



# Introducing the NEW Loss Mitigation Program

## Part I: Loss Mitigation Overview

## Part II: The New NDNY Loss Mitigation Program, in Detail

### Presented by:

Hon. Margaret Cangilos-Ruiz, *United States  
Bankruptcy Judge*

Hon. Anthony J. Paris, *Justice of Supreme  
Court - County of Onondaga*

Kim F. Lefebvre, *Clerk of United States  
Bankruptcy Court*

Mark W. Swimelar, *Chapter 13 Trustee*

Timothy Fox, *Law Clerk to Judge Cangilos-Ruiz*  
William B. Schiller, Esq., *Schiller & Knapp, LLP*  
Steven R. Dolson, Esq., *The Law Offices of  
Steven R. Dolson, PLLC*

June 19, 2013  
Syracuse, New York



# **Overview of New York State Court Foreclosure Procedures**

**Justice Anthony J. Paris**

New York State Supreme Court, Onondaga County

CLE – Loss Mitigation

Central New York Bankruptcy Bar Association

June 19, 2013

## Overview of New York State Court Foreclosure Procedures

New York State has over the past several years instituted multiple legislative and judicial rules relative to residential mortgage foreclosure actions in an attempt to ease, as much as it may be possible, the current crises in the area of mortgage foreclosures, and to help ensure proper notice and legal representation for homeowners, where possible. For the most part these rules apply only to residential, owner occupied residences, but not commercial or non-traditional mortgages (i.e. private lender, reverse mortgages, etc.).

- RPAPL § 1304(1): Required prior notices
  - The “90-day Notice”
- RPAPL § 1320: Special summons requirement in private residence cases
- RPAPL § 1303: Foreclosures; required notices
  - “Help for Homeowners in Foreclosure”
- Administrative Order 548/10 (replaced by 431/11)
- CPLR 3408: Mandatory settlement conference in residential foreclosure actions
- Request for Judicial Intervention.
- Court’s Role in Loss Mitigation / Mandatory Settlement Conferences:
  - To facilitate communication between bank and mortgagor, to enforce deadlines and approve settlements.

HSBC BANK USA, N.A.  
Suite 3201  
Buffalo, NY 14270-3201

HSBC

00445 434

[REDACTED]  
SYRACUSE, NY 13212-3707

06/15/2011

Re: [REDACTED]  
NORTH SYRACUSE, NY 13212

Account #: 7

Subject: 90-DAY NOTICE PURSUANT TO RPAPL § 1304

Dear Mortgagor:

Due to the delinquency status of your account, we are required to send you this letter.

**YOU COULD LOSE YOUR HOME. PLEASE READ THE FOLLOWING  
NOTICE CAREFULLY.**

As of 06/15/2011, your home loan is 45 days in default. Under New York State Law, we are required to send you this notice to inform you that you are at risk of losing your home. You can cure this default by making the payment of \$1,342.93 dollars by 07/01/2011.

If you are experiencing financial difficulty, you should know that there are several options available to you that may help you keep your home. Attached to this notice is a list of government-approved housing counseling agencies in your area which provide free or very low-cost counseling. You should consider contacting one of these agencies immediately. These agencies specialize in helping homeowners who are facing financial difficulty. Housing counselors can help you assess your financial condition and work with us to explore the possibility of modifying your loan, establishing an easier payment plan for you, or even working out a period of loan forbearance. If you wish, you may also contact us directly at 1-800-336-6441 and ask to discuss possible options.

While we cannot assure that a mutually agreeable resolution is possible, we encourage you to take immediate steps to try to achieve a resolution. The longer you wait, the fewer options you may have.

If this matter is not resolved within 90 days from the date this notice was mailed, we may commence legal action against you (or sooner if you cease to live in the dwelling as your primary residence).

If you need further information, please call the New York State Banking Department's toll-free helpline at 1-877-BANK-NYS (1-877-226-5697) or visit the Department's website at <http://www.banking.state.ny.us>.

Sincerely,

HSBC BANK USA, N.A.  
NY90C

This is an attempt to collect a debt by a debt collector and any information obtained will be used for that purpose.



**NORTHEAST HAWLEY DEVELOPMENT  
ASSOCIATION, INC**

Phone: 315-425-1032

Fax: 315-425-1089

E-mail: [nehda@cnymail.com](mailto:nehda@cnymail.com)

Website: [www.nehda.org](http://www.nehda.org)

101 Gertrude St

Syracuse, New York 13203-2417

**SOUTHERN HILLS PRESERVATION  
CORPORATION**

Phone: 315-677-3863-201

Fax: 315-677-3864

E-mail: [blocke@southernhillspc.org](mailto:blocke@southernhillspc.org)

Website: [www.southernhillspc.org](http://www.southernhillspc.org)

2383 Route 11 Unit 1

LaFayette, New York 13084

**COOPERATIVE FEDERAL CREDIT UNION**

Phone: 315-476-5290

Fax: 315-476-0567

E-mail: [gregknipe@coopfed.org](mailto:gregknipe@coopfed.org)

Website: [www.cooperativefederal.org](http://www.cooperativefederal.org)

723 Westcott Street

Syracuse, New York 13210

**FULTON COMMUNITY DEVELOPMENT  
AGENCY**

Phone: 315-593-7166

Fax: 315-593-7754

E-mail: [fultonhousing@windstream.net](mailto:fultonhousing@windstream.net)

Website: [www.fultoncda.com](http://www.fultoncda.com)

125 West Broadway

Fulton, New York 13069

**CCCS OF CENTRAL NEW YORK**

Phone: 315-474-6026

Toll-free: 800-479-6026

Fax: 315-479-8421

E-mail: [counselor@credithelpny.org](mailto:counselor@credithelpny.org)

Website: [www.CreditHelpNY.org](http://www.CreditHelpNY.org)

5794 Widewaters Parkway

Syracuse, New York 13214

**OSWEGO HOUSING DEVELOPMENT  
COUNCIL, INC.**

Phone: 315-625-4520

Toll-free: 866-706-2679

Fax: 315-625-7347

E-mail: [rgillen@ohdcinc.org](mailto:rgillen@ohdcinc.org)

2971 County Rte 26

Parish, New York 13131

Westlaw.

McKinney's RPAPL § 1304

Page 1

C

Effective: July 18, 2012

McKinney's Consolidated Laws of New York Annotated Currentness  
 Real Property Actions and Proceedings Law (Refs & Annos)  
 ◀ Chapter 81. Of the Consolidated Laws (Refs & Annos)  
 ◀ Article 13. Action to Foreclose a Mortgage (Refs & Annos)  
 → → § 1304. Required prior notices

1. [Eff. until Jan. 14, 2015, pursuant to L.2009, c. 507, § 25, subd. a. See, also, subd. 1 below.] Notwithstanding any other provision of law, with regard to a home loan, at least ninety days before a lender, an assignee or a mortgage loan servicer commences legal action against the borrower, including mortgage foreclosure, such lender, assignee or mortgage loan servicer shall give notice to the borrower in at least fourteen-point type which shall include the following:

“YOU COULD LOSE YOUR HOME. PLEASE READ THE FOLLOWING

NOTICE CAREFULLY”

“As of ..., your home loan is ... days in default. Under New York State Law, we are required to send you this notice to inform you that you are at risk of losing your home. You can cure this default by making the payment of ..... dollars by .....

If you are experiencing financial difficulty, you should know that there are several options available to you that may help you keep your home. Attached to this notice is a list of government approved housing counseling agencies in your area which provide free or very low-cost counseling. You should consider contacting one of these agencies immediately. These agencies specialize in helping homeowners who are facing financial difficulty. Housing counselors can help you assess your financial condition and work with us to explore the possibility of modifying your loan, establishing an easier payment plan for you, or even working out a period of loan forbearance. If you wish, you may also contact us directly at ..... and ask to discuss possible options.

While we cannot assure that a mutually agreeable resolution is possible, we encourage you to take immediate steps to try to achieve a resolution. The longer you wait, the fewer options you may have.

If this matter is not resolved within 90 days from the date this notice was mailed, we may commence legal action against you (or sooner if you cease to live in the dwelling as your primary residence.)

© 2013 Thomson Reuters. No Claim to Orig. US Gov. Works.

If you need further information, please call the New York State Department of Financial Services' toll-free helpline at (show number) or visit the Department's website at (show web address)".

1. [Eff. Jan. 14, 2015, pursuant to L.2009, c. 507, § 25, subd. a. See, also, subd. 1 above.] Notwithstanding any other provision of law, with regard to a high-cost home loan, as such term is defined in section six-1 of the banking law, a subprime home loan or a non-traditional home loan, at least ninety days before a lender or a mortgage loan servicer commences legal action against the borrower, including mortgage foreclosure, the lender or mortgage loan servicer shall give notice to the borrower in at least fourteen-point type which shall include the following:

**"YOU COULD LOSE YOUR HOME. PLEASE READ THE FOLLOWING**

**NOTICE CAREFULLY"**

"As of ..., your home loan is ... days in default. Under New York State Law, we are required to send you this notice to inform you that you are at risk of losing your home. You can cure this default by making the payment of ..... dollars by .....

If you are experiencing financial difficulty, you should know that there are several options available to you that may help you keep your home. Attached to this notice is a list of government approved housing counseling agencies in your area which provide free or very low-cost counseling. You should consider contacting one of these agencies immediately. These agencies specialize in helping homeowners who are facing financial difficulty. Housing counselors can help you assess your financial condition and work with us to explore the possibility of modifying your loan, establishing an easier payment plan for you, or even working out a period of loan forbearance. If you wish, you may also contact us directly at ..... and ask to discuss possible options.

While we cannot assure that a mutually agreeable resolution is possible, we encourage you to take immediate steps to try to achieve a resolution. The longer you wait, the fewer options you may have.

If this matter is not resolved within 90 days from the date this notice was mailed, we may commence legal action against you (or sooner if you cease to live in the dwelling as your primary residence.)

If you need further information, please call the New York State Department of Financial Services' toll-free helpline at (show number) or visit the Department's website at (show web address)".

2. [Eff. until Jan. 14, 2015, pursuant to L.2009, c. 507, § 25, subd. a. See, also, subd. 2 below.] Such notice shall be sent by such lender, assignee or mortgage loan servicer to the borrower, by registered or certified mail and also by first-class mail to the last known address of the borrower, and if different, to the residence that is the subject of the mortgage. Such notice shall be sent by the lender, assignee or mortgage loan servicer in a separate

envelope from any other mailing or notice. Notice is considered given as of the date it is mailed. The notice shall contain a list of at least five housing counseling agencies as designated by the division of housing and community renewal, that serve the region where the borrower resides. The list shall include the counseling agencies' last known addresses and telephone numbers. The department of financial services and the division of housing and community renewal shall make available on their respective websites a listing, by region, of such agencies. The lender, assignee or mortgage loan servicer shall use either of these lists to meet the requirements of this section.

2. [Eff. Jan. 14, 2015. See, also, subd. 2 above.] Such notice shall be sent by the lender or mortgage loan servicer to the borrower, by registered or certified mail and also by first-class mail to the last known address of the borrower, and if different, to the residence which is the subject of the mortgage. Notice is considered given as of the date it is mailed. The notice shall contain a list of at least five United States department of housing and urban development approved housing counseling agencies, or other housing counseling agencies as designated by the division of housing and community renewal, that serve the region where the borrower resides. The list shall include the counseling agencies' last known addresses and telephone numbers. The department of financial services and/or the division of housing and community renewal shall make available a listing, by region, of such agencies which the lender or mortgage loan servicer may use to meet the requirements of this section.

3. The ninety day period specified in the notice contained in subdivision one of this section shall not apply, or shall cease to apply, if the borrower has filed an application for the adjustment of debts of the borrower or an order for relief from the payment of debts, or if the borrower no longer occupies the residence as the borrower's principal dwelling.

4. The notice and the ninety day period required by subdivision one of this section need only be provided once in a twelve month period to the same borrower in connection with the same loan.

5. [Eff. until Jan. 14, 2015, pursuant to L.2009, c. 507, § 25, subd. a. See, also, subd. 5 below.] (a) "Home loan" means a loan, including an open-end credit plan, other than a reverse mortgage transaction, in which:

(i) The borrower is a natural person;

(ii) The debt is incurred by the borrower primarily for personal, family, or household purposes;

(iii) The loan is secured by a mortgage or deed of trust on real estate improved by a one to four family dwelling, or a condominium unit, in either case, used or occupied, or intended to be used or occupied wholly or partly, as the home or residence of one or more persons and which is or will be occupied by the borrower as the borrower's principal dwelling; and

(iv) The property is located in this state.

(b) "Lender" means a mortgage banker as defined in paragraph (f) of subdivision one of section five hundred ninety of the banking law or an exempt organization as defined in paragraph (e) of subdivision one of section five hundred ninety of the banking law.

5. [Eff. Jan. 14, 2015. See, also, subd. 5 above.] (a) "Annual percentage rate" means the annual percentage rate for the loan calculated according to the provisions of the Federal Truth-in-Lending Act (15 U.S.C. § 1601, et seq.), and the regulations promulgated thereunder by the federal reserve board (as said act and regulations are amended from time to time).

(b) "Home loan" means a home loan, including an open-end credit plan, other than a reverse mortgage transaction, in which:

(i) The principal amount of the loan at origination did not exceed the conforming loan size that was in existence at the time of origination for a comparable dwelling as established by the federal national mortgage association;

(ii) The borrower is a natural person;

(iii) The debt is incurred by the borrower primarily for personal, family, or household purposes;

(iv) The loan is secured by a mortgage or deed of trust on real estate upon which there is located or there is to be located a structure or structures intended principally for occupancy of from one to four families which is or will be occupied by the borrower as the borrower's principal dwelling; and

(v) The property is located in this state.

(c) "Subprime home loan" for the purposes of this section, means a home loan consummated between January first, two thousand three and September first, two thousand eight in which the terms of the loan exceed the threshold as defined in paragraph (d) of this subdivision. A subprime home loan excludes a transaction to finance the initial construction of a dwelling, a temporary or "bridge" loan with a term of twelve months or less, such as a loan to purchase a new dwelling where the borrower plans to sell a current dwelling within twelve months, or a home equity line of credit.

(d) "Threshold" means, for a first lien mortgage loan, the annual percentage rate of the home loan at consummation of the transaction exceeds three percentage points over the yield on treasury securities having comparable periods of maturity to the loan maturity measured as of the fifteenth day of the month in which the loan was consummated; or for a subordinate mortgage lien, the annual percentage rate of the home loan at consummation of the transaction equals or exceeds five percentage points over the yield on treasury securities having comparable periods of maturity on the fifteenth day of the month in which the loan was consummated; as determined by the following rules: if the terms of the home loan offer any initial or introductory period, and the annual percentage rate is less than that which will apply after the end of such initial or introductory period, then the annual percent-

age rate that shall be taken into account for purposes of this section shall be the rate which applies after the initial or introductory period.

(e) "Non-traditional home loan" shall mean a payment option adjustable rate mortgage or an interest only loan consummated between January first, two thousand three and September first, two thousand eight.

(f) For purposes of determining the threshold, the department of financial services shall publish on its website a listing of constant maturity yields for U.S. Treasury securities for each month between January first, two thousand three and September first, two thousand eight, as published in the Federal Reserve Statistical Release on selected interest rates, commonly referred to as the H.15 release, in the following maturities, to the extent available in such release: six month, one year, two year, three year, five year, seven year, ten year, thirty year.

(g) "Lender" means a mortgage banker as defined in paragraph (f) of subdivision one of section five hundred ninety of the banking law or an exempt organization as defined in paragraph (e) of subdivision one of section five hundred ninety of the banking law.

6. The department of financial services shall prescribe the telephone number and web address to be included in the notice.

#### CREDIT(S)

(Added L.2008, c. 472, § 2, eff. Sept. 1, 2008. Amended L.2009, c. 507, § 1-a, eff. Jan. 14, 2010; L.2011, c. 62, pt. A, § 104, eff. Oct. 3, 2011; L.2012, c. 155, § 84, eff. July 18, 2012; L.2012, c. 155, § 85.)

#### HISTORICAL AND STATUTORY NOTES

L.2012, c. 155 legislation

Subd. 1. L.2012, c. 155, §§ 84, 85, rewrote the closing paragraph, which (in both versions) had read:

"If you need further information, please call the New York State Department of Financial Services' toll-free helpline at 1-877-BANK-NYS (1-877-226-5697) or visit the Department's website at <http://www.banking.state.ny.us>."

Subd. 6. L.2012, c. 155, §§ 84, 85 (identically), added subd. 6.

L.2012, c. 155, § 93, provides:

"This act shall take effect immediately provided, however, that the amendments to paragraph 3 of subdivision



**C**

**Effective: August 1, 2007**

McKinney's Consolidated Laws of New York Annotated Currentness  
Real Property Actions and Proceedings Law (Refs & Annos)  
▣ Chapter 81. Of the Consolidated Laws (Refs & Annos)  
▣ Article 13. Action to Foreclose a Mortgage (Refs & Annos)  
→ → § 1320. Special summons requirement in private residence cases

In an action to foreclose a mortgage on a residential property containing not more than three units, in addition to the usual requirements applicable to a summons in the court, the summons shall contain a notice in boldface in the following form:

**NOTICE**

**YOU ARE IN DANGER OF LOSING YOUR HOME**

If you do not respond to this summons and complaint by serving a copy of the answer on the attorney for the mortgage company who filed this foreclosure proceeding against you and filing the answer with the court, a default judgment may be entered and you can lose your home.

Speak to an attorney or go to the court where your case is pending for further information on how to answer the summons and protect your property.

Sending a payment to your mortgage company will not stop this foreclosure action.

**YOU MUST RESPOND BY SERVING A COPY OF THE ANSWER ON THE ATTORNEY FOR THE PLAINTIFF (MORTGAGE COMPANY) AND FILING THE ANSWER WITH THE COURT.**

**CREDIT(S)**

(Added L.2007, c. 458, § 1, eff. Aug. 1, 2007.)

**PRACTICE COMMENTARIES**

© 2013 Thomson Reuters. No Claim to Orig. US Gov. Works.

STATE OF NEW YORK  
SUPREME COURT: COUNTY OF ONONDAGA

HSBC BANK USA, N.A.  
2929 Walden Avenue  
Depcw, NY 14043

Plaintiff,

vs.

██████████, PEOPLE OF THE STATE OF NEW  
YORK,

JOHN DOE (Said name being fictitious,  
it being the intention of Plaintiff to  
designate any and all occupants of  
premises being foreclosed herein, and  
any parties, corporations or entities,  
if any, having or claiming an interest  
or lien upon the mortgaged premises.)

Defendant(s).

SUMMONS

ORIGINAL FILED WITH THE  
CLERK ON 7/18/08

INDEX NO.: 3880/08

Mortgaged Premises:

██████████  
SYRACUSE, NY 13205

SBL #:  
072-14-14.0

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint in the above captioned action and to serve a copy of your Answer on the Plaintiff's attorney within twenty (20) days after the service of this Summons, exclusive of the day of service, or within thirty (30) days after completion of service where service is made in any other manner than by personal delivery within the State. The United States of America, if designated as a Defendant in this action, may answer or appear within sixty (60) days of service hereof. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

NOTICE

YOU ARE IN DANGER OF LOSING YOUR HOME

If you do not respond to this summons and complaint by serving a copy of the answer on the attorney for the mortgage company who filed this foreclosure proceeding against you and filing the answer with the court, a default judgment may be entered and you can lose your home.

Speak to an attorney or go to the court where your case is pending for further information on how to answer the summons and protect your property.

Sending a payment to your mortgage company will not stop this foreclosure action.

**YOU MUST RESPOND BY SERVING A COPY OF THE ANSWER ON  
THE ATTORNEY FOR THE PLAINTIFF (MORTGAGE COMPANY)  
AND FILING THE ANSWER WITH THE COURT.**

ONONDAGA County is designated as the place of trial. The basis of venue is the location of the mortgaged premises foreclosed herein.

