

**1st Annual Southern District of Texas
Consumer Bankruptcy Conference
January 23, 2024 – 1st Floor Jury Assembly Room –
Bob Casey Courthouse, 515 Rusk Ave. Houston Texas**



**January 23, 2024
Admission is free**

Earn up to 7.50 Hours of CLE Credit including 1.50 Hours of Ethics Credit
Tx Legal Specialization Credit Approved for Bankruptcy Law

**1st Annual Southern District of Texas
Consumer Bankruptcy Conference
January 23, 2024 – 1st Floor Jury Assembly Room –
Bob Casey Courthouse, 515 Rusk Ave. Houston Texas**

Live and in person at the following Divisions

Houston – 1st Floor Jury Assembly Room – with Chief Bankruptcy Judge Rodriguez and Judge Lopez

Laredo - Courtroom No. 2A, with Judge Norman

Corpus – with Judge Isgur. A sign will be posted directing parties to the conference

Simultaneous Broadcast

Sign in to judgerodriguez on gotomeeting

For audio, dial 832-917-1510, Conference Code 999276

Tuesday January 23, 2024

Presiding Officer:

Chief Bankruptcy Judge Eduardo V. Rodriguez

- | | |
|--|---|
| 8:00 a.m. | Meet and greet
Includes light refreshments |
| 8:15 a.m. | Welcoming Remarks
Chief Judge Randy Crane
Nathan Ochsner, Clerk of Court
Chief Bankruptcy Judge Eduardo V. Rodriguez |
| 8:30 a.m.
1.50 hours .50
hour
ethics | New Uniform Plan, Modification, related Forms and BLR 9017-1
Listen and participate as we walk you through all of the changes to the Uniform Plan and Modification and show you the updated forms and explain the new Bankruptcy Local Rules

Panelists:
Judge Marvin Isgur
Chief Bankruptcy Judge Eduardo V. Rodriguez |
| 10:00 a.m. | Snack break
Freshly baked cookies provided |
| 10:15 a.m.
.75 hour | Chapter 13 Pro-rata vs. Fixed plan payments and Interest rates
How are pro-rata verses fixed payments made by the Chapter 13 Trustees? Why does this matter?

Moderator: |

**1st Annual Southern District of Texas
Consumer Bankruptcy Conference
January 23, 2024 – 1st Floor Jury Assembly Room –
Bob Casey Courthouse, 515 Rusk Ave. Houston Texas**

Judge Isgur

Panelists:

Yvonne Valdez, Chapter 13 Trustee, Corpus Christi Texas

Tiffany Castro, Office of William Heitkamp Chapter 13 Trustee, Houston Texas

Joel Gonzalez, Law Office of Joel Gonzalez, Corpus Christi, Texas

Chris Morrison, Christopher Todd Morrison, P.C. Houston Texas

11:00 a.m.
.75 hour

Subchapter V vs. Business 13s

When would it be a good idea to utilize Subchapter V rather than a business chapter 13 case and why?

Moderator:

Judge Christopher M. Lopez

Panelists:

Brendon Singh, Tran Singh, LLP, Houston Texas

Alicia Barcomb, Trial Attorney United States Trustee, Houston Texas

Michael Hardwick, Michael Hardwick Law, Houston Texas

11:45 a.m.

Grab a box lunch

12:00 p.m.
.75 | .75 hour
ethics

Judges Panel

Stump the judges

Moderator:

Mitch Buchmann, Barrett, Daffin, Frappier, Turner & Engle, LLP

Panelists:

Chief Bankruptcy Judge Eduardo V. Rodriguez

Judge Marvin Isgur

Judge Jeff P. Norman

Judge Christopher M. Lopez

12:45 p.m.
1 hour

Chapter 13 Panel

This outstanding panel will discuss chapter 13 confirmation requirements and the Court's special confirmation orders.

Moderator:

**1st Annual Southern District of Texas
Consumer Bankruptcy Conference
January 23, 2024 – 1st Floor Jury Assembly Room –
Bob Casey Courthouse, 515 Rusk Ave. Houston Texas**

Marcos Oliva, Oliva Law, McAllen Texas

Panelists:

Judge Norman

Yvonne Valdez Chapter 13 Trustee, Corpus Christi Texas

Tiffany Castro, Office of William Heitkamp Chapter 13 Trustee, Houston Texas

Richard Aurich, Office of David Peake, Chapter 13 Trustee, Houston Texas

1:45 p.m.
.75 hour

Escrow Estimator

Have you ever wanted to understand how to properly calculate a mortgage escrow? Join this panel and it will not only provide the Excel escrow calculator, it will also provide some excellent examples on how to use it.

Panelists:

Judge Marvin Isgur

Cristina Rodriguez, Keeling Law Firm, Houston Texas

2:30 p.m.

Break

Ice cream provided

2:45 p.m.
1 hour

Chapter 7 Panel

Sit in and listen to this distinguished panel discuss the proper methods of converting a chapter 7 case to chapter 13 or vice versa.

Moderator:

Abe Limon, Limon Law Office, Brownsville Texas

Panelists

Chris Murray, Chapter 7 Trustee, Houston Texas

Allison Byman, Chapter 7 Trustee, Houston Texas

3:45 p.m.
1 hour | .25 hour
ethics

Southern District of Texas Case Law Update

Listen in to a survey of the most important cases that have come out of the Southern District of Texas Bankruptcy Courts within the last 12 months. The panel will also discuss new DOJ guidelines for discharging student loans.

Panelists

Stephen Wilcox, Wilcox Law, PLLC, Fort Worth Texas

Mayur Patel, Tran Singh, LLP, Houston Texas

**1st Annual Southern District of Texas
Consumer Bankruptcy Conference
January 23, 2024 – 1st Floor Jury Assembly Room –
Bob Casey Courthouse, 515 Rusk Ave. Houston Texas**

4:45 p.m.

Adjourn

4:45 p.m.

Chapter 7 Pro-bono Clinic

Join Chief Judge Rodriguez and Lone Star Legal Aid and “Just Pick One Case”

**1st Annual Southern District of Texas
Consumer Bankruptcy Conference
January 23, 2024 – 1st Floor Jury Assembly Room –
Bob Casey Courthouse, 515 Rusk Ave. Houston Texas**

Planning Committee Members

Co-Chairs

Chief Judge Eduardo V. Rodriguez
U.S. Bankruptcy Court, McAllen Texas

Judge Jeff P. Norman
U.S. Bankruptcy Court, Houston Texas

Members

Abe Limon
Limon Law Office
Brownsville, Texas

Alicia Barcomb
Office of The United States Trustee
Houston, Texas

Brendon Singh
Tran Singh, LLP
Houston Texas

Chris Morrison
Christopher Todd Morrison, P.C.
Houston Texas

Cristina Rodriguez
Keeling Law Firm
Houston Texas

Joel Gonzalez
Law Office of Joel Gonzalez
Corpus Christi, Texas

Marcos Oliva
Oliva Law
McAllen, Texas

Michael Hardwick
Michael Hardwick Law
Houston Texas

Stephen Wilcox
Wilcox Law, PLLC
Fort Worth Texas

Tiffany Castro
Office of William Heitkamp
Chapter 13 Trustee
Houston Texas

Yvonne Valdez
Chapter 13 Trustee
Corpus Christi, Texas



The Chapter 13 Plan, Modification, Local Rules & Forms

Presentation to the Bar

January 23, 2024

Presented Live at Houston, Texas by

Chief Bankruptcy Judge Eduardo V. Rodriguez

Judge Marvin Isgur

Introduction

- Today we are going to cover the following:
 - The new Form Plan and Modification;
 - The newly revised chapter 13 forms;
 - Formulating a Plan/Mod with either fixed or pro-rata payments.
 - The new Local Rule 9017-1 (Means of Conducting Hearings and the Taking of Testimony)

Introduction

The New Plan and Mod

- The Court presented a seminar in Houston regarding the new Chapter 13 Plan on February 7, 2023.
- We heard questions and confusion:
 - How is an ongoing mortgage defined?
 - What paragraph of the plan should be used for various types of claims?
 - When does Rule 3002.1 apply?
 - Why do we have paragraphs 8 and 11 with similar provisions?
- We now have a newly streamlined Plan and Modification that mirror each other.

Introduction and Overview of changes to the Plan and Modification

- The Plan and Mod now more closely resemble each other in numbered paragraphs.
- Chapter 13 Procedures for Administration of Claims Secured by Real Property” has been renamed to simply “*Administrative Procedures for Claims Secured by Real Estate.*”
- The Plan/Mod now include a hyperlink to the Administrative Procedures for Claims Secured by Real Estate.

Introduction and Overview of changes to the Plan and Modification

- All claims secured by real estate are now located in Paragraph 8.
- All claims secured by personal property are now located in Paragraph 9.
- Old Paragraphs 10 and 11 have been eliminated and the balance of the paragraphs have been renumbered.
- The term “Ongoing Payments” has been eliminated from the Plan/Mod and the Administrative Procedures for Claims Secured by Real Estate.
- The Plan/Mod have new labels to make them easier to follow.

Introduction

Bankruptcy Court Webpage and Forms

- The Bankruptcy Court's Webpage regarding Chapter 13 Forms has been modernized and reorganized in order to allow easier access to forms.
- The chapter 13 forms and related orders have also been modernized, updated and renumbered.

Paragraphs 1A and 1B (Plan & Mod)

(Statement of Inclusion of Specific Provisions)

- **Paragraph 1A:** now refers to a “non-standard” provision in Paragraph 27.
- **Paragraph 1B** now contains new streamlined Paragraphs regarding collateral to be valued in the Plan/Mod:
 - **Plan:** A provision limiting the amount of a secured claim based on a valuation of the collateral for the claim in Paragraph
 - 8(B), *(All Other Claims in Default (or otherwise voluntarily paid through the Trustee) Secured by Real Property)*
 - 9(B), *(Claims in Default (or otherwise voluntarily paid through the Trustee) Secured by Personal Property)*
 - 12 *(Secured Claims Satisfied by Transfer of Real Property in Satisfaction of Secured Claim)* or
 - 13 *(Secured Claims on Which Lien is Avoided Under 11 U.S.C. § 522(f)).*
 - **Mod:** A provision limiting the amount of a secured claim based on a valuation of the collateral for the claim in Paragraph 12 or 13. *(Note, valuations in a Plan under 8(B) or 9(B) remain effective).*

Paragraph 1C and D – (Plan & Mod) *(Statement of Inclusion of Specific Provisions)*

- **Paragraph 1C:** now refers to Paragraph **8E** (*Claims for Which Liens are to be Stripped*) to avoid a security interest (or “*Lien Strip*”).
- **Paragraph 1D:** now refers to a provision avoiding a security interest or lien in exempt property in Paragraph **13** (*Lien avoidance under § 522(f)*).

Paragraph 1 – (Plan)

(Statement of Inclusion of Specific Provisions)

Description of Provision	Included	Not Included
A. A “non-standard” provision contained in Paragraph 27.		
B. A provision limiting the amount of a secured claim based on a valuation of the collateral for the claim in Paragraph 8(B), 9(B), 12 or 13.		
C. A provision avoiding a security interest or a lien in Paragraph 8(E).		
D. A provision avoiding a security interest or lien in exempt property in Paragraph 13.		

Paragraph 1 – (Mod)

(Statement of Inclusion of Specific Provisions)

Description of Provision	Included	Not Included
1. A “non-standard” provision contained in Paragraph 27.		
2. A provision limiting the amount of a secured claim based on a valuation of the collateral for the claim in Paragraph 12 or 13. Note: valuations in the previously confirmed plan remain effective.		
3. A provision avoiding a security interest or a lien in Paragraph 8E.		
4. A provision avoiding a security interest or lien in exempt property in Paragraph 13.		

Paragraph 2 (Plan & Mod) *(Payment Summary and Applicability of Administrative Procedures for Claims Secured by Real Estate.)*

- **Paragraph 2B now contains a hyperlink to the newly renamed Trustee Procedures:**

“The Administrative Procedures for Claims Secured by Real Estate apply to all claims treated under this Plan that are secured by real property owned in whole or in part by the Debtor(s) or the Debtor(s) estate.”

https://www.txs.uscourts.gov/sites/txs/files/Administrative_Procedures_for_Claims_Secured_by_Real_Estate.pdf

Paragraph 3 – (Plan) *(Motion for Valuation of Secured Claims)*

- **Paragraph 3 (of the Plan):** has also been renumbered to match Paragraph 1:
 - **Paragraph 3: Motion for Valuation of Secured Claims.** If indicated in Paragraph 1(B) of this Plan, the Debtor(s) move to establish the value of the collateral securing claims in the amount set forth in Paragraphs:
 - **8(B)**, *(All Other Claims in Default (or otherwise voluntarily paid through the Trustee) Secured by Real Property)*
 - **9(B)**, *(Claims in Default (or otherwise voluntarily paid through the Trustee) Secured by Personal Property)*
 - **12** *(Secured Claims Satisfied by Transfer of Real Property in Satisfaction of Secured Claim)* **OR**
 - **13** *(Secured Claims on Which Lien is Avoided Under 11 U.S.C. § 522(f)).*

Paragraph 3 – (Mod) *(Description of events causing need to modify)*

- **Paragraph 3 of the Mod is largely unchanged from historic versions of the modification.**

A. Provide for treatment of the following claims that were filed or amended after confirmation:

_____.

B. Cure a post-petition payment default. The reason for the post-petition payment default is:

_____.

C. Address a loss in income that requires a reduction in payments to the Trustee.

D. Address an increase in income that requires an increase in payments to the Trustee.

E. Other: _____.

Paragraph 4A – (Plan & Mod)

- **Paragraph 4A:** now makes reference to the new Chapter 13 Trustee Procedures and renumbers certain affected paragraphs:
 - **Paragraph 4 A:** If the *payments* to be made by the Trustee pursuant to this Plan are adjusted in accordance *with the Administrative Procedures for Claims Secured by Real Estate* (whether on account of a change in any escrow requirement, a change in the applicable interest rate under an adjustable-rate mortgage, or otherwise) or in accordance with the procedures set forth in Paragraphs
 - **4(B),** (*Adjustment of plan payment due to a Monthly Mortgage Payment proof of claim that differs from the Plan*)
 - **18(E),** (*Surrender of collateral after confirmation to a secured creditor*)
 - **20(D)** (*Debtor files a Notice of a change in Savings*) **or**
 - **21(B),** (*Debtor files a Notice in a change in Reserves*) the payments to the Trustee under this Plan will be adjusted as follows:

Paragraph 4A(i) (Plan & Mod)

- **Paragraph 4A(i):** The Debtor(s)' payments required by Paragraph 4 of this Plan will be automatically increased or decreased by (a) the amount of the increase or decrease in Paragraph:
 - **4(B)**, *(Adjustment of plan payment due to a Monthly Mortgage Payment proof of claim that differs from the Plan)*
 - **8(A)(ii)**, *(Adjustment of plan payment due to a change in Cure Claim, 3002.1 Claim, or Post-Petition Claim - Homestead Cure and Maintain)*
 - **8(B)(ii)**, *(Adjustment of plan payment due to a change in Cure Claim, 3002.1 Claim, or Post-Petition Claim – Other than Homestead Cure and Maintain)*
 - **18(E)**, *(Surrender of collateral after confirmation to a secured creditor)*
 - **20(D)** *(Debtor files a Notice of a change in Savings)* **OR**
 - **21(B)** *(Debtor files a Notice in a change in Reserves)*

Paragraph 4A(iii) (Plan & Mod)

- **Paragraph 4A(iii):** If a change pursuant to Paragraph
 - 4(B)
 - 8(A)(ii)
 - 8(B)(ii)
 - 18(E)
 - 20(D) or
 - 21(B)
- is made and the monthly payment adjustment multiplied by the number of remaining months in the Plan is less than \$100, the payment adjustments required by Paragraph 4(A) will not be made.

Paragraph 4B (Plan & Mod)

- *Subject to a Court order to the contrary, if the Monthly Mortgage Payment set forth in a timely filed proof of claim differs from the Monthly Mortgage Payment scheduled in this Modified Plan, the Trustee must adjust the Modified Plan payment in order to reflect the Monthly Mortgage Payment amount set forth in the proof of claim.”*
- This paragraph continues our practice of providing that a timely filed proof of claim controls over the plan as to the amount of the monthly mortgage payment.

Paragraph 4C (Plan & Mod)

- **Paragraph 4C Payments:** If a secured or priority proof of claim is not timely filed, the amounts scheduled in this Plan will govern. If a secured or priority proof of claim is timely filed after confirmation of this Plan, the amounts shown on the timely filed proof of claim will govern. **The Administrative Procedures for Claims Secured by Real Estate** govern Monthly Mortgage Payment amounts.

Paragraph 8 (Plan & Mod) (*Introduction*)

- All Claims secured by retained real estate are now in Paragraph 8.
- contains 6 subparagraphs (subparagraphs A through F), each conveniently labeled
- **8. Claims Secured by Real Property that will be Retained and Paid in accordance with either subparagraph A, B, C, D or E**
 - Each Real Property treated under Paragraph 8 now has a separate Text Box to list its own separate address.

Paragraph 8 (Plan & Mod) *(Introduction)*

- Paragraph 8 deals with all claims secured by real estate that the Debtor(s) will either
 - (A) retain and pay through the Trustee via cure and maintain (**Debtor's Principal Residence only**),
 - (B) total debt claim (**including Debtor's Principal Residence**) or cure and maintain (**other than Debtor's Principal Residence**),
 - (C) pay direct,
 - (D) refinance, or
 - (E) strip an undersecured lien;

Paragraph 8A (Plan & Mod) (*cure and maintain*)

- Paragraph **8(A)** deals **only** with § 1322(b)(5) (cure and maintain) claims on **DEBTOR'S PRINCIPAL RESIDENCE**.
 - deals **only** with a traditional home mortgage loan secured by a security interest on the Debtor(s) principal residence in which the last payment is due after the date on which the final payment under the plan is due (1322(b)(5) claims – cure and maintain).

Paragraph 8A (Plan & Mod)

(cure and maintain)

TABLE FOR THE PLAN

Street Address:				City:			State:		
Name of Holder of Secured Claim	Amount of Claim	Interest Rate	Collateral for Claim	Monthly Payment Amount			Starting Month #	Ending Month #	Total
				P&I	Escrow	Total			
Cure Claim at Petition Date									
Post-petition Claim									
Rule 3002.1(c) Claim									
Monthly Mortgage Payment									

Paragraph 8A (Plan & Mod)

(cure and maintain)

TABLE FOR THE MOD

Street Address:			City:			State:					
Name of Holder of Secured Claim	Remaining Claim	Post-Confirmation Claims not Included in Remaining Claim	Total Remaining Claims and Post Confirmation Claims	Modified Plan Interest Rate	Collateral for Claim	Monthly Payment Amount			Starting Month #	Ending Month #	Total
						P & I	Escrow	Total			
Cure Claim at Petition Date											
Post-petition Claim											
Rule 3002.1(c) Claims											
Monthly Mortgage Payment											

Paragraph 8B (Plan & Mod)

(Non Principal Residence cure and maintain, and other real property)

- **8B All Other Claims in Default (or otherwise voluntarily paid through the Trustee) Secured by Real Property.**
 - Debtor's Principal Residence total debt claims (§ 1322(c)(2)),
 - Tax Liens,
 - Ad Valorem tax claims,
 - Claims secured by liens on rental property,
 - Claims secured by liens on business property
 - Any other real property that is either
 - **going to be paid in accordance with § 1322(b)(5) (cure and maintain) [OTHER THAN DEBTOR'S PRINCIPAL RESIDENCE]**
 - **or § 1322(c)(2) (pay in full within life of the Plan).**

Paragraph 8B (Plan & Mod)

(Other than Homestead cure and maintain, and other real property)

TABLE FOR PLAN

Street Address:					City:			State:		
Name of Holder of Secured Claim	Amount of Claim	Plan Interest Rate	Collateral for Claim	Collateral Value	Monthly Payment Amount			Starting Month #	Ending Month #	Total
					P&I	Escrow	Total			
Cure Claim										
Post-petition Claim										
Rule 3002.1 Claim										
Monthly Payment										
Total Debt Claim										

Paragraph 8B (Plan & Mod)

(Other than Homestead cure and maintain, and other real property)

TABLE FOR MOD

Street Address:						City:			State:		
Name of Holder of Secured Claim	Remaining Claim	Post-Confirmation Claims not Included in Remaining Claim	Total Remaining Claims and Post Confirmation Claims	Modified Plan Interest Rate	Collateral for Claim	Monthly Payment Amount			Starting Month #	Ending Month #	Total
						P&I	Escrow	Total			
Cure Claim											
Post-petition Claim											
Rule 3002.1 Claim											
Monthly Mortgage Payment											
Total Debt Claim											

Newly revised Paragraph 8(C) (Plan and Mod) *(Pay direct)*

- Paragraph **8(C)** deals with all real property (including Debtor's homestead) in which there is no pre-petition default and in which Debtor will pay direct.
- **8. C Claims with No Default to be Paid Directly by Debtor.** The claims held by the following secured creditors will be paid by the Debtor(s) (and not paid through the Trustee) in accordance with (i) state law requirements regarding claims secured by statutory liens; or (ii) pre-petition contracts between the Debtor(s) and the holder of the secured claim.

Paragraph 8C (Plan & Mod)

(pay direct)

TABLE FOR PLAN

Street Address:			City:		State:	
Name of Holder	Total Claim on Petition Date	Collateral for Claim	Collateral Value on Petition Date	Contract Interest Rate	Monthly Payment	Date Last Payment is Due

Paragraph 8C (Plan & Mod)

(pay direct)

TABLE FOR MOD

Street Address:			City:		State:	
Name of Holder	Total Claim on Petition Date	Collateral for Claim		Contract Interest Rate	Monthly Payment	Date Last Payment is Due

Paragraph 8D (Plan & Mod)

(refinance)

- **8. D. Claims to be Paid Pursuant to Consensual Refinancing.**
 - The holder of a claim secured by Debtor(s)' real property has agreed to refinance the secured claim on the terms set forth on the document attached as Exhibit 8D. The refinancing brings the loan current in all respects. The terms of the loan that is being refinanced and the new loan are described below.
- **Additional language in Mod:**
 - (If the loan refinancing was approved under a previously confirmed plan, the refinancing remains effective and must not be listed here. Amounts payable on a previously approved refinancing must be listed under Paragraphs **8(A)**, *(Cure and maintain) 8(B) (Pay all or through Trustee)* or **8(C) (Pay direct)**, as appropriate.)

Paragraph 8D (Plan and Mod)

(refinance)

Table for both Plan and Mod

Street Address:	City:	State:
	Old Loan	New Loan
Current amount owed on old loan and total amount borrowed on new loan		
Interest rate is fixed or variable?		
Interest rate (in %)		
Closing costs paid by Debtor(s)		
Monthly principal and interest payment		
Monthly required escrow deposit		
Total monthly payment of principal, interest and escrow		

Newly revised Paragraph 8(E) *(Lien strip)*

- Paragraph 8(E) deals with all real property (including Debtor's homestead) for which liens are to be stripped.

Paragraph 8E (Plan and Mod)

(*Lien Strip*)

8. E. Claims for Which Liens are to be Stripped. The following table sets forth the treatment of certain classes of claims secured by the Debtor(s)' real property. For the lien strip to become effective Debtors must comply with the requirements set forth in subparagraphs (i) – (iv).

This paragraph deals with any claim secured by real property that is stripped because it is not secured by any value.

