## SCRA Flow Chart for Opposing "Additional Stay"

Is the defendant a person in the military service (or within 90 days Proceed under state law; SCRA does not apply in of discharge)? YES Has the defendant requested an additional stay of proceedings Proceed under state law; SCRA inapplicable. under Section 202 of the SCRA? Is the request in the form of an statement showing how his/her Demand one. This is a requirement of the SCRA, military duties have a material effect on his/her ability to appear? and it is the best protection in court for the And giving a date when the SM will be available to appear? nonmilitary party as to the truth of defendant's YES Does the request include a statement from the SM's commanding Demand this; it is also a requirement of the SCRA. officer showing that the member's military duties prevent his appearance and that leave cannot be granted at this time? Demand that defendant's request address this Has the servicemember established no navailability due to issue. This is required by the SCRA, and proof of inability to take leave should be required to protect military duties (e.g., a training exercise, or deployment in a hostile zone)? the nonmilitary party. YES Does the request demonstrate that defendant cannot take leave Demand this. Military personnel accrue 30 days of (e.g., no leave remaining or the request was turned down) Does this request show that defendant's presence is necessary Argue that the stay should be denied. The power to for defense in lawsuit? grant a stay is based on inability to appear in person, which implies the need either to testify or to YES conduct/oversee the defense. Is the defendant's presence in fact necessary in the lawsuit? See above; argue that the stay should be denied. In a child support case, argue that the member's LES\* is all that is needed to determine the proper amount of YES support. Does the SM's statement establish a valid defense? Argue that the stay request should be denied. If there is no valid defense, then granting the stay will YES only prolong and delay the proceeding needlessly. Does the court want to proceed anyway? 1NO \*LES=Leave and Earnings Statement YES In either case, the court must appoint an attorney to represent the servicemember and protect his or her interests.