

# SERVICING LITIGATION TRACK: Bankruptcy in Flux Navigating New Rules, Technology & Emerging Challenges

Tuesday, February 17, 2026

## **Moderator**

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## **Speakers**

Ryan Bourgeois, Partner, Barrett Daffin Frappier Turner & Engel, LLP

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Wendy Lee, Managing Partner, LOGS Legal Group

Allen Myers, Executive Director - Assistant General Counsel, Mortgage Banking, JP Morgan Chase Bank

# Agenda

- A review of the new Rules and Forms
- Online access for debtors in bankruptcy
- The wonderful world of AI
- Impacts of changes in government
- A refresher on documentation and standing

# What's New?

*There are a number of new changes and Forms, but perhaps one that deserves the most attention*

# Federal Rule of Bankruptcy Procedure 3002.1:

- Payment Change Notices for HELOC
- Motions to Determine Case Status
- Trustee End of Case Procedures

# 410S1 – Notice of Mortgage Payment Change

Fill in this information to identify the case:

Debtor 1 \_\_\_\_\_  
 Debtor 2 \_\_\_\_\_  
 (Home Address)  
 United States Bankruptcy Court for the \_\_\_\_\_ District of \_\_\_\_\_  
 Case number \_\_\_\_\_

Official Form 410S1  
**Notice of Mortgage Payment Change** 12/25

If the debtor's plan provides for payment of postpetition contractual installments on your claim secured by a security interest in the debtor's principal residence, you must use this form to give notice of any changes in the installment payment amount. File this form as a supplement to your proof of claim at least 21 days before the new payment amount is due. See Bankruptcy Rule 3002.1.

Name of creditor: \_\_\_\_\_ Court claim no. (if known): \_\_\_\_\_  
 Last 4 digits of any number you use to identify the debtor's account: \_\_\_\_\_ Date of payment change: \_\_\_\_\_  
 Must be at least 21 days after date of this notice. / /  
 New total payment: \_\_\_\_\_ \$ \_\_\_\_\_  
 (Principal, interest, and escrow, if any)  
 For HELOC payment amount, see Part 3.

**Part 1: Escrow Account Payment Adjustment**

1. Will there be a change in the debtor's escrow account payment?  
 No  
 Yes. Attach a copy of the escrow account statement prepared in a form consistent with applicable nonbankruptcy law. Describe the basis for the change. If a statement is not attached, explain why: \_\_\_\_\_  
 Current escrow payment: \$ \_\_\_\_\_ New escrow payment: \$ \_\_\_\_\_

**Part 2: Mortgage Payment Adjustment**

2. Will the debtor's principal and interest payment change based on an adjustment to the interest rate on the debtor's variable-rate account?  
 No  
 Yes. Attach a copy of the rate change notice prepared in a form consistent with applicable nonbankruptcy law. If a notice is not attached, explain why: \_\_\_\_\_  
 Current interest rate: \_\_\_\_\_ % New interest rate: \_\_\_\_\_ %  
 Current principal and interest payment: \$ \_\_\_\_\_ New principal and interest payment: \$ \_\_\_\_\_

**Part 3: Annual HELOC Notice**

3. Will there be a change in the debtor's home-equity line-of-credit (HELOC) payment for the year going forward?  
 No  
 Yes.  
 Current HELOC payment: \$ \_\_\_\_\_  
 Reconciliation amount: + \$ \_\_\_\_\_ or  
 - \$ \_\_\_\_\_

Debtor 1 \_\_\_\_\_ Case number \_\_\_\_\_

Amount of next payment (including recordation amount) \$ \_\_\_\_\_  
 Amount of the new payment thereafter (without recordation amount) \$ \_\_\_\_\_

**Part 4: Other Payment Change**

4. Will there be a change in the debtor's mortgage payment for a reason not listed above?  
 No  
 Yes. Attach a copy of any documents describing the basis for the change, such as a payment plan or loan modification agreement. (Court approval may be required before the payment change can take effect.)  
 Reason for change: \_\_\_\_\_  
 Current mortgage payment: \$ \_\_\_\_\_ New mortgage payment: \$ \_\_\_\_\_

**Part 5: Sign Here**

The person completing this Notice must sign it. Sign and print your name and your title, if any, and state your address and telephone number.  
 Check the appropriate box:  
 I am the creditor.  
 I am the creditor's authorized agent.