Street Address:	City:	State:
Name of Lienholder		
Address		
Debtor(s)' Stated Value of Property	\$ _____	
Description of all Liens Senior in Priority (List Holder and Priority)	Estimated Amount Owed on This Lien	
Total Owed—All Senior Liens		

Paragraph 8F (Plan & Mod) *(Rule 3002.1 application)*

8. F. Provisions applicable to claims treated in Paragraphs 8(A) or 8(B).

- These provisions apply to any claim that is treated in either Paragraph 8(A) or 8(B) of this plan.
- This Paragraph F deals with a number of provisions that were repeated in 8 A, 8 B and 11 of the old Plan and Mod and places them in one single paragraph 8F.
- *The procedures set forth in FED. R. BANKR. P. 3002.1 and in the Administrative Procedures for Claims Secured by Real Estate apply to all claims treated under Paragraphs 8(A) or 8(B), including without limitation claims that are secured by a Tax Lien.*

Paragraph 9(A) (Plan & Mod) *(910 claims only)*

- Paragraph **9(A)** deals with 910 claims only paid through the Trustee

9. Claims Secured by Personal Property that will be Retained and Paid in Accordance with Either Subparagraph A, B, or C below:

- A. Debt Incurred (a) within 910 Days Preceding Petition Date and Secured by a Lien on a Motor Vehicle or (b) within 1 Year Preceding Petition Date and Secured by Other Collateral for Which Full Payment, with Interest, is Required by 11 U.S.C. § 1325(a)(9) (hanging Paragraph).**

Paragraph 9(A) (Plan & Mod)

(910 claims only)

TABLE FOR PLAN – 910 claims only

Name of Holder of Secured Claim	Total Claim on Petition Date	Collateral for Claim	Plan Interest Rate	Monthly Contractual Payment	Starting Month #	Ending Month #	Total
Cure Claim							
Monthly Contractual Payment							
Total Debt Claim							

Paragraph 9(A) (Plan & Mod)

(910 claims only)

TABEL FOR MOD – 910 claims only

Name of Holder of Secured Claim	Remaining Claim	Post-Confirmation Claims not Included in Remaining Claim	Total Remaining Claims and Post Confirmation Claims	Modified Plan Interest Rate	Collateral for Claim	Monthly Contractual Payment	Starting Month #	Ending Month #	Total
Cure Claim									
Monthly Contractual Payment									
Total Debt Claim									

Paragraph 9(B) (Plan & Mod)

(cramdown)

- Paragraph 9(B) deals with Claims in default paid through the Trustee (other than 910 claims)
- **9. B. Claims in Default (or otherwise voluntarily paid through the Trustee) Secured by Personal Property.** Payments on these claims will be made through the Trustee on the terms in this table:

Paragraph 9(B) (Plan & Mod)

(*cramdown*)

TABLE FOR PLAN

Name of Holder of Secured Claim	Amount of Claim	Collateral for Claim	Plan Interest Rate	Collateral Value	Monthly Contractual Payment	Starting Month #	Ending Month #	Total
CureClaim								
Monthly Contractual Payment								
Total Debt Claim								

Paragraph 9(B) (Plan & Mod)

TABLE FOR MOD:

Name of Holder of Secured Claim	Remaining Claim	Post-Confirmation Claims not Included in Remaining Claim	Total Remaining Claims and Post Confirmation Claims	Modified Plan Interest Rate	Collateral for Claim	Monthly Contractual Payment	Starting Month #	Ending Month #	Total
Cure Claim									
Monthly Contractual Payment									
Total Debt Claim									

Paragraph 9(C) (Plan & Mod)

(pay direct)

- Paragraph 9(C) deals with Claims that are not in default and paid directly by the Debtor.
- **9. C. Claims with No Default to be Paid Directly by Debtor.** The claims held by the following secured creditors will be paid by the Debtor(s) (and not paid through the Trustee) in accordance with the pre-petition contracts between the Debtor(s) and the holder of the claim secured by a security interest:

Paragraph 9(C) (Plan & Mod)

(pay direct)

TABLE FOR PLAN

Name of Holder	Claim	Collateral for Claim	Collateral Value on Petition Date	Contract Interest Rate	Monthly Payment	Date Last Payment is Due

Paragraph 9(C) (Plan and Mod)

(pay direct)

TABLE FOR MOD

Name of Holder	Claim	Collateral for Claim	Contract Interest Rate	Monthly Payment	Date Last Payment is Due

Paragraph 11 (Plan & Mod)

(taxes and insurance)

11. Maintenance of Taxes and Insurance.

- The Debtor(s) must pay all ad valorem property taxes on property that is retained under this Plan, with payment made in accordance with applicable non-bankruptcy law not later than the last date on which such taxes may be paid without penalty.
- The Debtor(s) must maintain insurance on all property that serves to secure a claim and that is retained under this Plan, in amounts not less than as required by any underlying loan documents.
- This **Paragraph 11** does not apply to the extent that taxes and insurance are escrowed.
- Any holder of a secured claim may request proof of compliance in writing, and the Debtor(s) must promptly provide proof of compliance with this Paragraph.
- If the Debtor(s) fail to provide such proof within 14 days of receipt of a written request, the holder of the debt secured by a lien on the property may purchase such insurance or pay such taxes in accordance with its rights under applicable non-bankruptcy law.

Paragraph 17 (Plan & Mod) *(asset sales)*

- A technical correction was made to the last sentence of Paragraph 17:

17. . . . Unless the sale was privately closed, the closing statement must be the statement issued by the title company or closing agent handling the sale. If the property that was sold was exempted as a homestead solely under Texas law, any proceeds of the sale that are not reinvested in a qualifying Texas homestead within 6 months of the closing of the sale must be paid to the Trustee within 14 days after the expiration of the 6-month period. ~~If only a portion of the proceeds are reinvested in a qualifying Texas homestead prior to the expiration of the 6-month period, the balance of the proceeds must be paid to the Trustee within 14 days after the expiration of the 6 month period.~~

Paragraph 19 (Plan & Mod)

(payments under Plan/Mod)

19. Payments Under Plan.

- For the purposes of 11 U.S.C. § 1328(a) of the Bankruptcy Code, the Debtor(s) will have completed all payments under this Plan by:
 - A. Paying all amounts due under Paragraph 4 of this Plan, as adjusted by this Plan; and
 - B. Paying all amounts due to be made by the Debtor(s) directly to a creditor (rather than through the Trustee) under Paragraphs **8(C) (real property direct payments)**, **9(C) (personal property direct payments)** and **11 (direct and post-petition *ad valorem* taxes)** of this Plan, as adjusted by this Plan.

Paragraph 20 (Plan and Mod) (*savings fund*)

20. Savings Fund.

- If the Trustee does not make the emergency disbursement within five days, the Debtor(s) may request an emergency hearing. If no hearing has been set by the Court on the application and no objection has been filed by the 7th day after the withdrawal application has been filed, the withdrawal application will be deemed granted.

Paragraph 22 (Plan and Mod) *(conversion fee)*

22. Effect of motion to convert to chapter 7

- The fees have increased from \$750 to **\$900**.

Paragraph 27 (Plan & Mod)

(non-standard provisions)

27. Non-standard Provisions. _____

_____.

Except for provisions contained in Paragraph 27, any provision not contained in the approved Southern District of Texas Chapter 13 Plan is void. Any provision contained in this Paragraph 27 is void unless Paragraph 1 of this Plan indicates that a non-standard provision has been included in this Plan.

The Newly Revised Chapter 13 Forms

- The S.D. of Texas Bankruptcy Court Home Page has been updated and modernized which provides an easy to read and find Index of Forms and renumbered for easy reference.
- The new forms are effective October 1, 2023, and are available for review on the Court's web site:
- <https://www.txs.uscourts.gov/page/bankruptcy-chapter-13-forms-oct-2023>

Formulating a Plan/Mod with either fixed or pro-rata payments

Pro-rata payments no fixed term

- It was recently discovered that there are plans being proposed that provide for pro-rata payments but do not provide for a starting and ending month.
- This is a problem because the priority claims of lawyer fees and IRS claims for example are being paid pro-rata along with mortgage cure-claims and car payments.
- In other words, priority treatment of a claim in this manner would not provide for priority treatment at all.
- Another problem is that some plans are listing payments as pro-rata with gaps in monthly payments: *i.e.* 6-9 months and then months 12-20.
- The Trustee's BSS is not capable of starting and stopping payments in such a manner and Bankruptcy Pro will not list a payment in months 10-11 when there is a zero payment.

Formulating a Plan/Mod with either fixed or pro-rata payments

Example (not an actual case)

Name of Holder of Priority Claim	Amount of Priority Claim	Plan Interest Rate	Amount of Estimated Periodic Payment	First Payment of this Amount in Mo. #	Last Payment of this Amount in Mo. #	Total
Marcos Oliva	\$3,000.00	0	Pro-Rata	1	59	\$3,000.00
IRS	\$2,000.00	0	Pro-Rata	1	59	\$2,000.00

Formulating a Plan/Mod with either fixed or pro-rata payments

Pro-Rata Payments with different terms

- When a plan proposes two separate secured claims to be paid pro-rata for example in Paragraph 9:
 - A car claim paid in months 1-36 and
 - A furniture claim paid in months 1-8
 - The Trustee's BSS cannot not pay the two pro-rata claims differently, they either both have to be months 1-8 or 1-36.
- The solution is that Debtor has to either:
 - treat both pro-rata claims in similar beginning and ending months or
 - set them up with different beginning and ending months but in fixed monthly payments

Formulating a Plan/Mod with either fixed or pro-rata payments

Example (not a real case)

Name of Holder of Secured Claim	Total Claim on Petition Date	Collateral for Claim	Plan Interest Rate	Monthly Payment	Starting Month #	Ending Month #	Total
Santander							
Cure Claim							
Monthly Payment							
Total Debt Claim	\$36,435.00		6%	Pro-Rata	1	36	\$42,181.00
Furniture Mart							
Cure Claim							
Monthly Payment							
Total Debt Claim	\$9,000.00		6%	Pro-Rata	1	8	\$19,500.00

Formulating a Plan/Mod with either fixed or pro-rata payments

- **Solution:**
- **Priority claims** should be set up as either:
 - pro-rata with a definite beginning month and ending month or
 - as fixed payments with a similar beginning month and ending month and paid out in a shorter length of time (12 months or less as long as the plan calculates as being feasible).
- **Secured claims** either need to be:
 - in fixed monthly payments (they can be similar or different in beginning and ending months) or
 - pro-rata with exactly the same beginning and ending months.

New Local Rules

- Some Local Rules have either been amended or added that have an impact on chapter 13 cases and bankruptcy cases in general.

New Local Rules Applicable to Consumer Cases

- **Rule -3015-1(b)** has been updated to reflect the newly revised name of “Administrative Procedures for Claims Secured by Real Estate”
- **Rule 4001- (e)(4)** has been updated to list the new website of jdpower.com for valuation of estate vehicles
- **Rule 4002-1** – was amended to delete paragraph 4002-1(h) [duplicative of paragraph (g)] and to renumber the balance of the paragraphs

Newly revised Local Rules

- (g) The debtor must comply fully with Title 11's tax provisions, with the deposit requirements of the Internal Revenue Code and Regulations, and with all state tax laws.
- **Rule 6007-1(d), (g) and (i)** have been updated to reflect the newly renumbered Paragraph 18 (instead of 20) of the Mod.
- **Rule 9017-1** is new that provides guidance regarding the introduction of witness testimony by contemporaneous transmission from a location outside of the courtroom.

Rule 9017-1. Means of Conducting Hearings and the Taking of Testimony

- In hearings and trials for which the Court authorizes remote participation, the Court's audio and video connections may be utilized only by:
 - (1) the parties to the proceeding;
 - (2) other parties-in-interest, including creditors and interest holders;
 - (3) attorneys, other professionals and their staff acting on behalf of a party or a party-in-interest;
 - (4) witnesses;
 - (5) other persons necessary to conduct the hearing or trial; and
 - (6) other persons as specifically authorized by the Court

Rule 9017-1. Means of Conducting Hearings and the Taking of Testimony

- (b) The presiding judge's individual procedures (accessible on that judge's home page) determine whether remote participation is authorized. Those procedures may be varied by a case-specific order.
- (c) FED. R. CIV. P. 43 applies to the taking of testimony. If the Court determines that **emergency consideration** of a matter is required, witness testimony will be allowed remotely. In all other instances, the party choosing to call a witness to testify remotely must first demonstrate that good cause in compelling circumstances exists and that appropriate safeguards have been established.
 - 1. At a minimum, appropriate safeguards will include assurances that the witness will be giving testimony independently and with no assistance or coaching by others.

Rule 9017-1. Means of Conducting Hearings and the Taking of Testimony

- 2. Good cause in compelling circumstances may be shown:
 - (A) At the scheduled hearing or trial, by a demonstration of the good cause in compelling circumstances;
 - (B) By filing of a “Notice of Intent to Call Live Witness by Telephone and Video Technology” in the form published on the Court’s website at least 7 days prior to the scheduled hearing or trial. Any party-in-interest may object to the Notice within 3 days of the filing of the Notice. If no party-in-interest files a timely objection, the witness will be allowed to testify remotely using the Court’s audio and video connections. If a party-in-interest files a timely objection, the Court will rule on the objection prior to or at the scheduled hearing or trial.

Rule 9017-1. Means of Conducting Hearings and the Taking of Testimony

- (C) If the Court does not authorize the testimony to be taken remotely, the Court will schedule a date for the witness's testimony. Both the witness and the objecting party-in-interest must appear in person at the scheduled date.
- This rule supersedes
- General Orders 2020-4 (*Adoption Of Contingency Plan To Address Possible Public Health Limitations On Court Operations*)
- 2020-20 (*Extension and Modification of Emergency Protocol - Indefinite*).
- General Order 2021-5 (*Post COVID Reopening Plan*) is superseded only to the extent this Rule 9017-1 conflicts with General Order 2021-5.

Rule 9017-1. Means of Conducting Hearings and the Taking of Testimony - Form

1. This Notice is filed pursuant to BLR 9017-1(c)(2)(B) by _____.
2. This Notice pertains to the matters scheduled for hearing or trial in this case on [insert date and time].
3. The party filing this Notice intends to call [Name of Witnesses] to testify at the scheduled hearing or trial by telephone and video technology.
4. Any party-in-interest may object to this notice within 3 days of its filing on the Court's docket. If no party-in-interest files a timely objection, the Court will allow the identified witnesses to give testimony remotely using the Court's telephone and video technology. If the Court does not authorize the testimony to be taken remotely, the Court will schedule a date for the witness's testimony to be given live in open court. Both the witness(es) and the objector must appear in person at the scheduled date.
5. This Notice may be withdrawn at any time prior to the scheduled hearing or trial

Thank you!

CHAPTER 13 PRO-RATA VS. FIXED PLAN PAYMENTS AND INTEREST RATES

**1ST ANNUAL SOUTHERN DISTRICT OF TEXAS CONSUMER BANKRUPTCY CONFERENCE
JANUARY 23, 2024**

Moderator: Judge Isgur

Panelists:

Yvonne V. Valdez, Chapter 13 Trustee, Corpus Christi, Texas

Tiffany Castro, Chapter 13 Trustee, Houston, Texas

Joel Gonzalez, Law Office of Joel Gonzalez, Corpus Christi, Texas

Chris Morrison, Christopher Todd Morrison, P.C., Houston, Texas

PAYING CREDITORS

How does the plan propose to pay creditors?

- ▶ Our goal is transparency.
- ▶ We want to set up disbursement to mirror what the plan proposes.
 - ▶ But sometimes, it is mathematically impossible.
- ▶ Under Espinosa, we have to pay per the plan.
- ▶ Are fixed payments or pro-rata better?
 - ▶ One is not better than the other.
 - ▶ Each one has its own benefits.
 - ▶ Both can co-exist in the same plan.

FIXED VS. PRO-RATA

▶ Fixed Payments

- ▶ Make sure plan payment is sufficient to pay all fixed payments including Adequate Protection, Savings, Reserves, Monthly Mortgage, Trustee fee, etc.
- ▶ Ensure Fixed Payment covers Adequate Protection for cars.
- ▶ Get paid first. If Debtor is behind, system will catch up missed payments.
- ▶ Fixed and equal rule. Don't add so many variable payments.

▶ Pro-Rata Payments

- ▶ Creditors share in any leftover funds after any fixed payments.
- ▶ Can't schedule pro-rata payments to start and stop in variable months.
- ▶ Can't guarantee claim will be paid off in certain month.
- ▶ Pro-rata should still include start/end months to give creditors notice and set priorities for creditors.
- ▶ Can set up levels to pay one pro-rata creditor in full before another creditor.

Mortgage Corp								
Cure Claim at Petition Date**	\$24,520.44	0.00%	\$1,631.59		\$1,631.59	9	9	\$1,631.59
			\$187.68		\$187.68	10	20	\$2,064.48
			\$3,690.71		\$3,690.71	21	21	\$3,690.71
			\$196.20		\$196.20	22	32	\$2,158.20
			\$3,624.17		\$3,624.17	33	33	\$3,624.17
			\$204.07		\$204.07	34	44	\$2,244.77
			\$3,554.92		\$3,554.92	45	45	\$3,554.92
			\$211.38		\$211.38	46	56	\$2,325.18
			\$3,226.42		\$3,226.42	57	57	\$3,226.42
Post-petition Claim								
Rule 3002.1(c) Claim								
Monthly Mortgage Payment	\$238,153.34	0.00%	\$1,760.81	\$277.81	\$2,038.62	1	60	\$122,317.20

FIXED

VS.

Street Address:			City:			State:				
Name of Holder of Secured Claim / Collateral for Claim			Amount of Claim	Interest Rate	Monthly Payment Amount			Start. Month #	End. Month #	Total
Mortgage Corp					P&I*	Escrow	Total			
Cure Claim at Petition Date**	\$24,520.44	0.00%	Pro-Rata		Pro-Rata	9	57	\$24,520.44		
Post-petition Claim										
Rule 3002.1(c) Claim										
Monthly Mortgage Payment	\$238,153.34	0.00%	\$1,760.81	\$277.81	\$2,038.62	1	60	\$122,317.20		

PRO-RATA

Street Address:				City:			State:		
Name of Holder of Secured Claim / Collateral for Claim	Amount of Claim	Plan Int. Rate	Collateral Value	Monthly Payment Amount			Start. Mo. #	End. Mo. #	Total
				P&I	Escrow*	Total			
██████████ Co Tax-Assessor			\$43,065.00						
Cure Claim									
Post-petition Claim									
Rule 3002.1 Claim									
Monthly Payment									
Total Debt Claim**	\$4,435.79	12.00%		\$322.81		\$322.81	9	9	\$322.81
				\$64.43		\$64.43	10	20	\$708.73
				\$788.90		\$788.90	21	21	\$788.90
				\$61.34		\$61.34	22	32	\$674.74
				\$810.21		\$810.21	33	33	\$810.21
				\$58.49		\$58.49	34	44	\$643.39
				\$833.30		\$833.30	45	45	\$833.30
						\$55.87	46	56	\$614.57
						\$795.07	57	57	\$795.07

FIXED

VS.

Street Address:				City:			State:		
Name of Holder of Secured Claim / Collateral for Claim	Amount of Claim	Plan Int. Rate	Collateral Value	Monthly Payment Amount			Start. Mo. #	End. Mo. #	Total
				P&I	Escrow*	Total			
██████████ Co Tax-Assessor			\$43,065.00						
Cure Claim									
Post-petition Claim									
Rule 3002.1 Claim									
Monthly Payment									
Total Debt Claim**	\$4,435.79	12.00%		Pro-Rata		Pro-Rata	9	57	\$6,310.48

PRO-RATA

Post-Confirmation Claims not Included in Remaining Claim	Total Remaining Claims and Post-Confirmation Claims	Interest Rate Under this Modified Plan	Amount of Periodic Payment	First Payment of this Amount in Mo. #	Last Payment of this Amount in Mo. #	Total
OD 7/2023)		0.00%	Pro-Rata	9	10	\$75.00
\$850.00	\$850.00		Pro-Rata	27	55	\$775.00
(Atty-fee)		0.00%	\$318.79	10	10	\$318.79
\$3,700.00	\$3,700.00		\$324.87	11	20	\$3,248.70
			\$132.51	21	21	\$132.51
(Post-conf)		0.00%	\$192.36	21	21	\$192.36
\$2,000.00	\$2,000.00		\$324.87	22	26	\$1,624.35
			\$183.29	27	27	\$183.29

XXX

EXAMPLES

X - CAN'T START AND STOP THE SAME CLAIM IN DIFFERENT MONTHS.

X - CAN'T LEAVE START AND END MONTHS BLANK.

Name of Holder of Secured Claim / Security for Claim	Claim	Plan Interest Rate	Monthly Payment Amount	Starting Month #	Ending Month #	Total
NMAC 2021 Nissan Rogue (approx. 23,496 miles)						
Cure Claim*						
Monthly Contract Pmt.						
Total Debt Claim	\$31,771.59	8.00%	Pro-Rata			\$38,624.99

9. Debt Incurred (a) within 910 Days Preceding Petition Date and Secured by a Lien on a Motor Vehicle or (b) within 1 Year Preceding Petition Date and Secured by Other Collateral for Which Full Payment, with Interest, is Required by 11 U.S.C. § 1325(a)(9) (hanging Paragraph). The following table sets forth each class of creditors holding a claim for a debt incurred within 910 days preceding the petition date and secured by a security interest on a motor vehicle or for a debt incurred within 1 year preceding the petition date and secured by a security interest on other collateral for which full payment is required by 11 U.S.C. § 1325(a)(9) (hanging Paragraph).

Name of Holder of Secured Claim Security for Claim	Claim	Plan Interest Rate	Monthly Payment Amount	Starting Month #	Ending Month #	Total
Santander Consumer USA, Inc						
<u>Security for Claim</u> 2018 Nissan Murano SV						
Cure Claim ⁷						
Total Debt Claim	\$30,491.26	8.75%	Pro-Rata	1	36	\$35,409.45
Monthly Contract Pmt.						
Conn's HomePlus						
<u>Security for Claim</u> 75' UHD TV, Blueberry home theater, cocktail table, recliner, sofa set						
Cure Claim ⁷						
Total Debt Claim	\$5,329.27	8.75%	Pro-Rata	1	8	\$5,499.89
Monthly Contract Pmt.						
Famsa						
<u>Security for Claim</u> Queen bed rails, headboard, footboard and mattresses						
Cure Claim ⁷						
Total Debt Claim	\$2,310.49	8.75%	Pro-Rata	1	8	\$2,384.46
Monthly Contract Pmt.						

XXX

CONTINUED

X - CAN'T END PAYMENTS IN DIFFERENT MONTHS.

X - NO GUARANTEE THAT FAMSA WILL BE PAID BY MONTH 8.

	Claim	Plan Int. Rate	Monthly Payment Amount	Starting Month #	Ending Month #	Total
	\$1,993.26	9.25%	Pro-Rata	14	33	\$2,369.00

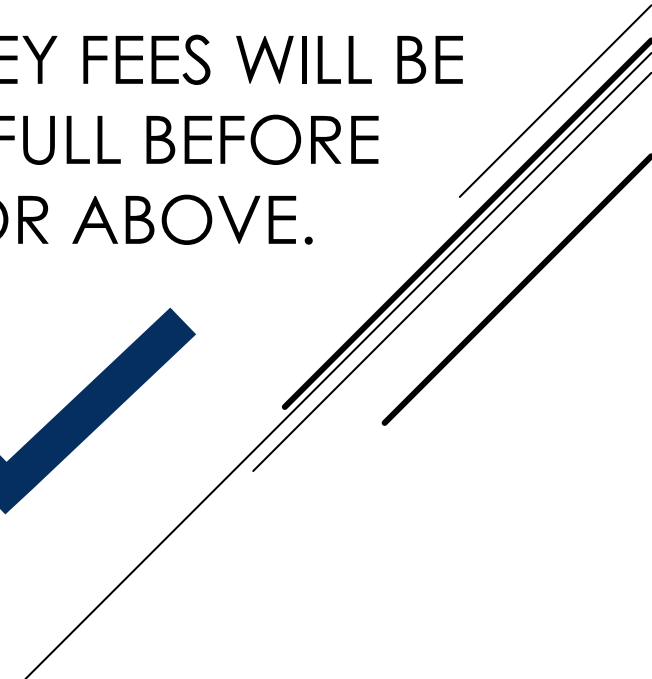
Total of Payments to Secured Creditors	\$78,481.16
---	--------------------

Projected Trustee Disbursements to Priority Creditors						
Nature of Priority (Taxes, Attorneys Fees, DSO, etc.)	Claim	Int. Rate	Monthly Payment Amount	Beg. Month #	End Month #	Total
Attorney Fees	\$3,703.00	0.00%	Pro-Rata	1	14	\$3,703.00

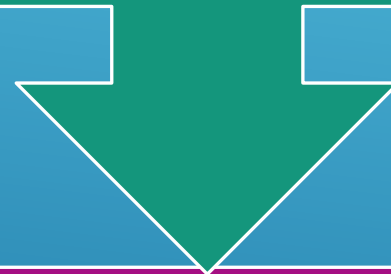
EXAMPLE

DIFFERENT LEVELS ARE OKAY 😊

ATTORNEY FEES WILL BE PAID IN FULL BEFORE CREDITOR ABOVE.



Does the plan stand a chance at success?



Reasons plans fail:

General Unsecured
Pool too small

Post-Petition Attorney's
Fees (charged per the
fixed fee agreement)
not factored into the
plan

Bi-weekly wage order
payments only catch
up every couple of
months

Interest Accrual

Delinquency

Fixed Payments

- Any amounts due to fixed payments from previous months are paid first from available funds.
- Next all fixed payments from the current month are paid from remaining available funds.
 - If funds are not available to pay all fixed payments, funds are distributed proportionately based on the fixed monthly payment. Any unpaid amount is put in a DUE category to receive first distribution the following month.
 - If funds exceeding the amount needed for all monthly payments are available, they are then distributed to pro rata creditors. Fixed payments will not receive additional funds until the following disbursement.

Pro Rata Payments

- Available funds after paying all monthly fixed payments through the current month are paid proportionately to all creditors within the first pro rata group (as set up in the plan) based on the principal balance of the entire claim
 - The proportionate share may be \$0 if no funds are available
- Once a pro rata group is paid in full (entire claim of every creditor within the group paid), available funds then proceed to the next pro rata group until funds are fully exhausted.

HOW ARE CLAIMS PAID PER THE PLAN?

How does interest accrue?

- If the claim is oversecured, interest accrues from the petition date every month on the principal balance remaining on the claim (based on the interest rate set forth in the plan).
- If the claim is not oversecured, interest accrues from the confirmation date every month on the principal balance remaining on the claim (based on the interest rate set forth in the plan).

Why does the interest projection in the plan not always match the actual interest accrued/due/paid?

- Plans rarely, if ever, accurately project the confirmation date. Plans typically assume confirmation and thus distribution in month 1, which never happens.
 - So, interest on oversecured claims is underestimated and interest on the other claims is overestimated.
- Debtors become delinquent or do not pay funds in good funds before disbursement.
 - Payments are not made as projected and the principal balance does not decrease as expected, resulting in a higher amount of actual interest accruing.
 - If Debtors are on biweekly or weekly wage orders, many months will pay less than expected. If Debtors make electronic payments close to disbursement those payments may not clear??? be good funds in time to be used.
 - If Debtors miss the first payment (or make a partial first payment) they carry a delinquency for the entirety of their case.

INTEREST ACCRUAL

PLAN STANDARDS



- ▶ All Courts require that the ongoing monthly mortgage installment be set as a fixed payment in the plan.
- ▶ Some Courts require that vehicles be set as a fixed payment in the plan if there are other fixed payments to protect adequate protection payments.
- ▶ The plan sets general unsecured creditors as one final pro rata group. So, if there are any general unsecured creditors there will always be at least one pro rata group in every plan.

Debtor's Attorney needs to assist Debtor with proposing a Chapter 13 plan with the following issues:

- ▶ Debtor's means test reflects a 60-month ACP and required return of \$6,000 to general unsecured creditors. The bar date has run and \$50,000 in claims have been filed.
- ▶ Debtor's budget indicates disposable income sufficient to fund a \$2,000 monthly payment.
- ▶ Debtor owns a home with a \$1,000 monthly escrowed mortgage payment and was delinquent \$6,000 on the petition date.
- ▶ Debtor owns a vehicle and the adequate protection order at the beginning of the case awarded a \$200.00 monthly adequate protection claim. Creditor and Debtor have agreed to a repayment at a value of \$20,000 and a 7% interest rate.
- ▶ Debtor previously had a 1099 job and incurred a \$3,000 tax liability to the IRS but now is employed as a W2 worker and does not anticipate future tax liability.
- ▶ Debtor and attorney have agreed to pay the attorney \$4,500 in the plan for the initial chapter 13 representation and to set aside another \$2,000 for future fees to the extent they are earned and due per their fixed fee agreement.
- ▶ Debtor's plan has a Posted Trustee Fee of 10%.