DATED: July 17, 2008

**Steven J. Baum, P.C.  
Attorneys for Plaintiff  
220 Northpointe Parkway Suite G  
Amherst, NY 14228  
Tel.: 716-204-2400**



**Effective: July 18, 2012**

McKinney's Consolidated Laws of New York Annotated Currentness  
 Real Property Actions and Proceedings Law (Refs & Annos)  
 Chapter 81. Of the Consolidated Laws (Refs & Annos)  
 Article 13. Action to Foreclose a Mortgage (Refs & Annos)  
 → → § 1303. Foreclosures; required notices

1. The foreclosing party in a mortgage foreclosure action, involving residential real property shall provide notice to:

(a) any mortgagor if the action relates to an owner-occupied one-to-four family dwelling; and

(b) any tenant of a dwelling unit in accordance with the provisions of this section.

2. The notice to any mortgagor required by paragraph (a) of subdivision one of this section shall be delivered with the summons and complaint. Such notice shall be in bold, fourteen-point type and shall be printed on colored paper that is other than the color of the summons and complaint, and the title of the notice shall be in bold, twenty-point type. The notice shall be on its own page.

3. The notice to any mortgagor required by paragraph (a) of subdivision one of this section shall appear as follows:

#### Help for Homeowners in Foreclosure

New York State Law requires that we send you this notice about the foreclosure process. Please read it carefully.

#### Summons and Complaint

You are in danger of losing your home. If you fail to respond to the summons and complaint in this foreclosure action, you may lose your home. Please read the summons and complaint carefully. You should immediately contact an attorney or your local legal aid office to obtain advice on how to protect yourself.

#### Sources of Information and Assistance

© 2013 Thomson Reuters. No Claim to Orig. US Gov. Works.

The State encourages you to become informed about your options in foreclosure. In addition to seeking assistance from an attorney or legal aid office, there are government agencies and non-profit organizations that you may contact for information about possible options, including trying to work with your lender during this process.

To locate an entity near you, you may call the toll-free helpline maintained by the New York State Department of Financial Services at (enter number) or visit the Department's website at (enter web address).

#### Foreclosure rescue scams

Be careful of people who approach you with offers to "save" your home. There are individuals who watch for notices of foreclosure actions in order to unfairly profit from a homeowner's distress. You should be extremely careful about any such promises and any suggestions that you pay them a fee or sign over your deed. State law requires anyone offering such services for profit to enter into a contract which fully describes the services they will perform and fees they will charge, and which prohibits them from taking any money from you until they have completed all such promised services.

4. The notice to any tenant required by paragraph (b) of subdivision one of this section shall be delivered within ten days of the service of the summons and complaint. Such notice shall be in bold, fourteen-point type, and the paragraph of the notice beginning with the words "ALL RENT-STABILIZED" and ending with the words "FULL HEARING IN COURT" shall be printed entirely in capital letters and underlined. The foreclosing party shall provide its name, address and telephone number on the notice. The notice shall be printed on colored paper that is other than the color of the summons and complaint, and the title of the notice shall be in bold, twenty-point type. The notice shall be on its own page. For buildings with fewer than five dwelling units, the notice shall be delivered to the tenant, by certified mail, return receipt requested, and by first-class mail to the tenant's address at the property if the identity of the tenant is known to the plaintiff, and by first-class mail delivered to "occupant" if the identity of the tenant is not known to the plaintiff. For buildings with five or more dwelling units, a legible copy of the notice shall be posted on the outside of each entrance and exit of the building.

5. The notice required by paragraph (b) of subdivision one of this section shall appear as follows:

#### Notice to Tenants of Buildings in Foreclosure

New York State Law requires that we provide you this notice about the foreclosure process. Please read it carefully.

We, (name of foreclosing party), are the foreclosing party and are located at (foreclosing party's address). We can be reached at (foreclosing party's telephone number).

The dwelling where your apartment is located is the subject of a foreclosure proceeding. If you have a lease, are

# Help For Homeowners In Foreclosure

New York State Law requires that we send you this notice about the foreclosure process. Please read it carefully.

## Summons and Complaint

You are in danger of losing your home. If you fail to respond to the summons and complaint in this foreclosure action, you may lose your home. Please read the summons and complaint carefully. You should immediately contact an attorney or your local legal aid office to obtain advice on how to protect yourself.

## Sources of Information and Assistance

The State encourages you to become informed about your options in foreclosure. In addition to seeking assistance from an attorney or legal aid office, there are government agencies and non-profit organizations that you may contact for information about possible options, including trying to work with your lender during this process.

To locate an entity near you, you may call the toll-free helpline maintained by the New York State Department of Financial Services at 1-877-BANK-NYS (1-877-226-5697) or visit the Department's website at [www.banking.state.ny.us](http://www.banking.state.ny.us).

## Foreclosure Rescue Scams

Be careful of people who approach you with offers to "save" your home. There are individuals who watch for notices of foreclosure actions in order to unfairly profit from a homeowner's distress. You should be extremely careful about any such promises and any suggestions that you pay them a fee or sign over your deed. State law requires anyone offering such services for profit to enter into a contract which fully describes the services they will perform and fees they will charge, and which prohibits them from taking any money from you until they have completed all such promised services.

# REQUEST FOR JUDICIAL INTERVENTION

UCS-840 (7/2012)

COURT, COUNTY OF \_\_\_\_\_

Index No: \_\_\_\_\_ Date Index Issued: \_\_\_\_/\_\_\_\_/\_\_\_\_

**CAPTION:** Enter the complete case caption. Do not use et al or et ano. If more space is required, attach a caption rider sheet.

Plaintiff(s)/Petitioner(s)

-against-

Defendant(s)/Respondent(s)

For Court Clerk Use Only:	
IAS Entry Date	_____
Judge Assigned	_____
RJI Date	_____

**NATURE OF ACTION OR PROCEEDING:**

Check ONE box only and specify where indicated.

<p><b>MATRIMONIAL</b></p> <input type="checkbox"/> Contested <b>NOTE:</b> For all Matrimonial actions where the parties have children under the age of 18, complete and attach the <b>MATRIMONIAL RJI Addendum</b> . For Uncontested Matrimonial actions, use RJI form UD-13. <p><b>TORTS</b></p> <input type="checkbox"/> Asbestos <input type="checkbox"/> Breast Implant <input type="checkbox"/> Environmental: _____ (specify) <input type="checkbox"/> Medical, Dental, or Podiatric Malpractice <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Products Liability: _____ (specify) <input type="checkbox"/> Other Negligence: _____ (specify) <input type="checkbox"/> Other Professional Malpractice: _____ (specify) <input type="checkbox"/> Other Tort: _____ (specify) <p><b>OTHER MATTERS</b></p> <input type="checkbox"/> Certificate of Incorporation/Dissolution [see <b>NOTE</b> under Commercial] <input type="checkbox"/> Emergency Medical Treatment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Local Court Appeal <input type="checkbox"/> Mechanic's Lien <input type="checkbox"/> Name Change <input type="checkbox"/> Pistol Permit Revocation Hearing <input type="checkbox"/> Sale or Finance of Religious/Not-for-Profit Property <input type="checkbox"/> Other: _____ (specify)	<p><b>COMMERCIAL</b></p> <input type="checkbox"/> Business Entity (including corporations, partnerships, LLCs, etc.) <input type="checkbox"/> Contract <input type="checkbox"/> Insurance (where insurer is a party, except arbitration) <input type="checkbox"/> UCC (including sales, negotiable instruments) <input type="checkbox"/> Other Commercial: _____ (specify) <b>NOTE:</b> For Commercial Division assignment requests [22 NYCRR § 202.70(d)], complete and attach the <b>COMMERCIAL DIV RJI Addendum</b> . <p><b>REAL PROPERTY:</b> How many properties does the application include? _____</p> <input type="checkbox"/> Condemnation <input type="checkbox"/> Mortgage Foreclosure (specify): _____ <input type="checkbox"/> Residential <input type="checkbox"/> Commercial Property Address: _____ <b>NOTE:</b> For Mortgage Foreclosure actions involving a one- to four-family, owner-occupied, residential property, or an owner-occupied condominium, complete and attach the <b>FORECLOSURE RJI Addendum</b> . <input type="checkbox"/> Tax Certiorari - Section: _____ Block: _____ Lot: _____ <input type="checkbox"/> Tax Foreclosure <input type="checkbox"/> Other Real Property: _____ (specify) <p><b>SPECIAL PROCEEDINGS</b></p> <input type="checkbox"/> CPLR Article 75 (Arbitration) [see <b>NOTE</b> under Commercial] <input type="checkbox"/> CPLR Article 78 (Body or Officer) <input type="checkbox"/> Election Law <input type="checkbox"/> MHL Article 9.60 (Kendra's Law) <input type="checkbox"/> MHL Article 10 (Sex Offender Confinement-Initial) <input type="checkbox"/> MHL Article 10 (Sex Offender Confinement-Review) <input type="checkbox"/> MHL Article 81 (Guardianship) <input type="checkbox"/> Other Mental Hygiene: _____ (specify) <input type="checkbox"/> Other Special Proceeding:
---	---

**STATUS OF ACTION OR PROCEEDING:**

Answer YES or NO for EVERY question AND enter additional information where indicated.

Has a summons and complaint or summons w/notice been filed?	<input type="checkbox"/> YES <input type="checkbox"/> NO	If yes, date filed: ____/____/____
Has a summons and complaint or summons w/notice been served?	<input type="checkbox"/> YES <input type="checkbox"/> NO	If yes, date served: ____/____/____
Is this action/proceeding being filed post-judgment?	<input type="checkbox"/> YES <input type="checkbox"/> NO	If yes, judgment date: ____/____/____

**NATURE OF JUDICIAL INTERVENTION:**

Check ONE box only AND enter additional information where indicated.

- Infant's Compromise
- Note of Issue and/or Certificate of Readiness
- Notice of Medical, Dental, or Podiatric Malpractice      Date Issue Joined: \_\_\_\_/\_\_\_\_/\_\_\_\_
- Notice of Motion      Relief Sought: \_\_\_\_\_      Return Date: \_\_\_\_/\_\_\_\_/\_\_\_\_
- Notice of Petition      Relief Sought: \_\_\_\_\_      Return Date: \_\_\_\_/\_\_\_\_/\_\_\_\_
- Order to Show Cause      Relief Sought: \_\_\_\_\_      Return Date: \_\_\_\_/\_\_\_\_/\_\_\_\_
- Other Ex Parte Application      Relief Sought: \_\_\_\_\_
- Poor Person Application
- Request for Preliminary Conference
- Residential Mortgage Foreclosure Settlement Conference
- Writ of Habeas Corpus
- Other (specify): \_\_\_\_\_

**RELATED CASES:**

List any related actions. For Matrimonial actions, include any related criminal and/or Family Court cases. If additional space is required, complete and attach the RJI Addendum. If none, leave blank.

Case Title	Index/Case No.	Court	Judge (if assigned)	Relationship to Instant Case

**PARTIES:**

For parties without an attorney, check "Un-Rep" box AND enter party address, phone number and e-mail address in space provided. If additional space is required, complete and attach the RJI Addendum.

Un-Rep	Parties: List parties in caption order and indicate party role(s) (e.g. defendant; 3rd-party plaintiff).	Attorneys and/or Unrepresented Litigants: Provide attorney name, firm name, business address, phone number and e-mail address of all attorneys that have appeared in the case. For unrepresented litigants, provide address, phone number and e-mail address.	Issue Joined (Y/N):	Insurance Carrier(s):
<input type="checkbox"/>	Name:  Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name:  Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name:  Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name:  Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name:  Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	

**I AFFIRM UNDER THE PENALTY OF PERJURY THAT, TO MY KNOWLEDGE, OTHER THAN AS NOTED ABOVE, THERE ARE AND HAVE BEEN NO RELATED ACTIONS OR PROCEEDINGS, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION PREVIOUSLY BEEN FILED IN THIS ACTION OR PROCEEDING.**

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

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
ATTORNEY REGISTRATION NUMBER

\_\_\_\_\_  
PRINT OR TYPE NAME

# FORECLOSURE Request for Judicial Intervention Addendum

UCS-840F  
7/2012

COURT, COUNTY OF \_\_\_\_\_

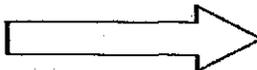
INDEX NO. \_\_\_\_\_

For use in ALL mortgage foreclosure actions where the property is: (check if applicable)

1. A one- to four-family owner-occupied residential property

OR

2. An owner-occupied condominium



### Instructions

If # 1 or # 2 is applicable:

- Select "Residential Mortgage Foreclosure Settlement Conference" as the Nature of Judicial Intervention on the RJI.
- The Defendant/Respondent Information section below **MUST** be completed for all defendants and attached to the RJI.

**DEFENDANT/RESPONDENT INFORMATION:** List parties in caption order. Attach additional sheets as necessary.

1. Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ Primary Phone: ( ) - - Secondary Phone: ( ) - -

Address: \_\_\_\_\_ e-mail: \_\_\_\_\_  
(Street Address) (City) (State) (Zip)

Comments: \_\_\_\_\_ 90-day Notice [RPAPL § 1304(1)] mailed on: \_\_\_\_/\_\_\_\_/\_\_\_\_

2. Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ Primary Phone: ( ) - - Secondary Phone: ( ) - -

Address: \_\_\_\_\_ e-mail: \_\_\_\_\_  
(Street Address) (City) (State) (Zip)

Comments: \_\_\_\_\_ 90-day Notice [RPAPL § 1304(1)] mailed on: \_\_\_\_/\_\_\_\_/\_\_\_\_

3. Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ Primary Phone: ( ) - - Secondary Phone: ( ) - -

Address: \_\_\_\_\_ e-mail: \_\_\_\_\_  
(Street Address) (City) (State) (Zip)

Comments: \_\_\_\_\_ 90-day Notice [RPAPL § 1304(1)] mailed on: \_\_\_\_/\_\_\_\_/\_\_\_\_

4. Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ Primary Phone: ( ) - - Secondary Phone: ( ) - -

Address: \_\_\_\_\_ e-mail: \_\_\_\_\_  
(Street Address) (City) (State) (Zip)

Comments: \_\_\_\_\_ 90-day Notice [RPAPL § 1304(1)] mailed on: \_\_\_\_/\_\_\_\_/\_\_\_\_

5. Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ Primary Phone: ( ) - - Secondary Phone: ( ) - -

Address: \_\_\_\_\_ e-mail: \_\_\_\_\_  
(Street Address) (City) (State) (Zip)

Comments: \_\_\_\_\_ 90-day Notice [RPAPL § 1304(1)] mailed on: \_\_\_\_/\_\_\_\_/\_\_\_\_

**ATTENTION:** Proof of service must be filed with this RJI for each defendant upon whom a summons and complaint or summons with notice has been served. [CPLR § 3408]



Effective: February 13, 2010

McKinney's Consolidated Laws of New York Annotated Currentness

Civil Practice Law and Rules (Refs & Annos)

■ Chapter Eight. Of the Consolidated Laws

■ Article 34. Calendar Practice; Trial Preferences (Refs & Annos)

→ → Rule 3408. Mandatory settlement conference in residential foreclosure actions

(a) [Eff. until Feb. 13, 2015, pursuant to L.2009, c. 507, § 25, subd. e. See, also, subd. (a) below.] In any residential foreclosure action involving a home loan as such term is defined in section thirteen hundred four of the real property actions and proceedings law, in which the defendant is a resident of the property subject to foreclosure, the court shall hold a mandatory conference within sixty days after the date when proof of service is filed with the county clerk, or on such adjourned date as has been agreed to by the parties, for the purpose of holding settlement discussions pertaining to the relative rights and obligations of the parties under the mortgage loan documents, including, but not limited to determining whether the parties can reach a mutually agreeable resolution to help the defendant avoid losing his or her home, and evaluating the potential for a resolution in which payment schedules or amounts may be modified or other workout options may be agreed to, and for whatever other purposes the court deems appropriate.

(a) [Eff. Feb. 13, 2015. See, also, subd. (a) above.] In any residential foreclosure action involving a high-cost home loan consummated between January first, two thousand three and September first, two thousand eight, or a subprime or nontraditional home loan, as those terms are defined under section thirteen hundred four of the real property actions and proceedings law, in which the defendant is a resident of the property subject to foreclosure, the court shall hold a mandatory conference within sixty days after the date when proof of service is filed with the county clerk, or on such adjourned date as has been agreed to by the parties, for the purpose of holding settlement discussions pertaining to the relative rights and obligations of the parties under the mortgage loan documents, including, but not limited to determining whether the parties can reach a mutually agreeable resolution to help the defendant avoid losing his or her home, and evaluating the potential for a resolution in which payment schedules or amounts may be modified or other workout options may be agreed to, and for whatever other purposes the court deems appropriate.

(b) At the initial conference held pursuant to this section, any defendant currently appearing pro se, shall be deemed to have made a motion to proceed as a poor person under section eleven hundred one of this chapter. The court shall determine whether such permission shall be granted pursuant to standards set forth in section eleven hundred one of this chapter. If the court appoints defendant counsel pursuant to subdivision (a) of section eleven hundred two of this chapter, it shall adjourn the conference to a date certain for appearance of counsel and settlement discussions pursuant to subdivision (a) of this section, and otherwise shall proceed with the conference.

(c) At any conference held pursuant to this section, the plaintiff shall appear in person or by counsel, and if appearing by counsel, such counsel shall be fully authorized to dispose of the case. The defendant shall appear in person or by counsel. If the defendant is appearing pro se, the court shall advise the defendant of the nature of the action and his or her rights and responsibilities as a defendant. Where appropriate, the court may permit a representative of the plaintiff to attend the settlement conference telephonically or by video-conference.

(d) Upon the filing of a request for judicial intervention in any action pursuant to this section, the court shall send either a copy of such request or the defendant's name, address and telephone number (if available) to a housing counseling agency or agencies on a list designated by the division of housing and community renewal for the judicial district in which the defendant resides. Such information shall be used by the designated housing counseling agency or agencies exclusively for the purpose of making the homeowner aware of housing counseling and foreclosure prevention services and options available to them.

(e) The court shall promptly send a notice to parties advising them of the time and place of the settlement conference, the purpose of the conference and the requirements of this section. The notice shall be in a form prescribed by the office of court administration, or, at the discretion of the office of court administration, the administrative judge of the judicial district in which the action is pending, and shall advise the parties of the documents that they should bring to the conference. For the plaintiff, such documents should include, but are not limited to, the payment history, an itemization of the amounts needed to cure and pay off the loan, and the mortgage and note. If the plaintiff is not the owner of the mortgage and note, the plaintiff shall provide the name, address and telephone number of the legal owner of the mortgage and note. For the defendant, such documents should include, but are not limited to, proof of current income such as the two most recent pay stubs, most recent tax return and most recent property tax statements.

(f) Both the plaintiff and defendant shall negotiate in good faith to reach a mutually agreeable resolution, including a loan modification, if possible.

(g) The plaintiff must file a notice of discontinuance and vacatur of the lis pendens within one hundred fifty days after any settlement agreement or loan modification is fully executed.

(h) A party to a foreclosure action may not charge, impose, or otherwise require payment from the other party for any cost, including but not limited to attorneys' fees, for appearance at or participation in the settlement conference.

#### CREDIT(S)

(Added L.2008, c. 472, § 3, eff. Aug. 5, 2008. Amended L.2009, c. 507, § 9, eff. Feb. 13, 2010.)

#### HISTORICAL AND STATUTORY NOTES

Plaintiff (counsel)  
Address  
City, State, Zip

Defendant (counsel or pro se)  
Counsel's address or property address  
City, State, Zip

Re: Caption  
RJI #:  
Index #:

Dear Counsel/Litigants:

The above captioned foreclosure action has been assigned to Supreme Court Justice Anthony J. Paris. In accordance with Section 202.12-a of the Uniform Civil Rules for Supreme and County Courts, a settlement conference has been scheduled for (Day, date and time) with Judge Paris at the Onondaga County Courthouse. The conference shall include settlement discussions regarding the rights and obligations of the parties in this mortgage foreclosure proceeding, including an evaluation of whether a resolution can be reached which would help Defendant(s) avoid losing their home.