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

**X** \_\_\_\_\_ Date: \_\_\_\_\_ / \_\_\_\_ / \_\_\_\_  
 (Signature)  
 Print: First Name Middle Name Last Name Title \_\_\_\_\_  
 Company: \_\_\_\_\_  
 Address: Street \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Contact phone: (\_\_\_\_) \_\_\_\_\_-\_\_\_\_-\_\_\_\_ Fax: \_\_\_\_\_

# Forms 410C13-M1 and M1R – Case Status

- New Forms providing for a Motion to Determine the status of the loan at any time post-petition
- Can be filed by either the Trustee or the Debtor
- Will require a payoff statement regardless of whether we agree or disagree with the status asserted
- Will require an itemized payment history if there are arrears that remain due, even if the Debtor or Trustee acknowledges that arrears remain due
- Appears to require what amounts to a post-petition 410A
- Must be provided within 28 days of the filed motion

# Official Form 410C13-M1 (12/25)

Official Form 410C13-M1 (12/25)

United States Bankruptcy Court

District of \_\_\_\_\_

In re \_\_\_\_\_, Debtor Case No. \_\_\_\_\_  
Chapter 13

## Motion Under Rule 3002.1(f)(1) to Determine the Status of the Mortgage Claim

The [trustee/debtor] states as follows:

1. The following information relates to the mortgage claim at issue:

Name of Claim Holder: \_\_\_\_\_ Court claim no. (if known): \_\_\_\_\_

Last 4 digits of any number used to identify the debtor's account: \_\_\_\_\_

Property address: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

2. As of the date of this motion, [I have/the trustee has] disbursed payments to cure arrearages as follows:

- a. Allowed amount of the prepetition arrearage, if any: \$ \_\_\_\_\_
- b. Total amount of the prepetition arrearage disbursed, if known: \$ \_\_\_\_\_
- c. Allowed amount of postpetition arrearage, if any: \$ \_\_\_\_\_
- d. Total amount of postpetition arrearage disbursed, if known: \$ \_\_\_\_\_
- e. Total amount of arrearages disbursed: \$ \_\_\_\_\_

3. As of the date of this motion, [I have/the trustee has] disbursed payments for postpetition fees, expenses, and charges as follows:

- a. Amount of postpetition fees, expenses, and charges noticed under Rule 3002.1(c) and not disallowed: \$ \_\_\_\_\_
- b. Amount of postpetition fees, expenses, and charges disbursed: \$ \_\_\_\_\_

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4. As of the date of this motion, [I have/the trustee has] made the following payments on the postpetition obligations: \$ \_\_\_\_\_

[5. If needed, add other information relevant to the motion.]

6. I ask the court for an order under Rule 3002.1(f)(3) determining the status of the mortgage claim addressed by this motion and whether the payments required by the plan to be made as of the date of this motion have been made.

Signed: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

(Trustee/Debtor)

Address \_\_\_\_\_

Number \_\_\_\_\_ Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

Contact phone (\_\_\_\_) \_\_\_\_\_ Email \_\_\_\_\_

Official Form 410C13-M1

Motion to Determine the Status of the Mortgage Claim

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# Official Form 410C13-M1R (12/25)

Official Form 410C13-M1R (12/25)

United States Bankruptcy Court  
District of \_\_\_\_\_

In re \_\_\_\_\_ Debtor Case No. \_\_\_\_\_  
Chapter 13

## Response to [Trustee's/Debtor's] Motion Under Rule 3002.1(f)(1) to Determine the Status of the Mortgage Claim

\_\_\_\_\_ (claim holder) states as follows:

1. The following information relates to the mortgage claim at issue:

Name of Claim Holder: \_\_\_\_\_ Court claim no. (if known): \_\_\_\_\_

Last 4 digits of any number used to identify the debtor's account: \_\_\_\_\_

Property address: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

### 2. Arrearages

The total amount received to cure any arrearages as of the date of this response is

\$ \_\_\_\_\_.