LET'S TAKE AN EXAMPLE

TWO DIFFERENT OPTIONS (OF MANY POSSIBILITIES)

ALL SECURED/PRIORITY WITH FIXED PAYMENTS

\$2,000 plan payment

\$200 Trustee Fee

\$1,000 Monthly Mortgage Months 1-60

\$100 towards Mortgage Arrears Months 1-60

\$200 Vehicle Months 1 through 10 and \$450 months 11-60

\$50 IRS Months 1-60

\$450 Attorney Fee Months 1-10

\$200 Future Attorney Fees Months 11-20

Pro Rata General Unsecured Pool

FIXED PAYMENTS AND PRO RATA TOGETHER

\$2,000 plan payment

\$200 Trustee Fee

\$1,000 Monthly Mortgage Months 1-60

\$200 Vehicle Months 1 through 10 and \$450 months 11-60

\$450 Attorney Fee Months 1-10

\$200 Future Attorney Fees Months 11-20

IRS Pro Rata Group 1 (Months 1-60)

Mortgage Arrears Pro Rata Group 1 (Months 1-60)

Pro Rata Group 2 - General Unsecured Pool

IF DEBTOR IS CURRENT WITH GOOD FUNDS BY DISBURSEMENT BOTH OPTIONS PAY THE EXACT SAME IN MONTH 1

ALL SECURED/PRIORITY WITH FIXED PAYMENTS

\$2,000 plan payment	• RECEIVED \$2,000 IN GOOD FUNDS
\$200 Trustee Fee	• COLLECTED \$200 IN FEES
\$1,000 Monthly Mortgage Months 1-60	• PAID \$1,000 IN ONGOING
\$100 towards Mortgage Arrears Months 1-60	• PAID \$100 IN ARREARS
\$200 Vehicle Months 1 through 10 and \$450 months 11-60	• PAID \$200 TO VEHICLE
\$50 IRS Months 1-60	• PAID \$50 TO IRS
\$450 Attorney Fee Months 1-10	• PAID \$450 TO ATTORNEY
\$200 Future Attorney Fees Months 11-20	• PAID \$0 – NOTHING DUE IN MONTH 1
Pro Rata General Unsecured Pool	• PAID \$0 – NO FUNDS AVAILABLE AFTER PAYING ALL MONTHLY PAYMENTS

FIXED PAYMENTS AND PRO RATA TOGETHER

\$2,000 plan payment	• RECEIVED \$2,000 IN GOOD FUNDS
\$200 Trustee Fee	• COLLECTED \$200 IN FEES
\$1,000 Monthly Mortgage Months 1-60	• PAID \$1,000 IN ONGOING
\$200 Vehicle Months 1 through 10 and \$450 months 11-60	• PAID \$200 TO VEHICLE
\$450 Attorney Fee Months 1-10	• PAID \$450 TO ATTORNEY
\$200 Future Attorney Fees Months 11-20	• PAID \$0 – NOTHING DUE IN MONTH 1
IRS Pro Rata Group 1 (Months 1-60)	• PAID \$50 TO IRS (\$150 AVAILABLE; IRS CLAIM \$3,000/ TOTAL CLAIMS IN GROUP \$9000 = 33%. 33% OF \$150 = \$50)
Mortgage Arrears Pro Rata Group 1 (Months 1-60)	• PAID \$100 IN ARREARS (\$150 AVAILABLE; ARREARS CLAIM \$6,000/ TOTAL CLAIMS IN GROUP \$9000 = 66%. 66% OF \$150 = \$50)
Pro Rata Group 2 - General Unsecured Pool	• PAID \$0 – NO FUNDS AVAILABLE AFTER PAYING ALL MONTHLY PAYMENTS AND PRO RATA 1 GROUP

IF DEBTOR PAYS HALF A PAYMENT, SEE THE DIFFERENCE IN MONTH 1

ALL SECURED/PRIORITY WITH FIXED PAYMENTS

\$2,000 plan payment	• RECEIVED \$1,000 IN GOOD FUNDS
\$200 Trustee Fee	• COLLECTED \$100 IN FEES
\$1,000 Monthly Mortgage Months 1-60	• RESERVED \$500 FOR ONGOING (ONLY PAY IN FULL INSTALLMENTS) • CREATED A DUE AMOUNT OF \$500.
\$100 towards Mortgage Arrears Months 1-60	• PAID \$50 IN ARREARS • CREATED A DUE AMOUNT OF \$50
\$200 Vehicle Months 1 through 10 and \$450 months 11-60	• PAID \$100 TO VEHICLE • CREATED A DUE AMOUNT OF \$100
\$50 IRS Months 1-60	• PAID \$25 TO IRS • CREATED A DUE AMOUNT OF \$25
\$450 Attorney Fee Months 1-10	• PAID \$225 TO ATTORNEY • CREATED A DUE AMOUNT OF \$225
\$200 Future Attorney Fees Months 11-20	• PAID \$0 – NOTHING DUE IN MONTH 1
Pro Rata General Unsecured Pool	• PAID \$0 – NO FUNDS AVAILABLE AFTER PAYING ALL MONTHLY PAYMENTS

FIXED PAYMENTS AND PRO RATA TOGETHER

\$2,000 plan payment	• RECEIVED \$1,000 IN GOOD FUNDS
\$200 Trustee Fee	• COLLECTED \$100 IN FEES
\$1,000 Monthly Mortgage Months 1-60	• RESERVED \$545.45 FOR ONGOING (ONLY PAY IN FULL INSTALLMENTS) • CREATED A DUE AMOUNT OF \$454.55.
\$200 Vehicle Months 1 through 10 and \$450 months 11-60	• PAID \$109.09 TO VEHICLE • CREATED A DUE AMOUNT OF \$90.91
\$450 Attorney Fee Months 1-10	• PAID \$245 TO ATTORNEY • CREATED A DUE AMOUNT OF \$205
\$200 Future Attorney Fees Months 11-20	• PAID \$0 – NOTHING DUE IN MONTH 1
IRS Pro Rata Group 1 (Months 1-60)	• PAID \$0 TO IRS - NO FUNDS AVAILBLE AFTER PAYING ALL MONTHLY PAYMENTS
Mortgage Arrears Pro Rata Group 1 (Months 1-60)	• PAID \$0 IN ARREARS - NO FUNDS AVAILBLE AFTER PAYING ALL MONTHLY PAYMENTS
Pro Rata Group 2 - General Unsecured Pool	• PAID \$0 – NO FUNDS AVAILABLE AFTER PAYING ALL MONTHLY PAYMENTS AND PRO RATA 1 GROUP

IF DEBTOR PAYS A FULL PAYMENT IN MONTH 2 BUT DOES NOT CURE DELINQUENCY, SEE THE DIFFERENCE IN MONTH 2

ALL SECURED/PRIORITY WITH FIXED PAYMENTS

FIXED PAYMENTS AND PRO RATA TOGETHER

\$2,000 plan payment

• RECEIVED \$2,000 IN GOOD FUNDS

\$2,000 plan payment

• RECEIVED \$2,000 IN GOOD FUNDS

\$200 Trustee Fee

• COLLECTED \$200 IN FEES

\$200 Trustee Fee

• COLLECTED \$200 IN FEES

\$1,000 Monthly Mortgage
Months 1-60

• CURED THE DUE AMOUNT OF \$500 AND REMOVED RESERVE OF \$500 FOR ONGOING TO PAY FULL MONTH 1 INSTALLMENT
• RESERVED \$500 TOWARDS MONTH 2 INSTALLMENT
• CREATED A DUE AMOUNT OF \$500 FOR REMAINDER OF MONTH 2.

\$1,000 Monthly Mortgage
Months 1-60

• PAID DUE AMOUNT OF \$454.55 AND REMOVED RESERVE OF \$545.45 FOR ONGOING TO PAY MONTH 1
• RESERVED \$636.08
• CREATED A NEW DUE AMOUNT OF \$363.92

\$100 towards Mortgage Arrears
Months 1-60

• PAID DUE AMOUNT OF \$50.00
• PAID \$50 OF MONTH 2 ARREARS
• CREATED A NEW DUE AMOUNT OF \$50

\$200 Vehicle Months 1 through
10 and \$450 months 11-60

• PAID DUE AMOUNT OF \$90.91
• PAID \$127.22 TO MONTH 2 VEHICLE
• CREATED A NEW DUE AMOUNT OF \$72.78

\$200 Vehicle Months 1 through
10 and \$450 months 11-60

• PAID DUE AMOUNT OF \$100
• PAID \$100 TO MONTH 2 OF VEHICLE
• CREATED A NEW DUE AMOUNT OF \$100

\$450 Attorney Fee Months 1-10

• PAID DUE AMOUNT OF \$205
• PAID \$286.24 TO ATTORNEY
• CREATED A NEW DUE AMOUNT OF \$163.76

\$50 IRS Months 1-60

• PAID DUE AMOUNT OF \$25
• PAID \$25 TO MONTH 2 IRS
• CREATED A NEW DUE AMOUNT OF \$25

\$200 Future Attorney Fees
Months 11-20

• PAID \$0 – NOTHING DUE IN MONTH 2

\$450 Attorney Fee Months 1-10

• PAID DUE AMOUNT OF \$225
• PAID \$225 TO MONTH 2 ATTORNEY
• CREATED A NEW DUE AMOUNT OF \$225

IRS Pro Rata Group 1 (Months
1-60)

• PAID \$0 - NO FUNDS AVAILABLE AFTER PAYING ALL MONTHLY PAYMENTS

\$200 Future Attorney Fees
Months 11-20

• PAID \$0 – NOTHING DUE IN MONTH 2

Mortgage Arrears Pro Rata
Group 1 (Months 1-60)

• PAID \$0 - NO FUNDS AVAILABLE AFTER PAYING ALL MONTHLY PAYMENTS

Pro Rata General Unsecured
Pool

• PAID \$0 – NO FUNDS AVAILABLE AFTER PAYING ALL MONTHLY PAYMENTS

Pro Rata Group 2 - General
Unsecured Pool

• PAID \$0 – NO FUNDS AVAILABLE AFTER PAYING ALL MONTHLY PAYMENTS AND PRO RATA 1 GROUP



HOW WOULD YOU SET UP EACH CLAIM?

FACTORS TO CONSIDER

- ▶ How likely is this Debtor to be delinquent?
- ▶ How will delinquency affect repayment?
- ▶ How will delinquency affect each claim?
- ▶ What other types of claims are being treated in the plan?
- ▶ What does the code allow for this type of claim?
- ▶ What will creditor accept?

A background image featuring a pair of scales of justice, rendered in a semi-transparent blue overlay. The scales are positioned centrally, with one pan slightly higher than the other. The background is a gradient of blue, with a darker shade on the left and a lighter shade on the right. Several white diagonal lines cross the right side of the image, adding a modern, graphic touch.

THANK YOU!

Subchapter V vs. Chapter 13

Moderator: Judge Christopher M. Lopez*

Panelists: Brendon Singh, Michael Hardwick, and Alicia Barcomb**

Presentation materials
reprinted with permission
by Judge Paul W. Bonapfel,
United States Bankruptcy
Judge, N.D. Ga.

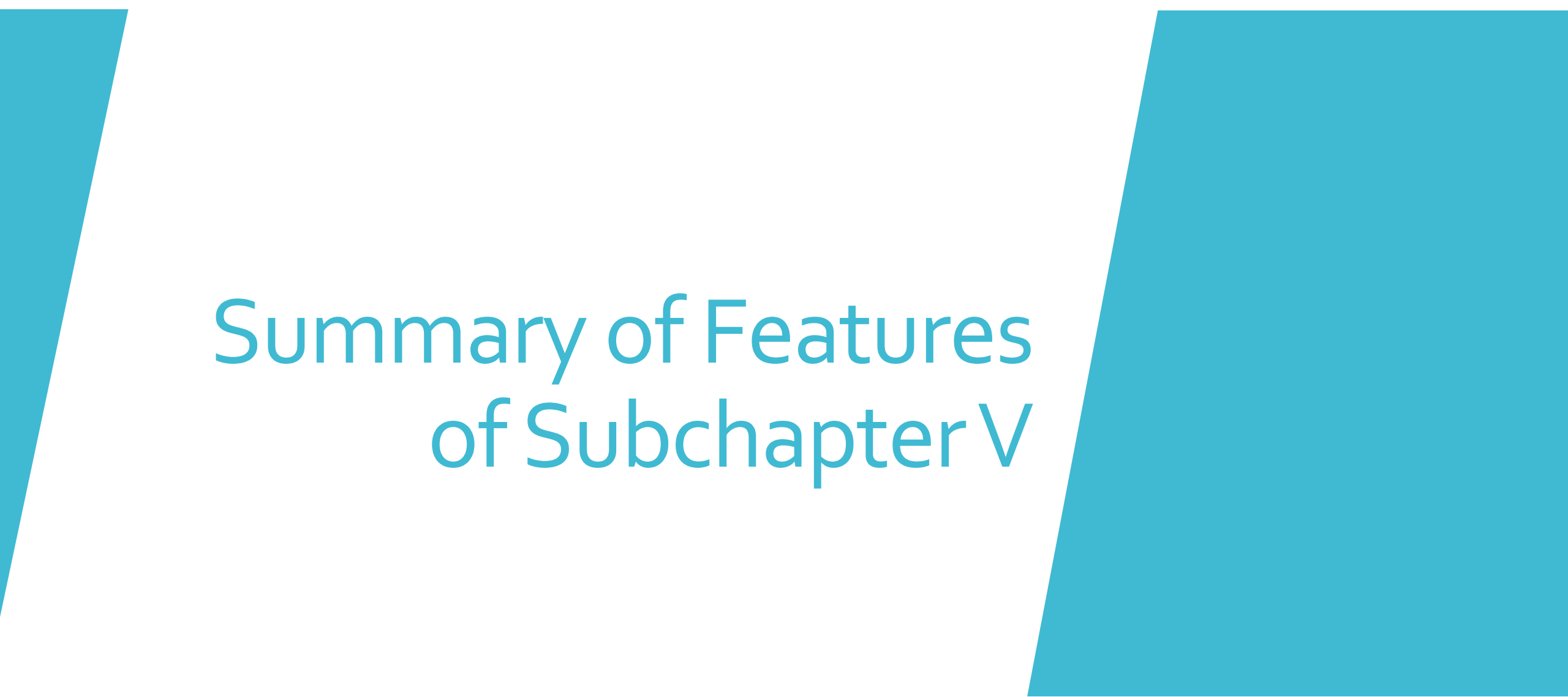
*DISCLAIMER: This material does not constitute the official position of the author or of any court and should not be construed as an indication of future rulings involving the Small Business Reorganization Act of 2019.

**Any views expressed are those of the speaker and do not necessarily represent the views of and should not be attributable to the United States Trustee Program or the U.S. Department of Justice.

Overview of Subchapter V

It's still a Chapter 11 case.

- “First day” motions, including use of cash collateral, applications to employ professionals, use of bank accounts, payment of prepetition employee claims
- Chapter 11 confirmation rules apply with some modifications
- Creditors vote on the plan
- No co-debtor stay
- Eligible debtor must elect Subchapter V




Summary of Features of Subchapter V

Eligibility Requirements

- Definition in § 1182(1) until June 20, 2024; thereafter, definition is §101(51D) (“small business debtor”)
- Debt Limit of \$ 7.5 million until June 20, 2024; \$ 3,024,725 thereafter
- Must be engaged in “commercial or business activities”
- At least 50% of debt must arise from such activities
- Can be engaged in real estate business, but not a SARE debtor

Appointment of Subchapter V Trustee

- Trustee in all cases
- Debtor remains in possession of assets (unless removed)
- Trustee has the duty to “facilitate the development of a consensual plan of reorganization”



Unless otherwise
ordered, there is
no Committee of
Unsecured
Creditors

No U.S. Trustee
Fees.



Subchapter V Debtor has Same Reporting Requirements as Small Business Debtor

- § 1187 requires subchapter V debtor to comply with the duties and reporting requirements applicable to a small business debtor under §1116.
- Rule 2015(b) requires debtor(s) to file periodic reports (MORs and PCRs)
- Court must hold a status conference within 60 days of the Petition Date and debtor must file report not later than 14 days before the status conference

Subchapter V Plan

- Unless otherwise ordered, a disclosure Statement is not required
- Debtor must file plan within 90 days
- Plan must contain:
 - Brief history of the business operations of the debtor
 - Liquidation analysis
 - Projections with regard to ability of the debtor to make payments
- **Plan may modify certain mortgages on a principal residence**
- § 1191(e) permits payment of administrative expenses under the plan if cramdown confirmation occurs

Subchapter V Plan – Confirmation Standards

Consensual Confirmation

- Court must confirm plan if it meets all requirements of §1129(a) except (a)(15)
- Debtor makes payments under the plan

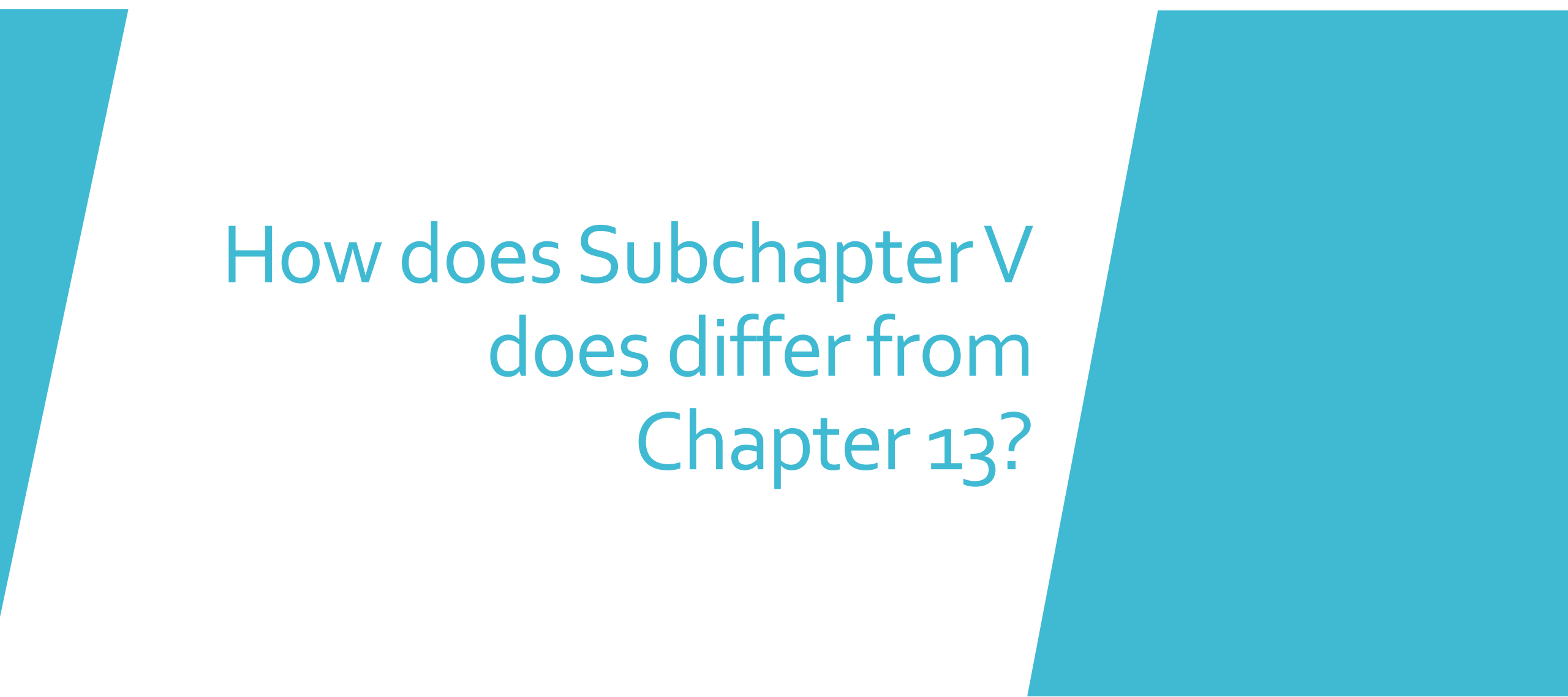
Non-Consensual Confirmation

- No absolute priority rule
- No requirement that any creditor accept
- Debtor must pay projected disposable income for 3 to 5 year period, as fixed by the court
- Cramdown rules for secured creditors are unchanged
- Trustee makes plan payments, unless plan or confirmation order provides otherwise

Timing and Scope of Discharge

- Consensual Confirmation – debtor receives discharge upon confirmation under § 1141(d), except that § 1141(d)(5) does not apply so individual receives discharge immediately
- Non-consensual Confirmation - Discharge deferred until completion of payments for three to five years, as court determines
- No hardship discharge

Prepetition claim of professional of less than \$10,000 does not disqualify professional from representing debtor



How does Subchapter V
differ from
Chapter 13?

Different Confirmation Consequences

- Discharge
- Property of the estate – post-petition assets and earnings
- Post-confirmation modification
- Role of trustee

Projected Disposable Income

Chapter 13 – §1325(b)

- Applies if trustee or unsecured creditor objects
- “Means test” standards apply to above-median debtor
- “Applicable commitment period” is five years for above-median debtor

Subchapter V – § 1191(c)

- Applies only if *class* of creditors objects to confirmation
- “Means test” standards do not apply
- Commitment period is three to five years

Modification of Secured Claims

Chapter 13

- “Hanging paragraph” requires treatment of some claims secured by PMSI in personal property as fully secured
- Equal monthly payments required
- Cannot modify residential mortgage

Subchapter V

- No hanging paragraph; PMSI claims can be bifurcated
- No requirement for equal monthly payments
- Residential mortgage can be modified in some circumstances

Payment of administrative expenses and priority claims under the plan

Chapter 13

- Debtor may pay administrative and priority claims (including DSO) through plan payments; no interest on tax claims

Subchapter V

- Administrative and priority claims must be paid in full on the effective date, except taxes that may be paid, with interest, over a five-year period beginning on date of filing petition, with interest at governmental rate under § 1129(a)(9)(C)
- § 1191(e) permits payment of administrative expenses under the plan if cramdown confirmation occurs

Post-petition Assets and Earnings

Chapter 13 – §§ 1306(a), 1327(b)

- Property of the estate includes post-petition assets and earnings
- Confirmation vests property of estate in debtor unless plan or confirmation order provides otherwise – §1327(b)

Subchapter V – § 1186(a)

- Post-petition assets and earnings are property of estate only after cramdown confirmation – §1115(a) does not apply (§1181(a))
- Confirmation vests property of the estate in the debtor unless plan or confirmation order provides otherwise – §1141(b)

Post-confirmation Modification of Plan

Chapter 13 – § 1329(a)

- Debtor, trustee, or unsecured creditor may modify plan

Subchapter V – § 1193(b), (c)

- Only the debtor may modify plan
- No post-confirmation modification of consensual plan after “substantial consummation”



Questions?

Chapter 13 Panel

1st Annual Southern District of Texas Consumer Bankruptcy Conference
January 23, 2024

Moderator: Marcos Oliva, Oliva Law, McAllen, Texas

Panelists:

Judge Jeff Norman

Rod Kemsley, Office of Yvonne V. Valdez, Chapter 13 Trustee, Corpus Christi, Texas

Tiffany Castro, Chapter 13 Trustee, Houston, Texas

Richard Aurich, Office of David Peake, Chapter 13 Trustee, Houston, Texas

Required Documents

At the time of filing:

- ▶ Voluntary Petition
- ▶ Creditor Matrix
- ▶ Certificate of Credit Counseling
- ▶ Statement of Social Security Number
- ▶ Application to pay filing fee in installments (if necessary)

All of Debtor's duties can be found under Section 521

Required Documents

With the petition or within 14
days of filing:

- ▶ Chapter 13 Plan for Reorganization
- ▶ Schedules (A through J)
- ▶ Statement of Financial Affairs
- ▶ Form 122C-1 Statement of Disposable Income
- ▶ Fixed Fee Application / 2016(b) Attorney Disclosure
- ▶ Verification of Income / Pay Advices
- ▶ Wage Order and/or EFT Order

Other Requirements

Within 30 days of filing:

- ▶ Debtor(s) must make an initial plan payment

Before 1st scheduled 341 meeting (21-50 days after filing):

- ▶ No later than 7 days before, trustee requests two most recent tax returns
- ▶ No later than 1 day before, tax returns for the 4 years prior to filing bankruptcy must be filed with the IRS



Documents Required Prior to the 341 Creditors Meeting

- ▶ **Proof of Identity and Social Security Number.** Color copies.
- ▶ **Declaration Regarding Confirmation of Identity by Attorney.**
- ▶ **Declaration for Electronic Filing.**
- ▶ **Last 2 years of Tax Returns.** For both debtors/non-filing spouse and any closely held company.
- ▶ **Retirement account loan statement.** Needs to show amount outstanding, monthly repayment, and date of completion.
- ▶ **Domestic Support Obligation Affidavit and Information.** The name and address for each recipient of the child/spousal support.
- ▶ **Recent Mortgage Statement.** For all properties owned by Debtors and or Debtor's non-filing spouse.
 - ▶ If you are paying a homestead as a total debt claim, provide a copy of the note or something that shows the date of maturity.