If a defendant/homeowner wishes assistance in preparing for this conference, in certain cases financial counseling and/or legal assistance may be available at no cost and defendant/homeowner is **strongly** encouraged to contact Home Headquarters at (315) 474-1939 in that regard prior to the scheduled conference. It is important that both parties arrive at the conference ready to discuss the facts of the case. If the parties appear by counsel, such counsel must be fully authorized to dispose of the case.

In order to aid the Court, all defendant/homeowners are expected to bring the following documents to the conference:

- All mortgage papers, including the loan application, mortgage and mortgage note, the Truth-in-Lending disclosure, and the HUD-A Settlement statement;

- A list of all payments made on the mortgage debt;
- Hardship letter detailing current financial circumstances;
- Documents showing monthly income and expenses, including their two (2) most recent tax returns and W-2's;
- Statement of Assets and Liabilities; and
- Any other document the defendant/homeowner thinks may be useful to the Court.

The Plaintiff/lender should be prepared to provide the Note, the Mortgage Application, HUD-a, payment history, mortgage payoff letter, and any financial worksheets in the event the parties have previously met and tried to work out delinquencies prior to court involvement. **Plaintiff/lender must have a loan modification application packet available at the conference.** Plaintiff/lender must also have a representative of Plaintiff's loss mitigation department with knowledge and authority concerning this mortgage available by telephone. **A failure by Plaintiff/lender to adhere to the directives of this paragraph may constitute a default, resulting in sanctions or the ordering of a hold on mortgage payments pending resolution of the litigation.**

All defendant/homeowners are directed to contact this office by telephone at (315)671-1104 no later than seven (7) days before the scheduled conference date to confirm attendance. A failure to make this telephone contact with this office or failure to appear on the part of a defendant/homeowner at the scheduled conference will be deemed an abandonment of the right to the settlement conference, and the foreclosure action will continue with further proceedings and ultimate disposition.

**AND IT IS SO ORDERED.**

Anthony J. Paris  
Justice of the Supreme Court

cc: Home Headquarters  
Attn: Amanda Pascall  
124 East Jefferson Street  
Syracuse, New York 13202



**United States Bankruptcy Court  
Northern District of New York**



**LOSS MITIGATION  
PROGRAM PROCEDURES**

*Current as of June 14, 2013*

*available online at:*

[www.nynb.uscourts.gov](http://www.nynb.uscourts.gov)

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

---

In re:  
Adoption of Loss Mitigation Program Procedures

ADMINISTRATIVE  
ORDER # \_\_\_\_\_

---

WHEREAS a uniform, comprehensive, court-supervised loss mitigation program may facilitate consensual resolutions for individual debtors whose residential real property is at risk of loss to foreclosure (the "Loss Mitigation Program" or "Loss Mitigation"); and

WHEREAS the Loss Mitigation Program may avoid the need for various types of bankruptcy litigation, reduce costs to debtors and secured creditors, and enable debtors to reorganize or otherwise address their most significant debts and assets under the United States Bankruptcy Code;

Now, therefore, it is hereby

ORDERED that the "Loss Mitigation Program Procedures" annexed to this Administrative Order and the Loss Mitigation Program described therein are adopted, pursuant to 11 U.S.C. § 105(a); and it is further

ORDERED that effective July 1, 2013, the Loss Mitigation Program Procedures shall apply in all individual cases filed under chapter 7, 11, 12, or 13 of the Bankruptcy Code, within the United States Bankruptcy Court for the Northern District of New York; and it is further

ORDERED that the Loss Mitigation Program Procedures and related forms, including the Loss Mitigation Request by Debtor(s) and Certificate of Service, shall be available on the court's website. The court may modify the Loss Mitigation Program Procedures from time to time by Administrative Order, and in that event shall make the revised Loss Mitigation Program Procedures available immediately on the court's website.

Dated: June \_\_\_\_, 2013  
Albany, New York

\_\_\_\_\_  
Robert E. Littlefield, Jr.  
Chief United States Bankruptcy Judge

**LOSS MITIGATION PROGRAM PROCEDURES  
TABLE OF CONTENTS**

I. PURPOSE.....	1
II. LOSS MITIGATION DEFINED.....	1
III. OTHER DEFINITIONS	
A. DEBTOR.....	1
B. PROPERTY .....	1
C. LOAN.....	2
D. CREDITOR.....	2
E. LOSS MITIGATION PARTY .....	2
IV. ADDITIONAL PARTIES	
A. OTHER CREDITORS .....	2
B. NON-FILING CO-DEBTORS AND THIRD PARTIES.....	2
C. CHAPTER 13 / CHAPTER 12 TRUSTEE.....	2
V. COMMENCEMENT OF LOSS MITIGATION	
A. BY WRITTEN REQUEST OF THE DEBTOR .....	3
B. BY WRITTEN REQUEST OF A CREDITOR .....	4
C. HEARING ON LOSS MITIGATION REQUEST .....	5
D. SERVICE OF THE LOSS MITIGATION ORDER.....	5
VI. LOSS MITIGATION ORDER	
A. DEADLINES .....	5
B. EFFECT .....	6
VII. DUTIES UPON COMMENCEMENT OF LOSS MITIGATION	
A. GOOD FAITH .....	6
B. ADJOURN OTHER PROCEEDINGS .....	7
C. CONTACT INFORMATION	
1. The Debtor .....	7
2. The Creditor .....	7
D. STATUS REPORT .....	7
E. BANKRUPTCY COURT APPROVAL .....	7
F. FILE FINAL REPORT UPON RESOLUTION OF LOSS MITIGATION.....	8

VIII. LOSS MITIGATION PROCESS AFTER LOSS MITIGATION IS ORDERED	
A. INITIAL CONTACT PERIOD.....	8
B. LOSS MITIGATION SESSIONS.....	9
C. STATUS CONFERENCE / ADDITIONAL CONFERENCES.....	9
D. PERSONS WITH SETTLEMENT AUTHORITY.....	9
IX. DURATION, EXTENSION, AND RESOLUTION	
A. INITIAL PERIOD.....	9
B. EXTENSION	
1. By Agreement.....	9
2. In the Absence of Agreement.....	10
C. EARLY TERMINATION	
1. By Agreement.....	10
2. In the Absence of Agreement.....	10
3. Early Termination by Dismissal of the Bankruptcy Case.....	11
X. SETTLEMENT	
A. IMPLEMENTATION.....	11
B. FEES, COSTS, OR CHARGES.....	11
C. SIGNATURES.....	11
D. HEARING.....	12
E. DISMISSAL NOT REQUIRED.....	12
XI. DEBTOR'S COUNSEL FEES WHEN UTILIZING LOSS MITIGATION PROGRAM	
A. ALLOWANCE AND PAYMENT OF PORTION OF FEE BEFORE CONFIRMATION OF CHAPTER 13 PLAN.....	12
B. ALLOWANCE AND PAYMENT OF ADDITIONAL FEE FOR LOSS MITIGATION UPON CONCLUSION OF LOSS MITIGATION PROGRAM.....	12
XII. LOSS MITIGATION PROGRAM REQUIRED FORMS.....	13

# **LOSS MITIGATION PROGRAM PROCEDURES**<sup>1</sup>

Current as of June 14, 2013

## **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.

---

<sup>1</sup> 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](http://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 identified in the Loss Mitigation Order.

## **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 13 / CHAPTER 12 TRUSTEE**

In a chapter 13 case, the chapter 13 trustee may participate in the Loss Mitigation Program to the extent that such participation is consistent with the chapter 13 trustee's duty under 11 U.S.C. § 1302(b)(4) to "advise, other than on legal matters, and assist the debtor in performance under the [chapter 13] plan."

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

## **V. COMMENCEMENT OF LOSS MITIGATION**

Parties are encouraged to request to enter into the Loss Mitigation Program as early in the case as possible, but a request may be made at any time as follows.

### **A. BY WRITTEN REQUEST OF THE DEBTOR**

1. At any time during the pendency of the case, 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. 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. The Debtor may file and serve a Loss Mitigation Request by Debtor(s) and Certificate of Service as part of a timely response to a motion pursuant to 11 U.S.C. § 362(d) for relief from the automatic stay ("Motion for Relief from Stay") as follows:

- 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 section V(A)(1). The court will treat the Debtor's request for Loss Mitigation as if it had been made pursuant to section V(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. At any time during the pendency of the case, 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. 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. 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 as follows:

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 section V(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 days 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 section V(B)(1), and will proceed on the request pursuant to these Procedures as if the request had been so made.

### **C. HEARING ON LOSS MITIGATION REQUEST**

If a party files either an Objection to Loss Mitigation Request and a Notice of Hearing on Objection to Loss Mitigation Request and Certificate of Service or a Loss Mitigation Request as provided in sections V(A)(2) or V(B)(2), 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.

### **D. SERVICE OF THE LOSS MITIGATION ORDER**

Within three (3) days after entry of the Loss Mitigation Order, the party that requested Loss Mitigation shall serve the Loss Mitigation Order on all other Loss Mitigation Parties and the case trustee, 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 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 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.

## **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 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 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 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. 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 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 on notice to the other Loss Mitigation Parties a Request for Additional Loss Mitigation Conference and Certificate of Service.

## **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 Parties<sup>2</sup> and filed not

---

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

later than three (3) business days before the termination of the initial Loss Mitigation Period, to be so ordered by the court. 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.

## **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 evidencing service of the motion on the other Loss Mitigation Parties shall be filed not later than seven (7) days prior to the return date of the motion.

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 Parties<sup>3</sup> and filed at any time during the Loss Mitigation Period, to be so ordered by the court.

### **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 on the other Loss Mitigation Parties a motion requesting early termination. The motion shall set forth the reason for

---

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

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. 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 12 or chapter 13 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.

#### **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 submit an Ex Parte Application and Certification in Support of Approval and Payment of Attorney Fees for Loss Mitigation. The court may thereafter enter an Order Approving Attorney Fees for Loss Mitigation and Authorizing Payment. In a chapter 12 or 13 case, the court may direct the chapter 12 or chapter 13 trustee to pay said fees as an administrative expense through the Debtor's plan.

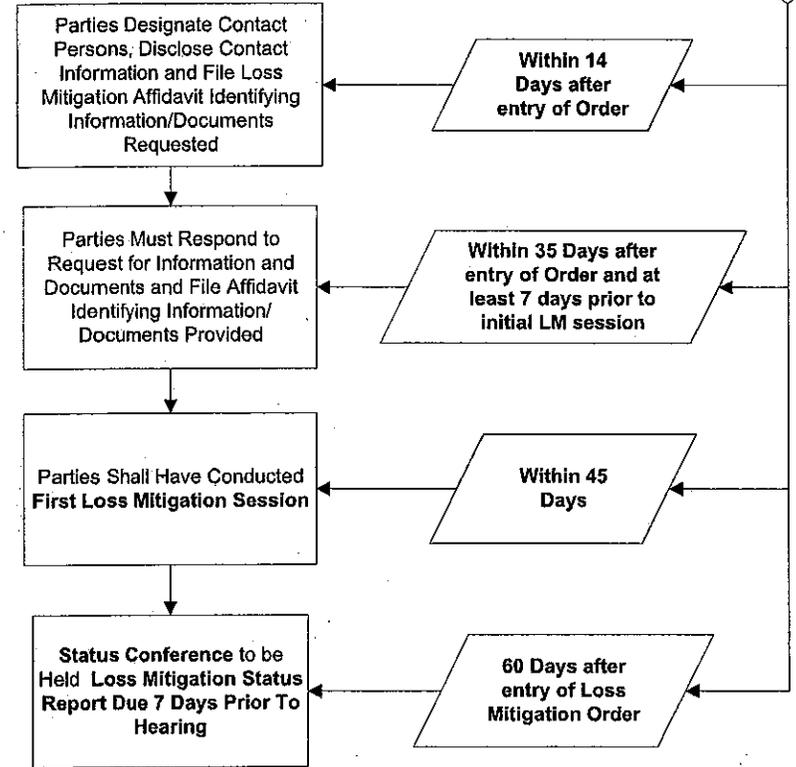
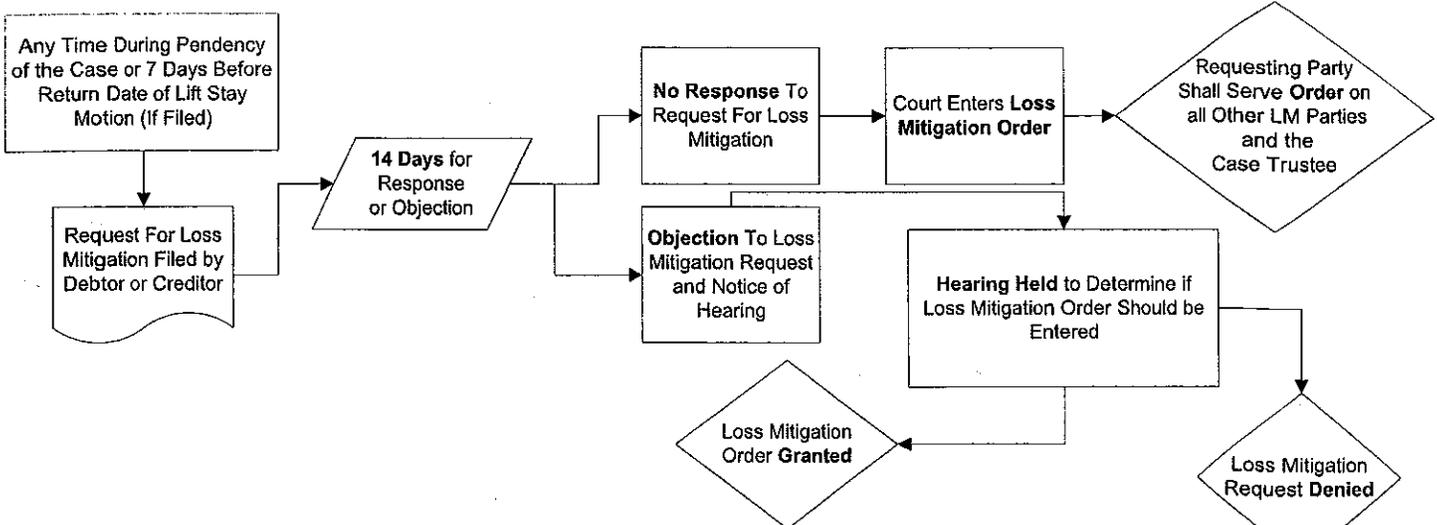
Except as otherwise ordered by the court, a fee in the sum of \$1,000.00 shall be presumed reasonable for services rendered in connection with the Loss Mitigation Program without further documentation. The award of this fee is without prejudice to the rights of counsel to request approval of additional 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:

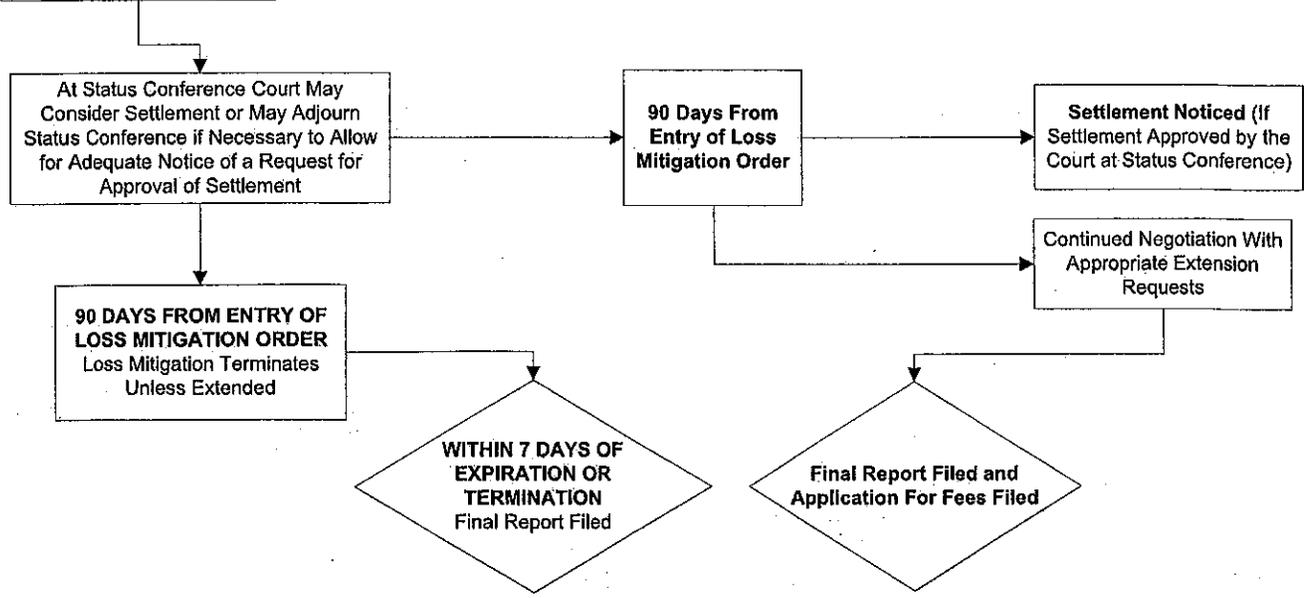
- Loss Mitigation Request by Debtor(s) and Certificate of Service
- Loss Mitigation Request by Creditor and Certificate of Service
- Objection to Loss Mitigation Request
- Notice of Hearing on Objection to Loss Mitigation Request and Certificate of Service
- Loss Mitigation Order
- Loss Mitigation Affidavit 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





U.S. Bankruptcy Court  
Northern District Of New York

# Loss Mitigation Procedure





**United States Bankruptcy Court  
Northern District of New York**



**LOSS MITIGATION PROGRAM  
REQUIRED FORMS**

*Current as of June 14, 2013*

*Fillable PDF versions available online at:*

[www.nynb.uscourts.gov](http://www.nynb.uscourts.gov)

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

---

In re:

Case No.  
Chapter

Debtor(s).

---

**LOSS MITIGATION REQUEST BY DEBTOR(S) AND CERTIFICATE OF SERVICE**

**PURSUANT TO SECTION V OF THE COURT'S LOSS MITIGATION PROGRAM PROCEDURES, THE CREDITOR(S) NAMED HEREIN HAS/HAVE 14 DAYS FROM SERVICE OF THIS REQUEST TO FILE AND SERVE AN OBJECTION TO LOSS MITIGATION REQUEST AND A NOTICE OF HEARING ON OBJECTION TO LOSS MITIGATION REQUEST ON THE DEBTOR(S), 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 ARE NOT FILED, THE COURT MAY ENTER A LOSS MITIGATION ORDER.**

I am/We are the Debtor(s) in this case and hereby request to enter into the Loss Mitigation Program with respect to my/our Property located at:

Address: \_\_\_\_\_  
\_\_\_\_\_;

With the following Creditor(s):

Creditor's Name and Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With respect to the Property, Creditor is the holder of a:

- First Mortgage
- Second Mortgage
- Other (please specify): \_\_\_\_\_

Additional Creditor's Name and Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With respect to the Property, Additional Creditor is the holder of a:

- First Mortgage
- Second Mortgage
- Other (please specify): \_\_\_\_\_

**Signature:**

I understand that if the court orders Loss Mitigation in this case, I am required to comply with the Loss Mitigation Program Procedures and will participate in good faith. **I understand that Loss Mitigation is voluntary for all parties and that I am not required to enter into any agreement or settlement with any other party as part of entry into the Loss Mitigation Program. I also understand that no other party is required to enter into any agreement or settlement with me.** I understand that I am not required to request dismissal of my case as part of any resolution or settlement that is offered or agreed to during Loss Mitigation. I also understand that if a Loss Mitigation Order is entered, I am responsible pursuant to section VII(B) of the Loss Mitigation Program Procedures for adjourning any matters pending between the Loss Mitigation Parties for which I am the movant. I certify that the Property in question consists only of real property used as my principal residence in which I hold an interest.

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

\_\_\_\_\_  
Debtor

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

\_\_\_\_\_  
Joint Debtor

**Loss Mitigation Contact Information for Attorney for Debtor(s):**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Address 2: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Phone No.: \_\_\_\_\_ Facsimile No.: \_\_\_\_\_

Email Address: \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I, \_\_\_\_\_, state under penalty of perjury that the following is true and accurate.