Check all that apply:

- As of the date of this response, the debtor has paid in full the amount required to cure any arrearage on this mortgage claim.
- As of the date of this response, the debtor has not paid in full the amount required to cure any prepetition arrearage on this mortgage claim. The total prepetition arrearage amount remaining unpaid as of the date of this response is:  
\$ \_\_\_\_\_.
- As of the date of this response, the debtor has not paid in full the amount required to cure any postpetition arrearage on the mortgage claim. The total postpetition arrearage amount remaining unpaid on the date of this response is:  
\$ \_\_\_\_\_.

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### 3. Postpetition Payments

(a) Check all that apply.

- The debtor is current on all postpetition payments, including all fees, charges, expenses, escrow, and costs.
- The debtor is not current on all postpetition payments. The debtor is obligated for the postpetition payment(s) that first became due on: \_\_\_\_/\_\_\_\_/\_\_\_\_.
- The debtor has fees, charges, expenses, negative escrow amounts, or costs due and owing.

(b) The claim holder attaches a payoff statement and provides the following information as of the date of this response:

- i. Date last payment was received on the mortgage: \_\_\_\_/\_\_\_\_/\_\_\_\_
- ii. Date next postpetition payment from the debtor is due: \_\_\_\_/\_\_\_\_/\_\_\_\_
- iii. Amount of the next postpetition payment that is due: \$ \_\_\_\_\_
- iv. Unpaid principal balance of the loan: \$ \_\_\_\_\_
- v. Additional amounts due for any deferred or accrued interest: \$ \_\_\_\_\_
- vi. Balance of the escrow account: \$ \_\_\_\_\_
- vii. Balance of unapplied funds or funds held in a suspense account: \$ \_\_\_\_\_
- viii. Total amount of fees, charges, expenses, negative escrow amounts, or costs remaining unpaid: \$ \_\_\_\_\_

### 4. Itemized Payment History

Include if applicable:

Because the claim holder asserts that the arrearages have not been paid in full or states that the debtor is not current on all postpetition payments or that fees, charges, expenses, escrow, and costs are due and owing, the claim holder attaches an itemized payment history disclosing the following amounts from the date of the bankruptcy filing through the date of this response:

- all prepetition and postpetition payments received;
- the application of all payments received;

Official Form 410C13-M1R Response to Motion to Determine the Status of the Mortgage Claim

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- all fees, costs, escrow, and expenses that the claim holder asserts are recoverable against the debtor or the debtor's principal residence; and
- all amounts the claim holder contends remain unpaid.

[5. If needed, add other information relevant to the response.]

Signature \_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_

Print \_\_\_\_\_ Name \_\_\_\_\_ Title \_\_\_\_\_

Company \_\_\_\_\_

If different from the notice address listed on the proof of claim to which this response applies:

Address \_\_\_\_\_  
Number \_\_\_\_\_ Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

Contact phone (\_\_\_\_) \_\_\_\_-\_\_\_\_ Email \_\_\_\_\_

The person completing this response must sign it. Check the appropriate box:

- I am the claim holder.
- I am the claim holder's authorized agent.

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# Official Form 410C13N and NR – Notice of Disbursements Made by Trustee

- New First Step to the End of Case Process
- Requires Response from Creditor
- Substantially Similar to the Current Response to Notice of Final Cure

# Official Form 410C13-N

**Fill in this information to identify the case:**

Debtor 1 \_\_\_\_\_

Debtor 2 \_\_\_\_\_

Trustee's Office \_\_\_\_\_

Under the State Bankruptcy Court for the \_\_\_\_\_ District of \_\_\_\_\_ (State)

Case number \_\_\_\_\_

## Official Form 410C13-N

### Trustee's Notice of Disbursements Made

1225

The trustee must file this notice in a chapter 13 case within 45 days after the debtor completes all payments due to the trustee. Rule 3002.1(g)(1).

#### Part 1: Mortgage Information

Name of claim holder: \_\_\_\_\_ Court claim no. (if known): \_\_\_\_\_

Last 4 digits of any number you use to identify the debtor's account: \_\_\_\_\_

Property address: \_\_\_\_\_

Number Street \_\_\_\_\_

City State ZIP Code \_\_\_\_\_

#### Part 2: Statement of Completion

The debtor has completed all payments due to the trustee under the chapter 13 plan. A copy of the trustee's case-oriented ledger for all payments to the claim holder is attached or may be accessed here \_\_\_\_\_ (web address).