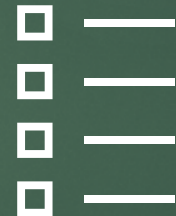
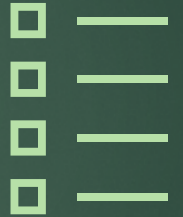
Documents Required Prior to the 341 Creditors Meeting - Continued

- ▶ **Bank statements.** For 60 days prior to filing and month of filing.
- ▶ **Proof of secured/priority debts.** If no claim is filed and/or debt is paid direct.
- ▶ **Divorce Decree.** If divorced within last 2 years.
- ▶ **Tax appraisals.** For all real property owned by Debtors or Debtor's non filing spouse.
- ▶ **Proof of all income.** From all sources, for the six-month period prior to filing. This includes:
 - ❑ Social Security award letters,
 - ❑ Veteran's disability award letters,
 - ❑ notarized affidavits from family stating their monthly contribution and their source of income.

Business Income Cases

Debtors who operate a business or have operated a business within past year must provide the Trustee with the following:

- ❑ Sworn Testimony
- ❑ Monthly Operating Reports/Profit-Loss Statements until the case is confirmed
- ❑ Business Tax Return (if applicable)
- ❑ Balance Sheet showing value of business



Additional Documents

Trustee may request additional documents to investigate the financial affairs of the debtor(s) such as:

- Support for expenses listed that are higher than IRS Guidelines
- Documents to support property values (CAD)
- Lease Agreements
- Loan information for property paid by debtor but title is held by third party (relative, non-filing spouse, etc.)



341 Meeting

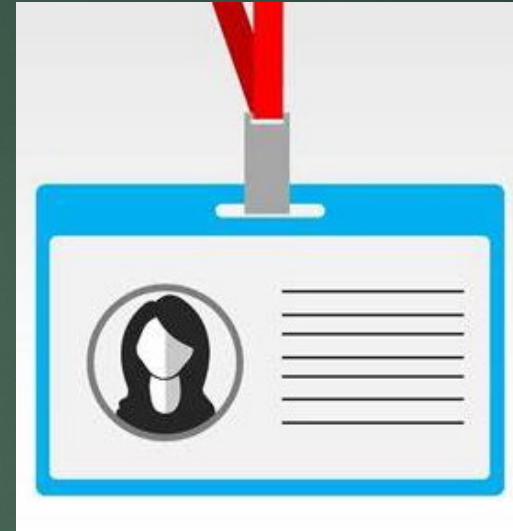
- ▶ Debtor must appear at 341 meeting.
 - ▶ Debtor must obtain court approval to waive appearance.
- ▶ United States Trustee Program has already begun rolling out 341 Meetings via Zoom.
 - ▶ Best Practices for Debtors, Debtors' Attorneys, and Other Parties in Interest available on USTP website:
<https://www.justice.gov/usdoj-media>
- ▶ Debtor must verify identity and verify social security number (colored copies).
- ▶ Attorney signed Declaration of ID & Social Security Card Verification.



341 Meeting

Acceptable Proof of Picture ID in Color

- ▶ 1) State Driver's License
- ▶ 2) Government ID
- ▶ 3) State ID
- ▶ 4) Student ID
- ▶ 5) U.S. Passport
- ▶ 6) Military ID
- ▶ 7) Resident Alien Card
- ▶ 8) Mexican Consulate Card
("Matricula Consular")



341 Meeting

Acceptable Proof of SSN



1) Social Security Card



2) Medical Insurance Card



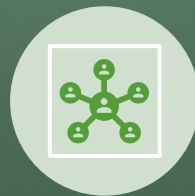
3) Pay Stub



4) W-2 Form



5) Internal Revenue Service Form 1099



6) Social Security Administration Report

341 Meeting:

DO'S AND DON'TS

▶ DO'S

- ▶ Be Prepared
- ▶ Be Familiar with Call-in or Zoom Instructions
- ▶ Be Patient
- ▶ Be Familiar with what was filed

▶ DON'TS

- ▶ Do Not Object to Trustee's Questions
- ▶ Do Not Interrupt Trustee's Questions
- ▶ Do Not Answer for your client
- ▶ Do Not Coach your client

341 Meeting: Following Up

- ▶ Get issues resolved timely
- ▶ Communicate with Trustee's staff and your client
- ▶ Get objections resolved before confirmation to avoid delay

Trustee's Confirmation Analysis



The Trustee is ultimately trying to determine:

- Is the Debtor eligible for Chapter 13?
- Does the plan meet Requirements?
- Is the proposed plan feasible?
- Are the Official Form 122C (Means Test) & Disposable Income requirements satisfied?
- Have all Required Documents been submitted to the Trustee?
- Does the plan stand a chance at success?

Chapter 13 Debt Limits

Current Limits

- ▶ Effective until June 21, 2024, a debtor cannot have more than \$2,750,000.00 in total debt. This includes secured and unsecured debt.



COMMON GOAL
IS
CONFIRMATION



Confirmation Hearing Procedures

JUDGE ISGUR

Houston/Victoria/Corpus Christi

- Cases are set by the last name of Debtor's Counsel
- Trustee prepares and submits docket to Court 7 days prior to hearing
- Trustee posts docket to websites for public notice
- Court may enter orders prior to hearings
- Debtors may appear virtually or in-person

JUDGE LOPEZ

Houston

- Cases are set alphabetically by the last name of Debtor's Counsel
- Trustee prepares and submits docket to Court 7 days prior to hearing
- Trustee posts docket to websites for public notice
- Court may enter orders prior to hearings
- Debtors may appear virtually or in-person

JUDGE NORMAN

Houston/Galveston/Laredo

- Trustee prepares and submits docket to Court 6 days prior to hearing
- Trustee posts docket to websites for public notice
- Court enters orders and resets prior to hearings and hearing will be canceled
 - Court sets remaining cases in 15-minute intervals based on last name of Debtor's Counsel.
- Debtors may appear virtually or in-person

JUDGE RODRIGUEZ

Houston/McAllen/Brownsville

- Cases are set by the last name of Debtor's Counsel
- Trustee prepares and submits docket to Court 7 days prior to hearing
- Trustee posts docket to websites for public notice
- Court may enter orders prior to hearings
- Debtors may appear virtually or in-person

Confirmation Orders




- ▶ C1/C2 Standard Confirmation Order
- ▶ C3 Non-Exempt Judgment Proceeds
- ▶ C4 100% Plan
- ▶ C3/C4 Non-Exempt Judgment Proceeds & 100% Plan
- ▶ C5 Pending IRS Audit

**ORDER CONFIRMING CHAPTER 13 PLAN
AND VALUING COLLATERAL PURSUANT TO 11 U.S.C § 506**

1. The Court has considered confirmation of the Debtor(s)' chapter 13 plan that was proposed on _____.
2. All objections to the plan have been withdrawn or overruled.
3. The Court has determined that the plan meets all of the requirements of § 1325 of the Bankruptcy Code.
4. Notwithstanding any estimate of the amount of a general or priority unsecured claim contained in the plan or in an order of the Court, the actual amount payable on priority claims will be the Allowed Amount of the priority claim and the actual proration for distribution on general unsecured claims will be based on actual Allowed Amounts of general unsecured claims.
5. The value of the collateral for secured claims is the amount set forth in the plan.
6. The plan is confirmed.

C1/C2 -
Standard

C3 – Non-exempt Judgment Proceeds



ORDER CONFIRMING CHAPTER 13 PLAN AND VALUING COLLATERAL PURSUANT TO 11 U.S.C § 506

1. The Court has considered confirmation of the Debtor(s)' chapter 13 plan that was proposed on _____.
2. All objections to the plan have been withdrawn or overruled.
3. The Court has determined that the plan meets all of the requirements of § 1325 of the Bankruptcy Code.
4. Notwithstanding any estimate of the amount of a general or priority unsecured claim contained in the plan or in an order of the Court, the actual amount payable on priority claims will be the Allowed Amount of the priority claim and the actual pro-ratio for distribution on general unsecured claims will be based on actual Allowed Amounts of general unsecured claims.
5. In addition to the monthly payments called for under the plan, the Debtor(s) shall contribute all non-exempt proceeds from the cause(s) or potential cause(s) of action described on Schedule B into the Chapter 13 plan for distribution to the unsecured creditors.
6. The value of the collateral for secured claims is the amount set forth in the plan.
7. The plan is confirmed.

**ORDER CONFIRMING CHAPTER 13 PLAN
AND VALUING COLLATERAL PURSUANT TO 11 U.S.C § 506**

1. The Court has considered confirmation of the Debtor(s)' chapter 13 plan that was proposed on _____.
2. All objections to the plan have been withdrawn or overruled.
3. The Court has determined that the plan meets all of the requirements of § 1325 of the Bankruptcy Code.
4. Notwithstanding any estimate of the amount of a general or priority unsecured claim contained in the plan or in an order of the Court, the actual amount payable on priority claims will be the Allowed Amount of the priority claim and the actual pro-ration for distribution on general unsecured claims will be based on actual Allowed Amounts of general unsecured claims.
5. If any proof of claim is filed that results in less than a 100% payment to holders of general unsecured claims, the Debtor(s) shall, within 14 days of the later of the claims bar date or the date such proof of claim is filed, (i) modify the plan to provide for a 100% payment to holders of general unsecured claims; or (ii) file an objection to any proof of claim that the Debtor(s) believes is improper under 11 U.S.C. § 502 or other applicable law. If the resolution of any such objection results in less than a 100% percent to holders of general unsecured claims, the Debtor(s) shall, within 14 days of such resolution, modify the plan to provide for (i) a 100% payment to holders of allowed general unsecured claims; or (ii) the payment of all of the debtor's projected disposable income during the remaining plan term to be paid to the Chapter 13 Trustee. Notwithstanding the foregoing, the amount paid to holders of allowed general unsecured claims shall not be less than the lesser of (i) the value of the Debtor(s)' non-exempt property at the petition date; and (ii) the amount of the allowed unsecured claims.
6. The value of the collateral for secured claims is the amount set forth in the plan.
7. The plan is confirmed.

C4 –
100%
Plan

**ORDER CONFIRMING CHAPTER 13 PLAN
AND VALUING COLLATERAL PURSUANT TO 11 U.S.C § 506**

1. The Court has considered confirmation of the Debtor(s)' chapter 13 plan that was proposed on _____.
2. All objections to the plan have been withdrawn or overruled.
3. The Court has determined that the plan meets all of the requirements of § 1325 of the Bankruptcy Code.
4. Notwithstanding any estimate of the amount of a general or priority unsecured claim contained in the plan or in an order of the Court, the actual amount payable on priority claims will be the Allowed Amount of the priority claim and the actual pro-ration for distribution on general unsecured claims will be based on actual Allowed Amounts of general unsecured claims.
5. In addition to the monthly payments called for under the plan, the Debtor(s) shall contribute all non-exempt proceeds from the cause(s) or potential cause(s) of action described on Schedule B into the Chapter 13 plan for distribution to the unsecured creditors.
6. If any proof of claim is filed that results in less than a 100% payment to holders of general unsecured claims, the Debtor(s) shall, within 14 days of the later of the claims bar date or the date such proof of claim is filed, (i) modify the plan to provide for a 100% payment to the holders of the unsecured claims; or (ii) file an objection to any proof of claim that the Debtor(s) believes is improper under 11 U.S.C. § 502 or other applicable law. If the resolution of any such objection results in less than 100% payment to the holders of the general unsecured claims, the Debtor(s) shall, within 14 days of such resolution, modify the plan to provide for a 100% payment to holders of general unsecured claims.
7. The value of the collateral for secured claims is the amount set forth in the plan.
8. The plan is confirmed.

C3/C4 –
COMBINED

Non-exempt
Judgment
Proceeds
&
100% plan

1. The Court has considered confirmation of the Debtors(s)' chapter 13 plan that was proposed on _____.
2. All objections to the plan have been withdrawn or overruled.
3. The Court has determined that the plan meets all of the requirements of §1325 of the Bankruptcy Code.
4. Notwithstanding any estimate of the amount of a general or priority unsecured claim contained in the plan or in an order of the Court, the actual amount payable on priority claims will be the Allowed Amount of the priority claim and the actual proration for distribution on general unsecured claims will be based on actual Allowed Amounts of general unsecured claims.
5. The value of the collateral for secured claims is in the amount set forth in the plan.
6. The plan is confirmed.
7. Notwithstanding confirmation of the plan, the IRS may amend its claim based on the results of the pending audit of the Debtor(s)' federal income tax return(s). The Debtor(s) will be required to pay any taxes due as a result of the audit directly or through a modified plan. Nothing in this order affects the Debtor(s)' right to contest any determination or assessment by the IRS.

C5 – Pending IRS Audit

New Procedures

Effective 10/1/2023



Withdrawals from the Savings Fund OR Applied as Plan Payments (refer to Form 13-105 effective 10/1/2023)



Reserves for property tax, income tax, HOA fees, etc. (refer to Form 13-125 effective 10/1/2023)



Administrative Procedures for Claims Secured by Real Estate (refer to Form 13-200 effective 10/1/2023)

Form No. 13-105
Effective October 1, 2023

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
_____ DIVISION

In re: _____
§
[Debtor(s)' Names], § Case No. _____
§ (Chapter 13)
§
Debtor(s). §

NOTICE OF WITHDRAWAL FROM SAVINGS FUND

Total amount on deposit in Savings Fund as of the date of the application.	\$0.00
Amount of requested withdrawal to be made payable to Debtor(s) at the following address: _____ _____	
	\$0.00
Amount to be applied by Trustee as a plan payment.	\$0.00
Balance of the Savings Fund after this requested withdrawal.	\$0.00

Date: _____

[SIGNATURE BLOCK]

CERTIFICATE OF SERVICE

Service of this application was made only by electronic means through the Court's CM/ECF system. Copies of the application will not be mailed.

Date: _____

Form 13-105 allows Trustee to apply savings funds as plan payments.

Form 13-105 also allows payment to be mailed to Debtor at a different address.

REQUEST FOR RESERVE DISBURSEMENT
1 – If Ad Valorem/HOA Reserve: [Insert Property Address]
2 – [Insert Relevant Tax/HOA Year]

The Debtor(s) submit this Request for Reserve Disbursement to the Chapter 13 Trustee for payment within 45 days from the date of the request. If the balance on hand in applicable reserve is sufficient to satisfy Line 2 at the time of actual disbursement, Trustee is authorized to pay the amount due as reflected on attached statements.

1	Disbursement is requested from (check only one): Ad valorem tax reserve _____ Homeowner's Association fee reserve _____ Federal income taxes _____ Other _____	
2	Amount due as reflected on attached statements	\$0.00*
3	Balance on hand in applicable reserve account per trustee's website as of date of the notice	\$0.00
4	Requested payment by Trustee (lesser of line 2 and line 3)	\$0.00
5	Name of payee	
6	Payee's address	
7	Payee City, State, ZIP	
8	Payee account number for debtor	

Attached are invoices, tax statements or other documents evidencing the Debtor(s)' obligation to pay the amounts reflected in line 1 of the preceding table.

*If there is an inconsistency with the amount in Line 2 and the statement amount, Trustee will honor the amount due per the statement.

Dated: _____

[SIGNATURE BLOCK]

Form 13-125 requires the property address and Tax or HOA year.

Form 13-125 also allows Trustee to pay the amount per the statement if there is a typo.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
[] DIVISION

In re: §
§ Case No.
[NAME OF DEBTOR(S)] §
§ §
§ §
§ §
§ CHAPTER 13

TRUSTEE'S NOTICE OF FINAL CURE PAYMENT AND MOTION TO DEEM CLAIM(S) SECURED BY REAL PROPERTY SATISFIED OR CURRENT

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

_____, chapter 13 trustee (the "Trustee"), files this Notice of Final Cure Payment and Motion to Deem Claim(s) Secured by Real Property Satisfied or Current.

NOTICE OF FINAL CURE PAYMENT

1. Based on the Trustee's records, Debtor(s) have completed all payments to Trustee due under the confirmed plan in this case. Pursuant to FED. R. BANKR. P. 3002.1(f) and the Administrative Procedures for Claims Secured by Real Estate, the Trustee requests an order from the Bankruptcy Court determining that the Debtor(s) have paid in full the amounts required to cure any default (both pre-and post-petition) on all claims treated under the chapter 13 Plan and that are secured by real property owned in whole or in part by Debtor(s) or the Debtor(s) estate. If paragraph 3 is checked below, the chapter 13 trustee is also seeking a determination that the claim secured by real property has been paid in full.

- ▶ Form 13-201 requires Trustee to file notices on ALL claims secured by real property.
- ▶ Prior to new Administrative Procedures, Trustee only required to file notices for on-going mortgages.
- ▶ Plans should not bifurcate the treatment of claims secured by real property.
- ▶ Entire claim amount should be treated as direct (if current) or paid through the plan.





ESCROW ESTIMATOR

*Learn to use an Excel worksheet to help review the accuracy of
escrow payments & shortages*

PANELISTS:

*HON. MARVIN ISGUR,
U.S. BANKRUPTCY COURT,
SOUTHERN DISTRICT OF
TEXAS*

*CRISTINA RODRIGUEZ,
STAFF ATTORNEY
OFFICE OF TIFFANY CASTRO,
CHAPTER 13 TRUSTEE*

ESCROW ARREARS IN THE PROOF OF CLAIM

ESCROW DEFICIENCY

- refers to the escrow funds advanced prior to the petition day (for example - any taxes or insurance paid before the case was filed)

ESCROW SHORTAGE

- refers to the anticipated amounts needed to make upcoming escrow disbursements for 12 months after the case was filed

Part 3: Arrearage as of Date of the Petition

Principal & interest due:	<u>27,327.68</u>
Prepetition fees due:	<u>2,031.17</u>
Escrow deficiency for funds advanced:	<u>17,172.01</u>
Projected escrow shortage:	<u>6,993.67</u>
Less funds on hand:	- 0.00
Total prepetition arrearage:	<u>53,524.53</u>

Amounts owed pre-petition

DATE OF FILING

Amounts that will come due post-petition

ESCROW DEFICIENCY

- Everything that was actually paid out of the escrow account prior to the date of filing
- Review Part 5 of the Mortgage Proof of Claim Attachment Column O (the Loan Payment History from First Date of Default)
- Make sure starting balance is correct
- Check that disbursements match property tax records
- Look for duplicate insurance premiums
- Verify that flood or wind insurance is required per the deed of trust

Part 5: Loan Payment History from First Date of Default

Part 5: Loan Payment History from First Date of Default																
Account Activity							How Funds Were Applied/Amount Incurred					Balance After Amount Received or Incurred				
A. Date	B. Contractual payment amount	C. Funds received	D. Amount incurred	E. Description	F. Contractual due date	G. Prin, int & esc past due balance	H. Amount to principal	I. Amount to interest	J. Amount to escrow	K. Amount to fees or charges	L. Unapplied funds	M. Principal balance	N. Accrued interest balance	O. Escrow balance	P. Fees / Charges balance	Q. Unapplied funds balance
7/1/2019	\$ 1,888.31			Payment Due		\$ 1,888.31					\$ -	\$ 203,449.34		\$ 3,518.52	\$ -	\$ -
7/5/2019				PMI Insurance Advance		\$ 1,888.31			\$ (140.89)		\$ -	\$ 203,449.34		\$ 3,377.63	\$ -	\$ -
7/29/2019		\$ 1,888.31		Payment Applied	7/1/2019	\$ -	\$ 234.49	\$ 953.67	\$ 700.15		\$ -	\$ 203,214.85		\$ 4,077.78	\$ -	\$ -
8/1/2019	\$ 1,888.31			Payment Due		\$ 1,888.31					\$ -	\$ 203,214.85		\$ 4,077.78	\$ -	\$ -
8/5/2019				PMI Insurance Advance		\$ 1,888.31			\$ (140.89)		\$ -	\$ 203,214.85		\$ 3,936.89	\$ -	\$ -
9/1/2019	\$ 1,888.31			Payment Due		\$ 3,776.62					\$ -	\$ 203,214.85		\$ 3,936.89	\$ -	\$ -
9/5/2019				PMI Insurance Advance		\$ 3,776.62			\$ (140.89)		\$ -	\$ 203,214.85		\$ 3,796.00	\$ -	\$ -
9/6/2019		\$ 1,888.31		Payment Applied	8/1/2019	\$ 1,888.31	\$ 235.59	\$ 952.57	\$ 700.15		\$ -	\$ 202,979.26		\$ 4,496.15	\$ -	\$ -
10/1/2019	\$ 1,888.31			Payment Due		\$ 3,776.62					\$ -	\$ 202,979.26		\$ 4,496.15	\$ -	\$ -
10/4/2019				PMI Insurance Advance		\$ 3,776.62			\$ (140.89)		\$ -	\$ 202,979.26		\$ 4,355.26	\$ -	\$ -
10/29/2019			\$ 20.00	Property Inspection Fee		\$ 3,776.62					\$ -	\$ 202,979.26		\$ 4,355.26	\$ 20.00	\$ -
11/1/2019	\$ 1,188.16			Payment Due		\$ 4,964.78					\$ -	\$ 202,979.26		\$ 4,355.26	\$ 20.00	\$ -
11/5/2019				PMI Insurance Advance		\$ 4,964.78			\$ (140.89)		\$ -	\$ 202,979.26		\$ 4,214.37	\$ 20.00	\$ -
12/1/2019	\$ 1,188.16			Payment Due		\$ 6,152.94					\$ -	\$ 202,979.26		\$ 4,214.37	\$ 20.00	\$ -
12/5/2019				PMI Insurance Advance		\$ 6,152.94			\$ (140.89)		\$ -	\$ 202,979.26		\$ 4,073.48	\$ 20.00	\$ -
12/10/2019			\$ 20.00	Property Inspection Fee		\$ 6,152.94					\$ -	\$ 202,979.26		\$ 4,073.48	\$ 40.00	\$ -
12/11/2019				County Tax Advance		\$ 6,152.94			\$ (4,464.54)		\$ -	\$ 202,979.26		\$ (391.06)	\$ 40.00	\$ -
12/11/2019				County Tax Advance		\$ 6,152.94			\$ (3,100.66)		\$ -	\$ 202,979.26		\$ (3,491.72)	\$ 40.00	\$ -
1/1/2020	\$ 1,188.16			Payment Due		\$ 7,341.10					\$ -	\$ 202,979.26		\$ (3,491.72)	\$ 40.00	\$ -
1/3/2020				PMI Insurance Advance		\$ 7,341.10			\$ (140.89)		\$ -	\$ 202,979.26		\$ (3,632.61)	\$ 40.00	\$ -
1/7/2020			\$ 20.00	Property Inspection Fee		\$ 7,341.10					\$ -	\$ 202,979.26		\$ (3,632.61)	\$ 60.00	\$ -
2/1/2020	\$ 1,188.16			Payment Due		\$ 8,529.26					\$ -	\$ 202,979.26		\$ (3,632.61)	\$ 60.00	\$ -
2/5/2020				PMI Insurance Advance		\$ 8,529.26			\$ (140.89)		\$ -	\$ 202,979.26		\$ (3,773.50)	\$ 60.00	\$ -
2/11/2020			\$ 20.00	Property Inspection Fee		\$ 8,529.26					\$ -	\$ 202,979.26		\$ (3,773.50)	\$ 80.00	\$ -
2/14/2020			\$ 397.50	Attorney Fees		\$ 8,529.26					\$ -	\$ 202,979.26		\$ (3,773.50)	\$ 477.50	\$ -
2/21/2020			\$ 250.00	Attorney Cost		\$ 8,529.26					\$ -	\$ 202,979.26		\$ (3,773.50)	\$ 727.50	\$ -
2/21/2020			\$ 20.63	Attorney Cost		\$ 8,529.26					\$ -	\$ 202,979.26		\$ (3,773.50)	\$ 748.13	\$ -
3/1/2020	\$ 1,188.16			Payment Due		\$ 9,717.42					\$ -	\$ 202,979.26		\$ (3,773.50)	\$ 748.13	\$ -
3/5/2020				PMI Insurance Advance		\$ 9,717.42			\$ (140.89)		\$ -	\$ 202,979.26		\$ (3,914.39)	\$ 748.13	\$ -
3/20/2020			\$ 11.50	Attorney Cost		\$ 9,717.42					\$ -	\$ 202,979.26		\$ (3,914.39)	\$ 759.63	\$ -
4/1/2020	\$ 1,188.16			Payment Due		\$ 10,905.58					\$ -	\$ 202,979.26		\$ (3,914.39)	\$ 759.63	\$ -
4/3/2020				PMI Insurance Advance		\$ 10,905.58			\$ (140.89)		\$ -	\$ 202,979.26		\$ (4,055.28)	\$ 759.63	\$ -
4/17/2020				Hazard Insurance Advance		\$ 10,905.58			\$ (1,240.00)		\$ -	\$ 202,979.26		\$ (5,295.28)	\$ 759.63	\$ -
4/20/2020		\$ 1,637.42		Funds Received		\$ 10,905.58					\$ 1,637.42	\$ 202,979.26		\$ (5,295.28)	\$ 759.63	\$ 1,637.42
5/1/2020	\$ 1,188.16			Payment Due		\$ 12,093.74					\$ -	\$ 202,979.26		\$ (5,295.28)	\$ 759.63	\$ 1,637.42
5/5/2020				PMI Insurance Advance		\$ 12,093.74			\$ (140.89)		\$ -	\$ 202,979.26		\$ (5,436.17)	\$ 759.63	\$ 1,637.42
6/1/2020	\$ 1,188.16			Payment Due		\$ 13,281.90					\$ -	\$ 202,979.26		\$ (5,436.17)	\$ 759.63	\$ 1,637.42

ESCROW SHORTAGE

- Review the Escrow Analysis as of the date of filing
- Double check that it does not contain amounts that were included in Escrow Deficiency
- Verify that insurance policies are only charged every 12 months
- Check for overcharges of taxes, insurance or PMI
- Beware of lost or duplicate ad valorem taxes when a case is filed in December or January

THE ESCROW ESTIMATOR

Changes to the Excel worksheet

MORTGAGE PROOF OF CLAIM
 (PROVIDING AN ESTIMATE OF VERIFICATION FOR ANALYSIS OF A PROOF OF CLAIM FOR PROJECTED ESCROW SHORTAGE)
 USER SHOULD COMPLETE ALL SHADED BOXES

[Click to reset all data](#)

Notes
 1 Effective date of Month Year
5 2022 May-22

Complete This Column	
2 Current monthly escrow deposit for taxes and insurance	\$556.25
3 Current monthly shortfall payment	\$0.00
4 Forecast monthly PMI	\$0.00
5 Forecast monthly Principal and interest	\$451.39
Total payment before escrow adjustment	\$1,007.64
6 Actual cash balance in escrow account on date of estimation:	\$2,924.75
7 Additional trustee forecast deposits prior to Effective Date of estimation	\$0.00
8 Additional lender escrow disbursements forecast prior to Effective Date of	\$0.00
9 Prior period shortfall adjustments	\$0.00
Total funds available as Date of Estimate Funds	\$2,924.75

Should a RESPA Reserve be Included? Results of Analysis	
Yes	(Select Yes or No from drop down list)
Yes	
Results of Analysis	
Required escrow funds as of May-22	\$3,337.49
Bankruptcy adjusted available funds	\$2,924.75
Shortfall (excess)	\$412.74
Monthly base escrow deposit	\$556.25
Monthly shortfall escrow deposit	\$34.40
Total increase in escrow deposit	\$34.39
PMI	\$0.00
New monthly total payment on mortgage	\$1,042.03
New monthly total payment on mortgage without monthly shortfall	\$1,007.64

Amount and dates of forecast tax and insurance escrow disbursements for 12 month period commencing with effective date				Disbursement				Required Date of Estimate Funds		Test of Funds	
Amount	Month	Year	Month	Deposit Amount	Forecast Disbursement	60 Day Reserve	Required Date of Estimate Funds	Test of Funds			
\$2,813.00	6	2022	Jun-22								
\$856.00	12	2022	Dec-22	May-22	\$556.25	\$0.00	\$1,112.50	\$556.25			
\$1,787.56	12	2022	Dec-22	Jun-22	\$556.25	\$2,813.00		\$2,813.00			
\$1,218.42	12	2022	Dec-22	Jul-22	\$556.25	\$0.00		\$2,256.75			
\$0.00	0	0	Jan-00	Aug-22	\$556.25	\$0.00		\$1,700.50			
\$0.00	0	0	Jan-00	Sep-22	\$556.25	\$0.00		\$1,144.26			
\$0.00	0	0	Jan-00	Oct-22	\$556.25	\$0.00		\$588.01			
\$0.00	0	0	Jan-00	Nov-22	\$556.25	\$0.00		\$31.76			
\$6,674.98				Dec-22	\$556.25	\$3,861.98		\$3,337.49	FUNDS SHORTFALL	\$412.74	
				Jan-23	\$556.25	\$0.00		\$2,781.24			
				Feb-23	\$556.25	\$0.00		\$2,224.99			
				Mar-23	\$556.25	\$0.00		\$1,668.75			
				Apr-23	\$556.25	\$0.00		\$1,112.50			
							Maximum Initial Funds	\$3,337.49			

POC TAB

Results of Analysis

Required escrow funds as of May-22	\$3,337.49
Bankruptcy adjusted available funds	\$2,924.75
Shortfall (excess)	\$412.74
Monthly base escrow deposit	\$556.25
Monthly shortfall escrow deposit	\$34.40
Total increase in escrow deposit	\$34.39
PMI	\$0.00
New monthly total payment on mortgage	\$1,042.03
New monthly total payment on mortgage without monthly shortfall	\$1,007.64

Compare with the projected escrow shortage on the POC (in part 3 of the 410 A)

Compare with the ongoing mortgage payment in the POC (part 4 of the 410A)

PAYMENT CHANGE ESTIMATOR
 (PROVIDING AN ESTIMATE OF CORRECT ESCROW ADJUSTMENT IN A NOTICE OF MORTGAGE PAYMENT CHANGE)
 USER SHOULD COMPLETE ALL SHADED BOXES

SAVE OLD NMPC (ONLY AFTER COPYING!)