(1) That I am not a party to this action, am over 18 years of age, and reside in \_\_\_\_\_, New York.

(2) That on \_\_\_\_\_, 20\_\_\_\_, I served a true and accurate copy of the above Loss Mitigation Request by Debtor(s)—

—by notice of electronic filing (NEF) via the CM/ECF system upon the following parties at the email addresses listed below:

—by first class mail upon the following parties at the addresses listed below:

—by certified mail upon the following parties at the addresses listed below:

Dated: \_\_\_\_\_, 20\_\_\_\_  
\_\_\_\_\_, New York

\_\_\_\_\_  
Name

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public, State of New York

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

---

In re:

Case No.  
Chapter

Debtor(s).

---

**LOSS MITIGATION REQUEST BY CREDITOR AND CERTIFICATE OF SERVICE**

**PURSUANT TO SECTION V OF THE COURT'S LOSS MITIGATION PROGRAM PROCEDURES, THE ABOVE-CAPTIONED DEBTOR(S) HAS/HAVE 14 DAYS FROM SERVICE OF THIS REQUEST TO FILE AND SERVE AN OBJECTION TO LOSS MITIGATION REQUEST AND A NOTICE OF HEARING ON OBJECTION TO LOSS MITIGATION REQUEST ON THE CREDITOR AND THE CASE TRUSTEE. IF AN OBJECTION TO LOSS MITIGATION REQUEST AND A NOTICE OF HEARING ON OBJECTION TO LOSS MITIGATION REQUEST ARE NOT FILED, THE COURT MAY ENTER A LOSS MITIGATION ORDER.**

I am/represent a Creditor (including a holder, servicer or trustee of a mortgage or lien secured by Property used by the Debtor(s) as a principal residence) of the Debtor(s). I/Creditor hereby requests to enter into the Loss Mitigation Program with respect to:

Property Address: \_\_\_\_\_  
\_\_\_\_\_

With respect to the Property, I am/Creditor is the holder of a:

- First Mortgage
- Second Mortgage
- Other (please specify): \_\_\_\_\_

**Signature:**

I understand that if the court orders Loss Mitigation in this case, I am required to comply with the Loss Mitigation Program Procedures and will participate in good faith. **I agree that I will not require the Debtor(s) to request or cause dismissal of this case as part of any**

**resolution or settlement that is offered or agreed to during the Loss Mitigation Period.** I also understand that if a Loss Mitigation Order is entered, I am responsible pursuant to section VII(B) of the Loss Mitigation Program Procedures for adjourning any matters pending between the Loss Mitigation Parties for which I am the movant.

Dated:

\_\_\_\_\_  
Creditor Name

By: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

**Loss Mitigation Contact Information for Attorney for Creditor:**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Address 2: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip Code: \_\_\_\_\_

Phone No.: \_\_\_\_\_

Facsimile No.: \_\_\_\_\_

Email Address: \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I, \_\_\_\_\_, state under penalty of perjury that the following is true and accurate.

(1) That I am not a party to this action, am over 18 years of age, and reside in \_\_\_\_\_, New York.

(2) That on \_\_\_\_\_, 20\_\_\_\_, I served a true and accurate copy of the above Loss Mitigation Request by Creditor—

—by notice of electronic filing (NEF) via the CM/ECF system upon the following parties at the email addresses listed below:

—by first class mail upon the following parties at the addresses listed below:

—by certified mail upon the following parties at the addresses listed below:

Dated: \_\_\_\_\_, 20\_\_\_\_  
\_\_\_\_\_, New York

\_\_\_\_\_  
Name

Sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public, State of New York

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

In re:

Case No.  
Chapter

Debtor(s).

**OBJECTION TO LOSS MITIGATION REQUEST**

\_\_\_\_\_, Esq. *[insert attorney's name]*, attorney(s) for  
\_\_\_\_\_ *[insert name of Debtor(s) or Creditor]*, affirms  
under penalty of perjury as follows:

1. This Objection is submitted in response to the Loss Mitigation Request by  
\_\_\_\_\_ *[insert Debtor(s) or Creditor]* and Certificate of Service filed on  
\_\_\_\_\_, 20\_\_\_\_.

2. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

7. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

8. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

9. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

10. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Dated:

\_\_\_\_\_  
Name  
Firm  
Attorney(s) for Debtor(s)/Creditor  
Address  
Telephone Number  
Email Address  
N.D.N.Y. Bar Roll Identification No.

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

---

In re:

Case No.  
Chapter

Debtor(s).

---

**NOTICE OF HEARING ON OBJECTION TO LOSS MITIGATION REQUEST  
AND CERTIFICATE OF SERVICE**

**PLEASE TAKE NOTICE** that \_\_\_\_\_ objects to the Loss Mitigation Request by \_\_\_\_\_ *[insert Debtor(s) or Creditor]* filed on \_\_\_\_\_, 20\_\_\_\_, as more fully set forth in the Objection filed herewith.

**PLEASE TAKE FURTHER NOTICE** that a hearing to consider the Loss Mitigation Request and the Objection filed herewith shall be held at \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ *[insert court location]*,  
on \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ a.m./p.m., or as soon thereafter as counsel may be heard.

**PLEASE TAKE FURTHER NOTICE** that if you wish to be heard on the Request or the Objection, you must appear at the hearing. Any written response to the Objection must be served and filed with the court no later than seven (7) days prior to the hearing.

Dated:

\_\_\_\_\_  
Name  
Firm  
Attorney(s) for Debtor(s)/Creditor  
Address  
Telephone Number  
Email Address  
N.D.N.Y. Bar Roll Identification No.

**CERTIFICATE OF SERVICE**

I, \_\_\_\_\_, state under penalty of perjury that the following is true and accurate.

(1) That I am not a party to this action, am over 18 years of age, and reside in \_\_\_\_\_, New York.

(2) That on \_\_\_\_\_, 20\_\_\_\_, I served a true and accurate copy of the above Notice of Hearing on Objection to Loss Mitigation Request and the Objection to Loss Mitigation Request referenced therein—

—by notice of electronic filing (NEF) via the CM/ECF system upon the following parties at the email addresses listed below:

—by first class mail upon the following parties at the addresses listed below:

—by certified mail upon the following parties at the addresses listed below:

Dated: \_\_\_\_\_, 20\_\_\_\_  
\_\_\_\_\_, New York

\_\_\_\_\_  
Name

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public, State of New York

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

---

In re:

Case No.  
Chapter

Debtor(s).

---

**LOSS MITIGATION ORDER**

- A Loss Mitigation Request<sup>1</sup> was filed by the Debtor(s) on \_\_\_\_\_, 20\_\_\_\_,
- A Loss Mitigation Request was filed by a Creditor on \_\_\_\_\_, 20\_\_\_\_,
- The court raised the possibility of Loss Mitigation,

and the parties have had notice and an opportunity to object, and the court has reviewed any objections filed thereto.

NOW, it is hereby

**ORDERED** that

- (1) The following parties (the "Loss Mitigation Parties") are directed to participate in Loss Mitigation and are bound by the court's Loss Mitigation Program Procedures:

Debtor(s): \_\_\_\_\_,

Creditor (include full name): \_\_\_\_\_,

Creditor (include full name): \_\_\_\_\_.

- (2) **Within fourteen (14) days** after the entry of this Order,

- Each Loss Mitigation Party shall designate contact persons and disclose contact information, unless this information has been previously provided in the Loss Mitigation Request,
- Each Creditor that is a Loss Mitigation Party shall contact the Debtor(s)' attorney or the Debtor(s), if *pro se*, and
- Requests for information and documents, if any, must be served upon the opposing party and counsel, and the requesting party shall file a Loss Mitigation Affidavit on the form prescribed by the court identifying the information and/or documents requested.

- (3) **Within thirty-five (35) days** after the entry of this Order and at least seven (7) days prior to the initial Loss Mitigation Session, each Loss Mitigation Party shall respond to a request for information and documents, and the party responding shall file a Loss Mitigation Affidavit on the form prescribed by the court identifying the information and/or documents provided.

---

<sup>1</sup> All capitalized terms have the meanings defined in the Loss Mitigation Program Procedures.

- (4) **Within forty-five (45) days** after the entry of this Order, the Loss Mitigation Parties shall conduct the initial Loss Mitigation Session.
- (5) A status conference will be held in this case on \_\_\_\_\_, 20\_\_ [insert date 60 days after the date of this Order] (the "Status Conference"). The Loss Mitigation Parties shall appear at the Status Conference. Seven (7) days prior to the date of the Status Conference or any adjournments thereof, the party that requested Loss Mitigation shall file and serve upon all Loss Mitigation Parties a Loss Mitigation Status Report on the form prescribed by the court.
- (6) At the Status Conference, the court may consider a Settlement reached by the Loss Mitigation Parties, or may adjourn the Status Conference if necessary to allow for adequate notice of a request for approval of a Settlement.
- (7) The Loss Mitigation Period shall terminate on \_\_\_\_\_, 20\_\_ [insert date 90 days after the date of this Order], unless extended as provided in the Loss Mitigation Program Procedures.
- (8) Within seven (7) days following expiration or termination of the Loss Mitigation Period, whether by dismissal of the case or otherwise, the party that requested Loss Mitigation shall file a Loss Mitigation Program Final Report on the form prescribed by the court.
- (9) Any 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 indicated above to the extent 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.
- (10) The time for each Creditor that is a Loss Mitigation Party to file an objection to an unconfirmed plan of reorganization in the Debtor(s)' case shall be extended until 14 days after the termination of the Loss Mitigation Period, including any extension thereof.
- (11) If the underlying bankruptcy case is one filed under chapter 13 and Debtor(s)' counsel seeks to receive a portion of fees for the case through the plan, then, in the month following entry of this 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 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 the Order of Confirmation or further order of this court.

**ORDERED** that the Request for Loss Mitigation is denied.

Dated: \_\_\_\_\_, 20\_\_  
 \_\_\_\_\_, New York

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

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

---

In re:

Case No.  
Chapter

Debtor(s).

---

**LOSS MITIGATION AFFIDAVIT OF DEBTOR(S)  
AND CERTIFICATE OF SERVICE**

STATE OF \_\_\_\_\_ ) ss.:  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, being sworn, say: I am not a party to this action, am over 18 years of age, and reside in \_\_\_\_\_.

Instructions:

- (1) Complete, as is appropriate, either Part A: Request for Documents/Information by Debtor(s) or Part B: Debtor(s)' Response to Request for Documents/Information.
- (2) Complete Part C: Loss Mitigation Contact Information, unless the information was provided in the Loss Mitigation Request by Debtor(s) and Certificate of Service.
- (3) Complete Part D: Certificate of Service.

**On behalf of Debtor(s):**

Part A: Request for Documents/Information by Debtor(s)

On \_\_\_\_\_, 20\_\_\_\_, I served a true and accurate copy of the Debtor(s)' Request for the following documents/information:

- A copy of Debtor(s)' payment history;
- Other (please specify): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Part B: Debtor(s)' Response to Request for Documents/Information

On \_\_\_\_\_, 20\_\_\_\_, I served a true and accurate copy of the Debtor(s)' Response to Creditor's Request for documents/information, including the following:

- A copy of the Debtor(s)' two (2) most recent federal income tax returns;
- A copy of the Debtor(s)' last two (2) paycheck stubs, proof of social security income, pensions, or any other income received by the Debtor(s);

Or, if the Debtor(s) is/are self-employed:

A copy of the Debtor(s)' Profit and Loss Statements, setting forth a breakdown of the monthly income and expenses for the Debtor(s)' business (es), for the two (2) most recent months of \_\_\_\_\_ and \_\_\_\_\_;

- A completed copy of the Creditor's Financial Worksheet;
- Proof of second/third party income by affidavit of the party, including the party's last two (2) paycheck stubs;
- Other (please specify): \_\_\_\_\_

---

---

---

Part C: Loss Mitigation Contact Information

The Loss Mitigation contact information for the Attorney for the Debtor(s) is as follows:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Firm: \_\_\_\_\_  
Address: \_\_\_\_\_  
Address 2: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Phone No.: \_\_\_\_\_ Facsimile No.: \_\_\_\_\_  
Email Address: \_\_\_\_\_

Part D: Certificate of Service

On \_\_\_\_\_, 20\_\_\_\_, I served a true and accurate copy of the above  
Loss Mitigation Affidavit by Debtor(s)—

—by notice of electronic filing (NEF) via the CM/ECF system upon the following  
parties at the email addresses listed below:

—by first class mail upon the following parties at the addresses listed below:

—by certified mail upon the following parties at the addresses listed below:

Dated: \_\_\_\_\_, 20\_\_\_\_  
\_\_\_\_\_, New York

\_\_\_\_\_  
Name

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public, State of New York

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

---

In re:

Case No.  
Chapter

Debtor(s).

---

**LOSS MITIGATION AFFIDAVIT OF CREDITOR  
AND CERTIFICATE OF SERVICE**

STATE OF \_\_\_\_\_ ) ss.:  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, being sworn, say: I am not a party to this action, am over 18 years of age, and reside in \_\_\_\_\_.

Instructions:

- (1) Complete, as is appropriate, either Part A: Request for Documents/Information by Creditor or Part B: Creditor's Response to Request for Documents/Information.
- (2) Complete Part C: Loss Mitigation Contact Information, unless the information was provided in the Loss Mitigation Request by Creditor and Certificate of Service.
- (3) Complete Part D: Certificate of Service.

**On behalf of Creditor** \_\_\_\_\_ *[insert Creditor's Name]:*

Part A: Request for Documents/Information by Creditor

On \_\_\_\_\_, 20\_\_\_\_, I served a true and accurate copy of the Creditor's Financial Packet and a Request for the following documents/information:

- A copy of the Debtor(s)' two (2) most recent federal income tax returns;
- A copy of the Debtor(s)' last two (2) paycheck stubs, proof of social security income, pensions, or any other income received by the Debtor(s);

Or, if the Debtor(s) is/are self-employed:

A copy of the Debtor(s)' Profit and Loss Statements, setting forth a breakdown of the monthly income and expenses for the Debtor(s)' business(es), for the two (2) most recent months of \_\_\_\_\_ and \_\_\_\_\_;

- A completed copy of the Creditor's Financial Worksheet;
- Proof of second/third party income by affidavit of the party, including the party's last two (2) paycheck stubs;
- Other (please specify): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Part B: Creditor's Response to Request for Documents/Information

On \_\_\_\_\_, 20\_\_\_\_, I served a true and accurate copy of the Creditor's Response to the Debtor(s)' Request for documents/information, including the following:

- A copy of Debtor(s)' payment history;
- Other (please specify): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Part C: Loss Mitigation Contact Information

The Loss Mitigation contact information for the Attorney for the Creditor is as follows:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Address 2: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Phone No.: \_\_\_\_\_ Facsimile No.: \_\_\_\_\_

Email Address: \_\_\_\_\_

Part D: Certificate of Service

On \_\_\_\_\_, 20\_\_\_\_, I served a true and accurate copy of the above  
Loss Mitigation Affidavit by Creditor—

—by notice of electronic filing (NEF) via the CM/ECF system upon the following  
parties at the email addresses listed below:

—by first class mail upon the following parties at the addresses listed below:

—by certified mail upon the following parties at the addresses listed below:

Dated: \_\_\_\_\_, 20\_\_\_\_  
\_\_\_\_\_, New York

\_\_\_\_\_  
Name

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public, State of New York

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

In re:

Case No.  
Chapter

Debtor(s).

**LOSS MITIGATION STATUS REPORT**

This Loss Mitigation Status Report is submitted pursuant to the court's Loss Mitigation Program Procedures.

**PART I — GENERAL INFORMATION**

a. Full description of the Property:	
b. Name and address of Creditor:	Name, address, and telephone number of Creditor's attorney:
c. Name and address of Additional Creditor:	Name, address, and telephone number of Additional Creditor's attorney:

**PART II — LOSS MITIGATION PROGRAM**

a. On \_\_\_\_\_, 20\_\_\_\_, a Loss Mitigation Request was filed by:

Debtor(s). \_\_\_\_\_ Other party: \_\_\_\_\_

Creditor. \_\_\_\_\_ The court raised the possibility of Loss Mitigation.

b. Proceedings:

A Loss Mitigation Order was entered on \_\_\_\_\_, 20\_\_\_\_.

A Prior Loss Mitigation Status Report was submitted on \_\_\_\_\_, 20\_\_\_\_.

c. At this time, the Debtor(s) is/are:

- making on-going post-petition monthly mortgage payments in the amount of \$ \_\_\_\_\_.
- not making on-going post-petition monthly mortgage payments.

d. Creditor served a Request for Information and Documents on \_\_\_\_\_, 20\_\_\_\_.

e. Debtor(s) served a Response to the Creditor's Request on \_\_\_\_\_, 20\_\_\_\_.

- All Information and Documents have been produced.
- The following Information and Documents are still outstanding:  
 \_\_\_\_\_  
 \_\_\_\_\_

f. The Loss Mitigation Parties have participated in \_\_\_\_\_ Loss Mitigation Session(s) and:

- A resolution has been reached.
- A resolution has not been reached because:  
 \_\_\_\_\_  
 \_\_\_\_\_

g. The Loss Mitigation Period is scheduled to terminate on \_\_\_\_\_, 20\_\_\_\_.

h. Additional information relevant to the Loss Mitigation Parties reaching a final resolution:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**PART III — OTHER MORTGAGES/LIENS AGAINST THE PROPERTY**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Dated:

\_\_\_\_\_  
 Name  
 Firm  
 Attorney(s) for Debtor(s)/Creditor  
 Address  
 Telephone Number  
 Email Address  
 N.D.N.Y. Bar Roll Identification No.

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

---

In re:

Case No.  
Chapter

Debtor(s).

---

**REQUEST FOR ADDITIONAL LOSS MITIGATION CONFERENCE  
AND CERTIFICATE OF SERVICE**

The Status Conference ordered in paragraph (5) of the Loss Mitigation Order—

is scheduled for       was held on \_\_\_\_\_, 20\_\_\_\_.

Pursuant to section VIII(C) of the court's Loss Mitigation Program Procedures,

\_\_\_\_\_ *[insert Loss Mitigation Party's name]* requests an additional  
conference to address the following: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

A copy of this Request has been served upon all other Loss Mitigation Parties and the  
case trustee as indicated on the attached certificate of service.

Dated:

\_\_\_\_\_  
Name  
Firm  
Attorney(s) for Debtor(s)/Creditor  
Address  
Telephone Number  
Email Address  
N.D.N.Y. Bar Roll Identification No.

**CERTIFICATE OF SERVICE**

I, \_\_\_\_\_, state under penalty of perjury that the following is true and accurate.

(1) That I am not a party to this action, am over 18 years of age, and reside in \_\_\_\_\_, New York.

(2) That on \_\_\_\_\_, 20\_\_\_\_, I served a true and accurate copy of the above Request for Additional Loss Mitigation Conference—

—by notice of electronic filing (NEF) via the CM/ECF system upon the following parties at the email addresses listed below:

—by first class mail upon the following parties at the addresses listed below:

—by certified mail upon the following parties at the addresses listed below:

Dated: \_\_\_\_\_, 20\_\_\_\_  
\_\_\_\_\_, New York

\_\_\_\_\_  
Name

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public, State of New York

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

---

In re:

Case No.  
Chapter

Debtor(s).

---

**STIPULATION AND ORDER EXTENDING LOSS MITIGATION PERIOD**

Pursuant to the Loss Mitigation Program Procedures, the Loss Mitigation Parties agree and consent to extend the Loss Mitigation Period for an additional \_\_\_\_\_ days (not to exceed ninety (90) days), such that the Loss Mitigation Period shall be extended from \_\_\_\_\_, 20\_\_ to \_\_\_\_\_, 20\_\_. The Loss Mitigation Period has not previously been extended.

Dated:

Dated:

---

Name  
Firm  
Attorney for Debtor(s)  
Address  
Telephone number  
Email Address  
N.D.N.Y. Bar Roll Identification No.