#### Part 3: Arrearages

	Amount
a. Allowed amount of prepetition arrearage	\$ _____
b. Total amount of prepetition arrearage disbursed by the trustee	\$ _____
c. Total amount of postpetition arrearage disbursed by the trustee	\$ _____
d. Total amount of arrearages disbursed by the trustee	\$ _____

Official Form 410C13-A

Trustee's Notice of Payments Made

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#### Part 4: Postpetition Payments

- Check one:
- Postpetition payments are made by the debtor.
- Postpetition payments are paid through the trustee.
- Other: \_\_\_\_\_

If the trustee has disbursed postpetition payments, complete a and b below; otherwise leave blank.

- a. Total amount of postpetition payments disbursed by the trustee as of date of notice \$ \_\_\_\_\_
- b. The last ongoing mortgage payment disbursed by the trustee was the payment due on \_\_\_\_\_ as subsequent ongoing mortgage payments must be made directly by the debtor to the mortgage claimant.

#### Part 5: Postpetition Fees, Expenses, and Charges

Amount of postpetition fees, expenses, and charges disbursed by the trustee: \$ \_\_\_\_\_

#### Part 6: A Response Is Required by Bankruptcy Rule 3002.1(g)(3)

Within 20 days after service of this notice, the holder of the claim must file a response using Official Form 410C13-NR.

Service Date / /

Trustee

First Name Middle Name Last Name \_\_\_\_\_

Address

Line one Street \_\_\_\_\_

City State ZIP Code \_\_\_\_\_

Contact phone ( ) - \_\_\_\_\_ Small

Official Form 410C13-A

Trustee's Notice of Payments Made

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# Official Form 410C13-NR

**Fill in this information to identify the case:**

Debit 1 \_\_\_\_\_  
 Debit 2 \_\_\_\_\_  
 (If more than 2)  
 United States District Court for the \_\_\_\_\_ District of \_\_\_\_\_  
 Case number \_\_\_\_\_

**Official Form 410C13-NR**

**Response to Trustee's Notice of Disbursements Made**  
 12/25

The claim holder must respond to the Trustee's Notice of Payments Made within 28 days after it was served. Rule 3002.1(g)(3).

**Part 1: Mortgage Information**

Name of claim holder: \_\_\_\_\_ Court claim no. (if known): \_\_\_\_\_  
 Last 4 digits of any number you use to identify the debtor's account: \_\_\_\_\_  
 Property address: \_\_\_\_\_  
 Number Street \_\_\_\_\_  
 \_\_\_\_\_  
 City State ZIP Code \_\_\_\_\_

**Part 2: Arrearages**

The total amount received to cure any arrearages as of the date of this response: \$ \_\_\_\_\_

Check all that apply:

- The amount required to cure any prepetition arrearage has been paid in full.
- The amount required to cure the prepetition arrearage has not been paid in full. Amount of prepetition arrearage remaining unpaid as of the date of this notice: \$ \_\_\_\_\_.
- The amount required to cure any postpetition arrearage has been paid in full.
- The amount required to cure the postpetition arrearage has not been paid in full. Amount of postpetition arrearage remaining unpaid as of the date of this notice: \$ \_\_\_\_\_.

**Part 3: Postpetition Payments**

(a) Check all that apply:

- The debtor is current on all postpetition payments, including all fees, charges, expenses, escrow, and costs.
- The debtor is not current on all postpetition payments. The claim holder asserts that the debtor is obligated for the postpetition payment(s) that first became due on: \_\_\_\_/\_\_\_\_/\_\_\_\_.
- The debtor has fees, charges, expenses, negative escrow amounts, or costs due and owing.