Click to reset all data

(Password-Escrow)

Notes

- 1 Effective date of
- 2 Current monthly escrow deposit for taxes and insurance
- 3 Current monthly shortfall payment
- 4 Forecast monthly PMI
- 5 Forecast monthly Principal and interest
- Total payment before escrow adjustment
- 6 Actual cash balance in escrow account on date of estimation:
- 7 Additional trustee forecast deposits prior to Effective Date of estimation
- 8 Additional lender escrow disbursements forecast prior to Effective Date of estimation
- 9 Prior period shortfall adjustments

Month Year
 5 2023 May-23

Complete This Column	
	\$556.25
	\$0.00
	\$0.00
	\$451.39
	\$1,007.64
	\$1,955.35
	\$0.00
	\$0.00
	\$0.00
	\$0.00
Total funds available as Date of Estimate Funds	\$1,955.35

Should a RESPA Reserve be Included?
 Results of Analysis

Yes (Select Yes or No from drop down list)

Yes

Results of Analysis

Required escrow funds as of May-23	\$4,028.57
Bankruptcy adjusted available funds	\$1,955.35
Shortfall (excess)	\$2,073.22
Monthly base escrow deposit	\$671.43
Monthly shortfall escrow deposit	\$172.77
Total increase in escrow deposit	\$287.95
PMI	\$0.00
New monthly total payment on mortgage	\$1,295.59

Amount and dates of forecast tax and insurance escrow disbursements for 12 month period commencing with effective date

		Amount	Month	Year	Disbursement Month	Month	Deposit Amount	Forecast Disbursement	60 Day Reserve	Required Date of Estimate Funds	Test of Funds	
											Funds	Test of Funds
10 Hazard insurance	(Select type of insurance or taxes from drop down list at left)	\$2,970.00	6	2023	Jun-23	May-23	\$671.43	\$0.00	\$1,342.86	\$671.43	FUNDS SHORTFALL	\$671.43
11 City taxes	(Select type of insurance or taxes from drop down list at left)	\$1,127.47	12	2023	Dec-23	Jun-23	\$671.43	\$2,970.00		\$2,970.00	FUNDS SHORTFALL	\$2,970.00
12 School taxes	(Select type of insurance or taxes from drop down list at left)	\$2,664.49	12	2023	Dec-23	Jul-23	\$671.43	\$0.00		\$2,298.57	FUNDS SHORTFALL	\$2,298.57
13 MUD taxes	(Select type of insurance or taxes from drop down list at left)	\$1,295.17	12	2023	Dec-23	Aug-23	\$671.43	\$0.00		\$1,627.15	FUNDS SHORTFALL	\$1,627.15
14 Not applicable	(Select type of insurance or taxes from drop down list at left)	\$0.00	0	0	Jan-00	Sep-23	\$671.43	\$0.00		\$955.72	FUNDS SHORTFALL	\$955.72
15 Not applicable	(Select type of insurance or taxes from drop down list at left)	\$0.00	0	0	Jan-00	Oct-23	\$671.43	\$0.00		\$284.29	FUNDS SHORTFALL	\$284.29
16 Not applicable	(Select type of insurance or taxes from drop down list at left)	\$0.00	0	0	Jan-00	Nov-23	\$671.43	\$0.00		(\$387.14)		
17 Not applicable	(Select type of insurance or taxes from drop down list at left)	\$0.00	0	0	Jan-00	Dec-23	\$671.43	\$5,087.13		\$4,028.57	FUNDS SHORTFALL	\$4,028.57
		\$8,057.13				Jan-24	\$671.43	\$0.00		\$3,357.14	FUNDS SHORTFALL	\$3,357.14
						Feb-24	\$671.43	\$0.00		\$2,685.71	FUNDS SHORTFALL	\$2,685.71
						Mar-24	\$671.43	\$0.00		\$2,014.28	FUNDS SHORTFALL	\$2,014.28
						Apr-24	\$671.43	\$0.00		\$1,342.86	FUNDS SHORTFALL	\$1,342.86
									Maximum Initial Funds			
								\$8,057.13	Required	\$4,028.57		

1 For the POC tab this row includes the month and year of the first payment due under the plan. (Usually the month after the date of filing).
For the NMPC tab this row includes the month and year of the date of the proposed escrow payment change.

2 The current monthly escrow deposit should be the amount of the monthly escrow deposit as of the date that the estimate is prepared. For example, if the analysis is prepared in October, 2023 to be effective in December, 2023, the entry in line 1 should be 12/2023 and the entry in line 2 should be the escrow deposit that was in effect on 10/2023.

3 The current monthly shortfall payment is only applicable if the estimate is done in a year in which a shortfall is already being cured. For example, if an estimate was done in October, 2023 for the year beginning December, 2023, the monthly installment of any shortfall payment imposed in October, 2023 would be inserted. If there is no shortfall payment being made, the amount should be \$0.00.

4 This is the monthly private mortgage insurance payment as forecast on the Notice of Payment Change. If there is no monthly private mortgage insurance payment, this amount should be \$0.00.

5 This is the amount of the monthly installment of principal and interest as forecast on the Proof of Claim or the Notice of Payment Change.

6 This is the cash balance in the escrow account as of the date of the estimation. For the POC tab this should only be entered if there is a positive escrow balance as of the date of filing. If there is a negative escrow deficiency on the POC the number should be \$0.00. For the NMPC tab this number will auto generate from the Escrow History.

7 This amount should be forecast disbursements FROM the escrow account after the date of the estimate but before the effective date of the escrow payment change.

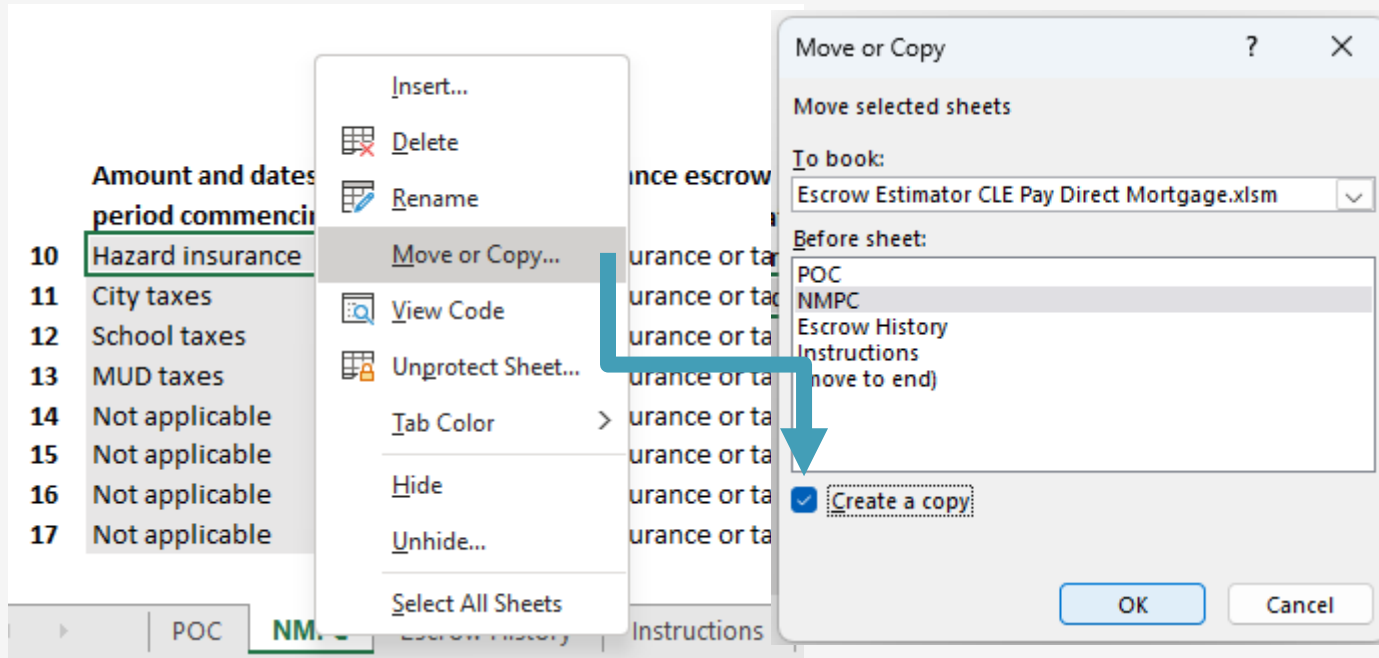
8 This amount should be an estimate of the amount of the escrow deficiency that was contained in the proof of claim that has already been paid by the chapter 13 trustee.

9 This amount is similar to the amount in line 8. This should include additional deposits to be made with the Trustee, but that will not have been disbursed by the Trustee prior to the effective date of the escrow payment change.

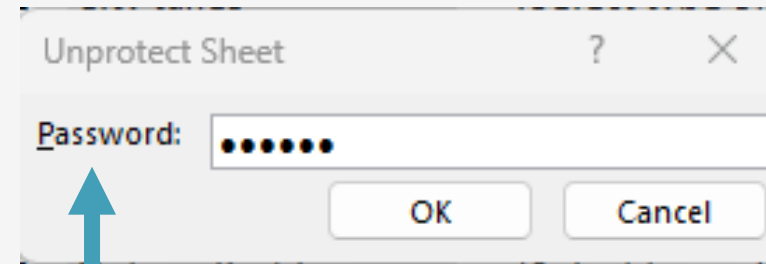
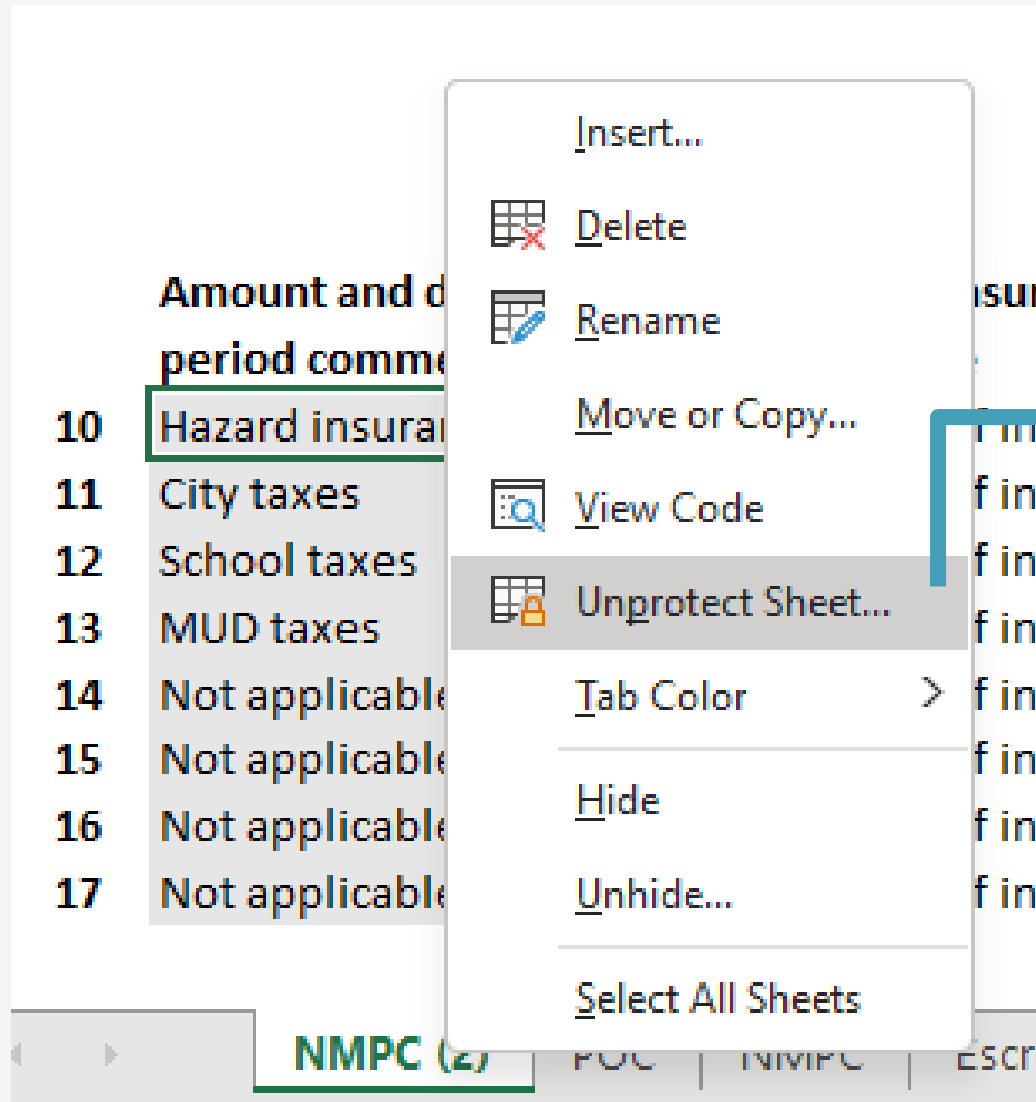
10 to 17 These are the regular forecast disbursements over the 12 month period following the escrow payment change date.

How to create a history of prior NMPC tabs for each notice filed

MULTIPLE NMPC TABS



- 1) Right click on the NMPC tab
- 2) Select the Move or Copy button Move or Copy...
- 3) Select the NMPC sheet and check the create a copy box
- 4) Then click OK




- 5) Once the copy is created right click on the newly created NMPC tab and select Unprotect Sheet
- 6) Type in the password and click OK

MENT CHANGE)

Click to reset all data

SAVE OLD NMPC (ONLY
AFTER COPYING!)



Should a RESPA Reserve be Included?
Results of Analysis

Yes

(Select Yes or No from drop down list)

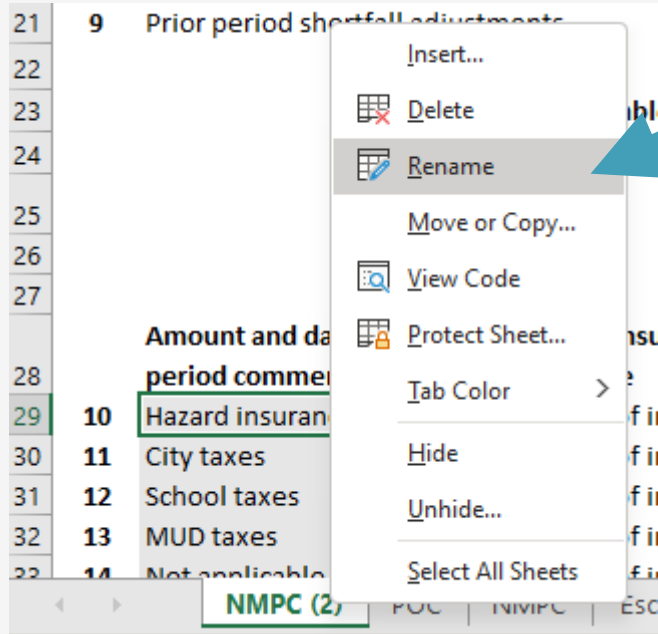
Yes

Results of Analysis

Required escrow funds as of May-23	\$4,028.57
Bankruptcy adjusted available funds	\$1,955.35
Shortfall (excess)	\$2,073.22
Monthly base escrow deposit	\$671.43
Monthly shortfall escrow deposit	\$172.77
Total increase in escrow deposit	\$287.95
PMI	\$0.00
New monthly total payment on mortgage	\$1,295.59

7) Select the SAVE OLD NMPC button

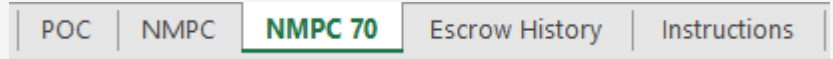
6) Type in the password and click OK



8) Right click on the tab and select the Rename button

9) Add the docket number or the date when the NMPC was filed

10) You can left click and hold on the tab to move it wherever you like on the worksheet



THANK YOU



ESCROW ESTIMATOR

*Learn to use an Excel worksheet to help review the accuracy of
escrow payments & shortages*

PANELISTS:

*HON. MARVIN ISGUR,
U.S. BANKRUPTCY COURT,
SOUTHERN DISTRICT OF
TEXAS*

*CRISTINA RODRIGUEZ,
STAFF ATTORNEY
OFFICE OF TIFFANY CASTRO,
CHAPTER 13 TRUSTEE*

ESCROW ARREARS IN THE PROOF OF CLAIM

ESCROW DEFICIENCY

- refers to the escrow funds advanced prior to the petition day (for example - any taxes or insurance paid before the case was filed)

ESCROW SHORTAGE

- refers to the anticipated amounts needed to make upcoming escrow disbursements for 12 months after the case was filed

Part 3: Arrearage as of Date of the Petition

Principal & interest due:	27,327.68
Prepetition fees due:	2,031.17
Escrow deficiency for funds advanced:	17,172.01
Projected escrow shortage:	6,993.67
Less funds on hand:	- 0.00
Total prepetition arrearage:	53,524.53

Amounts owed pre-petition

DATE OF FILING

Amounts that will come due post-petition

410-A FORM

ESCROW DEFICIENCY

- Everything that was actually paid out of the escrow account prior to the date of filing
- Review Part 5 of the Mortgage Proof of Claim Attachment Column O (the Loan Payment History from First Date of Default)
- Make sure starting balance is correct
- Check that disbursements match property tax records
- Look for duplicate insurance premiums
- Verify that flood or wind insurance is required per the deed of trust

Part 5: Loan Payment History from First Date of Default

Part 5: Loan Payment History from First Date of Default																
Account Activity					How Funds Were Applied/Amount Incurred						Balance After Amount Received or Incurred					
A. Date	B. Contractual payment amount	C. Funds received	D. Amount incurred	E. Description	F. Contractual due date	G. Prin, int & esc past due balance	H. Amount to principal	I. Amount to interest	J. Amount to escrow	K. Amount to fees or charges	L. Unapplied funds	M. Principal balance	N. Accrued interest balance	O. Escrow balance	P. Fees / Charges balance	Q. Unapplied funds balance
7/1/2019	\$ 1,888.31			Payment Due		\$ 1,888.31					\$ -	\$ 203,449.34		\$ 3,518.52	\$ -	\$ -
7/5/2019				PMI Insurance Advance		\$ 1,888.31			\$ (140.89)		\$ -	\$ 203,449.34		\$ 3,377.63	\$ -	\$ -
7/29/2019		\$ 1,888.31		Payment Applied	7/1/2019	\$ -	\$ 234.49	\$ 953.67	\$ 700.15		\$ -	\$ 203,214.85		\$ 4,077.78	\$ -	\$ -
8/1/2019	\$ 1,888.31			Payment Due		\$ 1,888.31					\$ -	\$ 203,214.85		\$ 4,077.78	\$ -	\$ -
8/5/2019				PMI Insurance Advance		\$ 1,888.31			\$ (140.89)		\$ -	\$ 203,214.85		\$ 3,936.89	\$ -	\$ -
9/1/2019	\$ 1,888.31			Payment Due		\$ 3,776.62					\$ -	\$ 203,214.85		\$ 3,936.89	\$ -	\$ -
9/5/2019				PMI Insurance Advance		\$ 3,776.62			\$ (140.89)		\$ -	\$ 203,214.85		\$ 3,796.00	\$ -	\$ -
9/6/2019		\$ 1,888.31		Payment Applied	8/1/2019	\$ 1,888.31	\$ 235.59	\$ 952.57	\$ 700.15		\$ -	\$ 202,979.26		\$ 4,496.15	\$ -	\$ -
10/1/2019	\$ 1,888.31			Payment Due		\$ 3,776.62					\$ -	\$ 202,979.26		\$ 4,496.15	\$ -	\$ -
10/4/2019				PMI Insurance Advance		\$ 3,776.62			\$ (140.89)		\$ -	\$ 202,979.26		\$ 4,355.26	\$ -	\$ -
10/29/2019			\$ 20.00	Property Inspection Fee		\$ 3,776.62					\$ -	\$ 202,979.26		\$ 4,355.26	\$ 20.00	\$ -
11/1/2019	\$ 1,188.16			Payment Due		\$ 4,964.78					\$ -	\$ 202,979.26		\$ 4,355.26	\$ 20.00	\$ -
11/5/2019				PMI Insurance Advance		\$ 4,964.78			\$ (140.89)		\$ -	\$ 202,979.26		\$ 4,214.37	\$ 20.00	\$ -
12/1/2019	\$ 1,188.16			Payment Due		\$ 6,152.94					\$ -	\$ 202,979.26		\$ 4,214.37	\$ 20.00	\$ -
12/5/2019				PMI Insurance Advance		\$ 6,152.94			\$ (140.89)		\$ -	\$ 202,979.26		\$ 4,073.48	\$ 20.00	\$ -
12/10/2019			\$ 20.00	Property Inspection Fee		\$ 6,152.94					\$ -	\$ 202,979.26		\$ 4,073.48	\$ 40.00	\$ -
12/11/2019				County Tax Advance		\$ 6,152.94			\$ (4,464.54)		\$ -	\$ 202,979.26		\$ (391.06)	\$ 40.00	\$ -
12/11/2019				County Tax Advance		\$ 6,152.94			\$ (3,100.66)		\$ -	\$ 202,979.26		\$ (3,491.72)	\$ 40.00	\$ -
1/1/2020	\$ 1,188.16			Payment Due		\$ 7,341.10					\$ -	\$ 202,979.26		\$ (3,491.72)	\$ 40.00	\$ -
1/3/2020				PMI Insurance Advance		\$ 7,341.10			\$ (140.89)		\$ -	\$ 202,979.26		\$ (3,632.61)	\$ 40.00	\$ -
1/7/2020			\$ 20.00	Property Inspection Fee		\$ 7,341.10					\$ -	\$ 202,979.26		\$ (3,632.61)	\$ 60.00	\$ -
2/1/2020	\$ 1,188.16			Payment Due		\$ 8,529.26					\$ -	\$ 202,979.26		\$ (3,632.61)	\$ 60.00	\$ -
2/5/2020				PMI Insurance Advance		\$ 8,529.26			\$ (140.89)		\$ -	\$ 202,979.26		\$ (3,773.50)	\$ 60.00	\$ -
2/11/2020			\$ 20.00	Property Inspection Fee		\$ 8,529.26					\$ -	\$ 202,979.26		\$ (3,773.50)	\$ 80.00	\$ -
2/14/2020			\$ 397.50	Attorney Fees		\$ 8,529.26					\$ -	\$ 202,979.26		\$ (3,773.50)	\$ 477.50	\$ -
2/21/2020			\$ 250.00	Attorney Cost		\$ 8,529.26					\$ -	\$ 202,979.26		\$ (3,773.50)	\$ 727.50	\$ -
2/21/2020			\$ 20.63	Attorney Cost		\$ 8,529.26					\$ -	\$ 202,979.26		\$ (3,773.50)	\$ 748.13	\$ -
3/1/2020	\$ 1,188.16			Payment Due		\$ 9,717.42					\$ -	\$ 202,979.26		\$ (3,773.50)	\$ 748.13	\$ -
3/5/2020				PMI Insurance Advance		\$ 9,717.42			\$ (140.89)		\$ -	\$ 202,979.26		\$ (3,914.39)	\$ 748.13	\$ -
3/20/2020			\$ 11.50	Attorney Cost		\$ 9,717.42					\$ -	\$ 202,979.26		\$ (3,914.39)	\$ 759.63	\$ -
4/1/2020	\$ 1,188.16			Payment Due		\$ 10,905.58					\$ -	\$ 202,979.26		\$ (3,914.39)	\$ 759.63	\$ -
4/3/2020				PMI Insurance Advance		\$ 10,905.58			\$ (140.89)		\$ -	\$ 202,979.26		\$ (4,055.28)	\$ 759.63	\$ -
4/17/2020				Hazard Insurance Advance		\$ 10,905.58			\$ (1,240.00)		\$ -	\$ 202,979.26		\$ (5,295.28)	\$ 759.63	\$ -
4/20/2020		\$ 1,637.42		Funds Received		\$ 10,905.58					\$ 1,637.42	\$ 202,979.26		\$ (5,295.28)	\$ 759.63	\$ 1,637.42
5/1/2020	\$ 1,188.16			Payment Due		\$ 12,093.74					\$ -	\$ 202,979.26		\$ (5,295.28)	\$ 759.63	\$ 1,637.42
5/5/2020				PMI Insurance Advance		\$ 12,093.74			\$ (140.89)		\$ -	\$ 202,979.26		\$ (5,436.17)	\$ 759.63	\$ 1,637.42
6/1/2020	\$ 1,188.16			Payment Due		\$ 13,281.90					\$ -	\$ 202,979.26		\$ (5,436.17)	\$ 759.63	\$ 1,637.42

ESCROW SHORTAGE

- Review the Escrow Analysis as of the date of filing
- Double check that it does not contain amounts that were included in Escrow Deficiency
- Verify that insurance policies are only charged every 12 months
- Check for overcharges of taxes, insurance or PMI
- Beware of lost or duplicate ad valorem taxes when a case is filed in December or January

The background features a pattern of overlapping grey squares and blue crosses. The squares are arranged in a grid-like fashion, with some appearing to be slightly offset or layered. The blue crosses are scattered throughout, with some being larger and more prominent than others. The overall color palette is muted, consisting of greys and blues.

