below at the address stated below for each entity.

William J Leavitt  
427 Mariah Drive  
Foley, MN 56329

Curtis K. Walker  
4356 Nicollet Ave S  
Minneapolis, MN 55409

Michael J Farrell  
Bankruptcy Trustee  
PO Box 519  
Barnesville, MN 56514

U.S. Trustee  
1015 U.S. Courthouse  
300 South 4th Street  
Minneapolis, MN 55415

James A Geske  
for Deutsche Bank National  
WILFORD & GESKE  
7650 Currell Blvd, Suite 300  
Woodbury, MN 55125

Executed on: September 29, 2004

Signed: /e/Linda Jeanne Jungers  
Linda Jeanne Jungers  
STEWART, ZLIMEN & JUNGERS  
430 Oak Grove Street, #200  
Minneapolis, MN 55403

04-01044-0

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In Re:  
William J Leavitt,  
Debtor,

Case No. 04-31030  
Chapter 13 Case

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**ORDER FOR RELIEF FROM THE STAY**

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Ford Motor Credit Company's Motion for an order granting relief from the stay came before the Court on October 19, 2004 at 10:30 AM o'clock.

Based on the arguments of counsel, all the files, records and proceedings herein, the court being advised in the premises, and the court's findings of fact and conclusions of law, if any, having been stated orally and read in open court following the close of evidence,

IT IS HEREBY ORDERED:

1. The automatic stay is modified to permit Ford Motor Credit Company to repossess and sell the  
1999 DODGE INTREPID, VIN 2B3HD46R9XH665409  
in accordance with applicable state law.
2. Notwithstanding Federal Rule of Bankruptcy Procedure 4001(a)(3), this Order is effective immediately.

Dated: \_\_\_\_\_

\_\_\_\_\_  
United States Bankruptcy Judge