---

Name  
Firm  
Attorney(s) for Creditor  
Address  
Telephone number  
Email Address  
N.D.N.Y. Bar Roll Identification No.

###

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

---

In re:

Case No.  
Chapter

Debtor(s).

---

**STIPULATION AND ORDER TERMINATING LOSS MITIGATION PERIOD**

The Loss Mitigation Period is set to expire on \_\_\_\_\_, 20\_\_\_\_. Pursuant to the Loss Mitigation Program Procedures, the Loss Mitigation Parties agree and consent to the early termination of the Loss Mitigation Period effective immediately upon the court's entry of this stipulation and order.

Dated:

Dated:

---

Name  
Firm  
Attorney for Debtor(s)  
Address  
Telephone number  
Email Address  
N.D.N.Y. Bar Roll Identification No.

---

Name  
Firm  
Attorney(s) for Creditor  
Address  
Telephone number  
Email Address  
N.D.N.Y. Bar Roll Identification No.

###

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

---

In re:

Case No.  
Chapter

Debtor(s).

---

**LOSS MITIGATION PROGRAM FINAL REPORT**

I, \_\_\_\_\_, certify that:

1. A Loss Mitigation Order was entered on \_\_\_\_\_, 20\_\_\_\_.
2. The Loss Mitigation Parties have completed all requirements pursuant to the Loss Mitigation Program Procedures.
3. A resolution has been reached as follows:
  - Loan modification request granted.
  - Loan modification request denied.
  - Loss Mitigation was terminated due to Debtor(s)' voluntary dismissal of the case.
  - Loss Mitigation was terminated because the case was involuntarily dismissed.
  - Loss Mitigation was terminated for the following reason(s): \_\_\_\_\_  
\_\_\_\_\_
  - Other (please describe): \_\_\_\_\_  
\_\_\_\_\_

Dated:

\_\_\_\_\_  
Name  
Firm  
Attorney(s) for Debtor(s)/Creditor  
Address  
Telephone number  
Email Address  
N.D.N.Y. Bar Roll Identification No.

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

---

In re:

Case No.  
Chapter

Debtor(s).

---

**EX PARTE APPLICATION AND CERTIFICATION IN SUPPORT OF  
APPROVAL AND PAYMENT OF ATTORNEY FEES FOR LOSS MITIGATION**

Upon the request to enter Loss Mitigation filed by \_\_\_\_\_  
and after the parties having had notice and an opportunity to be heard, the court entered a Loss  
Mitigation Order on \_\_\_\_\_, 20\_\_\_\_.

I certify that:

1. I am counsel for the above-captioned Debtor(s).
2. I completed all requirements of Debtor(s)' counsel pursuant to the Loss Mitigation  
Program Procedures.
3. A resolution has been reached as follows:
  - Loan modification request granted.
  - Loan modification request denied.
  - Loss Mitigation was terminated due to Debtor(s)' voluntary dismissal of the case.
  - Loss Mitigation was terminated because the case was involuntarily dismissed.
  - Loss Mitigation was terminated for the following reason(s): \_\_\_\_\_  
\_\_\_\_\_.
  - Other (please describe): \_\_\_\_\_  
\_\_\_\_\_.
4. A Loss Mitigation Program Final Report was filed on \_\_\_\_\_, 20\_\_\_\_.

All requirements necessary to complete the Loss Mitigation Program having now been met, I hereby request, pursuant to section XI(B) of the Loss Mitigation Program Procedures, approval and payment of attorney fees for Loss Mitigation in the amount of \$1,000.00, which, if a chapter 12 or 13 case, are to be paid as an administrative expense through Debtor(s)' plan.

Dated:

---

Name  
Firm  
Attorney for Debtor(s)  
Address  
Telephone Number  
Email Address  
N.D.N.Y. Bar Roll Identification No.

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

---

In re:

Debtor(s).

---

Case No.

Chapter \_\_\_\_ *[insert 7 or 11]*

**ORDER APPROVING ATTORNEY FEES FOR LOSS MITIGATION  
AND AUTHORIZING PAYMENT**

An Ex Parte Application and Certification in Support of Approval and Payment of Attorney Fees for Loss Mitigation having been submitted by \_\_\_\_\_, Esq., counsel for the Debtor(s), and after due consideration, it is hereby

**ORDERED** that attorney fees in the sum of \$1,000.00 are awarded to counsel for the Debtor(s) for services rendered in connection with representation of the Debtor(s) in the Loss Mitigation Program; and is it further

**ORDERED** that said attorney fees shall be paid to \_\_\_\_\_, Esq. by the Debtor(s) in conformance with the retainer agreement between Debtor(s) and counsel.

###

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

---

In re:

Case No.

Chapter \_\_\_\_ *[insert 12 or 13]*

Debtor(s).

---

**ORDER APPROVING ATTORNEY FEES FOR LOSS MITIGATION  
AND AUTHORIZING PAYMENT**

An Ex Parte Application and Certification in Support of Approval and Payment of Attorney Fees for Loss Mitigation having been submitted by \_\_\_\_\_, Esq., counsel for the Debtor(s), and after due consideration, it is hereby

**ORDERED** that attorney fees in the sum of \$1,000.00 are awarded to counsel for the Debtor(s) for services rendered in connection with representation of the Debtor(s) in the Loss Mitigation Program; and is it further

**ORDERED** that said attorney fees shall be paid to \_\_\_\_\_, Esq. as an administrative claim through the Debtor(s)' plan.

###



United States Bankruptcy Court  
Northern District of New York



# Loss Mitigation Program Required Forms

(Loss Mitigation Procedures Section XII)

## Guidance For CM/ECF Filing

Local Form Number	Local Form Name	CM/ECF Path
LM:1	Loss Mitigation Request by Debtor(s) and Certificate of Service	Bankruptcy > Motions/Applications > Loss Mitigation Request by Debtor Docket Text: Final Text Request for Loss Mitigation by Debtor and Certificate of Service. Filed by John Bankruptcy. Objections due by 6/4/2013. (Mason, Perry)
LM:2	Loss Mitigation Request by Creditor and Certificate of Service	Bankruptcy > Motions/Applications > Loss Mitigation Request by Creditor Docket Text: Final Text Request for Loss Mitigation by Creditor and Certificate of Service. Filed by John Bankruptcy. Objections due by 6/4/2013. (Mason, Perry)
LM:3	Objection to Loss Mitigation Request	Bankruptcy > Answer/Response > Reference an Existing motion/application > Loss Mitigation Objection Docket Text: Final Text Objection to Loss Mitigation Request. Filed by John Bankruptcy (related document(s) [2]). (Mason, Perry)

Local Form Number	Local Form Name	CM/ECF Path
LM:4	Notice of Hearing on Objection to Loss Mitigation Request and Certificate of Service	Bankruptcy > Notices > Notice of Hearing on Loss Mitigation Objection and Certificate of Service  <small>Docket Text: Final Text</small> <b>Notice of Hearing on Loss Mitigation Objection and Certificate of Service Filed by John Bankruptcy (related document(s)[2]). Hearing scheduled for 5/30/2013 at 10:00 AM at Utica CourtRoom. (Mason, Perry)</b>
LM:5	Loss Mitigation Order	Prepared and Entered by the Clerk's Office  <small>Order Granting Request for Loss Mitigation. Status hearing to be held on 7/31/2013 at 10:00 AM at Albany CourtRoom. (Ventura, Dina)</small>
LM:6	Loss Mitigation Affidavit of Debtor(s) and Certificate of Service	Bankruptcy > Other > Loss Mitigation Affidavit by Debtor(s)  <small>Docket Text: Final Text</small> <b>Loss Mitigation Affidavit by Debtor(s) and Certification of Service. Filed by John Bankruptcy (related document(s)[2]). (Mason, Perry)</b>
LM:7	Loss Mitigation Affidavit of Creditor and Certificate of Service	Bankruptcy > Other > Loss Mitigation Affidavit by Creditor  <small>Docket Text: Final Text</small> <b>Loss Mitigation Affidavit by Creditor and Certification of Service. Filed by Robert Creditor (related document(s)[2]). (McBeal, Ally)</b>

Local Form Number	Local Form Name	CM/ECF Path
LM:8	Loss Mitigation Status Report	Bankruptcy > Other > Loss Mitigation Status Report Docket Text: Final Text Loss Mitigation Status Report. Filed by John Bankruptcy (related document(s)[2]). (Mason, Perry)
LM:9	Request for Additional Loss Mitigation Conference and Status Conference	Bankruptcy > Other > Loss Mitigation Request for Additional Conference and Certificate of Service Docket Text: Final Text Loss Mitigation Request for Additional Conference and Certificate of Service. Filed by John Bankruptcy (related document(s)[2]). (Mason, Perry)
LM:10	Stipulation and Order Extending Loss Mitigation Period	Bankruptcy > Order Upload. Choose "Other" as Order Type Related document number: 2 Related document description: Request for Loss Mitigation by Debtor and Certificate of Service Order type: Other
LM:11	Stipulation and Order Terminating Loss Mitigation Period	Bankruptcy > Order Upload. Choose "Other" as Order Type Related document number: 2 Related document description: Request for Loss Mitigation by Debtor and Certificate of Service Order type: Other

Local Form Number	Local Form Name	CM/ECF Path
LM:12	Loss Mitigation Program Final Report	Bankruptcy > Other > Loss Mitigation Program Final Report Docket Text: Final Text <b>Loss Mitigation Final Report. A Resolution has been reached: Request Granted. Filed by John Bankruptcy (related document(s)[2]). (Mason, Perry)</b>
LM:13	Ex Parte Application and Certification in Support of Approval and Payment of Attorney Fees for Loss Mitigation	Bankruptcy > Motion/ Application > Loss Mitigation ExParte Application for Payment of Attorney Fees Docket Text: Final Text <b>Ex Parte Application and Certification in Support of Approval and Payment of Attorney Fees for Loss Mitigation Filed by Perry Mason. (Mason, Perry)</b>
LM:14	Order Approving Attorney Fees for Loss Mitigation and Authorizing Payment - chapter 7 or 11	Bankruptcy > Upload Order. Choose "Other" as Order Type Related document number: 39 Related document description: Loss Mitigation ExParte Application for Payment of Attorney Fees Order type: <b>Ex Parte (No Hearing Required)</b> <small>Note: If this related document is an amendment to the original document has been set for a hearing, then select order type of Hearing</small> Submitted:

Local Form Number	Local Form Name	CM/ECF Path
LM:15	Order Approving Attorney Fees for Loss Mitigation and Authorizing Payment - chapter12 or 13	Bankruptcy > Upload Order. Choose "Other as Order Type" <small>Related document number: 9</small> <small>Related document description: Loss Mitigation Ex Parte Application for Payment of Attorney Fees</small> <small>Ex Parte (No Hearing Required) -</small> <small>Order type: Note: If the related document is an amendment and the original document has been set for a hearing, then select order type of Hearing Scheduled.</small>



CLE seminar presented by

Central New York Bankruptcy Bar Association Inc.

## LOSS MITIGATION IN THE NDNY

June 19, 2013  
Syracuse, New York

&

June 21, 2013  
Utica, New York

Materials provided by

Mark W. Swimelar

Chapter 12 and Chapter 13 Trustee

## TABLE OF CONTENTS

Notice of Motion for a Mortgage Loan Modification	1- 2
Motion for a Mortgage Loan Modification with Proposed Modification Agreement	3-10
List of Creditor Contacts for Loss Modification	11-14
Loan Modification Agreement	15-22
Reasons to pay mortgages through Chapter 13 Plans By Max Gardner	23
DMM Loss Mitigation Web Portal	24-37
Standard Loss Mitigation Workout Form (sample)	38-44

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

IN RE: Chapter 13  
Case No.  
Debtor.

---

NOTICE OF MOTION FOR MORTGAGE LOAN MODIFICATION

---

PLEASE TAKE NOTICE, that upon the Motion for Mortgage Loan Modification filed by (the Debtor), by and through her attorney, John B. Robeson, Esq., the undersigned moves this Court for a hearing held on the 25<sup>th</sup> day of September, 2012 at 9:30 a.m., or as soon thereafter as counsel can be heard, at the Alexander Pirnie Federal Building, 10 Broad Street, Utica, New York, for an Order approving the Loan Modification Agreement.

PLEASE TAKE FURTHER NOTICE, that your rights may be affected. You should read these papers carefully and discuss them with your attorney. If you do not have an attorney, you may wish to consult with one.

PLEASE TAKE FURTHER NOTICE, that the hearing described herein may be adjourned from time to time without further notice to creditors or parties in interest other than the announcement of the adjourned date at the time of hearing.

PLEASE TAKE FURTHER NOTICE, that copies of the Motion and documents supporting the Motion, if any, may be obtained by sending a written request to the undersigned or by contacting the Clerk of the Bankruptcy Court, Alexander Pirnie Federal Building, 10 Broad Street, Utica, NY 13501.

PLEASE TAKE FURTHER NOTICE, that pursuant to Bankruptcy Rule 9014 and Local Bankruptcy Rule 9013-1, if you intend to oppose the motion, you must serve on movant's counsel and file with the Clerk of the Bankruptcy Court, written opposition to the motion not later than seven (7) days prior to the return date of this motion. In the event no written opposition is served and filed, no hearing on the motion will be held before the Court on the return date, and the court will consider the motion as unopposed.

PLEASE TAKE FURTHER NOTICE, that you must mail a copy of your written response to debtor's counsel, John B. Robeson, Esq., 2 South Market Street, Johnstown, New York 12095; Mark W. Swimelar, Chapter 13 Standing Trustee, 250 South Clinton Street, Suite 203, Syracuse, New York 13202; and the United States Trustee, 10 Broad Street, Utica, New York 13501.

PLEASE TAKE FURTHER NOTICE, that if you or your attorney do not take the necessary steps, the Court may decide that you do not oppose the Motion and may enter an Order granting the relief requested.

DATED: August 27, 2012

/s/ Jason A. Brott  
Jason A. Brott  
Attorney for Debtor  
2 South Market Street  
Johnstown, NY 12095  
(518) 762-6160

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

IN RE: Chapter 13  
Case No.

Debtor.

---

MOTION FOR MORTGAGE LOAN MODIFICATION

---

; by and through her attorney, John B. Robeson, Esq., respectfully represents as follows in support of her Motion for Mortgage Loan Modification (the motion):

1. The debtor filed a voluntary petition pursuant to Chapter 13 of the United States Bankruptcy Code on April 8, 2011.
2. Her Chapter 13 Plan was confirmed on November 10, 2011 with the debtor to make payments of \$580.00 for sixty (60) months. The unsecured creditors are to receive a dividend of no less than 5%.
3. GMAC Mortgage is a secured creditor in this matter and is the holder of a first mortgage on the debtor's homestead located at 750 Carlisle Road, Canajoharie, New York.
4. The debtor has entered into a Loan Modification Agreement on August 1, 2012. The Loan Modification Agreement is attached hereto as Exhibit "A".
5. The offer to modify debtor's loan agreement is contingent upon debtor receiving the Court's approval of said agreement.
6. The proposed loan modification will reduce debtor's regular monthly mortgage payment, which includes escrow, from \$769.16 to \$688.24 and reduce the interest rate from 4.875% to 4.500%.
7. The debtor is not in default with said mortgage.
8. The debtor advised that the new terms of her mortgage as proposed are affordable, and is confident that she can make timely payments.
9. Therefore, the debtor respectfully requests that the loan modification be approved.
10. That the debtor seeks an additional administrative claim of \$250.00 to John B. Robeson, Esq. for services rendered in connection with this Motion.

WHEREFORE, on the basis of the foregoing, it is respectfully requested that this Court issue an Order (1) awarding an additional administrative claim in the sum of \$250.00 to John B. Robeson, Esq. to be paid inside the plan for services rendered, (2) allowing the debtor to modify her mortgage loan with GMAC Mortgage, (3) and for such other and further relief as the Court may deem just and proper.

DATED: August 27, 2012

/s/ John B. Robeson  
John B. Robeson  
Attorney for Debtor  
2 South Market Street  
Johnstown, NY 12095  
(518) 762-6160

"Certified true and correct copy of the Original  
which had been transmitted for recording."

Investor Loan # 19051061  
Qualified ID: RAI  
This document was prepared by GMAC Mortgage, LLC

After Recording Return To:  
GMAC Mortgage, LLC  
Automated Loan Modification  
3700 J Street SW  
Suite 555  
Cedar Rapids, IA 52404

[Space Above This Line For Recording Data]

### NON-HAMP LOAN MODIFICATION AGREEMENT

Loan Modification Agreement ("Agreement") made this 9/16/2012 ("Effective Date") between  
Lender/Servicer ("Lender") and GMAC Mortgage, LLC, Lender's Servicer or Agent for  
Lender/Servicer ("Borrower") amends and supplements that certain promissory note ("Note") dated  
11/11/2005 in the original principal sum of One hundred thousand (\$100,000.00) secured by Borrower.  
The Note is secured by a Mortgage, Deed of Trust, or Deed to Secure Debt (the "Security Instrument"),  
dated the same date as the Note, and if applicable, recorded on 12/29/2005 with Instrument Number in  
1352 and/or Page Number 240 of the real property records of MONTGOMERY, NY. Said Security  
Instrument covers the real and personal property described in such Security Instrument (the "Property")  
located at 750 CARLELE ROAD CANAJOHARIE, NY 13317, which real property is more particularly  
described as follows:

( Legal Description if Applicable for Recording Only )

Borrower acknowledges that "Lender" is the legal holder and the owner, or agent/servicer for the legal  
holder and owner, of the Note and Security Instrument and further acknowledges that if "Lender"  
transfers the Note, as amended by this Agreement, the transferee shall be the "Lender" as defined in this  
Agreement.

Borrower has requested, and Lender has agreed, to extend or reamortize the time and manner of payment  
of the Note and to extend and carry forward the lien(s) on the Property whether or not created by the  
Security Instrument.

Now, therefore, in consideration of the mutual promises and agreements contained herein, and other good  
and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending  
to be legally bound, the parties hereto agree as follows (notwithstanding anything to the contrary  
contained in the Note or Security Instrument):

1. Borrower acknowledges that as of the Effective Date, the amount payable under the Note and  
Security Instrument (New Principal Balance) is \$89,899.17.

AGB11

1/2523602.2

2. If through a previous modification(s) there was principal delinquency, Borrower's previously deferred principal in the amount of \$0.00 is being forgiven. In addition, there may be new principal forgiveness in the amount of \$8,800.00. The total principal forgiveness is \$8,800.00. Forgiveness of Principal may have tax consequences and Borrower should consult Borrower's tax advisor.
3. This New Principal Balance, along with any other amount outstanding, will be due when the Term of Borrower's loan expires (the Maturity Date), or when Borrower pays off Borrower's loan at the time when Borrower sells or transfers any interest in Borrower's home, refinances the loan, or when the last scheduled payment is due. "Lender" will be under no obligation to refinance Borrower's loan.
4. The Maturity Date is 2/16/2030.
5. Borrower hereby renews and covenants such indebtedness and promises to pay jointly and severally to the order of Lender the Principal Balance, consisting of the amount(s) loaned to Borrower by Lender and any accrued but unpaid interest capitalized to date as applicable, along with any other amounts that may come due under the terms of the original Note and Security Instrument.
6. Interest will be charged on the unpaid, non-deferred, "New Principal Balance" until the non-deferred principal has been paid in full. Borrower promises to pay interest at the rate of 4.500% from 6/16/2012 until Borrower pays off Borrower's loan at the time when Borrower sell or transfer any interest in Borrower's home, refinance the loan, or when the last scheduled payment is due. If Stop Rate: The rate of interest Borrower pay will change based upon Payment Schedule below.
7. Borrower promises to make monthly principal and interest payments of \$414.29, beginning on 10/16/2012, and continuing thereafter on the same day of each succeeding month, according to the Payment Schedule below until all principal and interest is paid in full. Borrower will make such payments at 3431 Hammond Avenue, Waterloo, Iowa, 50702 or at such other place as Lender may require. The amounts indicated in this paragraph do not include any required escrow payments for items such as hazard insurance or property taxes; if such escrow payments are required the monthly payments will be higher and may change as the amounts required for escrow items change.
8. The "Lender" will be under no obligation to refinance Borrower's loan.
9. Lender will collect and record personal information, including, but not limited to, borrower's name, address, telephone number, social security number, credit score, income, payment history, government monitoring information, and information about account balances and activity. Borrower understands and consents to the disclosure of personal information and this Agreement by Lender to (i) the U.S. Department of the Treasury, (ii) Fannie Mae and Freddie Mac in connection with their responsibilities under the Home Affordable and Stability Plans; (iii) any investor, insurer, guarantor or servicer that owns, insures, guarantees or services any first lien or subordinate lien (if applicable) mortgage loan(s); (iv) companies that perform support services for purposes similar to the Home Affordable Modification Program and the Second Lien Modification Program; and (v) any HUD certified housing counselor.
10. If on 2/16/2030 (the "Maturity Date"), Borrower still owes any amounts under the Note and Security Instrument, including any "Deferred Principal Balance" as provided for in this Agreement, Borrower will pay these amounts in full on that date.