THE ESCROW ESTIMATOR

Changes to the Excel worksheet

MORTGAGE PROOF OF CLAIM
 (PROVIDING AN ESTIMATE OF VERIFICATION FOR ANALYSIS OF A PROOF OF CLAIM FOR PROJECTED ESCROW SHORTAGE)
 USER SHOULD COMPLETE ALL SHADED BOXES

[Click to reset all data](#)

Notes
 1 Effective date of Month: 5, Year: 2022 May-22

Complete This Column	
2 Current monthly escrow deposit for taxes and insurance	\$556.25
3 Current monthly shortfall payment	\$0.00
4 Forecast monthly PMI	\$0.00
5 Forecast monthly Principal and interest Total payment before escrow adjustment	\$451.39
	\$1,007.64
6 Actual cash balance in escrow account on date of estimation:	\$2,924.75
7 Additional trustee forecast deposits prior to Effective Date of estimation	\$0.00
8 Additional lender escrow disbursements forecast prior to Effective Date of	\$0.00
9 Prior period shortfall adjustments	\$0.00
	\$0.00
	\$0.00
Total funds available as Date of Estimate Funds	\$2,924.75

Should a RESPA Reserve be Included? Results of Analysis	
Yes	(Select Yes or No from drop down list)
Yes	
Results of Analysis	
Required escrow funds as of May-22	\$3,337.49
Bankruptcy adjusted available funds	\$2,924.75
Shortfall (excess)	\$412.74
Monthly base escrow deposit	\$556.25
Monthly shortfall escrow deposit	\$34.40
Total increase in escrow deposit	\$34.39
PMI	\$0.00
New monthly total payment on mortgage	\$1,042.03
New monthly total payment on mortgage without monthly shortfall	\$1,007.64

Amount and dates of forecast tax and insurance escrow disbursements for 12 month period commencing with effective date		Amount	Month	Year	Disbursement Month	Month	Deposit Amount	Forecast Disbursement	60 Day Reserve	Required Date of Estimate Funds	Test of Funds
10	Hazard insurance (Select type of insurance or taxes from drop down list at	\$2,813.00	6	2022	Jun-22						
11	County taxes (Select type of insurance or taxes from drop down list at	\$856.00	12	2022	Dec-22	May-22	\$556.25	\$0.00	\$1,112.50	\$556.25	
12	School taxes (Select type of insurance or taxes from drop down list at	\$1,787.56	12	2022	Dec-22	Jun-22	\$556.25	\$2,813.00		\$2,813.00	
13	MUD taxes (Select type of insurance or taxes from drop down list at	\$1,218.42	12	2022	Dec-22	Jul-22	\$556.25	\$0.00		\$2,256.75	
14	Not applicable (Select type of insurance or taxes from drop down list at	\$0.00	0	0	Jan-00	Aug-22	\$556.25	\$0.00		\$1,700.50	
15	Not applicable (Select type of insurance or taxes from drop down list at	\$0.00	0	0	Jan-00	Sep-22	\$556.25	\$0.00		\$1,144.26	
16	Not applicable (Select type of insurance or taxes from drop down list at	\$0.00	0	0	Jan-00	Oct-22	\$556.25	\$0.00		\$588.01	
17	Not applicable (Select type of insurance or taxes from drop down list at	\$0.00	0	0	Jan-00	Nov-22	\$556.25	\$0.00		\$31.76	
		\$6,674.98				Dec-22	\$556.25	\$3,861.98		\$3,337.49	FUNDS SHORTFALL
						Jan-23	\$556.25	\$0.00		\$2,781.24	\$412.74
						Feb-23	\$556.25	\$0.00		\$2,224.99	
						Mar-23	\$556.25	\$0.00		\$1,668.75	
						Apr-23	\$556.25	\$0.00		\$1,112.50	
									Maximum Initial Funds	\$3,337.49	
								\$6,674.98			

POC TAB

Results of Analysis	
Required escrow funds as of May-22	\$3,337.49
Bankruptcy adjusted available funds	\$2,924.75
Shortfall (excess)	\$412.74
Monthly base escrow deposit	\$556.25
Monthly shortfall escrow deposit	\$34.40
Total increase in escrow deposit	\$34.39
PMI	\$0.00
New monthly total payment on mortgage	\$1,042.03
New monthly total payment on mortgage without monthly shortfall	\$1,007.64

Compare with the projected escrow shortage on the POC (in part 3 of the 410 A)

Compare with the ongoing mortgage payment in the POC (part 4 of the 410A)

Starting cash balance from Proof of Claim	\$2,924.75
Projected escrow shortage from Proof of Claim	\$412.73
"Bankruptcy Adjusted" starting escrow balance from Proof of Claim	\$3,337.48

Month	Year	Escrow Payment	PMI Paid In	PMI Paid Out	Refunds to Escrow account	Paid out from Escrow	Description	
1	5	2022	5/1/2022	\$ 556.25				
2	6	2022	6/1/2022	\$ 556.25		\$ 2,970.00	Hazard Insurance	\$ 923.73
3	7	2022	7/1/2022	\$ 556.25				\$ 1,479.98
4	8	2022	8/1/2022	\$ 556.25				\$ 2,036.23
5	9	2022	9/1/2022	\$ 556.25				\$ 2,592.48
6	10	2022	10/1/2022	\$ 556.25				\$ 3,148.73
7	11	2022	11/1/2022	\$ 556.25				\$ 3,704.98
8	12	2022	12/1/2022	\$ 556.25		\$ 5,087.13	Taxes	\$ 4,261.23
9	1	2023	1/1/2023	\$ 556.25				\$ (269.65)
10	2	2023	2/1/2023	\$ 556.25				\$ 286.60
11	3	2023	3/1/2023	\$ 556.25				\$ 842.85
12	4	2023	4/1/2023	\$ 556.25				\$ 1,399.10
13	5	2023	5/1/2023	\$ 556.25				\$ 1,955.35
14	6	2023	6/1/2023					\$ 2,511.60
15	7	2023	7/1/2023					\$ 2,511.60
16	8	2023	8/1/2023					\$ 2,511.60
17	9	2023	9/1/2023					\$ 2,511.60
18	10	2023	10/1/2023					\$ 2,511.60
19	11	2023	11/1/2023					\$ 2,511.60
20	12	2023	12/1/2023					\$ 2,511.60
21	1	2024	1/1/2024					\$ 2,511.60
22	2	2024	2/1/2024					\$ 2,511.60
23	3	2024	3/1/2024					\$ 2,511.60
24	4	2024	4/1/2024					\$ 2,511.60
25	5	2024	5/1/2024					\$ 2,511.60
26	6	2024	6/1/2024					\$ 2,511.60
27	7	2024	7/1/2024					\$ 2,511.60

Click to reset all data

PAYMENT CHANGE ESTIMATOR
 (PROVIDING AN ESTIMATE OF CORRECT ESCROW ADJUSTMENT IN A NOTICE OF MORTGAGE PAYMENT CHANGE)
 USER SHOULD COMPLETE ALL SHADED BOXES

SAVE OLD NMPC (ONLY AFTER COPYING!)

[Click to reset all data](#)

(Parquet-Error)

Notes

Notes	Month	Year	
1 Effective date of	5	2023	May-23
Complete This Column			
2 Current monthly escrow deposit for taxes and insurance		\$556.25	
3 Current monthly shortfall payment		\$0.00	
4 Forecast monthly PMI		\$0.00	
5 Forecast monthly Principal and interest		\$451.39	
Total payment before escrow adjustment		\$1,007.64	
6 Actual cash balance in escrow account on date of estimation:		\$1,955.35	
7 Additional trustee forecast deposits prior to Effective Date of estimation		\$0.00	
8 Additional lender escrow disbursements forecast prior to Effective Date of estimation		\$0.00	
9 Prior period shortfall adjustments		\$0.00	
		\$0.00	
Total funds available as Date of Estimate Funds		\$1,955.35	

Should a RESPA Reserve be Included? Results of Analysis	
Yes	(Select Yes or No from drop down list)
Yes	
Results of Analysis	
Required escrow funds as of May-23	\$4,028.57
Bankruptcy adjusted available funds	\$1,955.35
Shortfall (excess)	\$2,073.22
Monthly base escrow deposit	\$671.43
Monthly shortfall escrow deposit	\$172.77
Total increase in escrow deposit	\$287.95
PMI	\$0.00
New monthly total payment on mortgage	\$1,295.59

Amount and dates of forecast tax and insurance escrow disbursements for 12 month period commencing with effective date				Disbursement		Deposit	Forecast	60 Day	Required Date of Estimate	Test of Funds	
	Amount	Month	Year	Month	Month	Amount	Disbursement	Reserve	Funds		
10 Hazard insurance (Select type of insurance or taxes from drop down list at left)	\$2,970.00	6	2023	Jun-23	May-23	\$671.43	\$0.00	\$1,342.86	\$671.43	FUNDS SHORTFALL	\$671.43
11 City taxes (Select type of insurance or taxes from drop down list at left)	\$1,127.47	12	2023	Dec-23	Jun-23	\$671.43	\$2,970.00		\$2,970.00	FUNDS SHORTFALL	\$2,970.00
12 School taxes (Select type of insurance or taxes from drop down list at left)	\$2,664.49	12	2023	Dec-23	Jul-23	\$671.43	\$0.00		\$2,298.57	FUNDS SHORTFALL	\$2,298.57
13 MUD taxes (Select type of insurance or taxes from drop down list at left)	\$1,295.17	12	2023	Dec-23	Aug-23	\$671.43	\$0.00		\$1,627.15	FUNDS SHORTFALL	\$1,627.15
14 Not applicable (Select type of insurance or taxes from drop down list at left)	\$0.00	0	0	Jan-00	Sep-23	\$671.43	\$0.00		\$955.72	FUNDS SHORTFALL	\$955.72
15 Not applicable (Select type of insurance or taxes from drop down list at left)	\$0.00	0	0	Jan-00	Oct-23	\$671.43	\$0.00		\$284.29	FUNDS SHORTFALL	\$284.29
16 Not applicable (Select type of insurance or taxes from drop down list at left)	\$0.00	0	0	Jan-00	Nov-23	\$671.43	\$0.00		(\$387.14)		
17 Not applicable (Select type of insurance or taxes from drop down list at left)	\$0.00	0	0	Jan-00	Dec-23	\$671.43	\$5,087.13		\$4,028.57	FUNDS SHORTFALL	\$4,028.57
	\$8,057.13				Jan-24	\$671.43	\$0.00		\$3,357.14	FUNDS SHORTFALL	\$3,357.14
					Feb-24	\$671.43	\$0.00		\$2,685.71	FUNDS SHORTFALL	\$2,685.71
					Mar-24	\$671.43	\$0.00		\$2,014.28	FUNDS SHORTFALL	\$2,014.28
					Apr-24	\$671.43	\$0.00		\$1,342.86	FUNDS SHORTFALL	\$1,342.86
								Maximum Initial Funds Required	\$4,028.57		
							\$8,057.13				

1 For the POC tab this row includes the month and year of the first payment due under the plan. (Usually the month after the date of filing).
For the NMPC tab this row includes the month and year of the date of the proposed escrow payment change.

2 The current monthly escrow deposit should be the amount of the monthly escrow deposit as of the date that the estimate is prepared. For example, if the analysis is prepared in October, 2023 to be effective in December, 2023, the entry in line 1 should be 12/2023 and the entry in line 2 should be the escrow deposit that was in effect on 10/2023.

3 The current monthly shortfall payment is only applicable if the estimate is done in a year in which a shortfall is already being cured. For example, if an estimate was done in October, 2023 for the year beginning December, 2023, the monthly installment of any shortfall payment imposed in October, 2023 would be inserted. If there is no shortfall payment being made, the amount should be \$0.00.

4 This is the monthly private mortgage insurance payment as forecast on the Notice of Payment Change. If there is no monthly private mortgage insurance payment, this amount should be \$0.00.

5 This is the amount of the monthly installment of principal and interest as forecast on the Proof of Claim or the Notice of Payment Change.

6 This is the cash balance in the escrow account as of the date of the estimation. For the POC tab this should only be entered if there is a positive escrow balance as of the date of filing. If there is a negative escrow deficiency on the POC the number should be \$0.00. For the NMPC tab this number will auto generate from the Escrow History.

7 This amount should be forecast disbursements FROM the escrow account after the date of the estimate but before the effective date of the escrow payment change.

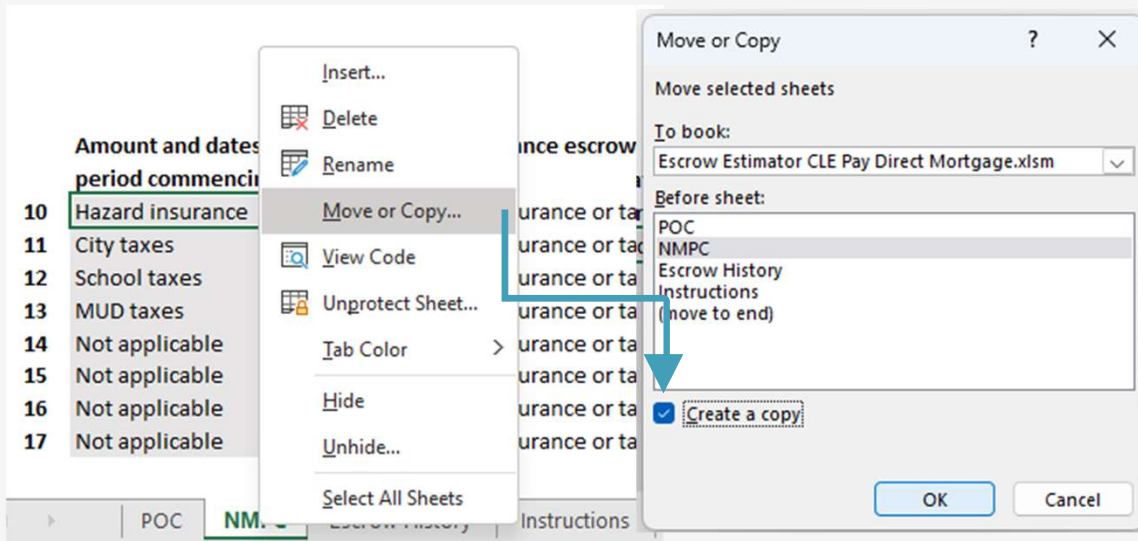
8 This amount should be an estimate of the amount of the escrow deficiency that was contained in the proof of claim that has already been paid by the chapter 13 trustee.

9 This amount is similar to the amount in line 8. This should include additional deposits to be made with the Trustee, but that will not have been disbursed by the Trustee prior to the effective date of the escrow payment change.

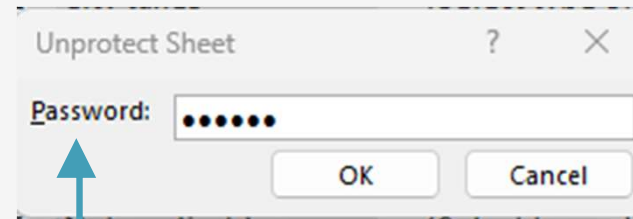
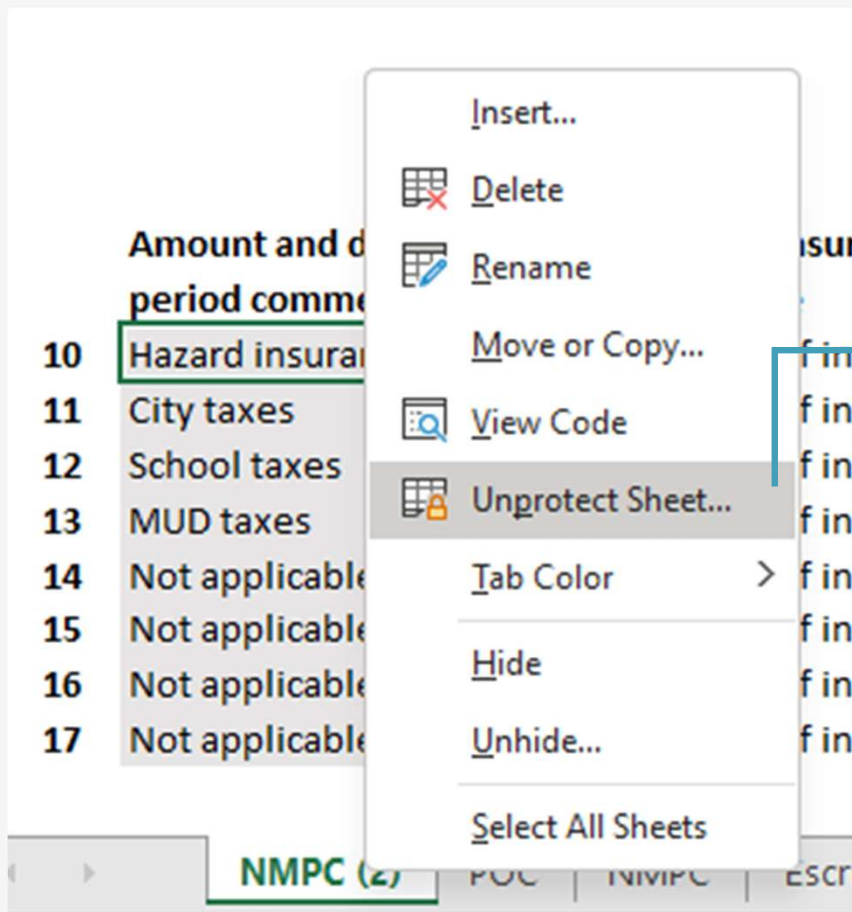
10 to 17 These are the regular forecast disbursements over the 12 month period following the escrow payment change date.

How to create a history of prior NMPC tabs for each notice filed

MULTIPLE NMPC TABS



- 1) Right click on the NMPC tab
- 2) Select the Move or Copy button Move or Copy...
- 3) Select the NMPC sheet and check the create a copy box
- 4) Then click OK



- 5) Once the copy is created right click on the newly created NMPC tab and select Unprotect Sheet
- 6) Type in the password and click OK

1) RENT CHANGE)

Click to reset all data

SAVE OLD NMPC (ONLY AFTER COPYING!)

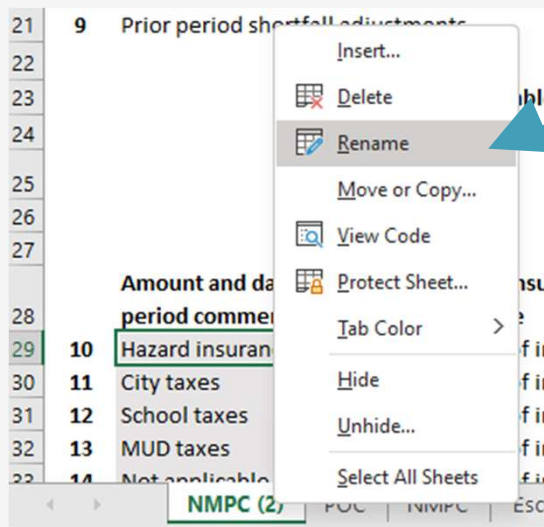


- 7) Select the SAVE OLD NMPC button
- 6) Type in the password and click OK

Should a RESPA Reserve be Included?
Results of Analysis
Yes (Select Yes or No from drop down list)

Yes

Results of Analysis	
Required escrow funds as of May-23	\$4,028.57
Bankruptcy adjusted available funds	\$1,955.35
Shortfall (excess)	\$2,073.22
Monthly base escrow deposit	\$671.43
Monthly shortfall escrow deposit	\$172.77
Total increase in escrow deposit	\$287.95
PMI	\$0.00
New monthly total payment on mortgage	\$1,295.59



8) Right click on the tab and select the Rename button

9) Add the docket number or the date when the NMPC was filed

10) You can left click and hold on the tab to move it wherever you like on the worksheet



THANK YOU

MORTGAGE PROOF OF CLAIM
 (PROVIDING AN ESTIMATE OF VERIFICATION FOR ANALYSIS OF A PROOF OF CLAIM FOR PROJECTED ESCROW SHORTAGE)
 USER SHOULD COMPLETE ALL SHADED BOXES

(Password=Escrow)

[Click to reset all data](#)

Notes

1 Effective date of

Month	Year
5	2022

May-22

Complete This Column

- 2 Current monthly escrow deposit for taxes and insurance
- 3 Current monthly shortfall payment
- 4 Forecast monthly PMI
- 5 Forecast monthly Principal and interest
- 6 Actual cash balance in escrow account on date of estimation:
- 7 Additional trustee forecast deposits prior to Effective Date of estimation
- 8 Additional lender escrow disbursements forecast prior to Effective Date of estimation
- 9 Prior period shortfall adjustments

	\$556.25
	\$0.00
	\$0.00
	\$451.39
	\$1,007.64
	\$2,924.75
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00

Total funds available as Date of Estimate Funds

\$2,924.75

Should a RESPA Reserve be Included?
Results of Analysis

Yes (Select Yes or No from drop down list)

Results of Analysis

Required escrow funds as of	May-22	\$3,337.49
Bankruptcy adjusted available funds		\$2,924.75
Shortfall (excess)		\$412.74
Monthly base escrow deposit		\$556.25
Monthly shortfall escrow deposit		\$34.40
Total increase in escrow deposit		\$34.39
PMI		\$0.00
New monthly total payment on mortgage		\$1,042.03
New monthly total payment on mortgage without monthly shortfall		\$1,007.64

Amount and dates of forecast tax and insurance escrow disbursements for 12 month period commencing with effective date

	Amount	Month	Year	Disbursement Month
10 Hazard insurance (Select type of insurance or taxes from drop down list at left)	\$2,813.00	6	2022	Jun-22
11 County taxes (Select type of insurance or taxes from drop down list at left)	\$856.00	12	2022	Dec-22
12 School taxes (Select type of insurance or taxes from drop down list at left)	\$1,787.56	12	2022	Dec-22
13 MUD taxes (Select type of insurance or taxes from drop down list at left)	\$1,218.42	12	2022	Dec-22
14 Not applicable (Select type of insurance or taxes from drop down list at left)	\$0.00	0	0	Jan-00
15 Not applicable (Select type of insurance or taxes from drop down list at left)	\$0.00	0	0	Jan-00
16 Not applicable (Select type of insurance or taxes from drop down list at left)	\$0.00	0	0	Jan-00
17 Not applicable (Select type of insurance or taxes from drop down list at left)	\$0.00	0	0	Jan-00
	\$6,674.98			

Month	Deposit Amount	Forecast Disbursement	60 Day Reserve	Required Date of Estimate Funds	Test of Funds
May-22	\$556.25	\$0.00	\$1,112.50	\$556.25	
Jun-22	\$556.25	\$2,813.00		\$2,813.00	
Jul-22	\$556.25	\$0.00		\$2,256.75	
Aug-22	\$556.25	\$0.00		\$1,700.50	
Sep-22	\$556.25	\$0.00		\$1,144.26	
Oct-22	\$556.25	\$0.00		\$588.01	
Nov-22	\$556.25	\$0.00		\$31.76	
Dec-22	\$556.25	\$3,861.98		\$3,337.49	FUNDS SHORTFALL
Jan-23	\$556.25	\$0.00		\$2,781.24	\$412.74
Feb-23	\$556.25	\$0.00		\$2,224.99	
Mar-23	\$556.25	\$0.00		\$1,668.75	
Apr-23	\$556.25	\$0.00		\$1,112.50	
			Maximum Initial Funds		
			\$6,674.98	Required	\$3,337.49