(b) The claim holder attaches a payoff statement and provides the following information as of the date of this response:

- i. Date last payment was received on the mortgage: \_\_\_\_/\_\_\_\_/\_\_\_\_
- ii. Date next postpetition payment from the debtor is due: \_\_\_\_/\_\_\_\_/\_\_\_\_
- iii. Amount of the next postpetition payment that is due: \$ \_\_\_\_\_
- iv. Unpaid principal balance of the loan: \$ \_\_\_\_\_
- v. Additional amounts due for any delinquent or accrued interest: \$ \_\_\_\_\_
- vi. Balance of the escrow account: \$ \_\_\_\_\_
- vii. Balance of unpaid funds or funds held in a suspense account: \$ \_\_\_\_\_
- viii. Total amount of fees, charges, expenses, negative escrow amounts, or costs remaining unpaid: \$ \_\_\_\_\_

**Part 4: Itemized Payment History**

If the claim holder disagrees that the prepetition arrearage has been paid in full, states that the debtor is not current on all postpetition payments, or states that fees, charges, expenses, escrow, and costs are due and owing, it must attach an itemized payment history disclosing the following amounts from the date of the bankruptcy filing through the date of its response:

- all prepetition and postpetition payments received;
- the application of all payments received;
- all fees, costs, escrow, and expenses that the claim holder asserts are recoverable against the debtor or the debtor's principal obligor; and
- all amounts the claim holder contends remain unpaid.

**Part 5: Sign Here**

The person completing this response must sign it. Check the appropriate box:

- I am the claim holder.
- I am the claim holder's authorized agent.

I declare under penalty of perjury that the information provided in this response is true and correct to the best of my knowledge, information, and reasonable belief.

**X** Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
 Name: First name Middle name Last name \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Company: \_\_\_\_\_  
 Identify the company senior as the company if the individual is not a senior.  
 Address: Number Street \_\_\_\_\_  
 City State ZIP Code \_\_\_\_\_  
 Contact phone: \_\_\_\_\_ Email: \_\_\_\_\_



# Form 410C13-M2 and M2R

- The Bankruptcy Code overrides the Federal Bankruptcy Rules
- The Federal Bankruptcy Rules overrides the Official Forms / Director's Forms
- The Federal Bankruptcy Rules overrides the Local Bankruptcy Rules
- Local Bankruptcy Rules overrides “custom and practice”
- Federal Bankruptcy Rules are often amended and normally become effective on December 1st

# Official Form 410C13-M2

Official Form 410C13-M2 (1/2/25)

United States Bankruptcy Court

District of \_\_\_\_\_

In re \_\_\_\_\_, Debtor Case No. \_\_\_\_\_ Chapter 13

## Motion Under Rule 3002.1(g)(4) to Determine Final Cure and Payment of the Mortgage Claim

The [trustee/debtor] states as follows:

1. The following information relates to the mortgage claim at issue:

Name of Claim Holder: \_\_\_\_\_ Court claim no. (if known): \_\_\_\_\_

Last 4 digits of any number used to identify the debtor's account: \_\_\_\_\_

Property address: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

2. As of the date of this motion, [I have/the trustee has] disbursed payments to cure arrearages as follows:

- a. Allowed amount of the prepetition arrearage, if any: \$ \_\_\_\_\_
- b. Total amount of the prepetition arrearage disbursed, if known: \$ \_\_\_\_\_
- c. Allowed amount of postpetition arrearage, if any: \$ \_\_\_\_\_
- d. Total amount of postpetition arrearage disbursed, if known: \$ \_\_\_\_\_
- e. Total amount of arrearages disbursed: \$ \_\_\_\_\_

3. As of the date of this motion, [I have/the trustee has] disbursed payments for postpetition fees, expenses, and charges as follows:

- a. Amount of postpetition fees, expenses, and charges noticed under Rule 3002.1(c) and not disallowed: \$ \_\_\_\_\_
- b. Amount of postpetition fees, expenses, and charges disbursed: \$ \_\_\_\_\_

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4. As of the date of this motion, [I have/the trustee has] made the following payments on the postpetition obligations: \$ \_\_\_\_\_

[5. If needed, add other information relevant to the motion.]

6. I ask the court for an order under Rule 3002.1(g)(4) determining whether the debtor has cured all arrearages, if any, and paid all postpetition amounts required by the plan to be made as of the date of this motion.

