

LOSS MITIGATION PROGRAM PROCEDURES

UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF NEW YORK



LOSS MITIGATION PROGRAM PROCEDURES

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LOSS MITIGATION PROGRAM PROCEDURES¹

Current as of January 30, 2014

I. PURPOSE

The Loss Mitigation Program is designed to function as a forum in individual bankruptcy cases for debtors and lenders to reach consensual resolution whenever a debtor's principal residence is at risk of foreclosure. The Loss Mitigation Program aims to facilitate resolution by opening the lines of communication between debtors' and lenders' decision-makers. While the Loss Mitigation Program stays certain bankruptcy deadlines that might interfere with negotiations or increase costs to the parties, the Loss Mitigation Program also encourages the parties to finalize any Settlement (as defined below) under bankruptcy court protection, instead of seeking dismissal of the bankruptcy case.

II. LOSS MITIGATION DEFINED

The term "Loss Mitigation" is intended to describe the full range of solutions that may avert the loss of a debtor's property to foreclosure, increased costs to the lender, or both. Loss Mitigation commonly consists of the following general types of agreements, or a combination of them: loan modification, loan refinance, forbearance, short sale, or surrender of the property in full satisfaction. The terms of a Loss Mitigation resolution will vary in each case according to the particular needs, interests, and goals of the parties.

III. OTHER DEFINITIONS

The following definitions are used to describe the types of parties, properties, and loans that are eligible for participation in the Loss Mitigation Program.

A. DEBTOR

The term "Debtor" means any individual debtor in a case filed under chapter 7, 11, 12, or 13 of the Bankruptcy Code, including joint debtors, in the Northern District of New York.

B. PROPERTY

The term "Property" means any real property, including condominiums or cooperative apartments, used as the Debtor's principal residence, in which the Debtor holds an interest.

¹ Text appearing in [Blue](#) denotes a Loss Mitigation Program Form. The Loss Mitigation Program Forms, which are listed in section XII, are required under these Loss Mitigation Program Procedures and are available on the court's website at www.nynb.uscourts.gov.

C. LOAN

The term “Loan” means any mortgage, lien, or extension of money or credit secured by eligible Property or stock shares in a residential cooperative, regardless of whether the Loan (1) is considered to be “subprime” or “non-traditional;” (2) was in foreclosure prior to the bankruptcy filing; (3) is the first or junior mortgage or lien on the Property; or (4) has been “pooled,” “securitized,” or assigned to a servicer or trustee.

D. CREDITOR

The term “Creditor” means any holder, mortgage servicer, or trustee of an eligible Loan.

E. LOSS MITIGATION PARTY

The term “Loss Mitigation Party” means any party participating in the Loss Mitigation Program as named in the [Loss Mitigation Order](#). In a chapter 12 or 13 case, the chapter trustee, although a participant in the Loss Mitigation Program, is not a Loss Mitigation Party.

IV. ADDITIONAL PARTIES

A. OTHER CREDITORS

Any Loss Mitigation Party may request or the court may direct, after notice and a hearing, more than one Creditor to participate in the Loss Mitigation Program if it may be of assistance to obtain a global resolution.

B. NON-FILING CO-DEBTORS AND THIRD PARTIES

Any Loss Mitigation Party may request or the court may direct, after notice and a hearing, a non-filing co-debtor or other third party to participate in the Loss Mitigation Program if the participation of such party may be of assistance and if the court has jurisdiction over the party or the party consents.

C. CHAPTER 12 & CHAPTER 13 TRUSTEES

In a chapter 12 or 13 case, the chapter trustee may participate in the Loss Mitigation Program to the extent that such participation is consistent with the trustee's duties under, respectively, 11 U.S.C. § 1202(b) or 11 U.S.C. § 1302(b)(4).

A Loss Mitigation Order shall provide that, in a chapter 12 or 13 case, the chapter trustee may participate in Loss Mitigation, including—but not necessarily limited to—appearing at the Status Conference and filing a response, if any, to a Loss Mitigation Party's motion to extend or terminate Loss Mitigation made pursuant to section IX of these Procedures. The chapter 12 or chapter 13 trustee need not make a specific request in order to participate in Loss Mitigation.