PAYMENT CHANGE ESTIMATOR
 (PROVIDING AN ESTIMATE OF CORRECT ESCROW ADJUSTMENT IN A NOTICE OF MORTGAGE PAYMENT CHANGE)
 USER SHOULD COMPLETE ALL SHADED BOXES

(Password-Escrow)

[Click to reset all data](#)

Notes

1 Effective date of

Month	Year
5	2023

May-23

Complete This Column

- 2 Current monthly escrow deposit for taxes and insurance
- 3 Current monthly shortfall payment
- 4 Forecast monthly PMI
- 5 Forecast monthly Principal and interest
- Total payment before escrow adjustment
- 6 Actual cash balance in escrow account on date of estimation:
- 7 Additional trustee forecast deposits prior to Effective Date of estimation
- 8 Additional lender escrow disbursements forecast prior to Effective Date of estimation
- 9 Prior period shortfall adjustments

\$556.25
\$0.00
\$0.00
\$451.39
\$1,007.64
\$1,955.35
\$0.00
\$0.00
\$0.00
\$0.00
\$0.00
\$1,955.35

Total funds available as Date of Estimate Funds

Should a RESPA Reserve be Included? Results of Analysis	
Yes	(Select Yes or No from drop down list)

Results of Analysis		
Required escrow funds as of	May-23	\$4,028.57
Bankruptcy adjusted available funds		\$1,955.35
Shortfall (excess)		\$2,073.22
Monthly base escrow deposit		\$671.43
Monthly shortfall escrow deposit		\$172.77
Total increase in escrow deposit		\$287.95
PMI		\$0.00
New monthly total payment on mortgage		\$1,295.59

Amount and dates of forecast tax and insurance escrow disbursements for 12 month period commencing with effective date

- 10 Hazard insurance (Select type of insurance or taxes from drop down list at left)
- 11 City taxes (Select type of insurance or taxes from drop down list at left)
- 12 School taxes (Select type of insurance or taxes from drop down list at left)
- 13 MUD taxes (Select type of insurance or taxes from drop down list at left)
- 14 Not applicable (Select type of insurance or taxes from drop down list at left)
- 15 Not applicable (Select type of insurance or taxes from drop down list at left)
- 16 Not applicable (Select type of insurance or taxes from drop down list at left)
- 17 Not applicable (Select type of insurance or taxes from drop down list at left)

Amount	Month	Year	Disbursement Month
\$2,970.00	6	2023	Jun-23
\$1,127.47	12	2023	Dec-23
\$2,664.49	12	2023	Dec-23
\$1,295.17	12	2023	Dec-23
\$0.00	0	0	Jan-00
\$0.00	0	0	Jan-00
\$0.00	0	0	Jan-00
\$0.00	0	0	Jan-00
\$8,057.13			

Month	Deposit Amount	Forecast Disbursement	60 Day Reserve	Required Date of Estimate Funds	Test of Funds
May-23	\$671.43	\$0.00	\$1,342.86	\$671.43 FUNDS SHORTFALL	\$671.43
Jun-23	\$671.43	\$2,970.00		\$2,970.00 FUNDS SHORTFALL	\$2,970.00
Jul-23	\$671.43	\$0.00		\$2,298.57 FUNDS SHORTFALL	\$2,298.57
Aug-23	\$671.43	\$0.00		\$1,627.15 FUNDS SHORTFALL	\$1,627.15
Sep-23	\$671.43	\$0.00		\$955.72 FUNDS SHORTFALL	\$955.72
Oct-23	\$671.43	\$0.00		\$284.29 FUNDS SHORTFALL	\$284.29
Nov-23	\$671.43	\$0.00		(\$387.14)	
Dec-23	\$671.43	\$5,087.13		\$4,028.57 FUNDS SHORTFALL	\$4,028.57
Jan-24	\$671.43	\$0.00		\$3,357.14 FUNDS SHORTFALL	\$3,357.14
Feb-24	\$671.43	\$0.00		\$2,685.71 FUNDS SHORTFALL	\$2,685.71
Mar-24	\$671.43	\$0.00		\$2,014.28 FUNDS SHORTFALL	\$2,014.28
Apr-24	\$671.43	\$0.00		\$1,342.86 FUNDS SHORTFALL	\$1,342.86
			Maximum Initial Funds		
		\$8,057.13	Required	\$4,028.57	

Starting cash balance from Proof of Claim	\$2,924.75
Projected escrow shortage from Proof of Claim	\$412.73
"Bankruptcy Adjusted" starting escrow balance from Proof of Claim	\$3,337.48

Month	Year	Escrow Payment	PMI Paid In	PMI Paid Out	Refunds to Escrow account	Paid out from Escrow	Description	
1	5	2022	5/1/2022	\$ 556.25				\$ 923.73
2	6	2022	6/1/2022	\$ 556.25		\$ 2,970.00	Hazard Insurance	\$ 1,479.98
3	7	2022	7/1/2022	\$ 556.25				\$ 2,036.23
4	8	2022	8/1/2022	\$ 556.25				\$ 2,592.48
5	9	2022	9/1/2022	\$ 556.25				\$ 3,148.73
6	10	2022	10/1/2022	\$ 556.25				\$ 3,704.98
7	11	2022	11/1/2022	\$ 556.25				\$ 4,261.23
8	12	2022	12/1/2022	\$ 556.25		\$ 5,087.13	Taxes	\$ (269.65)
9	1	2023	1/1/2023	\$ 556.25				\$ 286.60
10	2	2023	2/1/2023	\$ 556.25				\$ 842.85
11	3	2023	3/1/2023	\$ 556.25				\$ 1,399.10
12	4	2023	4/1/2023	\$ 556.25				\$ 1,955.35
13	5	2023	5/1/2023	\$ 556.25				\$ 2,511.60
14	6	2023	6/1/2023					\$ 2,511.60
15	7	2023	7/1/2023					\$ 2,511.60
16	8	2023	8/1/2023					\$ 2,511.60
17	9	2023	9/1/2023					\$ 2,511.60
18	10	2023	10/1/2023					\$ 2,511.60
19	11	2023	11/1/2023					\$ 2,511.60
20	12	2023	12/1/2023					\$ 2,511.60
21	1	2024	1/1/2024					\$ 2,511.60
22	2	2024	2/1/2024					\$ 2,511.60
23	3	2024	3/1/2024					\$ 2,511.60
24	4	2024	4/1/2024					\$ 2,511.60
25	5	2024	5/1/2024					\$ 2,511.60
26	6	2024	6/1/2024					\$ 2,511.60
27	7	2024	7/1/2024					\$ 2,511.60
28	8	2024	8/1/2024					\$ 2,511.60
29	9	2024	9/1/2024					\$ 2,511.60
30	10	2024	10/1/2024					\$ 2,511.60
31	11	2024	11/1/2024					\$ 2,511.60
32	12	2024	12/1/2024					\$ 2,511.60
33	1	2025	1/1/2025					\$ 2,511.60
34	2	2025	2/1/2025					\$ 2,511.60
35	3	2025	3/1/2025					\$ 2,511.60
36	4	2025	4/1/2025					\$ 2,511.60
37	5	2025	5/1/2025					\$ 2,511.60
38	6	2025	6/1/2025					\$ 2,511.60
39	7	2025	7/1/2025					\$ 2,511.60
40	8	2025	8/1/2025					\$ 2,511.60
41	9	2025	9/1/2025					\$ 2,511.60
42	10	2025	10/1/2025					\$ 2,511.60
43	11	2025	11/1/2025					\$ 2,511.60
44	12	2025	12/1/2025					\$ 2,511.60
45	1	2026	1/1/2026					\$ 2,511.60
46	2	2026	2/1/2026					\$ 2,511.60
47	3	2026	3/1/2026					\$ 2,511.60
48	4	2026	4/1/2026					\$ 2,511.60
49	5	2026	5/1/2026					\$ 2,511.60
50	6	2026	6/1/2026					\$ 2,511.60
51	7	2026	7/1/2026					\$ 2,511.60
52	8	2026	8/1/2026					\$ 2,511.60
53	9	2026	9/1/2026					\$ 2,511.60
54	10	2026	10/1/2026					\$ 2,511.60
55	11	2026	11/1/2026					\$ 2,511.60
56	12	2026	12/1/2026					\$ 2,511.60
57	1	2027	1/1/2027					\$ 2,511.60
58	2	2027	2/1/2027					\$ 2,511.60
59	3	2027	3/1/2027					\$ 2,511.60
60	4	2027	4/1/2027					\$ 2,511.60

[Click to reset all data](#)

Mortgage Proof of Claim Attachment

If you file a claim secured by a security interest in the debtor's principal residence, you must use this form as an attachment to your proof of claim. See separate instructions.

Part 1: Mortgage and Case Information		Part 2: Total Debt Calculation		Part 3: Arrearage as of Date of the Petition		Part 4: Monthly Mortgage Payment	
Case number:	██████████	Principal balance:	94,740.93	Principal & interest due:	0.00	Principal & interest:	451.39
Debtor 1:	██████████	Interest due:	244.64	Prepetition fees due:	0.00	Monthly escrow:	556.25
Debtor 2:		Fees, costs due:	0.00	Escrow deficiency for funds advanced:	0.00	Private mortgage insurance:	0.00
Last 4 digits to identify:	██	Escrow deficiency for funds advanced:	0.00	Projected escrow shortage:	412.73	Optional Products:	0.00
Creditor:	██████████	Other:	0.00	Other:	0.00		
Servicer:	██████████	Less total funds on hand: -	2,924.75	Less funds on hand: -	0.00	Total monthly payment:	1,007.64
Fixed accrual/daily simple interest/other:	Fixed Accrual	Total debt:	92,060.82	Total prepetition arrearage:	412.73	*Additional changes to the monthly payment amount may be required because interest rate adjustments or escrow requirement changes.	

*Not to be used for payoff purposes

Part 5 : Loan Payment History from First Date of Default

Account Activity					How Funds Were Applied/Amount Incurred							Balance After Amount Received or Incurred				
A.	B.	C.	D.	E.	F.	G.	H.	I.	J.	K.	L.	M.	N.	O.	P.	Q.
Date	Contractual payment amount	Funds received	Amount incurred	Description	Contractual due date	Prin, int & esc past due balance	Amount to principal	Amount to interest	Amount to escrow	Amount to fees or charges	Unapplied funds	Principal balance	Accrued interest balance	Escrow balance	Fees / Charges balance	Unapplied funds balance
05/01/2021				Beginning Balances	05/01/2021	0.00						96,802.43	0.00	3,199.89	0.00	0.00
05/01/2021	984.71			Monthly payment	05/01/2021	984.71						96,802.43	0.00	3,199.89	0.00	0.00
05/10/2021		984.71		Payment	05/01/2021	0.00	158.97	292.42	533.32		0.00	96,643.46	0.00	3,733.21	0.00	0.00
05/20/2021			2,813.00	Hazard Insurance Disbursement	06/01/2021	0.00	0.00	0.00	2,813.00		0.00	96,643.46	0.00	920.21	0.00	0.00
06/01/2021	984.71			Monthly payment	06/01/2021	984.71						96,643.46	0.00	920.21	0.00	0.00
06/10/2021		984.71		Payment	06/01/2021	0.00	159.45	291.94	533.32		0.00	96,484.01	0.00	1,453.53	0.00	0.00
06/10/2021		15.00		Payment	07/01/2021	0.00	15.00	0.00	0.00		0.00	96,469.01	0.00	1,453.53	0.00	0.00
07/01/2021	984.71			Monthly payment	07/01/2021	984.71						96,469.01	0.00	1,453.53	0.00	0.00
07/08/2021		984.71		Payment	07/01/2021	0.00	159.97	291.42	533.32		0.00	96,309.04	0.00	1,986.85	0.00	0.00
07/13/2021		15.00		Payment	08/01/2021	0.00	15.00	0.00	0.00		0.00	96,294.04	0.00	1,986.85	0.00	0.00
08/01/2021	984.71			Monthly payment	08/01/2021	984.71						96,294.04	0.00	1,986.85	0.00	0.00
08/13/2021		984.71		Payment	08/01/2021	0.00	160.50	290.89	533.32		0.00	96,133.54	0.00	2,520.17	0.00	0.00
08/22/2021		15.00		Payment	09/01/2021	0.00	15.00	0.00	0.00		0.00	96,118.54	0.00	2,520.17	0.00	0.00
08/24/2021			0.00	Reversal	09/01/2021	0.00	15.00	0.00	0.00		0.00	96,133.54	0.00	2,520.17	0.00	0.00

Mortgage Proof of Claim Attachment: Additional Page

(12/15)

Case number: [REDACTED]
 Debtor 1: [REDACTED]

Part 5 : Loan Payment History from First Date of Default

Account Activity				How Funds Were Applied/Amount Incurred								Balance After Amount Received or Incurred				
A.	B.	C.	D.	E.	F.	G.	H.	I.	J.	K.	L.	M.	N.	O.	P.	Q.
Date	Contractual payment amount	Funds received	Amount incurred	Description	Contractual due date	Prin, int & esc past due balance	Amount to principal	Amount to interest	Amount to escrow	Amount to fees or charges	Unapplied funds	Principal balance	Accrued interest balance	Escrow balance	Fees / Charges balance	Unapplied funds balance
08/24/2021			0.00	Reversal	09/01/2021	0.00	0.00	0.00	0.00		15.00	96,133.54	0.00	2,520.17	0.00	15.00
08/24/2021			0.00	Reversal	08/01/2021	984.71	160.50	290.89	533.32		0.00	96,294.04	0.00	1,986.85	0.00	15.00
08/24/2021			18.06	Late Charge	08/01/2021	984.71				18.06		96,294.04	0.00	1,986.85	18.06	15.00
08/30/2021		984.71		Payment	08/01/2021	0.00	160.50	290.89	533.32		0.00	96,133.54	0.00	2,520.17	18.06	15.00
08/30/2021		0.00		Payment	09/01/2021	0.00	0.00	0.00	0.00	15.00	15.00	96,133.54	0.00	2,520.17	3.06	0.00
09/01/2021	984.71			Monthly payment	09/01/2021	984.71						96,133.54	0.00	2,520.17	3.06	0.00
09/09/2021		987.77		Payment	09/01/2021	0.00	160.99	290.40	533.32	3.06	0.00	95,972.55	0.00	3,053.49	0.00	0.00
09/14/2021		15.00		Payment	10/01/2021	0.00	15.00	0.00	0.00		0.00	95,957.55	0.00	3,053.49	0.00	0.00
10/01/2021	984.71			Monthly payment	10/01/2021	984.71						95,957.55	0.00	3,053.49	0.00	0.00
10/08/2021		984.71		Payment	10/01/2021	0.00	161.52	289.87	533.32		0.00	95,796.03	0.00	3,586.81	0.00	0.00
11/01/2021	984.71			Monthly payment	11/01/2021	984.71						95,796.03	0.00	3,586.81	0.00	0.00
11/13/2021		984.71		Payment	11/01/2021	0.00	162.01	289.38	533.32		0.00	95,634.02	0.00	4,120.13	0.00	0.00
11/17/2021		15.00		Payment	12/01/2021	0.00	15.00	0.00	0.00		0.00	95,619.02	0.00	4,120.13	0.00	0.00
12/01/2021	984.71			Monthly payment	12/01/2021	984.71						95,619.02	0.00	4,120.13	0.00	0.00
12/07/2021			1,787.56	Other/Sewer/Water/Maintenance Tax	12/01/2021	984.71	0.00	0.00	1,787.56		0.00	95,619.02	0.00	2,332.57	0.00	0.00
12/10/2021		984.71		Payment	12/01/2021	0.00	162.54	288.85	533.32		0.00	95,456.48	0.00	2,865.89	0.00	0.00
12/10/2021			1,218.42	Utility Tax Disbursement	01/01/2022	0.00	0.00	0.00	1,218.42		0.00	95,456.48	0.00	1,647.47	0.00	0.00
12/17/2021			856.00	County tax disbursement	01/01/2022	0.00	0.00	0.00	856.00		0.00	95,456.48	0.00	791.47	0.00	0.00
12/22/2021		15.00		Payment	01/01/2022	0.00	15.00	0.00	0.00		0.00	95,441.48	0.00	791.47	0.00	0.00
01/01/2022	984.71			Monthly payment	01/01/2022	984.71						95,441.48	0.00	791.47	0.00	0.00
01/13/2022		984.71		Payment	01/01/2022	0.00	163.08	288.31	533.32		0.00	95,278.40	0.00	1,324.79	0.00	0.00
01/25/2022		15.00		Payment	02/01/2022	0.00	15.00	0.00	0.00		0.00	95,263.40	0.00	1,324.79	0.00	0.00

Mortgage Proof of Claim Attachment: Additional Page

(12/15)

Case number: [REDACTED]
 Debtor 1: [REDACTED]

Part 5 : Loan Payment History from First Date of Default

Account Activity				How Funds Were Applied/Amount Incurred								Balance After Amount Received or Incurred				
A.	B.	C.	D.	E.	F.	G.	H.	I.	J.	K.	L.	M.	N.	O.	P.	Q.
Date	Contractual payment amount	Funds received	Amount incurred	Description	Contractual due date	Prin, int & esc past due balance	Amount to principal	Amount to interest	Amount to escrow	Amount to fees or charges	Unapplied funds	Principal balance	Accrued interest balance	Escrow balance	Fees / Charges balance	Unapplied funds balance
02/01/2022	984.71			Monthly payment	02/01/2022	984.71						95,263.40	0.00	1,324.79	0.00	0.00
02/10/2022		984.71		Payment	02/01/2022	0.00	163.62	287.77	533.32		0.00	95,099.78	0.00	1,858.11	0.00	0.00
02/17/2022		15.00		Payment	03/01/2022	0.00	15.00	0.00	0.00		0.00	95,084.78	0.00	1,858.11	0.00	0.00
03/01/2022	984.71			Monthly payment	03/01/2022	984.71						95,084.78	0.00	1,858.11	0.00	0.00
03/11/2022		984.71		Payment	03/01/2022	0.00	164.15	287.24	533.32		0.00	94,920.63	0.00	2,391.43	0.00	0.00
03/15/2022		15.00		Payment	04/01/2022	0.00	15.00	0.00	0.00		0.00	94,905.63	0.00	2,391.43	0.00	0.00
04/01/2022	984.71			Monthly payment	04/01/2022	984.71						94,905.63	0.00	2,391.43	0.00	0.00
04/10/2022		984.71		Payment	04/01/2022	0.00	164.70	286.69	533.32		0.00	94,740.93	0.00	2,924.75	0.00	0.00
04/26/2022				Bankruptcy Filed	05/01/2022	0.00						94,740.93	0.00	2,924.75	0.00	0.00

Addendum Page

Basis for asserting that the applicable party has the right to foreclose: Debtor(s) executed a promissory note secured by a mortgage, deed of trust, or security deed. The Promissory note is either made payable to creditor or has been duly indorsed. Creditor, directly or through an agent, has possession of the promissory note. Creditor is the original mortgagee or beneficiary or the assignee of the mortgage, deed of trust, or security deed.

Additional Disclaimers (where applicable)

410

Part 2: Question 9-Describe contains the property address and may contain a description for "Other".

410A

Part 1:

Full creditor name cannot be displayed due to space limitation, see 410 part 1.1 for full name.

Part 2:

Principal Balance is from Part 5, Column M as of the Bankruptcy File Date.

Interest Due is the interest due as of the Bankruptcy File Date.

Fees, costs due is from Part 5, Column P as of the Bankruptcy File Date and includes any outstanding fees (i.e. late charges, property inspections) and cost (i.e. attorney costs), also included are corporate advances (i.e. tax, insurance) for non-escrowed loans as of the Bankruptcy File Date. Any fees, costs due that are incurred pre-petition and waived post-petition will not be included.

Escrow deficiency for funds advanced is from Part 5, Column O (if negative balance) as of the Bankruptcy File Date.

Other includes any applicable Private Mortgage Insurance, other Optional Products (i.e. A & H, Life) or Deferred Interest, where applicable, due as of the Bankruptcy File Date. This line was added to ensure transparency.

Less Total Funds on hand is the total of Part 5, Column O (if positive balance) and Q as of the Bankruptcy File Date.

Total Debt not to be used for payoff purposes.

Part 3:

Principal and Interest is the principal and interest portion of Part 5, Column G, as of the Bankruptcy File Date. (If post-petition payments are included as required by Local Rule or practice, this field will include post-petition principal and interest amounts).

Pre-Petition Fees Due is from Part 5, Column P as of the Bankruptcy File Date. Any fees, costs due that are incurred pre-petition and waived post-petition will not be included.

Escrow Deficiency for Funds Advanced is from Part 5, Column O (if negative balance) as of the Bankruptcy File Date.

Projected Escrow Shortage is the Escrow Required from the escrow analysis minus a positive escrow balance as of the Bankruptcy File Date. (If post-petition payments are included as required by Local Rule or practice, this field will include post-petition escrow amounts).

Other includes any applicable Optional Products (i.e. A & H, Life) due as of the bankruptcy file date. This line was added to ensure transparency. (If post-petition payments are included as required by Local Rule or practice, this field will include post-petition Optional Product amounts).

Less Funds on Hand is from Part 5, column Q as of the Bankruptcy File Date.

Part 4:

Optional Products includes any applicable optional products (i.e. A & H, Life) due as of the Bankruptcy File Date. This line was added to ensure transparency.

(*)This disclaimer has been added to the form to explain that the monthly payment amount may change periodically throughout the life of the loan.

Part 5:

If any of the transactions in the loan payment history contain amounts for optional products, the amount for that product will be reflected in either the Contractual payment amount or the Funds Received amount, and will be applied in those amounts. It will also be reflected in column G as described below.

Column G In addition to the items listed, this also includes any past due PMI or optional products (i.e. A & H, Life) amounts, as applicable. Optional product (i.e. A & H, Life) amounts will not be included in columns H-Q due to no appropriate column heading for this type of transaction.

Column J includes taxes, insurance and MIP/PMI as applicable.

Column N will only be populated if the loan is Daily Simple Interest or if Deferred Interest exists on the account.

Column O includes taxes, insurance and MIP/PMI as applicable.

Loan number: [REDACTED]

Transaction Description	Date Applied	Escrow Disbursement(s):	Escrow Receipt(s):	Escrow Account Balance
Account History Range	04/26/21 - 04/26/22			
Starting Balance	4/8/2021			\$3,199.89
Payment	May 2021		\$533.32	\$3,733.21
Hazard Insurance	May 2021	(\$2,813.00)		\$920.21
Payment	Jun 2021		\$533.32	\$1,453.53
Payment	Jul 2021		\$533.32	\$1,986.85
Payment	Aug 2021		\$533.32	\$2,520.17
Reversal	Aug 2021	(\$533.32)		\$1,986.85
Payment	Aug 2021		\$533.32	\$2,520.17
Payment	Sep 2021		\$533.32	\$3,053.49
Payment	Oct 2021		\$533.32	\$3,586.81
Payment	Nov 2021		\$533.32	\$4,120.13
School Tax	Dec 2021	(\$1,787.56)		\$2,332.57
Payment	Dec 2021		\$533.32	\$2,865.89
MUD/PUD/WCIC Tax	Dec 2021	(\$1,218.42)		\$1,647.47
County Tax	Dec 2021	(\$856.00)		\$791.47
Payment	Jan 2022		\$533.32	\$1,324.79
Payment	Feb 2022		\$533.32	\$1,858.11
Payment	Mar 2022		\$533.32	\$2,391.43
Payment	Apr 2022		\$533.32	\$2,924.75
Ending Totals/Balances		(\$7,208.30)	\$6,933.16	\$2,924.75
Bankruptcy filed	4/26/2022			

EXAMPLE 1

ESCROW REVIEW STATEMENT

For informational purposes only

Statement Date:

April 29, 2022

Loan number:

Property address:



We accept telecommunications relay service calls

PLEASE NOTE: If you are presently seeking relief (or have previously been granted relief) under the United States Bankruptcy Code, this statement is being sent to you for informational purposes only. The summaries below are based on the terms of the loan and are provided for informational purposes only.

These amounts are governed by the terms of the loan unless otherwise reduced by an order of the bankruptcy court. Because the amounts billed for the escrow items can change over time, we review the escrow account at least once per year to ensure there will be enough money to make these payments. Once the review is complete, we send the escrow review statement, also known as the escrow account disclosure statement.

Here's what we found:

- **Required minimum balance:** The escrow account balance is projected to be equal to the required minimum balance.
- **Payments:** As of the **May 1, 2022** payment, the contractual portion of the escrow payment **increases**.

The account balance is sufficient. Our review shows no projected shortage or overage.

Part 1 - Mortgage payment

New Payment

The new total payment will be **\$1,007.64**

	Previous payment through 04/01/2022 payment date	New payment beginning with the 05/01/2022 payment
Principal and/or interest	\$451.39	\$451.39
Escrow payment	\$533.32	\$556.25
Total payment amount	\$984.71	\$1,007.64

No action required

Starting **May 1, 2022** the new contractual payment amount will be **\$1,007.64**

EXAMPLE 1

See Page 2 for additional details.

Part 2 - Payment calculations

For the past review period, the amount of the escrow items was \$6,674.98. For the coming year, we expect the amount paid from escrow to be \$6,674.98.

How was the escrow payment calculated?

To determine the escrow payment, we add the projected escrow items to be paid over the next 12 months. We base these projected amounts on any escrow items that may have been paid in the past and any future anticipated payments to be made. We then divide the amounts by 12 payments to determine the escrow amount.

The chart below includes any actual escrow disbursements as well as any shortage that may have been identified for the past three analysis periods up through the date of the analysis.