Signed: \_\_\_\_\_

[Trustee/Debtor]

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Address \_\_\_\_\_  
Number \_\_\_\_\_ Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

Contact: phone (\_\_\_\_) \_\_\_\_\_-\_\_\_\_ Email \_\_\_\_\_

Official Form 410C13-M2

Motion to Determine Final Cure and Payment

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# Official Form 410C13-M2

Official Form 410C13-M2 (1/2/25)

United States Bankruptcy Court

District of \_\_\_\_\_

In re \_\_\_\_\_, Debtor Case No. \_\_\_\_\_  
Chapter 13

## Motion Under Rule 3002.1(g)(4) to Determine Final Cure and Payment of the Mortgage Claim

The [trustee/debtor] states as follows:

1. The following information relates to the mortgage claim at issue:

Name of Claim Holder: \_\_\_\_\_ Court claim no. (if known): \_\_\_\_\_

Last 4 digits of any number used to identify the debtor's account: \_\_\_\_\_

Property address: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

2. As of the date of this motion, [I have/the trustee has] disbursed payments to cure arrearages as follows:

- a. Allowed amount of the prepetition arrearage, if any: \$ \_\_\_\_\_
- b. Total amount of the prepetition arrearage disbursed, if known: \$ \_\_\_\_\_
- c. Allowed amount of postpetition arrearage, if any: \$ \_\_\_\_\_
- d. Total amount of postpetition arrearage disbursed, if known: \$ \_\_\_\_\_
- e. Total amount of arrearages disbursed: \$ \_\_\_\_\_

3. As of the date of this motion, [I have/the trustee has] disbursed payments for postpetition fees, expenses, and charges as follows:

- a. Amount of postpetition fees, expenses, and charges noticed under Rule 3002.1(c) and not disallowed: \$ \_\_\_\_\_
- b. Amount of postpetition fees, expenses, and charges disbursed: \$ \_\_\_\_\_

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4. As of the date of this motion, [I have/the trustee has] made the following payments on the postpetition obligations: \$ \_\_\_\_\_

[5. If needed, add other information relevant to the motion.]

6. I ask the court for an order under Rule 3002.1(g)(4) determining whether the debtor has cured all arrearages, if any, and paid all postpetition amounts required by the plan to be made as of the date of this motion.

Signed: \_\_\_\_\_

(Trustee/Debtor)

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Address \_\_\_\_\_

Number \_\_\_\_\_ Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

Contact phone (\_\_\_\_) \_\_\_\_-\_\_\_\_ Email \_\_\_\_\_

Official Form 410C13-M2

Motion to Determine Final Cure and Payment

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# Online Access: a reason to worry?

# In re Klemkowski

Debtor had previously used online portal to make mortgage payments. After her bankruptcy filing, the servicer revoked access to the online portal. Debtor argued this impeded her ability to comply with her repayment obligations.

Court holds that the right to use the online portal under the prepetition agreements became part of estate, servicer's unilateral denial of access post-filing violated the automatic stay under 11 U.S.C. § 362(a)(3) by altering her contractual rights.

# Takeaways - *In re Klemkowski*

The Court's decision hinged on a pre-petition "right to use" granted in the servicer's Online Access Agreement that became part of the bankruptcy estate. The servicer violated the automatic stay by revoking access and changing the status quo.

The "right to use" is a majority view across the country and servicers should expect similar outcomes in other bankruptcy courts.

The servicer's witness testified that their online portal could not simultaneously manage accounts for borrowers who have and have not filed for bankruptcy, which is why the debtor's access was terminated. Servicers should proactively survey their online platform/portal to avoid the same pitfall.

Servicer's must be mindful of local rules as they will further dictate a what conduct is permissible/impermissible.

# Local Rules Backdrop, pre-*Klemkowski*

In 2021, Bankr. D. Md. (where *Klemkowski* was decided) proposed a change to its Local Rule 4001-06 that would require online access, digital correspondence and electronic payment methods (emphases added):

Creditors “shall continue to provide customary notices and correspondence, ***both electronically and by mail,***” and “shall allow debtors to ***access, obtain information, and make post-petition payments through electronic, telephonic, and/or on-line means,*** to the extent such ... methods were available to the debtor prior to filing bankruptcy. Creditors and lessors shall make ***electronic payment methods*** available to debtors ***to the same extent they are available to their customers who have not filed for bankruptcy.***”

# Local Rules Backdrop, post-*Klemkowski*

Following *Klemkowski*, in September 2025 Bankr. D. M.D.N.C. proposed revising LBR 4001-1, and the local Form Plan, to require online access:

“A secured creditor who is not receiving disbursements on its claim from the trustee must send to the debtor the ***same monthly account statements that it sends to its non-bankruptcy customers*** and ***allow the debtor online access to the debtor’s account(s) in the same manner as existed prepetition***”, and further stating that providing online access would not “violate the automatic stay or the discharge injunction”

In a further example of a proposed local rule that would disrupt a federal regulatory scheme, in October 2025 Bankr. S.D. Ind. sought to have mortgage conduit payments “considered timely, for purposes of reporting delinquencies to credit reporting agencies,” when received by the Trustee, rather than upon receipt by the creditor

# MBA Advocacy

MBA has consistently led the charge in responding to proposed Local Rules, sending comment letters that led to withdrawal of all 3 examples above, setting forth arguments relating to:

- Bankruptcy courts' authority to promulgate local rules asserting control over non-bankruptcy matters or creating substantive rights
- Conflicts these rules would create with federal regulatory frameworks
- Operational complexities that create undue burden for banks and may ultimately confuse and/or harm customers

MBA members will shape the future through NACTT engagement, Local Rules Committee involvement, and other channels

# The emergence of Artificial Intelligence

# Potential areas of impact

- **Fake Citations**

Everyone has heard the stories of hallucinated citations and generated pleadings

- **Pro Se Aid**

Overwhelming volume of motions, pleadings, and arguments in need of response generate by AI agents

- **But what of the other side?**

Will the court require the use of AI in effort to control fees?

How long will the AI agents be free?

How will servicer and investor policies change over time?

# AI in the Courthouse: Transforming Bankruptcy Administration

- Automated docketing, scheduling, and deadline tracking across high-volume districts
- AI-powered intake systems for petitions, schedules, claims, and payment change notices
- Forecasting plan confirmation rates, dismissal likelihood, and case duration
- Research tools and draft order generation for routine motions
- Pattern recognition for concealed assets, income manipulation, and serial filings
- Trustee offices using AI to prioritize cases and allocate staff

# AI in Practice: Tools for Debtors, Creditors & Emerging Guardrails

## ▪ Debtor Side

1. AI-driven income/expense analysis and Chapter 7/13 eligibility determination
2. Automated property searches, vehicle valuations, and exemption optimization
3. Predictive tools assessing whether proposed plan payments are sustainable
4. Automated petition drafting with built-in error detection

## ▪ Creditor Side

- AI triage of bankruptcy notifications to identify high-value, time-sensitive claims
- Pattern recognition for payments or transfers vulnerable to clawback
- Forecasting likely recovery rates based on case characteristics and district trends
- Auto-generation of POCs with supporting documentation from servicing systems

## ▪ Emerging Considerations

- Attorney supervision requirements, disclosure obligations, and competence standards
- Protecting debtor financial information in AI training and processing
- Anticipated court rules, CFPB guidance, and state bar opinions on AI in bankruptcy

# Government Policy Challenges

# Potential Areas of Impact

- **Vacancies**

Retired Judges not replaced, an Acting Director of the Executive Office of the United States Trustee, Changes in the office of the United States Attorney

- **Proofs of Claim**

Judicial foreclosure in jurisdictions unaccustomed to completing judicial foreclosures. Are you reviewing the plan and filing claims correctly?

- **Property of the Estate**

As we create massive surplus funds opportunities with “new” bidding strategies, what are our obligations to the estate and how does the trustee’s interest fit in?

# Local Bankruptcy Rule changes present unique challenges

- Typically issued with little to no publicity/awareness beyond members of the local Bankruptcy bar, often buried within numerous other procedural changes
- Short comment periods require responses within weeks of posting
- Drafters likely have Bankruptcy expertise, but do not necessarily have mortgage servicing expertise
- If Local Rules Committee does not have strong creditor representation, proposals may have no regard for feasibility
- If proposals are not defeated before finalized, could create significant jurisdiction-specific compliance challenges

**Standing:  
We are who we say we are!**

# Documentation and Standing

## What must I always have?

- The note – endorsed in blank or specially to the movant
- The deed or mortgage – recorded contemporaneously with the note
- The loan status – The payoff and the reinstatement

## What do I sometimes need?

- Competent testimony in the form of a declaration executed by a qualified party
- Assignment of the security agreement
- Payment History

# Questions?