V. COMMENCEMENT OF LOSS MITIGATION

Generally, a request for Loss Mitigation may be made at any time during the pendency of the case. However, when there is a pending motion pursuant to 11 U.S.C. § 362(d) for relief from the automatic stay ("Motion for Relief from Stay") as to the Property, a request may be presented to the court only as provided in subsections (A)(2) and (B)(2). Parties are encouraged to request to enter into the Loss Mitigation Program as early in the case as possible.

A. BY WRITTEN REQUEST OF THE DEBTOR

1. Generally

Except as provided in subsection (A)(2), a Debtor may file a completed [Loss Mitigation Request by Debtor\(s\) and Certificate of Service](#) to enter into the Loss Mitigation Program with one or more named Creditors at any time during the pendency of the case. The Debtor shall serve the [Loss Mitigation Request by Debtor\(s\) and Certificate of Service](#) on the case trustee and the named Creditor(s) pursuant to Rule 7004 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules") and, if a proof of claim has been filed, on the individual who signed the proof of claim by first class mail.

The Creditor(s) shall have 14 days to file and serve an [Objection to Loss Mitigation Request](#) and a [Notice of Hearing on Objection to Loss Mitigation Request and Certificate of Service](#) on the Debtor, Debtor's attorney, and the case trustee. If an [Objection to Loss Mitigation Request](#) and a [Notice of Hearing on Objection to Loss Mitigation Request and Certificate of Service](#) are not filed, the court may enter a [Loss Mitigation Order](#).

2. When a Motion for Relief from the Stay is Pending as to the Property

The Debtor may include a [Loss Mitigation Request by Debtor\(s\) and Certificate of Service](#) as part of a timely response to a Motion for Relief from Stay in the manner provided below:

- a. The Debtor shall state in the response to the Motion for Relief from Stay that the Debtor wishes to enter Loss Mitigation with the Creditor and that a completed [Loss Mitigation Request by Debtor\(s\) and Certificate of Service](#) has been attached as an exhibit thereto for the court's consideration; **and**
- b. The Debtor shall allege in the response facts sufficient to support the conclusion that the Debtor can and will proceed in Loss Mitigation in good faith; **and**
- c. The Debtor shall attach a copy of the completed [Loss Mitigation Request by Debtor\(s\) and Certificate of Service](#) as an exhibit to Debtor's response.

A request for Loss Mitigation is not, in itself, a defense to a Motion for Relief from Stay. Therefore, the Debtor should still advance any other legal or factual defenses to the Motion for Relief from Stay in Debtor's response. The court will treat the Debtor's request for Loss Mitigation as an application for permission to file the [Loss Mitigation Request by Debtor\(s\) and Certificate of Service](#), and will consider the Debtor's request and any opposition by the Creditor at the hearing on the Motion for Relief from Stay.

In the event the court grants the Debtor leave to file a request for Loss Mitigation, the Debtor shall file the [Loss Mitigation Request by Debtor\(s\) and Certificate of Service](#) within three (3) days after the hearing on the Motion for Relief from Stay, and shall serve the [Loss Mitigation Request by Debtor\(s\) and Certificate of Service](#) in accordance with subsection (A)(1). The court will treat the Debtor's request for Loss Mitigation as if it had been made pursuant to subsection (A)(1), and will proceed on the request pursuant to these Procedures as if the request had been so made.

B. BY WRITTEN REQUEST OF A CREDITOR

1. Generally

Except as provided in subsection (B)(2), a Creditor may file a completed [Loss Mitigation Request by Creditor and Certificate of Service](#) to enter into the Loss Mitigation Program with the Debtor at any time during the pendency of the case. The Creditor shall serve the [Loss Mitigation Request by Creditor and Certificate of Service](#) on the case trustee and Debtor's counsel by a notice of electronic filing (NEF) via the CM/ECF system and on the Debtor by first class mail.