AGBN

12325002.2

11. If "Lender" has not received the full amount of any monthly payment within the grace period provided for in the original Note or as otherwise provided for by law, Borrower will pay a late payment fee to "Lender" in an amount calculated based on the late charge percentage provided for in the original Note, or as otherwise provided for by law, and the monthly payment required under this Agreement, with a maximum as provided for in the Note, or otherwise provided by law. Borrower will pay this late charge promptly, but only once on each late payment. The late charge is not in lieu of any other remedy of Lender, including any default remedy.
12. It is the intention of the parties that all liens and security interests described in the Security Instrument are hereby removed and extended (if the Maturity Date of the original Note has been changed) until the indebtedness evidenced by the Note and this Agreement has been fully paid. Lender and Borrower acknowledge and agree that such renewal, extension, modification, recommitment or retention (if applicable) shall in no manner affect or impair the Note or liens and security interests securing same, the purpose of this Agreement being simply to modify, amend, reorganize, or extend (if applicable) the time and the manner of payment of the Note and indebtedness evidenced thereby, and to carry forward all liens and security interests securing the Note, which are expressly acknowledged by Borrower to be valid and subsisting, and in full force and effect as to fully secure the payment of the Note.
13. If all or any part of the Property or any interest in it is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by the Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by applicable law. If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by the Security Instrument without further notice or demand on Borrower. For purposes of this paragraph, "interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, this beneficial interest transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is transfer of title by Borrower at a future date to a purchaser.
14. As amended hereby, the provisions of the Note and Security Instrument shall continue in full force and effect, and the Borrower acknowledges and reaffirms Borrower's liability to Lender. In the event of any inconsistency between this Agreement and the terms of the Note and Security Instrument, this Agreement shall govern. Nothing in this Agreement shall be understood or construed to be a satisfaction or release in whole or in part of the Note and Security Instrument. Except as otherwise specifically provided in this Agreement, the Note and Security Instrument will remain unchanged, and Borrower and Lender will be bound by, and comply with, all of the terms and provisions thereof, as amended by this Agreement, including but not limited to, in the case of the Borrower, the obligation to pay items such as taxes, insurance premiums or escrow items, as applicable. Any default by Borrower in the performance of its obligations herein contained shall constitute a default under the Note and Security Instrument, and shall allow Lender to exercise all of its remedies set forth in said Security Instrument.
15. Lender does not, by its execution of this Agreement, waive any rights it may have against any person not a party hereto. This Agreement may be executed in multiple counterparts, each of which

ASBII

1/23258023

shall constitute an original instrument, but all of which shall constitute one and the same Agreement.

**EACH OF THE BORROWER AND THE LENDER ACKNOWLEDGE THAT NO REPRESENTATIONS, AGREEMENTS OR PROMISES WERE MADE BY THE OTHER PARTY OR ANY OF ITS REPRESENTATIVES OTHER THAN THOSE REPRESENTATIONS, AGREEMENTS OR PROMISES SPECIFICALLY CONTAINED HEREIN. THIS AGREEMENT, AND THE NOTE AND SECURITY INSTRUMENT (AS AMENDED HEREBY) SETS FORTH THE ENTIRE UNDERSTANDING BETWEEN THE PARTIES. THERE ARE NO UNWRITTEN AGREEMENTS BETWEEN THE PARTIES.**

AGBI

1/325402.2

11/3/12  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**BORROWER ACKNOWLEDGMENT**

State of New York  
County of Fulton

On this 3rd day of Nov, 2012 before me, the undersigned, a Notary Public in and for said county and state, personally appeared \_\_\_\_\_, personally known to me or identified to my satisfaction to be the person(s) who executed the within instrument, and they duly acknowledged that said instrument is their act and deed, and that they, being authorized to do so, executed and delivered said instrument for the purposes therein contained.

Witness my hand and official seal.

Michele Krohn  
Notary Public  
My Commission Expires 2-7-13

MICHELE KROHN  
NOTARY PUBLIC, STATE OF NEW YORK  
QUALIFIED IN FULTON COUNTY  
NO. #01KRB121862  
MY COMM. EXP. 2-7-2013

A0811

1/23/2012

GMAC Mortgage, LLC

By: Alicia Decker *Alicia Decker*

Title: Authorized Officer

Date: 12/14/12

LENDER ACKNOWLEDGMENT

State of IOWA  
County of Winn

On this 14th day of Dec, 2012, I, Liba Howard, a Notary Public in and for said county and state, personally appeared Alicia Decker, personally known to me or identified to me as the person who executed the within instrument as Authorized Officer of GMAC Mortgage, LLC, said instrument is the act and deed of said entity, and that they, being authorized to do so, executed and delivered said instrument for the purposes therein contained.

Witness my hand and official seal.

*Liba Howard*

Notary Public  
My Commission Expires: \_\_\_\_\_



AGBI

1/2323603.2

Lender/Serviceer	Phone Number	Type	Contact Name	E-Mail
Ally Financial/GMAC	800-770-4038			
Aurora Loan Servicing	317-572-2430		Neva Hall	<a href="mailto:Neva.Hall@Aurorabankfsb.com">Neva.Hall@Aurorabankfsb.com</a>
Bank of America	855-235-6145			
Cenlar	609-883-3900, Ext. 7221		Patricia Bracey	<a href="mailto:pbracey@cenlar.com">pbracey@cenlar.com</a>
Citibank	866-613-5636			
Citibank		Escalation	John Crane	<a href="mailto:John.t.crane@citi.com">John.t.crane@citi.com</a>
Citibank		Escalation	Tanya Ries	<a href="mailto:Tanya.ries@citi.com">Tanya.ries@citi.com</a>
Citibank	469-220-4113	Asst. General Counsel	Doug Harvey	<a href="mailto:Doug.harvey@citi.com">Doug.harvey@citi.com</a>
Fifth Third Bank	513-358-2493		Jamie Barkhurst	<a href="mailto:Jamie.Barkhurst@53.com">Jamie.Barkhurst@53.com</a>
Green Tree Servicing	877-816-9123			
Green Tree Servicing	605-355-7071	Escalation	Carolyn	
Homeward Residential	866-612-2863			
Homeward Residential	904-996-1744	Escalation	Loraine Baggs	<a href="mailto:Loraine.Baggs@gohomeward.com">Loraine.Baggs@gohomeward.com</a>
IndyMac/One West	512-918-7065		Trent Thompson	<a href="mailto:Trent.thompson@owb.com">Trent.thompson@owb.com</a>
JPMorgan/Chase	866-773-7583	Mortgage Loans		
JPMorgan/Chase	855-796-5593	Home Equity Loans		
Nationstar	972-219-4488	Escalation	Becky Halfmann	<a href="mailto:Becky.Halfmann@Nationstarmail.com">Becky.Halfmann@Nationstarmail.com</a>
Ocwen Financial				<a href="mailto:BKTrusteeQueries@Ocwen.com">BKTrusteeQueries@Ocwen.com</a>
Ocwen Financial		Escalation	Ragha Gottuparthi	<a href="mailto:Ragha.Gottuparthi@Ocwen.com">Ragha.Gottuparthi@Ocwen.com</a>
Ocwen Financial	561-682-7345	2 <sup>nd</sup> Escalation	Byron Gay	<a href="mailto:Byron.Gay@Ocwen.com">Byron.Gay@Ocwen.com</a>
Ocwen Financial	561-682-7890	Sr. Litigation Counsel	Patrick G. Broderick	<a href="mailto:Patrick.Broderick@Ocwen.com">Patrick.Broderick@Ocwen.com</a>
PNC Mortgage	866-754-0659			
PNC Mortgage	937-910-4278	Escalation	Camela Young	<a href="mailto:Camela.Young@pncmortgage.com">Camela.Young@pncmortgage.com</a>
PNC Mortgage	937-910-4201	2 <sup>nd</sup> Escalation-POC	George Wright	<a href="mailto:George.Wright@pncmortgage.com">George.Wright@pncmortgage.com</a>
Rushmore Loan	949-341-5651		Tamara Price	<a href="mailto:tprice@rushmorelm.com">tprice@rushmorelm.com</a>
Rushmore Loan	949-341-5652		Grace Elizarraraz	<a href="mailto:gelizarraraz@rushmorelm.com">gelizarraraz@rushmorelm.com</a>
Rushmore Loan	888-504-6700			

Seterus	503-372-8142, Ext. 7634	Escalation	Jodi Seits	<a href="mailto:jodi.seits@seterus.com">jodi.seits@seterus.com</a>
Seterus	503-372-8142, Ext. 7841	Team Lead, BK Account Team	Ben Johnston	<a href="mailto:ben.johnston@seterus.com">ben.johnston@seterus.com</a>
Seterus	503-372-8142, Ext. 7816	Team Lead, BK Contact Team	Joi Kilby	<a href="mailto:joi.kilby@seterus.com">joi.kilby@seterus.com</a>
Seterus	503-372-8142, Ext. 7807	Team Lead, BK Support Team	David Jacobs	<a href="mailto:david.jacobs@seterus.com">david.jacobs@seterus.com</a>
Specialized Portfolio Servicing	801-594-6338		JoAnn Goldman	<a href="mailto:Joann.goldman@spservicing.com">Joann.goldman@spservicing.com</a>
Wells Fargo	877-599-9953			

**DEBTOR ATTORNEY  
LOSS MITIGATION UPDATE**

**Loss Mitigation Contacts:**

BancorpSouth	Carla Hall 662-620-3644	<a href="mailto:carla.hall@bxs.com">carla.hall@bxs.com</a>
Bank of America	Richard H. Shults 716-635-7190	<a href="mailto:Richard.shults@bankofamerica.com">Richard.shults@bankofamerica.com</a>
Boshwit Bros. Mortgage Co.	Andrew Boshwit 901-272-0100	<a href="mailto:aboswhit@comcast.net">aboswhit@comcast.net</a>
Cimarron Mortgage Co.	Ronnie Greenhagen 601-899-1547 (voice) 601-899-1502 (fax)	<a href="mailto:ronnieg@ecimarron.com">ronnieg@ecimarron.com</a>
Citimortgage	Leann Luhn 301-696-4267 301-696-4473 (fax)	<a href="mailto:leann.luhn@citigroup.com">leann.luhn@citigroup.com</a>
Countrywide	Bobbi Hook 214-200-2594	<a href="mailto:bobbi.hook@bankofamerica.com">bobbi.hook@bankofamerica.com</a>
Davison State Bank	Lori Barton 810-714-3940	<a href="mailto:lorib@thestatebank.com">lorib@thestatebank.com</a>
EMC Mortgage	Jennifer Short 214-626-2527	<a href="mailto:jshort2@jpmorgan.com">jshort2@jpmorgan.com</a>
Fentura Mortgage	Lori Barton 810-714-3940	<a href="mailto:lorib@thestatebank.com">lorib@thestatebank.com</a>
1 <sup>st</sup> Trust Bank for Savings (Magna Bank)	Robin Terry 901-309-7999 ext 4413	<a href="mailto:robin.terry@magnabank.com">robin.terry@magnabank.com</a>
First Horizon	Shantell Williams 214-441-6013	<a href="mailto:shtaylor@firsthhorizon.com">shtaylor@firsthhorizon.com</a>
HSBC Mortgage Corp.		<a href="mailto:mbsdldinvestorliaison@mortgagefamily.com">mbsdldinvestorliaison@mortgagefamily.com</a>
Litton Mortgage	Randy Reynolds 713-966-8985 John Crandall 713-561-8211 (Phone) 713-793-4304 (fax)	<a href="mailto:rreynolds@litton.c-bass.com">rreynolds@litton.c-bass.com</a> <a href="mailto:j.Crandall@littonloan.com">j.Crandall@littonloan.com</a>

**DEBTOR ATTORNEY  
LOSS MITIGATION UPDATE**

**Loss Mitigation Contacts:**

MB Financial Bank	Nannette Makarzyk 847-653-2840 (phone) 847-653-0099 (fax)	<a href="mailto:Nmakarzyk@mbfinancial.com">Nmakarzyk@mbfinancial.com</a>
M&T Bank	Judith Palmer 716-635-4008 Tel. 716-635-4070 Fax	<a href="mailto:JPalmer@mandtbank.com">JPalmer@mandtbank.com</a>
Ocwen	Cindy White 404-737-5544	<a href="mailto:cindy.white@ocwen.com">cindy.white@ocwen.com</a>
PHH Mortgage	800-750-2518	<a href="mailto:MBSLMReferrals@mortgagefamily.com">MBSLMReferrals@mortgagefamily.com</a>
Real Time Resolutions	Cynthia Allman 214-599-6321 (phone) 214-418-9464 (cell)	<a href="mailto:Cynthia.allman@rtresolutions.com">Cynthia.allman@rtresolutions.com</a>
Resurgent Capital Services	Jessica Granger 864-248-8664 Sherrie Emerson 800-365-7107 ext 8615 Caleb Rogers 864-248-8954 Michael Keaton 800-365-7107 ext 8756	<a href="mailto:jgranger@resurgent.com">jgranger@resurgent.com</a> <a href="mailto:semerson@resurgent.com">semerson@resurgent.com</a> <a href="mailto:crogers@resurgent.com">crogers@resurgent.com</a> <a href="mailto:mkeaton@resurgent.com">mkeaton@resurgent.com</a>
Select Portfolio Servicing	Joann Goldman 801-594-6338	<a href="mailto:joann.goldman@spservicing.com">joann.goldman@spservicing.com</a>
The State Bank	Lori Barton 810-714-3940	<a href="mailto:lorib@thestatebank.com">lorib@thestatebank.com</a>
Washington Mutual Home Loans	David Whitman 904-886-6113 Julie A. Mathis 904-886-1305 Chrissy Lopez 904-886-1313	<a href="mailto:bkriskmitigation@wamu.net">bkriskmitigation@wamu.net</a>
Wells Fargo Financial Wells Fargo Financial Bank	Pam Gross 515-331-9130 or 866-533-2108	<a href="mailto:Pam.Gross@wellsfargo.com">Pam.Gross@wellsfargo.com</a>
Wells Fargo Home Mortgage	Robert Kallenbrun 803-396-4088 Phone 866-359-7363 fax	<a href="mailto:lossmitactivebnk@wellsfargo.com">lossmitactivebnk@wellsfargo.com</a> <a href="mailto:robert.kallenbrun@wellsfargo.com">robert.kallenbrun@wellsfargo.com</a>

When recorded, mail to: MOD REC  
Equity Loan Services, Inc.  
Loss Mitigation Title Services- LMTS  
1100 Superior Ave., Ste 200  
Cleveland, OH 44114  
Attn: National Recordings-1120  
5083767

This property will be improved by  
a 1 or 2 family dwelling only.

Please cross-reference to: Deed Book 925, Page 0111, Otsego County, State of New York.

LOAN MODIFICATION AGREEMENT

This Loan Modification Agreement ("Agreement") made this March 25, 2009 between (referred to jointly and severally as "Borrower") and MidFirst Bank, located at 999 NW Grand Blvd, Suite 100, Oklahoma City, OK 73118 its successors and assigns ("Lender") renews, amends, supplements, and extends (1) the Mortgage to United Mortgage, L.L.C., Deed of Trust or Security Deed (the "Security Instrument") recorded March 26, 2001 in Book 925, page 0111, in Otsego County, New York, and assigned to AmeriFirst Financial Corporation, ISAOA, recorded on March 26, 2001 in 925 (Liber #) at Page 0118, and assigned to Homeside Lending, Inc., recorded on June 26, 2001 in 945 (Liber #) at Page 0311, and assigned to MIDFIRST BANK, recorded on November 02, 2004 in 1382 (Liber #) at Page 0213, in the Clerk of the County of Otsego and (2) the Note, in the original principal amount of U.S. \$56,700.00, bearing the same date as and secured by, the Security Instrument (and other loan documents typically referred to as "addenda" or "riders" (collectively referred to herein as the "Loan Documents"), which covers the real and personal property described in the Security Instrument, and defined therein as the "Property," located at 3578 ST HWY 205, HARTWICK, NY 13348-2009, the legal description of the Property being set forth as follows:

See Exhibit "A" attached hereto and made a part hereof;

Parcel #363200144.19-1-61.00

(herein defined as "Property").

Section 144.19, Block 1, Lot 61;

Capitalized Amount: \$5,706.92

REC'D BY MARINO  
4088388 NY  
FIRST AMERICAN ELS  
MODIFICATION AGREEMENT  
RECEIVED BY NATIONAL RECORDINGS

The Note and the Security Instrument may be collectively referred to herein as the "Loan Documents." Borrower now desires to extend or rearrange the time and/or manner of repayment or payment of the Note and to extend and carry forward the lien(s) on the Property, whether created by the Security Instrument or otherwise. Lender, the legal holder and owner of the Note and of the lien(s) securing the same, has agreed at the request of the Borrower to extend or rearrange the time and manner of payment of the Note.

In consideration of the mutual promises and agreements exchanged, and other good and valuable consideration paid by each of the parties to the other, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to modify, renew and extend the Note and

"THE REFERENCED PROPERTY IS OR WILL BE IMPROVED WITH A ONE OR TWO FAMILY HOME OR DWELLING."  
Page 1 of 8 of the Loan Modification Agreement  
Loan #  
Order #

1575-0562

Exhibit "A"

All that tract, piece or parcel of land situate in the Town of Hartwick, County of Otsego and State of New York, bounded and described in deed given by Paul D. Cook to Chester J. Winslow, Jr. dated April 13, 1946, and recorded in the Otsego County Clerk's Office April 15, 1946 in Liber 419 of Deeds at page 112, as follows:

"All that tract or parcel of land situate in the Village of Hartwick, County of Otsego and State of New York, bounded and described as follows: Beginning in the center of the highway on what is known as South Street in the Village of Hartwick, running East along the South line of lands now owned by Heman and Ida Backus formerly owned by Clarence Chittenden two hundred and eleven (211) feet; thence South along land formerly owned by Edward H. Risley and now owned by H.O. Branch ninety-five feet and six inches ( $95\text{-}6/12$ ); thence in a Northwesterly course forty-four feet and four inches ( $44\text{-}4/12$ ) along the lands of William Risley to the Old Mill lot corner; thence along the land of William Risley in a Westerly course one hundred and seventy six (176) feet to the corner of South Street; thence North along the center line of South Street ninety one foot (91) to the place of beginning."

"THE REFERENCED PROPERTY IS OR WILL BE IMPROVED WITH A ONE OR TWO FAMILY HOME OR DWELLING."

