

# Loss Mitigation Tips and Highlights



United States Bankruptcy Court, NYNB

# Loss Mitigation



- ❧ Procedure and fillable forms can be found on the court's website at [www.nynb.uscourts.gov](http://www.nynb.uscourts.gov).
- ❧ Loss Mitigation may avoid the need for various types of bankruptcy litigation.

# Loss Mitigation Filing



- ❧ Loss Mitigation may reduce cost to debtors and secured creditors.
- ❧ Loss Mitigation may enable debtors to reorganize or otherwise address their most significant debts and assets under the United States Bankruptcy Code.



# Loss Mitigation Filing



- ❧ Loss Mitigation can be requested any time during the pendency of a case **except** when there is a pending motion for relief from the stay. However, you may file, as an exhibit to your motion, a Loss Mitigation Request to your response to the motion.
- ❧ If a motion for relief from stay is pending, do **NOT** file the formal request as a separate item on the docket unless and until directed to do so by the court.

# Objections to Loss Mitigation



- ❧ Objections to Loss Mitigation are due 14 days from the Loss Mitigation Request.
- ❧ An Objection to the Loss Mitigation Request shall be filed with a Notice of Hearing to Loss Mitigation Request and Certificate of Service (Form: LM:04).

# Adjournments of Pending Motions

---

- ❧ Pending motions between the Loss Mitigation parties shall be adjourned by the party who commenced such proceeding to the date of the Status Conference.
- ❧ Do not rely on the court to automatically adjourn matters while Loss Mitigation is pending. If an adjournment is not requested and a matter is set for a hearing it may be denied for failure to appear.

# Service



- ❧ Serve the Loss Mitigation request pursuant to FRBP 7004. Failure to do so may result in an order denying your request or a Chambers Memo directing withdrawal of the request.



# Consent to Loss Mitigation

---

- ❧ If you choose to consent to Loss Mitigation prior to the expiration of the 14 days, you should file a letter on the docket indicating your consent so the Loss Mitigation Order can be executed sooner rather than later.
- ❧ If you have any issue or problem, at any time during the Loss Mitigation Period, a Loss Mitigation Party may request additional conferences with the court by filing on notice to the other Loss Mitigation Parties a Request for Additional Loss Mitigation Conference and Certificate of Service.



# Order Granting Loss Mitigation



- ❧ The Order will set various deadlines for the parties to comply with.
- ❧ The Order will also set the date and time of the Status Conference with the court.