The Debtor shall have 14 days to file and serve an [Objection to Loss Mitigation Request](#) and a [Notice of Hearing on Objection to Loss Mitigation Request and Certificate of Service](#) on the Creditor and case trustee. If an [Objection to Loss Mitigation Request](#) and a [Notice of Hearing on Objection to Loss Mitigation Request and Certificate of Service](#) are not filed, the court may enter a [Loss Mitigation Order](#).

2. When a Motion for Relief from the Stay is Pending as to the Property

The Creditor may serve and file a [Loss Mitigation Request by Creditor and Certificate of Service](#) as a reply to any opposition received to a Motion for Relief from Stay that was filed by the Creditor in the manner provided below:

- a. The [Loss Mitigation Request by Creditor and Certificate of Service](#) shall be filed not later than three (3) days prior to the return date of the Motion for Relief from Stay, and shall be served in accordance with subsection (B)(1); **and**
- b. The Creditor shall adjourn the hearing on its Motion for Relief from Stay pursuant to Local Bankruptcy Rule ("L.B.R.") 9013-1(i) and (j) to a date that is at least 20 but no more than 60 days from the date of the hearing on its Motion for Relief from Stay.

The court will treat the Creditor's request for Loss Mitigation as if it had been made pursuant to subsection (B)(1), and will proceed on the request pursuant to these Procedures as if the request had been so made.

C. HEARING ON AN OPPOSED REQUEST FOR LOSS MITIGATION

If a party files an [Objection to Loss Mitigation Request](#) and a [Notice of Hearing on Objection to Loss Mitigation Request and Certificate of Service](#), the court shall hold a hearing on the request for Loss Mitigation, and shall not enter a [Loss Mitigation Order](#) until the parties have had an opportunity to be heard. In a chapter 12 or 13 case, the chapter trustee may attend and participate in the hearing without making a request to appear.

D. SERVICE OF THE ORDER ON THE REQUEST FOR LOSS MITIGATION

Within three (3) days after entry of a [Loss Mitigation Order](#) or an [Order Denying Loss Mitigation Request](#), the party that requested Loss Mitigation shall serve the order on (i) all parties named in the request for Loss Mitigation, (ii) the case trustee, and (iii) any party not named in the request for Loss Mitigation but designated a Loss Mitigation Party in the [Loss Mitigation Order](#), and shall file a certificate of service.

VI. LOSS MITIGATION ORDER

A. DEADLINES

A [Loss Mitigation Order](#) shall contain:

1. The date by which contact persons and telephone, facsimile and email contact information shall be provided by the Loss Mitigation Parties.
2. The date by which the Debtor and each Creditor shall transmit any request for information or documents to other Loss Mitigation Parties, and shall file the appropriate Loss Mitigation Affidavit ([Debtor\(s\)](#) / [Creditor](#)) itemizing the information and/or documents requested.
3. The date by which the Debtor and each Creditor shall respond to any request for information or documents, and shall file the appropriate Loss Mitigation Affidavit ([Debtor\(s\)](#) / [Creditor](#)) itemizing the information and/or documents provided.
4. The date by which the initial Loss Mitigation Session shall be conducted.
5. The date and time of the Status Conference with the court and a requirement that the Loss Mitigation Party that requested Loss Mitigation file with the court a [Loss Mitigation Status Report](#) not later than seven (7) days prior to the Status Conference.

6. The date when the Loss Mitigation process shall terminate, unless extended (the “Loss Mitigation Period”).
7. The date by which the Loss Mitigation Party that requested Loss Mitigation shall file a [Loss Mitigation Program Final Report](#).

B. EFFECT

During the Loss Mitigation Period:

1. A Creditor that is a Loss Mitigation Party may not file a Motion for Relief from Stay regarding Property that is subject to Loss Mitigation. A pending Motion for Relief from Stay by a Creditor that is a Loss Mitigation Party filed before the entry of the [Loss Mitigation Order](#) shall be adjourned by the Creditor pursuant to L.B.R. 9013-1(i) and (j) to the date of the Status Conference, and the stay shall be extended pursuant to 11 U.S.C. § 362(e).