Page 8 of 8 of the Loan Modification Agreement

Loan # [REDACTED]

Order # [REDACTED]

Security Instrument and any other Loan Documents, as follows (notwithstanding anything to the contrary contained in the Note or Security Instrument or other Loan Documents):

1. Acknowledgement of Unpaid Principal Balance: Borrower acknowledges that as of March 01, 2009, the total amount payable under the Note and the Security Instrument is U.S. \$58,539.87, consisting of the unpaid amount(s) loaned to Borrower by Lender an outstanding principal balance of \$52,882.95, plus accrued unpaid interest of \$3,911.10, and other amounts capitalized, which may include escrow shortage (consisting of unpaid hazard insurance, taxes and/or mortgage insurance premiums and herein referred to as "Escrow") of \$1,795.82 (collectively referred to as "Modified Principal Balance"). The Borrower hereby renews, extends and promises to pay the Modified Principal Balance, plus interest, to the order of Lender. Interest will be charged on the Modified Principal Balance until the full amount of the Modified Principal Balance has been paid in accordance with the terms and conditions of the Note and other Loan Documents.
2. Monthly Payment Amount, Timing of Payment, and Maturity Date:
  - a. The Borrower promises to pay the Modified Principal Balance, plus interest, to the order of Lender, its successors and assigns in US Dollars. Interest will be charged on the Modified Principal Balance at the yearly rate of 8.875% from March 01, 2009 until paid in full. The Borrower promises to make monthly payments of principal and interest of U.S. \$504.97 beginning on the 1<sup>st</sup> day of April 2009 and continuing thereafter on the same day of each succeeding month until principal and interest are paid in full.
  - b. In addition, if an Escrow account has been established under the terms and conditions of the Note or other Loan Documents, Borrower will make an Escrow payment each month on each payment due date. The current Escrow payment is \$167.80 per month, which is subject to change depending on the amounts attributable to taxes, insurance and other Escrow Items. The initial combined monthly principal, interest, and Escrow payment will be \$672.77, if such an Escrow has been established, and shall be payable as set forth under Section 2(a), above.
  - c. If on April 01, 2031 (the "Maturity Date"), the Borrower still owes amounts under the Note, and the Security Instrument, and other Loan Documents, as amended by this Agreement, the Borrower will pay these amounts in full on the Maturity Date.
3. Place of Payment: The Borrower agrees to will make such payments at the following address or at such other place as the Lender may require:

Midland Mortgage Co.  
Attn: Cashiers  
P.O. 268888  
Oklahoma City, OK 73126-8888
4. Sale or Transfer of Property by Borrower:
  - a. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in the Borrower is sold or transferred if the Borrower is not a natural person) without the Lender's prior written consent, the Lender may require immediate payment in full of all sums secured by this Security Instrument without further notice or demand on the Borrower.
  - b. If the Lender exercises this option, the Lender shall give the Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which the Borrower must pay all sums secured by the Security Instrument. If the Borrower fails to pay these sums prior to the expiration of this period, the Lender may invoke

"THE REFERENCED PROPERTY IS OR WILL BE IMPROVED WITH A ONE OR TWO FAMILY HOME OR DWELLING."  
Page 2 of 3 of the Loan Modification Agreement.  
Loan Order [REDACTED]

any remedies permitted by the Security Instrument without further notice or demand on the Borrower.

5. **Renewal and Extension:** It is the intention of the parties that all liens and security interests described in the Security Instruments are hereby renewed and extended until the Principal Balance evidenced by the Note, as renewed, modified, and extended hereby, has been fully paid. The Borrower and Lender acknowledge and agree that such extension, renewal, amendment, modification or rearrangement shall in no manner affect or impair the Note or the liens and security interests securing same, the purposes of this Agreement being simply to extend, modify, amend or rearrange the time and manner of payment of the Note and the indebtedness evidenced thereby, and to carry forward all liens and security interests securing the Note (including, if applicable, any and all vendor's liens securing the Note), which are expressly acknowledged by Borrower to be valid and subsisting, and in full force and effect to fully secure the payment of the Note. Borrower hereby expressly waives the benefit of any and all statutes of limitations which might otherwise inure to Lender's benefit, or be in any way applicable to Lender's obligations under the terms of any and all instruments described herein. Borrower further expressly waives any right of set-off or counterclaim, or any defense to the obligations of the Note or Security Instrument.
6. **No Waiver of Lender's Rights Regarding Default:** All of the rights and remedies, stipulations, and conditions contained in the Security Instrument relating to default in the making of payments under the Security Instrument shall also apply to default in the making of the modified payments hereunder. This Agreement shall in no way be deemed to be a waiver of Lender's rights and remedies by reason of any default by Borrower under the Note and Security Instrument as herein modified, including without limitation future payment defaults, and nothing contained herein shall be deemed to be a waiver by Lender of any terms or conditions of the Note and Security Instrument as modified herein. Nothing herein shall constitute an agreement by Lender to any future modification of the Note and Security Instrument and Lender expressly reserves the right to refuse to agree to any future modifications.
7. Nothing in this Agreement shall be understood or construed to be a novation, satisfaction or release in whole or in part of the Note and Security Instrument. Except as otherwise specifically modified in this Agreement, the Note and Security Instrument will remain unchanged, and the Borrower and the Lender will be bound by, and comply with, all of the terms and provisions thereof, except as modified by this Agreement.
8. This Agreement shall in no way be deemed to be a waiver of Lender's rights and remedies by reason of any default by Borrower under the Note and Security Instrument as herein modified, including without limitation future payment defaults, and nothing contained herein shall be deemed to be a waiver by Lender of any terms or conditions of the Note and Security Instrument as modified herein. Nothing herein shall constitute an agreement by Lender to any future modification of the Note and Security Instrument and Lender expressly reserves the right to refuse to agree to any future modifications.
9. **Release and Waiver of Other Claims:** As an express inducement to Lender's agreement to this Agreement, Borrower, jointly and severally, hereby unconditionally releases Lender, its legal representatives, affiliates, subsidiaries, parent companies, agents, officers, employees, attorneys, successors and assigns (collectively the "Released Parties") from any and all claims, demands, actions, damages and causes of actions which Borrower has asserted or claimed or might now or hereafter assert or claim against all or any of the Released Parties, whether known or unknown, arising out of, related to or in any way connected with or based upon any Prior Related Event

"THE REFERENCED PROPERTY IS OR WILL BE IMPROVED WITH A ONE OR TWO FAMILY HOME OR DWELLING."  
Page 3 of 8 of the Loan Modification Agreement  
Loan #46918251  
Order # 4827643

(as such term is hereinafter defined). As used herein, the term "Prior Related Event" shall mean any act, omission, circumstance, agreement, loan, extension of credit, transaction, transfer, payment, event, action or occurrence between or involving Borrower or Borrower's property and all or any of the Released Parties and which was made or extended or which occurred at any time or times prior to the execution of this Agreement, including without limiting in any respect the generality of the foregoing: (i) any action taken to obtain payment of any indebtedness or to otherwise enforce or exercise any right or purported right of Lender as a creditor of Borrower; and (ii) any payment or other transfer made to Grantor/Lender by or for the account of Borrower. Borrower agrees and acknowledges that this release is not to be construed as or deemed an acknowledgement or admission on the part of any of the Released Parties of liability for any matter or as precedent upon which liability may be asserted.

10. Bankruptcy. If, since inception of this loan through date of this Agreement, the Borrower has received a discharge in a Chapter 7 bankruptcy and there has been no valid reaffirmation of the underlying debt, the Lender is not attempting to re-establish any personal liability for the underlying debt by entering into this Agreement. However, the parties acknowledge that the Lender retains certain rights, including but not limited to the right to foreclose its interest in the property under appropriate circumstances. The parties agree that the consideration for this Agreement is the Lender's forbearance from presently exercising its right and pursuing its remedies under the Security Instrument as a result of the Borrower's default of its obligations thereunder.

11. Loan Documents Remain in Full Force and Effect: As amended herein, the provisions of the Note and Security Instrument shall continue in full force and effect, and Borrower acknowledges and reaffirms Borrower's liability to Lender thereunder. In the event of any inconsistency between this Agreement and the terms of the Note and Security Instrument, this Agreement shall govern. Nothing in this Agreement shall be understood or construed to be a novation, satisfaction or release in whole or in part of the Note and Security Instrument. Except as otherwise specifically modified in this Agreement, the Note and Security Instrument will remain unchanged, and the Borrower and the Lender will be bound by, and comply with, all of the terms and provisions thereof, except as modified by this Agreement.

12. Grantee represents under penalty of perjury that Grantee IS the occupant of the Property.

13. Execution of Additional Documents: Borrower agrees to make and execute such other documents or papers as may be necessary or required to effectuate the terms and conditions of this Agreement which, if approved and accepted by Lender, shall bind and inure to the heirs, executors, administrators, and assigns of the Borrower.

14. Grantee represents under penalty of perjury that the Property has no physical conditions that will adversely affect Grantee's continued use of the Property or interfere with Grantee's ability to maintain the payments referred to in Paragraph No. 2.

15. Costs and Expenses: All costs and expenses incurred by Lender in connection with this Agreement, including recording fees, title examination, and attorney's fees, shall be paid by the Borrower and shall be secured by the Security Instrument, unless stipulated otherwise by Lender.

16. Miscellaneous

"THE REFERENCED PROPERTY IS OR WILL BE IMPROVED WITH A ONE OR TWO FAMILY HOME OR DWELLING."

Page 4 of 8 of the Loan Modification Agreement

Loan #  
Order #

- a. Lender does not, by execution of this Agreement, waive any rights it may have against any person not a party to the Agreement.
- b. If any provision in this Agreement shall to any extent be determined by a court of law to be invalid, the remainder of the Agreement shall not be affected thereby, and shall continue in full force and effect to bind the parties.
- c. This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement.
- d. This Agreement shall be governed by the laws of the State where the Property is located.

IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS LOAN MODIFICATION AGREEMENT, TOGETHER WITH THE LOAN DOCUMENTS AND ANY EXHIBITS AND SCHEDULES THERETO, REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND CONTROL OVERWITH RESPECT TO THE SUBJECT MATTER THEREOF AND SUPERSEDE ALL PRIOR NEGOTIATIONS, AGREEMENTS AND UNDERTAKINGS BETWEEN THE PARTIES WITH RESPECT TO SUCH MATTER. ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN AGREEMENT MAY BE LEGALLY ENFORCED. THIS LOAN MODIFICATION AGREEMENT MAY BE AMENDED ONLY BY AN INSTRUMENT IN WRITING EXECUTED BY THE PARTIES OR THEIR PERMITTED ASSIGNEES.

"THE REFERENCED PROPERTY IS OR WILL BE IMPROVED WITH A ONE OR TWO FAMILY HOME OR DWELLING."  
Page 5 of 8 of the Loan Modification Agreement  
Loan # [REDACTED]  
Order # [REDACTED]

DEBORAH Signature

Acknowledgment

STATE OF New York )  
 ) SS:  
COUNTY OF Otsego )

On the 2 day of April, 2009, before me, the undersigned, a notary public in and for said state, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

In witness whereof, I hereunto set my hand and official seal.

[Signature]  
Notary Public  
[Signature]  
Printed name of notary

County of Residence: \_\_\_\_\_

Commission Number: \_\_\_\_\_

My Commission Expires:  
\_\_\_\_\_

LISA A LENT  
Notary Public - State of New York  
No. 01458106822  
Qualified in Otsego County  
My Commission Expires 06/01/2011

"THE REFERENCED PROPERTY IS OR WILL BE IMPROVED WITH A ONE OR TWO FAMILY HOME OR DWELLING."  
Page 6 of 8 of the Lease Modification Agreement  
Last  
Order



---

There is a very short, but powerful quote by none other than the legendary Max Gardner, which is a ringing endorsement for paying mortgages via Plans. Max gave us permission to use his quote in materials. According to Max:

I am a very strong believer in conduit payments.

First, I always have proof of the payments.

Second, they are stealing the Trustee's money and not the debtor's money when they misapply payments.

Third, I can check the status of payments each month on the Trustee's website.

Fourth, the Trustee files the motion to declare the mortgage current at the end of the plan.

Fifth, the Trustee is also a co-plaintiff in any AP or motion against the Servicer.

Sixth, since the Trustee creates a post-petition arrearage claim to deal with the conduit elements of the plan, the fees in the plan get paid quicker.

Seventh, there is never an issue of standing to pursue any servicer-related claims.

OMG!!!



# DMM LOSS MITIGATION WEB PORTAL

[WWW.DCLMWP.COM](http://WWW.DCLMWP.COM)

Northern District of New York, ERS Court  
Case No. 10-1001

© templatesblue.com

# DEFAULT MITIGATION MANAGEMENT LLC

## EXECUTIVE SUMMARY

The Portal is the single point of contact for all parties involved in the loss mitigation process through which critical documentation and communication is exchanged, routed, stored and accessed. All information is stored digitally and can be accessed easily from any computer with an internet connection. This secure and intuitive environment ensures that a clear and dedicated channel of communications exists between all parties resulting in more effective and speedy resolutions.

The Portal is very easy to use, can be integrated with existing computer systems, and costs less than typical overnight delivery charges.

**DMM**

# DMM LOSS MITIGATION WEB PORTAL

## WHAT IS THE PORTAL?

- Secure Online Platform That Connects All Stakeholders To A Loss Mitigation Review Including Mediations
  
- Background
  - Portal founded in collaboration with NACTT in 2008
  - Live since January 1, 2009
  
- Key Functionality
  - Document Delivery (borrower and servicer)
  - Dynamic Communications
  - Transparency
  - Court/ Mediator Access to Records
  - Easy to Use
  - Reporting
  - SPOC Compliant

DMM

## DMM LOSS MITIGATION WEB PORTAL USERS

- Most Major Servicers already using DMM Portal with other Court-Ordered Programs.
  - Most prefer the standardization of the process
  
- States / Courts Already Using the DMM Portal
  - SDNY BK Court
  - Rhode Island BK Court
  - New Jersey BK Court
  - ED Wisconsin BK Court – Portal mandated
  - Wisconsin State Foreclosure Mediations – Portal mandated
  - WD Pennsylvania BK Court – Portal mandated
  - SD Florida BK Court – Portal mandated
  - Other courts in process of implementing DMM Portal (including mandates)

**DMM**

## DMM LOSS MITIGATION WEB PORTAL DOCUMENT DELIVERY

- Portal solves document delivery issues
  - Servicer instructions and forms available for download
    - Borrower knows exactly what's needed
  - Electronic submission of all documents
  - Real-time delivery of documents
    - Reduces processing times
  - Proof of document delivery
    - Every transaction is time/date stamped
  - Automatic indexing of all documents
    - Borrower Name, Loan Number, Doc Type and Date Submitted
  - Document retention on Portal
    - Documents are stored and available for viewing 24/7/365
    - Documents can be downloaded at any time by all parties
    - All parties see exact same documents
  - Servicers can deliver required documents through Portal
    - Additional forms, packages, etc

DMM

## DMM LOSS MITIGATION WEB PORTAL DYNAMIC COMMUNICATIONS

- Real time communications
  - Send and receive messages through Portal
    - Reduce/eliminate need for phones/faxes/touches
  - Right party contact
    - Servicer messages automatically routed to borrower
    - Borrower messages automatically routed to assigned associates
    - No need to remember email, phone, fax
  - Automatically update statuses
    - Acknowledge receipt of package
    - Report decision
  - Request and receive additional documents based on investor requirements
  - All messages delivered as soon as they are sent

**DMM**

## DMM LOSS MITIGATION WEB PORTAL DYNAMIC COMMUNICATIONS

### ➤ Message Center / History

- All communications recorded and available for viewing
- All messages time/date stamped
- New messages identified

### ➤ Email Notifications

- Email notices sent to all registered email addresses
- Can be used to notify third parties such as courts, trustees, mediators, etc.

DMM

## DMM LOSS MITIGATION WEB PORTAL TRANSPARENCY

### ➤ Accountability

- Because all communications and documents are captured and available online, all parties know exactly what needs to be done
- Eliminates “misunderstandings” between parties

### ➤ Court / Trustee / Mediator Access

- Court / Trustee / Mediator can login in and view accounts in their jurisdiction
  - All documents / file history available
- Review communications between parties
- Quickly focus in on issues
- Make settlement conferences more productive

DMM

## DMM LOSS MITIGATION WEB PORTAL EASY TO USE

- Web-based
  - No software to install
- Online “Wizards” explain step-by-step process
- Most actions performed with one or two clicks of mouse from one main screen
- Video Tutorials / User Manuals
- Training Provided
  - Training sessions last approximately 90 minutes
  - Can be done online or onsite
  - Over 5,000 people already trained

DMM

## DMM LOSS MITIGATION WEB PORTAL COST

- No Development Costs
- No Maintenance Cost
- No User Fees
  - Unlimited users
- \$25 per account

DMM

## DMM LOSS MITIGATION WEB PORTAL

### ADVANTAGES OF DMM PORTAL

#### ➤ Streamlined Communications

- Borrower directly connected to servicer loss mit
- No lost documentation
- Real time communications
- All parties can send communications and documents

#### ➤ Transparency

- History of every action tracked and viewable by all parties
- All stakeholders see the same exact information
- Objective record of all transactions
- Access to all documents submitted (in digital format)

**DMM**

## DMM LOSS MITIGATION WEB PORTAL

### ADVANTAGES OF DMM PORTAL

- “Out-of-the-Box” Program
  - Other Courts have already developed detailed and comprehensive programs and procedures using the DMM Portal providing the blueprint for adopting and implementing such programs.
  - 100+ Servicers already registered to use the DMM Portal including all national servicers.

DMM

DMM LOSS MITIGATION WEB PORTAL  
CONTACT INFORMATION

- For more information about the DMM Portal and how the Portal can help you build a better Loss Mitigation Program, contact:

Igor Roitburg, COO Default Mitigation Management LLC

859-663-2928

[iroitburg@defaultmitigation.com](mailto:iroitburg@defaultmitigation.com)

DMM

- [Back To Login](#)

Please answer the question(s) below to find out if your servicer is using the DMM Portal:

Is the borrower in active bankruptcy?  Yes  No

Select bankruptcy district:

New York - Northern - Syracuse

[ [Display Available Servicers](#) ]

**Available Servicers**

- 21st Mortgage Corporation
- Bank of America / Countrywide
- Chase / EMC / WaMu
- Kentucky Housing Corporation
- Ocwen Loan Servicing (Litton / Saxon)
- PHH Mortgage Corp.
- Residential Credit Solutions
- Resurgent Capital Services
- Saxon Mortgage Services
- Select Portfolio Servicing
- Test Servicer - DO NOT USE
- Washington Mutual
- Wells Fargo Home Mortgage / Americas Servicing Company

[ [Reset](#) ]



Copyright 2009 Loss Mitigation Portal

**Document Checklist**

LOAN # \_\_\_\_\_

**Please submit the following information to be considered for Loss Mitigation Assistance:**

- o Hardship letter/Hardship Affidavit: (A detailed letter explaining what caused your financial problems) ***Must be signed and dated by all borrowers.***
- o Verification of all income you have listed on the Financial Statement Form. **(Wages, Social Security Award Letter, Disability, Child/Alimony income (Divorce Decree), Profit & Loss statement, Rental/Leases Agreements, 401K, IRA, Brokerage Account if applicable etc...)**
- o If you are currently working we need copies of your last **two (2)** pay stubs.
- o If you are currently collecting unemployment, copies of your last **two (2)** unemployment paystubs and the unemployment award letter or unemployment extension letter.
- o If you are self-employed, please provide a **Year-to-Date** profit and loss statement.
- o If any of your income is from child/alimony support, rental, social security, disability please provide paperwork to verify this income. **(Acceptable forms of verification include: Court orders, Divorce Decree, Award letters or similar documents.)**
- o Copy of your signed federal tax returns **(All Pages Required)** for the last **two (2)** years.
- o Signed Copy of your **4506-T Form**.
- o Copy of your bank statements for the last **two (2)** months. **(All Pages Required)**
- o Copy of your most recent Property Tax Bill & Homeowners Insurance Statement.
- o If you have hired a third party to represent you during the loss mitigation review, please complete the attached Third Party Authorization and Agreement to Release.

