

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE:

COURT OPERATIONS UNDER THE
EXIGENT CIRCUMSTANCES CREATED BY
COVID-19

General Order M-545

WHEREAS, the President of the United States has declared a national emergency in connection with the COVID-19 virus pandemic, and the Governor of the State of New York has declared a public health emergency throughout the State; and

WHEREAS, the U.S. Centers for Disease Control and Prevention has advised people to take precautions in light of the COVID-19 virus pandemic; and

WHEREAS, the United States Bankruptcy Court for the District of New York (the "Court") continues to review its operations to identify measures that will help slow the spread of the virus by minimizing contact between persons, while at the same time preserving its core mission of serving the public through the fair and impartial administration of justice; and

WHEREAS, Local Bankruptcy Rule 9011-1 and this Court's Procedures for the Filing, Signing, and Verification of Documents by Electronic Means provides procedures for electronic filing on the Court's Case Management/Electronic Case Filing system ("CM/ECF") and permits attorneys who are CM/ECF users to file papers signed by their clients by including the client's conformed signature on a signature block, but requires the filer to maintain a hard copy of the originally executed document for the later of two years or the entry of a final order terminating the case or proceeding to which the document relates; and

WHEREAS, the Court has established a Loss Mitigation Program for the consensual resolution of disputes in instances where an individual debtor's residential real property is at risk of loss to foreclosure or imminent default, and such Loss Mitigation Program is governed by Local Bankruptcy Rule 9019-2, this Court's Loss Mitigation Program Procedures, and orders entered in individual bankruptcy cases; and

WHEREAS, the Court has established a Student Loan Mediation Program for the consensual resolution of disputes involving student loan issues for the benefit of debtors and lenders, and the Student Loan Mediation Program is governed by General Order M-536, this Court's Student Loan Mediation Program Procedures, and orders entered in individual bankruptcy

cases; and

WHEREAS the Court has determined that a modification of these procedures is appropriate given the COVID-19 virus pandemic;

THEREFORE, and for cause shown

IT IS HEREBY ORDERED, effective immediately, that in cases filed by an individual under chapters 7, 11, 12, and 13 of the United States Bankruptcy Code:

- 1. Original Signature Requirement.** The Court suspends the requirement that a CM/ECF user secure the signer's original signature prior to electronically filing a document bearing that signature; provided that, prior to filing, the CM/ECF user has verified with the signer that the signer has received the entire document to be filed and has communicated with the signer regarding the substance and purpose of the document, including the review of a bankruptcy petition, schedules or other papers, and: (a) has obtained express written permission (by appropriate means such as by email or text) from the signer to affix the signer's signature to the document and has retained a hard copy of such written permission; (b) has obtained in his or her possession at the time of the filing an image, photograph, or other facsimile of the signer's signature on the signature page of the document and has retained a hard copy of the image, photograph, or facsimile; or (c) has obtained the signer's digital signature via any commercially available digital signature software that provides signature authentication; and has instructed the signer to send or deliver the original signed paper(s) to the CM/ECF user as soon as is practicable as required by Local Bankruptcy Rule 9011-1. The filer shall retain the form of confirmation under subsections (a), (b) or (c) above for the later of two years or the entry of a final order terminating the case or proceeding to which the document relates. The filing of a paper with an electronic signature under the circumstances described in this paragraph shall constitute the CM/ECF user's certification under Federal Rule of Bankruptcy Procedure 9011. These procedures shall be followed for each and every document to be filed that would otherwise be subject to the requirements of Local Bankruptcy Rule 9011-1.
- 2. Forbearance of Mortgage Debt.** Any creditor (mortgage holder or servicer) who provides a temporary suspension of mortgage payments to a debtor in this Court shall file with the Court a Notice of Temporary Forbearance, which is attached as Exhibit A to this Order. Communication by a creditor to a debtor regarding forbearance and any statement that follows during the forbearance period shall not be considered a violation of the automatic stay. A loss mitigation order is not needed for a debtor to enter a forbearance agreement;

however, any party that requests a forbearance agreement but is unable to come to a consensual resolution within 14 days of the request may come before the Court, under the Court's Loss Mitigation Program Procedures, and ask the Court to supervise such request.

3. **Loss Mitigation and Student Loan Mediation.** Any deadline under the Loss Mitigation Program Procedures or Student Loan Mediation Program Procedures that had not expired as of March 16, 2020 is hereby extended to July 1, 2020. . This extension of deadlines shall not impact in any way the ability of parties to: (a) agree upon a forbearance of a mortgage loan consistent with the procedures set forth in this Order; (b) reach a consensual resolution of an individual debtor's obligations on a mortgage of residential real property; or (c) reach a consensual resolution of an individual debtor's obligations on a student loan.
4. **Documents Required for Meeting of Creditors.** Rather than require an original copy of a Social Security card or document establishing a debtor's identification for purposes of a meeting held pursuant to section 341 of the Bankruptcy Code, the trustee shall be permitted to accept evidence that he or she concludes is appropriate to establish the existence of such document, including, but not limited to, a PDF scan, photograph, or screen shot of such document.
5. This Order is temporary in nature and will expire upon the earlier of: (a) the entry of a further Order of this Court addressing the issues herein and (b) July 1, 2020.
6. The Court will consider requests for similar relief in any other case in which the movant can demonstrate exigent circumstances based on the COVID-19 virus pandemic.

SO ORDERED this 9th day of April, 2020.
New York, NY

/s/ Cecelia G. Morris
CECELIA G. MORRIS
Chief United States Bankruptcy Judge

Exhibit A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: _____,
Debtor(s).

CASE NO: _____
CHAPTER _____

NOTICE OF TEMPORARY FORBEARANCE

Bankruptcy Court Claim #: _____
Date of Filing: _____
Effective Date of Forbearance: _____, 2020
Number of monthly payments in Forbearance _____

SERVICER NAME (“SERVICER”) hereby provides notice that due to a recent financial hardship resulting directly or indirectly from the COVID-19 emergency, the Debtor has requested, and SERVICER has provided a temporary suspension of mortgage payments.

During this short-term relief, all terms and provisions of the mortgage note and security instrument, other than the payment obligations, will remain in full force and effect unless otherwise adjusted by this court or through a loan modification.

NOTE: This Temporary Forbearance does not forgive any indebtedness; it only suspends the date that such indebtedness must be paid.

During the forbearance period and up to an including the time when that period ends, SERVICER will work with the Debtor, the Debtor’s attorney (if applicable) and the bankruptcy trustee on how to address the suspended payments in the long-term, including obtaining any necessary court consent and approval.

/s/ _____
[Signature block]

CERTIFICATE OF SERVICE

I certify that on _____, 2020, I served a true and correct copy of the above Notice of Temporary Forbearance on the debtor’s(s’) attorney (if any), trustee, US Trustee and any other interested parties via the Court’s ECF system. In the event the debtor(s) is/are pro se, a paper copy of the Notice is being mailed to the debtor’s(s’) address on file with the Court.

/s/ _____