A Loss Mitigation Party that wishes to file a Motion for Relief from Stay or to restore a pending Motion for Relief from Stay to the court’s calendar must first make a motion requesting early termination of the Loss Mitigation Period pursuant to section IX(C) of these procedures. A Loss Mitigation Party that wishes to restore a pending Motion for Relief from Stay to the court’s calendar may request that relief as ancillary to its motion requesting early termination of the Loss Mitigation Period.

2. The time for each Creditor that is a Loss Mitigation Party to file an objection to an unconfirmed plan of reorganization in Debtor’s case shall be extended until fourteen (14) days after the termination of the Loss Mitigation Period, including any extension thereof.
3. Federal Rule of Evidence 408 shall apply to communications, information and documents exchanged by the Loss Mitigation Parties in connection with the Loss Mitigation Program.
4. In a chapter 7 case, the entry of a Loss Mitigation Order does not serve to automatically delay the entry of an order discharging the Debtor. Any request to delay discharge must be made by separate application to the court.

VII. DUTIES UPON COMMENCEMENT OF LOSS MITIGATION

A. GOOD FAITH

The Loss Mitigation Parties shall negotiate in good faith. A party that does not participate in the Loss Mitigation Program in good faith may be subject to sanctions.

B. ADJOURN OTHER PROCEEDINGS

Other proceedings (*e.g.* motions or applications) that are currently pending between the Loss Mitigation Parties shall be adjourned by the party who commenced such proceeding pursuant to L.B.R. 9013-1(i) and (j) to the date of the Status Conference as indicated in the [Loss Mitigation Order](#) to the extent that those proceedings concern (1) relief from the automatic stay; (2) objection to the allowance of a proof of claim; (3) reduction, reclassification or avoidance of a lien; or (4) valuation of a lien or the Property.

C. CONTACT INFORMATION

1. The Debtor

If the Debtor is represented by counsel in the underlying bankruptcy case, the Debtor shall be represented during all phases of the Loss Mitigation Program. Debtor's counsel shall provide the name, address, direct telephone number, facsimile number and email of the attorney(s) with authority to act on the Debtor's behalf to each Loss Mitigation Party. If the Debtor is *pro se*, the Debtor shall provide written notice to each Loss Mitigation Party of the manner in which the Creditor shall contact the Debtor. This information may be conveyed in the [Loss Mitigation Request by Debtor\(s\) and Certificate of Service](#).

2. The Creditor

Each Creditor shall provide written notice to the Debtor's attorney or the Debtor, if *pro se*, of the name, address, direct telephone number, facsimile number and email of the contact person with authority to act on the Creditor's behalf. This may be done in the [Loss Mitigation Request by Creditor and Certificate of Service](#).

D. STATUS REPORT

Unless the court orders otherwise in the [Loss Mitigation Order](#), the party that requested Loss Mitigation shall file and serve upon all other Loss Mitigation Parties and, in a chapter 12 or 13 case, the chapter trustee a [Loss Mitigation Status Report](#) as provided in section VIII(C) of these procedures. The date on which the [Loss Mitigation Status Report](#) is due shall be governed by the [Loss Mitigation Order](#).

E. BANKRUPTCY COURT APPROVAL

The Loss Mitigation Parties shall seek court approval of any Settlement reached during the Loss Mitigation Period.

F. FILE FINAL REPORT UPON RESOLUTION OF LOSS MITIGATION

Upon expiration or termination of Loss Mitigation, whether by dismissal of the case or otherwise, a [Loss Mitigation Program Final Report](#) shall be filed by the party that requested Loss Mitigation, unless the court directs otherwise in the [Loss Mitigation Order](#).

VIII. LOSS MITIGATION PROCESS AFTER LOSS MITIGATION IS ORDERED

A. INITIAL CONTACT PERIOD

The purpose of the initial contact period is to create a framework for the Loss Mitigation Sessions and to ensure that the Loss Mitigation Parties are prepared. The initial contact period is not intended to limit the issues or proposals that may arise during the Loss Mitigation Sessions.