**If you currently have a purchase offer for a short sale, please forward the following documentation in addition to the documents listed above:**

- o Sales & Purchase Agreement **(signed by buyer and seller).**
- o Net Sheet or proposed Settlement Statement, showing itemized breakdown of all costs related to the sale transaction (i.e., realtor's commissions and closing costs).
- o Listing Agreement(s).
- o Copy of buyer's earnest money check deposit.
- o Copy of buyer's loan approval letter.
- o Settlement/Payoff letter from 2<sup>nd</sup> lien holder. (If applicable)

**Upon our receipt of all of the required items listed above you will receive confirmation via mail by our Loss Mitigation Representative. Please be advised that we will schedule an appointment for an Appraiser to conduct an inspection of your property; this appraisal will be of no cost to you unless you are otherwise informed by the Bank.**

**Please provide the name and phone number of a contact person who can schedule the appointment and accompany the Appraiser:**

Print Name: \_\_\_\_\_ Company: \_\_\_\_\_

Phone #: (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_ Alt # (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_

Signature: \_\_\_\_\_

Please Note: In order to review for a possible short sale you **must** presently have a purchase offer. If you **DO NOT** presently have an offer, please wait to make your request.

**Please send all the required information and documentation at the same time.** Please be advised that in order to determine the best possible course of action for your situation, we may need to request additional or updated information or documentation throughout the course of our review.

Mail:

Fax:

E-mail:

**BORROWER INFORMATION (To avoid delays please make sure all pages are complete and accurate.)**

BORROWER	CO BORROWER
Borrower's Name:	Co-Borrower's Name:
Social Security Number:	Social Security Number:
Home phone number with area code:	Home phone number with area code:
Cell or work number with area code:	Cell or work number with area code:
Email address:	Email address:

I want to:       Keep the property       Sell the property

The property is my:       Primary residence       Second Home       Investment

The property is:       Owner Occupied       Renter Occupied       Vacant

Number of People in Household: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Property address (if same as mailing address, write "same"): \_\_\_\_\_

Is the property listed for sale? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, what was the listing date? _____ Have you received an offer on the property? <input type="checkbox"/> Yes <input type="checkbox"/> No Date of Offer: _____ Amount of Offer: _____ Agent's Name: _____ Agent's Phone Number: _____ For Sale by Owner? <input type="checkbox"/> Yes <input type="checkbox"/> No	Have you contacted a credit counseling agency for help? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please complete the following: Counselor's Name: _____ Agency Name: _____ Counselor's Phone Number: _____ Counselor's email: _____
---	--

Who pays the real estate tax bill on your property? <input type="checkbox"/> I do <input type="checkbox"/> Lender <input type="checkbox"/> Condo or HOA  Are the taxes current? <input type="checkbox"/> Yes <input type="checkbox"/> No If No: Years Delinquent: _____ \$ Amount: _____ *Also please provide copy of delinquent tax notice if available*  Condo or HOA Fees? <input type="checkbox"/> Yes <input type="checkbox"/> No    \$ _____ per month	Who pays the hazard insurance premium for your property? <input type="checkbox"/> I do <input type="checkbox"/> Lender <input type="checkbox"/> Condo or HOA  Is the policy current? <input type="checkbox"/> Yes <input type="checkbox"/> No  Name of Insurance Co.: _____ Insurance Co. Phone Number: _____
---	---

Have you filed for bankruptcy? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes: <input type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 13 Filing Date: _____ Name/Number of Attorney: _____	Has your bankruptcy been discharged? <input type="checkbox"/> Yes <input type="checkbox"/> No Bankruptcy case number: _____
---	--

Additional Liens/Mortgages or Judgments on this property (If not applicable write "None"):

Lien Holder's Name/Servicer	Balance	Phone Number	Loan Number

**HARDSHIP AFFIDAVIT (Provide a written explanation describing the specific nature of your hardship.)**

I am requesting review of my current situation to determine whether I qualify for temporary or permanent mortgage relief options.	
Date Hardship Began:	
I believe that my situation is:	<input type="radio"/> Short-term (under 6 months) <input type="radio"/> Medium-term (6-12) months <input type="radio"/> Long-term or Permanent Hardship (greater than 12 months)

**I am having difficulty making my monthly payment because of the reasons set forth below:** (Please check all that apply and submit required documentation demonstrating your hardship) Please note that all required hardship documentation is required in addition to the documents set forth on the document checklist.

<b>If your hardship is:</b>	<b>Then the Required Hardship Documentation is:</b>
<input type="radio"/> Unemployment	<ul style="list-style-type: none"> <li>▪ A copy of your benefits statement or letter detailing the amount, frequency and duration of your unemployment benefits.</li> <li>▪ Documentation is listed on Document Checklist</li> </ul>
<input type="radio"/> Underemployment	<ul style="list-style-type: none"> <li>▪ Documentation is listed on Document Checklist</li> </ul>
<input type="radio"/> Income reduction (e.g., elimination of overtime, reduction in regular working hours, or a reduction in base pay)	<ul style="list-style-type: none"> <li>▪ Documentation is listed on Document Checklist</li> </ul>
<input type="radio"/> Divorce or legal separation; Separation of Borrowers unrelated by marriage, civil union or similar domestic partnership under applicable law	<ul style="list-style-type: none"> <li>▪ Divorce decree signed by the court OR</li> <li>▪ Separation agreement signed by the court or that non-occupying Borrower has a different address OR</li> <li>▪ Recorded quitclaim deed evidencing that the non-occupying Borrower OR Co-Borrower has relinquished all rights to the property</li> </ul>
<input type="radio"/> Death of a borrower or death of either the primary or secondary wage earner in the household or dependent family member	<ul style="list-style-type: none"> <li>▪ Death certificate OR</li> <li>▪ Obituary or newspaper article reporting the death</li> </ul>
<input type="radio"/> Long-term or permanent disability; Serious illness of a borrower /co-borrower or dependent family member	<ul style="list-style-type: none"> <li>▪ Doctor's certificate of illness or disability OR</li> <li>▪ Medical bills OR</li> <li>▪ Proof of monthly insurance benefits or government assistance</li> </ul>
<input type="radio"/> Disaster (natural or manmade) adversely impacting the property or Borrower's place of employment	<ul style="list-style-type: none"> <li>▪ Insurance claim OR</li> <li>▪ Federal Emergency Management Agency grant or Small Business Administration loan OR</li> <li>▪ Borrower or Employer property located in a federally declared disaster area</li> </ul>
<input type="radio"/> Distant employment transfer	<ul style="list-style-type: none"> <li>▪ Proof of transfer</li> </ul>
<input type="radio"/> Excessive Obligations	<ul style="list-style-type: none"> <li>▪ Documentation listed on Document Checklist</li> </ul>
<input type="radio"/> Business Failure	<ul style="list-style-type: none"> <li>▪ Tax return from the previous year (including all schedules) AND</li> <li>▪ Proof of business failure supported by one of the following:</li> <li>▪ Bankruptcy filing for the business; OR</li> <li>▪ Two months recent bank statements for the business account evidencing cessation of business activity; OR</li> <li>▪ Most recent signed and dated quarterly or year-to-date profit and loss statement</li> </ul>
<input type="radio"/> Payment Increase	<ul style="list-style-type: none"> <li>▪ Documentation listed on Document Checklist</li> </ul>
<input type="radio"/> Other (explain):	



**INCOME/EXPENSES FOR HOUSEHOLD**

EMPLOYMENT INFORMATION	
Borrower Monthly Income: \$ _____	Co-Borrower Monthly Income: \$ _____
Employer 1 Name: _____	Employer 1 Name: _____
Employer 1 Address: _____ _____	Employer 1 Address: _____ _____
Employment Start Date: _____	Employment Start Date: _____
Employer 2 Name: _____	Employer 2 Name: _____
Employer 2 Address: _____ _____	Employer 2 Address: _____ _____
Employment Start Date: _____	Employment Start Date: _____
Are you Self-Employed? <input type="checkbox"/> Yes <input type="checkbox"/> No	Are you Self-Employed? <input type="checkbox"/> Yes <input type="checkbox"/> No

OTHER INCOME
Is there a person not on the mortgage note who lives in the residence and contributes financially to the household? <input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, complete the following:
First and Last Name: _____
Monthly amount and/or contribution to the household: \$ _____

Monthly Household Income	Monthly Household Expenses/Debt	Household Assets (associated with the property and/or borrower)
Monthly Gross Wages - \$ _____	First Mortgage Payment - \$ _____	Checking Account(s) - \$ _____
Overtime - \$ _____	Second Mortgage Payment - \$ _____	Checking Account(s) - \$ _____
Child Support/Alimony* - \$ _____	Homeowner's Insurance - \$ _____	Savings/Money Market - \$ _____
Taxable SS benefits or other monthly income from annuities or retirement plans - \$ _____	Credit Cards/Installment Loan(s) (total min pymt per month) - \$ _____	CDs - \$ _____
Tips, Commissions, bonus and self-employed income - \$ _____	Child Support/Alimony Payments - \$ _____	Stocks/Bonds - \$ _____
Rents Received - \$ _____	Mortgage Payments on other properties - \$ _____	Other Cash on Hand - \$ _____
Unemployment Income - \$ _____	HOA/Condo Fees/Property Maintenance - \$ _____	Other Real Estate - \$ _____ (estimated value)
Food Stamps/Welfare - \$ _____	Auto Payment/ins/gas - _____	Other - \$ _____
Less: Federal & State Tax, FICA	Water/Sewer/Utilities/Phone - \$ _____	Total Assets - \$ _____
Less: Other deductions	Food/Spending Money - \$ _____	
Other - \$ _____	Other - \$ _____	
<b>Total Gross Income - \$ _____</b>	<b>Total Debt/Expenses - \$ _____</b>	

\*Notice: Alimony, Child Support, or separate maintenance income need not be revealed if you choose not to have it considered for repayment.

**THIRD PARTY AUTHORIZATION AND AGREEMENT TO RELEASE**

Please complete and return if you want us to speak with any designated third party on your behalf.

Account Number: \_\_\_\_\_ Name: \_\_\_\_\_  
Property Address: \_\_\_\_\_



Before you sign this authorization, please.....

- Beware of any person or organization that asks you to pay a fee in exchange for housing counseling services or modification of a delinquent loan.
- Beware of anyone who says they can "save" your home if you sign or transfer over the deed to your house.
- Do not sign over the deed to your property to any organization or individual other than as required by your mortgage company in connection with forgiving the debt.
- Never make your mortgage payments to anyone other than your mortgage company without their written approval.

NOTE: No information concerning your account will be provided until we have received this executed document. The authorization needs to be in the name of an individual (not a company) and a form needs to be completed for each authorized individual. All parties on the Mortgage/Loan/Note/or both must sign.

I/we do hereby authorize my lender/mortgage servicer to release or otherwise provide to:

\_\_\_\_\_ of \_\_\_\_\_ my  
Name Company Name

Relationship Phone Number Email Address

All Public and Non-Public personal financial information contained in my loan account which may include, but is not limited to, loan balance, final payoff statement, loan payment history, payment activity, and/or property information.

I/we understand that the lender/ mortgage servicer will take reasonable steps to verify the identity of the third party authorized above, but will have no responsibility or liability to verify the true identity of the requestor when he/she asks to discuss my/our account or seeks information about my account. Further, the lender/ mortgage servicer shall have any responsibility or liability for what the requestor may do with my/our information he/she obtains concerning my/our account.

I/we do hereby indemnify and forever hold harmless the lender/mortgage servicer from all actions and causes of actions, suits, claims, attorney fees, or demands against the lender/ mortgage servicer which I/we and/or my heirs may have resulting from the lender/ mortgage servicer discussing my/our loan account and/or providing any information concerning the loan account to the above named requestor or person identifying themselves to be that requestor.

My/our agreement to this Authorization and the terms of the Release as stated above are endorsed by my/our signature(s) below. Please sign, date, and return with the Financial Form.

_____	_____	_____
Borrower Printed Name	Borrower Signature	Date
_____	_____	_____
Co-Borrower Printed Name	Co-Borrower Signature	Date

I/we agree as follows: My/our Lender/Mortgage Servicer may discuss, obtain and share information about my/our mortgage and financial situation with third parties regarding a possible alternative to foreclosure. Negotiations for a possible foreclosure alternative will not constitute a waiver of or defense to my Lender's/Mortgage Servicer's right to commence or continue any foreclosure or other collection action, and an alternative to foreclosure will be provided only if an agreement has been approved in writing by my Lender/Mortgage Servicer. The information herein is an accurate statement of my financial status.

**It is a federal crime punishable by fine or imprisonment, or both to knowingly make any false statements concerning any of the above facts as applicable under the provisions of title 18, United States Code, Section 1001 et seq.**

Submitted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

By \_\_\_\_\_ Date: \_\_\_\_\_  
Signature of Borrower

By \_\_\_\_\_ Date: \_\_\_\_\_  
Signature of Co-Borrower



# SPEAKER BIOGRAPHIES

**Margaret Cangilos-Ruiz**  
**United States Bankruptcy Judge for the Northern District of New York**

Judge Cangilos-Ruiz was appointed by the Second Circuit Court of Appeals on February 16, 2007 to serve in the newly-created Syracuse Division of the United States Bankruptcy Court for the Northern District of New York.

A member of the Massachusetts, Florida and New York Bars, the Judge previously served as law clerk to Chief Bankruptcy Judges Thomas C. Britton (SDFL) and Justin J. Mahoney (NDNY) and practiced law both in Florida and in New York. Immediately prior to her appointment, Judge Cangilos-Ruiz headed the Bankruptcy Department at Whiteman Osterman & Hanna LLP in Albany, New York.

The Judge formerly chaired the Bankruptcy Committee of the New York State Bar Association's Business Law Section, the Banking, Commercial Law and Bankruptcy Committee of the Women's Bar Association of the State of New York and was a founding member and second president of the Capital Region Bankruptcy Bar Association. Judge Cangilos-Ruiz serves on the President's Council of Cornell Women of Cornell University, is a member of the Mortgage Foreclosure Working Group of the New York State-Federal Judicial Council and is the 2009 recipient of the Onondaga County Bar Association's distinguished Pro Bono Service Award for her efforts in helping to implement a Student Practitioner Pro Bono Bankruptcy Program in conjunction with Syracuse University College of Law. Judge Cangilos-Ruiz is a graduate of Cornell University (A.B. 1974) and Albany Law School of Union University (J.D. 1979, with third year in residence at Boston College Law School.)

## Biography of Supreme Court Justice Anthony J. Paris

Supreme Court Justice Anthony J. Paris was born, raised, and educated in Syracuse, New York. A 1966 graduate of Christian Brothers Academy, he received his Bachelors's Degree from Syracuse University in 1970 and his Juris Doctorate from the Syracuse University College of Law in 1973.

During law school, Justice Paris served as Deputy Law Clerk in the Onondaga County Family Court, and upon graduation from law school became an associate with the law firm Williams, Micale & Wells until 1982. From 1977 to 1989, he served as an Assistant District Attorney for Onondaga County, and in 1982 he established his own private practice concentrating on such diverse matters as domestic relations, personal injury, real estate, estates and business transactions.

In 1992, Justice Paris was elected to a 10 year term as Family Court Judge and presided over matters concerning child abuse, child neglect, domestic violence, foster care review, termination of parental rights, custody, visitation, adoptions, juvenile delinquency and pins in Onondaga County, and throughout the Fifth Judicial District which is also comprised of the counties of Oswego, Oneida, Lewis, Jefferson and Herkimer. In January 1997, Justice Paris was designated an Acting Justice of the Supreme Court presiding over matrimonial actions as well as other matters in the Supreme Court. In 1999, he was elected to a 14 year term as New York State Supreme Court Justice.

Justice Paris is a member of the Onondaga County Bar Association, the Catholic Lawyers Guild, the New York State Trial Lawyers Academy, and the New York State Association of Justices of the Supreme Court, where he serves as the Delegate for the Fifth Judicial District. He is also the Chairperson of the Onondaga County Jury Board. In 2010, Justice Paris was appointed to serve on the Judicial Advisory Council and is a member of the Access to Justice Subcommittee. He also serves on the Statewide Mortgage Foreclosure Group representing the Fifth Judicial District as well as being the Coordinator of the Mortgage Foreclosure Initiative for the Fifth Judicial District supervising the successful mandatory settlement conferences and foreclosure dispositions.

Kim F. Lefebvre, Esq.

Kim F. Lefebvre graduated *cum laude* from the State University College at Buffalo, earning a Bachelor of Arts in History. He graduated from New England Law School and was admitted to New York practice in January 1981. Mr. Lefebvre was an Associate Attorney with a general practice law firm prior to his appointment as Estate Administrator for the U.S. Bankruptcy Court for the Northern District of New York. He then served as Attorney Advisor for the U.S. Department of Justice, Office of the United States Trustee for the Northern District of New York and District of Vermont, and in 1988 he was appointed Assistant United States Trustee. As Assistant United States Trustee he also served as the Chapter 13 Standing Trustee for the District of Connecticut while a new appointee was recruited after the death of the Standing Trustee. In February 2010, Mr. Lefebvre was appointed Clerk of the United States Bankruptcy Court for the Northern District of New York.

Mr. Lefebvre has lectured for the New York State Bar Association, the Vermont Bar Association, Administrative Office of the United States Courts, Federal Judicial Center, State of New York Office of Attorney General Legal Education and Staff Development Bureau and the United States Department of Justice, Executive Office for United States Trustees.

**Mark Swimelar was appointed the Standing Chapter 13 Trustee in the Northern District of New York, Utica and Syracuse Divisions, in 1990. In 1995, he was appointed the Standing Chapter 12 Trustee in the Northern District of New York. He is a Past President of the Central New York Bankruptcy Bar Association and frequent speaker at seminars on bankruptcy matters. He is Immediate Past President of the Association of Chapter 12 Trustees. Mr. Swimelar is also a member of the New York State Bar Association and the Onondaga County Bar Association.**

**Mr. Swimelar graduated from the Syracuse University College of Law in 1986. Prior to becoming the Chapter 13 Trustee he was a Chapter 7 Trustee, an Assistant County Public Defender, a law clerk to a Family Court Judge and maintained a private practice in Watertown, New York. Prior to becoming an attorney, he was employed by the New York State Workers' Compensation Board as a Senior Social Worker. He is a Certified Social Worker and obtained a Master's Degree in Social Work from the Syracuse University School of Social Work.**

**William B. Schiller** was admitted to the New York State Bar in 1988. In 1990, he was admitted to practice in the U.S. District Court, Northern District of New York. He is also admitted to practice in New York's Southern, Eastern & Western Federal District Courts. Mr. Schiller is a graduate of the State University College at Oneonta (B.S. 1982); and the Jacob D. Fuchsburg Law Center, Touro College (J.D. 1987). He was an editor of the Law Review.

He is Chair of the Consumer Bankruptcy Committee for the American Bar Association. He is a Member of the New York State Bar Association and the American Bar Association. He is the past-president of the Capital District Bankruptcy Bar Association and past-president of the Upstate New York Creditors Association. He was a member of the Local Rules Committee for the Bankruptcy Courts of the Northern District of New York.

Mr. Schiller is a frequent lecturer on the topics of bankruptcy and foreclosure. His major areas of practice include creditor's rights, including; foreclosure, bankruptcy, loss mitigation and collections.

**Steven R. Dolson, Esq.**

Steven R. Dolson, Esq. holds his Juris Doctorate from the State University of New York at Buffalo Law School. He earned an undergraduate degree in political science from Lemoyne College in Syracuse. He's devoted his practice to representation of debtors in bankruptcy and claimants in Social Security Disability. He is the owner of a small firm based out of Syracuse. Over the past decade he's lectured to many organizations on various consumer bankruptcy topics throughout the Northern District of New York and has been the lead attorney for the debtor in several key decisions through the district. He currently serves as the president elect of the Central New York Bankruptcy Bar Association.

Timothy E. Fox presently serves as Law Clerk to the Honorable Margaret M. Cangilos-Ruiz. Immediately prior, he served as an Appellate Court Attorney for the New York State Supreme Court, Appellate Division Fourth Department.

Mr. Fox graduated cum laude from St. John's University School of Law, where, among other things, he served as Executive Notes & Comments Editor for the American Bankruptcy Institute Law Review and was a member of the Overall Champion Team at the First Annual Securities Dispute Resolution Triathlon, co-hosted by the Hugh L. Carey Center for Dispute Resolution and the Financial Industry Regulatory Authority. The law is Mr. Fox's second career, having worked as an executive in the non-profit sector in the fields of education, public relations, marketing, and development.