1. Within fourteen (14) days after the entry of the [Loss Mitigation Order](#), the following shall occur:
 - a. Each Loss Mitigation Party shall designate contact persons and disclose contact information, unless this information was previously provided.
 - b. Each Creditor that is a Loss Mitigation Party shall contact the Debtor's attorney or the Debtor, if *pro se*.
 - c. Each Loss Mitigation Party shall make its request for information and documents, if any, and file the appropriate Loss Mitigation Affidavit ([Debtor\(s\)](#) / [Creditor](#)) itemizing the information and/or documents requested.

2. Within thirty-five (35) days after the entry of the [Loss Mitigation Order](#) and at least seven (7) days prior to the initial Loss Mitigation Session, each Loss Mitigation Party shall respond to any request for information and documents, and shall file the appropriate Loss Mitigation Affidavit ([Debtor\(s\) / Creditor](#)) identifying the information and/or documents provided.

3. Within forty-five (45) days after the entry of the [Loss Mitigation Order](#), the Loss Mitigation Parties shall conduct the initial Loss Mitigation Session.

B. LOSS MITIGATION SESSIONS

Loss Mitigation Sessions may be conducted in person, by telephone, or by video conference. At the conclusion of each Loss Mitigation Session, the Loss Mitigation Parties shall discuss whether and when to hold a further session and whether any additional information or documents should be exchanged.

C. STATUS CONFERENCE / ADDITIONAL CONFERENCES

Pursuant to the [Loss Mitigation Order](#), the court shall conduct a Status Conference at which the Loss Mitigation Parties shall appear. The Loss Mitigation Parties shall appear through counsel unless unrepresented, in which case, the party shall appear. In its discretion, the court may order that the Loss Mitigation Parties appear with their counsel. In a chapter 12 or 13 case, the chapter trustee may attend and participate in the Status Conference without making a request to appear.

Seven (7) days prior to the Status Conference or any adjournments thereof by the court, the party that requested Loss Mitigation shall file and serve upon all Loss Mitigation Parties and, in a chapter 12 or 13 case, the chapter trustee a [Loss Mitigation Status Report](#).

At any time during the Loss Mitigation Period, a Loss Mitigation Party may request additional conferences with the court by filing a [Request for Additional Loss Mitigation Conference and Certificate of Service](#) on notice to the other Loss Mitigation Parties and, in a chapter 12 or 13 case, the chapter trustee.

D. PERSONS WITH SETTLEMENT AUTHORITY

At both a Loss Mitigation Session and a Status Conference with the court, each Loss Mitigation Party shall have a person with full settlement authority present or immediately available by telephone. If a Loss Mitigation Party is appearing at a Status Conference by telephone or video conference, that party shall be available beginning thirty minutes before the conference.

IX. DURATION, EXTENSION, AND RESOLUTION

A. INITIAL PERIOD

The initial Loss Mitigation Period shall be set by the court in the [Loss Mitigation Order](#).

B. EXTENSION

1. By Agreement

The Loss Mitigation Parties may agree to extend the Loss Mitigation Period for up to ninety (90) days beyond the initial Loss Mitigation Period by [Stipulation and Order Extending Loss Mitigation Period](#) signed by the Loss Mitigation Parties² and filed not later than three (3) business days before the termination of the initial Loss Mitigation Period, to be so ordered by the court. Once executed by the parties, the [Stipulation and Order Extending Loss Mitigation Period](#) shall be presented to the court by uploading the document via the court's E-Order system.

If the parties desire an extension of the Loss Mitigation Period for a period beyond ninety (90) days from the initial termination date provided in the [Loss Mitigation Order](#), a joint motion shall be filed and heard prior to the termination of the Loss Mitigation Period. The motion shall set forth the original termination date of the Loss Mitigation Period, any previous extensions granted, the current extension desired, and the reason for the request. In the court's discretion, a joint oral motion may be considered at the Status Conference. If such oral motion is granted, the parties shall execute and present to the court, as described above, a [Stipulation and Order Extending Loss Mitigation Period](#).

2. In the Absence of Agreement

A Loss Mitigation Party may request to extend the Loss Mitigation Period in the absence of agreement by motion filed and heard prior to the termination of the initial Loss Mitigation Period. The motion shall set forth the original termination date of the Loss Mitigation Period, any previous extensions granted, the current extension desired, the reason for the request, and that no agreement can be reached. A certificate of service shall be filed not later than seven (7) days prior to the return date of the motion. The certificate of service shall evidence service of the motion on the other Loss Mitigation Parties and, in a chapter 12 or 13 case, the chapter trustee.

² The parties are reminded to comply with L.B.R. 9011-3(g).

In determining whether to grant an extension of the Loss Mitigation Period, the court shall consider whether: (1) an extension of the Loss Mitigation Period may result in a complete or partial resolution that provides a substantial benefit to a Loss Mitigation Party; (2) the Loss Mitigation Party opposed to the extension has participated in good faith and has complied with the Loss Mitigation Program Procedures; and (3) the Loss Mitigation Party opposed to the extension will be prejudiced.

C. EARLY TERMINATION

1. By Agreement

The Loss Mitigation Parties may agree to early termination of the Loss Mitigation Period by [Stipulation and Order Terminating Loss Mitigation Period](#) signed by the Loss Mitigation Parties³ and filed at any time during the Loss Mitigation Period, to be so ordered by the court. Once executed by the parties, the [Stipulation and Order Terminating Loss Mitigation Period](#) shall be presented to the court by uploading the document via the court's E-Order system.

2. In the Absence of Agreement

A Loss Mitigation Party may request early termination of the Loss Mitigation Period in the absence of agreement by filing and serving a motion requesting early termination on the other Loss Mitigation Parties and, in a chapter 12 or 13 case, the chapter trustee. The motion shall set forth the reason for the request and that no agreement can be reached. A certificate of service shall be filed not later than seven (7) days prior to the return date of the motion.

In determining whether to grant early termination of the Loss Mitigation Period, the court shall consider whether: (1) early termination of the Loss Mitigation Period is appropriate; (2) the Loss Mitigation Party seeking early termination has participated in good faith and has complied with the Loss Mitigation Program Procedures; and (3) the Loss Mitigation Party opposed to the early termination will be prejudiced.

³ The parties are reminded to comply with L.B.R. 9011-3(g).

3. Early Termination by Dismissal of the Bankruptcy Case

If the Debtor's case is dismissed during the Loss Mitigation Period, the Loss Mitigation shall terminate on the date the dismissal order is entered. If the dismissal is the result of a chapter 12 or chapter 13 debtor requesting voluntary dismissal of the bankruptcy case pursuant to 11 U.S.C. § 1208(b) or § 1307(a) respectively, the Debtor shall indicate in the request for dismissal whether the Debtor agreed to or intends to enter into a Settlement with a Loss Mitigation Party.

X. SETTLEMENT

The court shall consider any agreement or resolution (a "Settlement") reached during the Loss Mitigation Period and may approve the Settlement, subject to the following provisions.

A. IMPLEMENTATION

A Settlement may be noticed and implemented in any manner permitted by the Bankruptcy Code and Bankruptcy Rules, including, but not limited to, a stipulation, sale, or chapter 11, 12, or 13 plan of reorganization.

B. FEES, COSTS, OR CHARGES

If a Settlement provides for a Creditor to receive payment or reimbursement of any expense arising from the Creditor's participation in the Loss Mitigation Program, that expense shall be disclosed to the Debtor and the court before the Settlement is approved.

C. SIGNATURES

Consent to the Settlement shall be acknowledged in writing by the Creditor's representative who participated in the Loss Mitigation Session(s), the Debtor, Debtor's counsel, if applicable, and, in a chapter 12 or 13 case, the chapter trustee.

D. HEARING

Where a Debtor is represented by an attorney, a Settlement may be approved by the court without further notice, or upon such notice as the court directs, unless additional notice or a hearing is required by the Bankruptcy Code or Bankruptcy Rules. Where a Debtor is not represented by counsel, the Creditor shall file a motion to approve the Settlement. The Settlement shall not be approved until the court conducts a hearing at which the *pro se* Debtor shall appear in person. In a chapter 12 or 13 case, the chapter trustee may attend and participate in the hearing without making a request to appear.

E. DISMISSAL NOT REQUIRED

A Debtor shall not be required to request dismissal of the bankruptcy case in order to effectuate a Settlement.

XI. DEBTOR'S COUNSEL FEES WHEN UTILIZING LOSS MITIGATION PROGRAM

A. ALLOWANCE AND PAYMENT OF PORTION OF FEE BEFORE CONFIRMATION OF CHAPTER 13 PLAN

The [Loss Mitigation Order](#) shall provide that in a chapter 13 case where Debtor's counsel is to receive a portion of fees through the plan, in the month following entry of the [Loss Mitigation Order](#) or the first month after the initial 11 U.S.C. § 341 Meeting of Creditors, whichever is later, the chapter 13 trustee shall disburse payment to Debtor's counsel of the requested attorney fee—up to a maximum of \$1,500.00—with said amount to be paid in the manner prescribed in the Debtor's proposed plan. The amount disbursed shall be deemed allowed immediately. This amount shall be exclusive of any amounts received by counsel prior to the filing of the petition. The balance of the attorney fee shall only be allowed and paid pursuant to a Confirmation Order or further order of the court.

B. ALLOWANCE AND PAYMENT OF ADDITIONAL FEE FOR LOSS MITIGATION UPON CONCLUSION OF LOSS MITIGATION PROGRAM

Upon completion of the Loss Mitigation Program, Debtor's counsel may file an [Ex Parte Application and Certification in Support of Approval and Payment of Attorney Fees for Loss Mitigation](#). Concurrently therewith, Debtor's counsel shall upload via the court's E-Order system a proposed Order Approving Attorney Fees for Loss Mitigation and Authorizing Payment ([chapter 7 or 11 / chapter 12 or 13](#)). The court may thereafter enter the proposed order and, in a chapter 12 or 13 case, may direct the chapter trustee to pay approved fees as an administrative expense through the Debtor's plan.

Except as otherwise ordered by the court, a fee in the sum of \$1,000.00 shall be presumed reasonable for services rendered in connection with the Loss Mitigation Program without further documentation. The award of this fee is without prejudice to the rights of counsel to request approval of additional fees by filing and serving a Notice of Hearing and an Application for Compensation under 11 U.S.C. § 331. Any such Application for Compensation shall be accompanied by an appropriate narrative of services rendered and contemporaneous time records.

XII. LOSS MITIGATION PROGRAM REQUIRED FORMS

The following forms are available on the court's website and shall be used, as indicated above, by the Loss Mitigation Parties:

- [Loss Mitigation Request by Debtor\(s\) and Certificate of Service](#)
- [Loss Mitigation Request by Creditor and Certificate of Service](#)
- [Objection to Loss Mitigation Request](#)
- [Notice of Hearing on Objection to Loss Mitigation Request and Certificate of Service](#)
- [Loss Mitigation Order](#)
- [Order Denying Loss Mitigation Request](#)
- [Loss Mitigation Affidavit of Debtor\(s\) and Certificate of Service](#)
- [Loss Mitigation Affidavit of Creditor and Certificate of Service](#)
- [Loss Mitigation Status Report](#)
- [Request for Additional Loss Mitigation Conference and Certificate of Service](#)
- [Stipulation and Order Extending Loss Mitigation Period](#)
- [Stipulation and Order Terminating Loss Mitigation Period](#)
- [Loss Mitigation Program Final Report](#)
- [Ex Parte Application and Certification in Support of Approval and Payment of Attorney Fees for Loss Mitigation](#)
- [Order Approving Attorney Fees for Loss Mitigation and Authorizing Payment – chapter 7 or 11](#)
- [Order Approving Attorney Fees for Loss Mitigation and Authorizing Payment – chapter 12 or 13](#)

CM/ECF Filing Instructions for each prescribed form are available on the court's website. Please visit the link entitled "Loss Mitigation Filing Event Codes in CM/ECF."