Escrow comparison

	12/19 - 11/20 (Actual)	05/20 - 04/21 (Actual)	05/21 - 04/22 (Actual)	05/22 - 04/23 (Projected)		# of months		New monthly escrow amount
Property taxes	\$3,881.79	\$3,734.81	\$3,861.98	\$3,861.98	÷	12	=	\$321.83
Property insurance	\$2,665.00	\$2,665.00	\$2,813.00	\$2,813.00	÷	12	=	\$234.42
Total taxes and insurance	\$6,546.79	\$6,399.81	\$6,674.98	\$6,674.98	÷	12	=	\$556.25
Escrow shortage	\$2,689.21	\$0.00	\$0.00	\$0.00				
Total escrow	\$9,236.00	\$6,399.81	\$6,674.98	\$6,674.98				\$556.25

Projected escrow account activity over the next 12 months

To determine if there will be a shortage or overage in the account, we calculate whether the amount of the lowest projected escrow balance will be greater or less than the required minimum balance. This is determined by subtracting the required minimum balance from the lowest projected balance. If the outcome is positive, there is an overage. If it is negative, there is a shortage. The calculation is below:

Lowest projected escrow balance December, 2022		\$699.77	(Calculated in Part 3 - Escrow account projections table)
Bankruptcy adjustment [†]	+	\$412.73	
Minimum balance for the escrow account [†]	-	\$1,112.50	(Calculated as: \$556.25 X 2 months)
Escrow overage/shortage	=	\$0.00	(escrow balance is sufficient)

[†]This adjustment of \$412.73, is the remaining amount of the pre-petition escrow shortage included in our proof of claim being paid through the confirmed bankruptcy plan.

[†]The minimum balance includes a cash reserve to help cover any increase in taxes and/or insurance. To calculate the cash reserve for the escrow account, we add the yearly escrow payments, and divide by 12. We take this amount and multiply it by 2 as allowed by state laws and/or the mortgage contract to determine the cash reserve.

Part 3 - Escrow account projections

Escrow account projections from May, 2022 to April, 2023

Date	Payments to escrow	What we expect to pay out	Description	Projected escrow balance	Balance required in the account
Apr 2022			Starting balance	\$2,924.75	\$3,337.48
May 2022	\$556.25	\$0.00		\$3,481.00	\$3,893.73
Jun 2022	\$556.25	\$2,813.00	GERMANIA FARM MUTUAL	\$1,224.25	\$1,636.98
Jul 2022	\$556.25	\$0.00		\$1,780.50	\$2,193.23
Aug 2022	\$556.25	\$0.00		\$2,336.75	\$2,749.48
Sep 2022	\$556.25	\$0.00		\$2,893.00	\$3,305.73
Oct 2022	\$556.25	\$0.00		\$3,449.25	\$3,861.98
Nov 2022	\$556.25	\$0.00		\$4,005.50	\$4,418.23
Dec 2022	\$556.25	\$856.00	HARRIS COUNTY (A)	\$3,705.75	\$4,118.48
Dec 2022	\$0.00	\$1,787.56	GOOSE CREEK CISD (W)	\$1,918.19	\$2,330.92
Dec 2022	\$0.00	\$1,218.42	SPRING MEADOWS MUD	\$699.77	\$1,112.50
Jan 2023	\$556.25	\$0.00		\$1,256.02	\$1,668.75
Feb 2023	\$556.25	\$0.00		\$1,812.27	\$2,225.00
Mar 2023	\$556.25	\$0.00		\$2,368.52	\$2,781.25
Apr 2023	\$556.25	\$0.00		\$2,924.77	\$3,337.50
Totals	\$6,675.00	\$6,674.98			

Part 4 - Escrow account history

Escrow account activity from May, 2021 to April, 2022

Date	Deposits to escrow			Payments from escrow			Description	Escrow balance		
	Actual	Projected	Difference	Actual	Projected	Difference		Actual	Projected	Difference
May 2021							Starting Balance	\$3,199.89	\$3,199.89	\$0.00
May 2021	\$533.32	\$533.32	\$0.00	\$2,813.00	\$0.00	\$2,813.00	GERMANIA FARM MUTUAL	\$920.21	\$3,733.21	-\$2,813.00
Jun 2021	\$533.32	\$533.32	\$0.00	\$0.00	\$2,665.00	-\$2,665.00	GERMANIA FARM MUTUAL	\$1,453.53	\$1,601.53	-\$148.00
Jul 2021	\$533.32	\$533.32	\$0.00	\$0.00	\$0.00	\$0.00		\$1,986.85	\$2,134.85	-\$148.00
Aug 2021	\$533.32	\$533.32	\$0.00	\$0.00	\$0.00	\$0.00		\$2,520.17	\$2,668.17	-\$148.00
Sep 2021	\$533.32	\$533.32	\$0.00	\$0.00	\$0.00	\$0.00		\$3,053.49	\$3,201.49	-\$148.00
Oct 2021	\$533.32	\$533.32	\$0.00	\$0.00	\$0.00	\$0.00		\$3,586.81	\$3,734.81	-\$148.00
Nov 2021	\$533.32	\$533.32	\$0.00	\$0.00	\$0.00	\$0.00		\$4,120.13	\$4,268.13	-\$148.00
Dec 2021	\$533.32	\$533.32	\$0.00	\$856.00	\$849.66	\$6.34	HARRIS COUNTY (A)	\$3,797.45	\$3,951.79	-\$154.34
Dec 2021	\$0.00	\$0.00	\$0.00	\$1,787.56	\$1,690.82	\$96.74	GOOSE CREEK CISD (W)	\$2,009.89	\$2,260.97	-\$251.08
Dec 2021	\$0.00	\$0.00	\$0.00	\$1,218.42	\$1,194.33	\$24.09	SPRING MEADOWS MUD	\$791.47	\$1,066.64	-\$275.17
Jan 2022	\$533.32	\$533.32	\$0.00	\$0.00	\$0.00	\$0.00		\$1,324.79	\$1,599.96	-\$275.17
Feb 2022	\$533.32	\$533.32	\$0.00	\$0.00	\$0.00	\$0.00		\$1,858.11	\$2,133.28	-\$275.17
Mar 2022	\$533.32	\$533.32	\$0.00	\$0.00	\$0.00	\$0.00		\$2,391.43	\$2,666.60	-\$275.17
Apr 2022	\$533.32	\$533.32	\$0.00	\$0.00	\$0.00	\$0.00		\$2,924.75	\$3,199.92	-\$275.17
Totals	\$6,399.84	\$6,399.84	\$0.00	\$6,674.98	\$6,399.81	\$275.17				

Fill in this information to identify the case:

Debtor 1 _____

Debtor 2 (Spouse, if filing) _____

United States Bankruptcy Court for the: Southern District of Texas

Case number _____

Official Form 410S1

Notice of Mortgage Payment Change

12/15

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): 4-1

EXAMPLE 1

Date of payment change:

Must be at least 21 days after date of this notice 05/01/2023

New total payment:

Principal, interest, and escrow, if any \$ 1329.98

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

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: \$ 556.25

New escrow payment: \$ 878.59

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: Other Payment Change

3. 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 repayment 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: \$ _____

ESCROW REVIEW STATEMENT

For informational purposes only

Statement Date:

March 13, 2023

Loan number:

PLEASE NOTE: If you are presently seeking relief (or have previously been granted relief) under the United States Bankruptcy Code, this statement is being sent to you for informational purposes only. The summaries below are based on the terms of the loan and are provided for informational purposes only.

These amounts are governed by the terms of the loan unless otherwise reduced by an order of the bankruptcy court. Because the amounts billed for the escrow items can change over time, we review the escrow account at least once per year to ensure there will be enough money to make these payments. Once the review is complete, we send the escrow review statement, also known as the escrow account disclosure statement.

Here's what we found:

- **Required Minimum Balance:** The escrow account balance is projected to fall below the required minimum balance. This means there is a **shortage**.
- **Payments:** As of the **May 1, 2023** payment, the contractual portion of the escrow payment **increases**.

The escrow account has a shortage of **\$2,485.93**

Part 1 - Mortgage payment

New Payment

The new total payment will be **\$1,329.98**

	Previous payment through 04/01/2023 payment date	New payment beginning with the 05/01/2023 payment
Principal and/or interest	\$451.39	\$451.39
Escrow payment	\$556.25	\$878.59
Total payment amount	\$1,007.64	\$1,329.98

No action required

Starting **May 1, 2023** the new contractual payment amount will be **\$1,329.98**

See Page 2 for additional details.

Part 2 - Payment calculations

For the past review period, the amount of the escrow items was \$8,057.13. For the coming year, we expect the amount paid from escrow to be \$8,057.13.

How was the escrow payment calculated?

To determine the escrow payment, we add the projected escrow items to be paid over the next 12 months. We base these projected amounts on any escrow items that may have been paid in the past and any future anticipated payments to be made. We then divide the amounts by 12 payments to determine the escrow amount.

The chart below includes any actual escrow disbursements as well as any shortage that may have been identified for the past three analysis periods up through the date of the analysis.

Escrow comparison

	05/20 - 04/21 (Actual)	05/21 - 04/22 (Actual)	05/22 - 03/23 (Actual)	05/23 - 04/24 (Projected)		# of months		New monthly escrow amount
Property taxes	\$3,734.81	\$3,861.98	\$5,087.13	\$5,087.13	+	12	=	\$423.93
Property insurance	\$2,665.00	\$2,813.00	\$2,970.00	\$2,970.00	+	12	=	\$247.50
Total taxes and insurance	\$6,399.81	\$6,674.98	\$8,057.13	\$8,057.13	+	12	=	\$671.43
Escrow shortage	\$0.00	\$0.00	\$0.00	\$2,485.93	+	12	=	\$207.16
Total escrow	\$6,399.81	\$6,674.98	\$8,057.13	\$10,543.06	+	12	=	\$878.59

Projected escrow account activity over the next 12 months

To determine if there will be a shortage or overage in the account, we calculate whether the amount of the lowest projected escrow balance will be greater or less than the required minimum balance. This is determined by subtracting the required minimum balance from the lowest projected balance. If the outcome is positive, there is an overage. If it is negative, there is a shortage. The calculation is below:

Lowest projected escrow balance December, 2023		-\$1,143.07	(Calculated in Part 3 - Escrow account projections table)
Minimum balance for the escrow account [†]	-	\$1,342.86	(Calculated as: \$671.43 X 2 months)
Escrow shortage	=	-\$2,485.93	

[†]The minimum balance includes a cash reserve to help cover any increase in taxes and/or insurance. To calculate the cash reserve for the escrow account, we add the yearly escrow payments, and divide by 12. We take this amount and multiply it by 2 as allowed by state laws and/or the mortgage contract to determine the cash reserve.

Part 3 - Escrow account projections

Escrow account projections from May, 2023 to April, 2024

Date	Payments to escrow	What we expect to pay out	Description	Projected escrow balance	Balance required in the account
Apr 2023			Starting balance	\$1,542.62	\$4,028.55
May 2023	\$671.43	\$0.00		\$2,214.05	\$4,699.98
Jun 2023	\$671.43	\$2,970.00	GERMANIA FARM MUTUAL	-\$84.52	\$2,401.41
Jul 2023	\$671.43	\$0.00		\$586.91	\$3,072.84
Aug 2023	\$671.43	\$0.00		\$1,258.34	\$3,744.27
Sep 2023	\$671.43	\$0.00		\$1,929.77	\$4,415.70
Oct 2023	\$671.43	\$0.00		\$2,601.20	\$5,087.13
Nov 2023	\$671.43	\$0.00		\$3,272.63	\$5,758.56
Dec 2023	\$671.43	\$1,127.47	HARRIS COUNTY (A)	\$2,816.59	\$5,302.52
Dec 2023	\$0.00	\$2,664.49	GOOSE CREEK CISD (W)	\$152.10	\$2,638.03
Dec 2023	\$0.00	\$1,295.17	SPRING MEADOWS MUD	-\$1,143.07	\$1,342.86
Jan 2024	\$671.43	\$0.00		-\$471.64	\$2,014.29
Feb 2024	\$671.43	\$0.00		\$199.79	\$2,685.72
Mar 2024	\$671.43	\$0.00		\$871.22	\$3,357.15
Apr 2024	\$671.43	\$0.00		\$1,542.65	\$4,028.58
Totals	\$8,057.16	\$8,057.13			

Part 4 - Escrow account history

Escrow account activity from May, 2022 to April, 2023

Date	Deposits to escrow			Payments from escrow			Description	Escrow balance		
	Actual	Projected	Difference	Actual	Projected	Difference		Actual	Projected	Difference
May 2022							Starting Balance	\$2,924.75	\$3,337.48	-\$412.73
May 2022	\$556.25	\$556.25	\$0.00	\$2,970.00	\$0.00	\$2,970.00	GERMANIA FARM MUTUAL	\$511.00	\$3,893.73	-\$3,382.73
Jun 2022	\$556.25	\$556.25	\$0.00	\$0.00	\$2,813.00	-\$2,813.00	GERMANIA FARM MUTUAL	\$1,067.25	\$1,636.98	-\$569.73
Jul 2022	\$556.25	\$556.25	\$0.00	\$0.00	\$0.00	\$0.00		\$1,623.50	\$2,193.23	-\$569.73
Aug 2022	\$556.25	\$556.25	\$0.00	\$0.00	\$0.00	\$0.00		\$2,179.75	\$2,749.48	-\$569.73
Sep 2022	\$556.25	\$556.25	\$0.00	\$0.00	\$0.00	\$0.00		\$2,736.00	\$3,305.73	-\$569.73
Oct 2022	\$556.25	\$556.25	\$0.00	\$0.00	\$0.00	\$0.00		\$3,292.25	\$3,861.98	-\$569.73
Nov 2022	\$556.25	\$556.25	\$0.00	\$0.00	\$0.00	\$0.00		\$3,848.50	\$4,418.23	-\$569.73
Dec 2022	\$556.25	\$556.25	\$0.00	\$1,127.47	\$856.00	\$271.47	HARRIS COUNTY (A)	\$3,277.28	\$4,118.48	-\$841.20
Dec 2022	\$0.00	\$0.00	\$0.00	\$2,664.49	\$1,787.56	\$876.93	GOOSE CREEK CISD (W)	\$612.79	\$2,330.92	-\$1,718.13
Dec 2022	\$0.00	\$0.00	\$0.00	\$1,295.17	\$1,218.42	\$76.75	SPRING MEADOWS MUD	-\$682.38	\$1,112.50	-\$1,794.88
Jan 2023	\$556.25	\$556.25	\$0.00	\$0.00	\$0.00	\$0.00		-\$126.13	\$1,668.75	-\$1,794.88
Feb 2023	\$556.25	\$556.25	\$0.00	\$0.00	\$0.00	\$0.00		\$430.12	\$2,225.00	-\$1,794.88
Mar 2023	\$556.25	\$556.25	\$0.00	\$0.00	\$0.00	\$0.00		\$986.37	\$2,781.25	-\$1,794.88
Apr 2023 (estimate)	\$556.25	\$556.25	\$0.00	\$0.00	\$0.00	\$0.00		\$1,542.62	\$3,337.50	-\$1,794.88
Totals	\$6,675.00	\$6,675.00	\$0.00	\$8,057.13	\$6,674.98	\$1,382.15				

MORTGAGE PROOF OF CLAIM
 (PROVIDING AN ESTIMATE OF VERIFICATION FOR ANALYSIS OF A PROOF OF CLAIM FOR PROJECTED ESCROW SHORTAGE)
 USER SHOULD COMPLETE ALL SHADED BOXES

(Password-Escrow)

[Click to reset all data](#)

Notes

1 Effective date of

Month	Year
3	2020

Mar-20

Complete This Column	
	\$390.00
	\$0.00
	\$24.11
	\$600.23
	\$1,014.34
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00

Should a RESPA Reserve be Included?	
Results of Analysis	
Yes	(Select Yes or No from drop down list)

Results of Analysis		
Required escrow funds as of	Mar-20	\$1,560.03
Bankruptcy adjusted available funds		\$0.00
Shortfall (excess)		\$1,560.03
Monthly base escrow deposit		\$390.01
Monthly shortfall escrow deposit		\$130.00
Total increase in escrow deposit		\$130.01
PMI		\$24.11
New monthly total payment on mortgage		\$1,144.35
New monthly total payment on mortgage without monthly shortfall		\$1,014.35

Total funds available as Date of Estimate Funds

\$0.00

Amount and dates of forecast tax and insurance escrow disbursements for 12 month period commencing with effective date

	Amount	Month	Year	Disbursement Month
10 Hazard insurance (Select type of insurance or taxes from drop down list at left)	\$2,003.00	7	2020	Jul-20
11 County taxes (Select type of insurance or taxes from drop down list at left)	\$2,677.09	12	2020	Dec-20
12 Not applicable (Select type of insurance or taxes from drop down list at left)	\$0.00	0	0	Jan-00
13 Not applicable (Select type of insurance or taxes from drop down list at left)	\$0.00	0	0	Jan-00
14 Not applicable (Select type of insurance or taxes from drop down list at left)	\$0.00	0	0	Jan-00
15 Not applicable (Select type of insurance or taxes from drop down list at left)	\$0.00	0	0	Jan-00
16 Not applicable (Select type of insurance or taxes from drop down list at left)	\$0.00	0	0	Jan-00
17 Not applicable (Select type of insurance or taxes from drop down list at left)	\$0.00	0	0	Jan-00
	\$4,680.09			

Month	Deposit Amount	Forecast Disbursement	60 Day Reserve	Required Date of Estimate Funds	Test of Funds
Mar-20	\$414.12	\$24.11	\$780.02	\$390.01	FUNDS SHORTFALL \$390.01
Apr-20	\$414.12	\$24.11		\$0.00	
May-20	\$414.12	\$24.11		(\$390.01)	
Jun-20	\$414.12	\$24.11		(\$780.02)	
Jul-20	\$414.12	\$2,027.11		\$832.98	FUNDS SHORTFALL \$832.98
Aug-20	\$414.12	\$24.11		\$442.97	FUNDS SHORTFALL \$442.97
Sep-20	\$414.12	\$24.11		\$52.96	FUNDS SHORTFALL \$52.96
Oct-20	\$414.12	\$24.11		(\$337.05)	
Nov-20	\$414.12	\$24.11		(\$727.05)	
Dec-20	\$414.12	\$2,701.20		\$1,560.03	FUNDS SHORTFALL \$1,560.03
Jan-21	\$414.12	\$24.11		\$1,170.02	FUNDS SHORTFALL \$1,170.02
Feb-21	\$414.12	\$24.11		\$780.02	FUNDS SHORTFALL \$780.02
			Maximum Initial Funds		
			\$4,969.41	Required	\$1,560.03

PAYMENT CHANGE ESTIMATOR
 (PROVIDING AN ESTIMATE OF CORRECT ESCROW ADJUSTMENT IN A NOTICE OF MORTGAGE PAYMENT CHANGE)
 USER SHOULD COMPLETE ALL SHADED BOXES

(Password-Escrow)

[Click to reset all data](#)

Notes

1 Effective date of

Month	Year
3	2021
	Mar-21

Complete This Column

2	Current monthly escrow deposit for taxes and insurance	\$390.00
3	Current monthly shortfall payment	\$0.00
4	Forecast monthly PMI	\$24.11
5	Forecast monthly Principal and interest	\$600.23
	Total payment before escrow adjustment	\$1,014.34
6	Actual cash balance in escrow account on date of estimation:	\$1,261.73
7	Additional trustee forecast deposits prior to Effective Date of estimation	\$0.00
8	Additional lender escrow disbursements forecast prior to Effective Date of estimation	\$0.00
9	Prior period shortfall adjustments	\$0.00
	Total funds available as Date of Estimate Funds	\$1,261.73

Should a RESPA Reserve be Included? Results of Analysis	
Yes	(Select Yes or No from drop down list)

Results of Analysis		
Required escrow funds as of	Mar-21	\$1,659.45
Bankruptcy adjusted available funds		\$1,261.73
Shortfall (excess)		\$397.72
Monthly base escrow deposit		\$414.86
Monthly shortfall escrow deposit		\$33.14
Total increase in escrow deposit		\$58.01
PMI		\$24.11
New monthly total payment on mortgage		\$1,072.35

Amount and dates of forecast tax and insurance escrow disbursements for 12 month period commencing with effective date

		Amount	Month	Year	Disbursement Month
10	Hazard insurance	\$2,034.00	7	2021	Jul-21
11	County taxes	\$2,944.36	12	2021	Dec-21
12	Not applicable	\$0.00	0	0	Jan-00
13	Not applicable	\$0.00	0	0	Jan-00
14	Not applicable	\$0.00	0	0	Jan-00
15	Not applicable	\$0.00	0	0	Jan-00
16	Not applicable	\$0.00	0	0	Jan-00
17	Not applicable	\$0.00	0	0	Jan-00
		\$4,978.36			

Month	Deposit Amount	Forecast Disbursement	60 Day Reserve	Required Date of Estimate Funds	Test of Funds
Mar-21	\$438.97	\$24.11	\$829.73	\$414.86	FUNDS SHORTFALL \$414.86
Apr-21	\$438.97	\$24.11		\$0.00	
May-21	\$438.97	\$24.11		(\$414.86)	
Jun-21	\$438.97	\$24.11		(\$829.73)	
Jul-21	\$438.97	\$2,058.11		\$789.41	FUNDS SHORTFALL \$789.41
Aug-21	\$438.97	\$24.11		\$374.55	FUNDS SHORTFALL \$374.55
Sep-21	\$438.97	\$24.11		(\$40.32)	
Oct-21	\$438.97	\$24.11		(\$455.18)	
Nov-21	\$438.97	\$24.11		(\$870.04)	
Dec-21	\$438.97	\$2,968.47		\$1,659.45	FUNDS SHORTFALL \$1,659.45
Jan-22	\$438.97	\$24.11		\$1,244.59	FUNDS SHORTFALL \$1,244.59
Feb-22	\$438.97	\$24.11		\$829.73	FUNDS SHORTFALL \$829.73
			Maximum Initial Funds		
		\$5,267.68	Required	\$1,659.45	

PAYMENT CHANGE ESTIMATOR
 (PROVIDING AN ESTIMATE OF CORRECT ESCROW ADJUSTMENT IN A NOTICE OF MORTGAGE PAYMENT CHANGE)
 USER SHOULD COMPLETE ALL SHADED BOXES

(Password-Escrow)

[Click to reset all data](#)

Notes
 1 Effective date of

Month Year
 3 2022 Mar-22

Complete This Column

2	Current monthly escrow deposit for taxes and insurance	\$450.91
3	Current monthly shortfall payment	\$0.00
4	Forecast monthly PMI	\$24.11
5	Forecast monthly Principal and interest	\$600.23
	Total payment before escrow adjustment	\$1,075.25
6	Actual cash balance in escrow account on date of estimation:	\$1,484.92
7	Additional trustee forecast deposits prior to Effective Date of estimation	\$0.00
8	Additional lender escrow disbursements forecast prior to Effective Date of estimation	\$0.00
9	Prior period shortfall adjustments	\$0.00
	Total funds available as Date of Estimate Funds	\$1,484.92

Should a RESPA Reserve be Included?
 Results of Analysis

Yes (Select Yes or No from drop down list)

Results of Analysis

Required escrow funds as of	Mar-22	\$1,729.24
Bankruptcy adjusted available funds		\$1,484.92
Shortfall (excess)		\$244.32
Monthly base escrow deposit		\$432.31
Monthly shortfall escrow deposit		\$20.36
Total increase in escrow deposit		\$1.76
PMI		\$24.11
New monthly total payment on mortgage		\$1,077.01

Amount and dates of forecast tax and insurance escrow disbursements for 12 month period commencing with effective date

		Amount	Month	Year	Disbursement Month
10	Hazard insurance	\$2,052.00	7	2022	Jul-22
11	County taxes	\$3,135.73	12	2022	Dec-22
12	Not applicable	\$0.00	0	0	Jan-00
13	Not applicable	\$0.00	0	0	Jan-00
14	Not applicable	\$0.00	0	0	Jan-00
15	Not applicable	\$0.00	0	0	Jan-00
16	Not applicable	\$0.00	0	0	Jan-00
17	Not applicable	\$0.00	0	0	Jan-00
		\$5,187.73			

Month	Deposit Amount	Forecast Disbursement	60 Day Reserve	Required Date of Estimate Funds	Test of Funds
Mar-22	\$456.42	\$24.11	\$864.62	\$432.31	FUNDS SHORTFALL \$432.31
Apr-22	\$456.42	\$24.11		\$0.00	
May-22	\$456.42	\$24.11		(\$432.31)	
Jun-22	\$456.42	\$24.11		(\$864.62)	
Jul-22	\$456.42	\$2,076.11		\$755.07	FUNDS SHORTFALL \$755.07
Aug-22	\$456.42	\$24.11		\$322.76	FUNDS SHORTFALL \$322.76
Sep-22	\$456.42	\$24.11		(\$5109.55)	
Oct-22	\$456.42	\$24.11		(\$541.87)	
Nov-22	\$456.42	\$24.11		(\$974.18)	
Dec-22	\$456.42	\$3,159.84		\$1,729.24	FUNDS SHORTFALL \$1,729.24
Jan-23	\$456.42	\$24.11		\$1,296.93	FUNDS SHORTFALL \$1,296.93
Feb-23	\$456.42	\$24.11		\$864.62	FUNDS SHORTFALL \$864.62
			Maximum Initial Funds		
			\$5,477.05	Required	\$1,729.24

PAYMENT CHANGE ESTIMATOR
 (PROVIDING AN ESTIMATE OF CORRECT ESCROW ADJUSTMENT IN A NOTICE OF MORTGAGE PAYMENT CHANGE)
 USER SHOULD COMPLETE ALL SHADED BOXES

(Password-Escrow)

Click to reset all data

Notes
 1 Effective date of

Month	Year
3	2023

Mar-23

Complete This Column	
Current monthly escrow deposit for taxes and insurance	\$456.74
Current monthly shortfall payment	\$0.00
Forecast monthly PMI	\$24.11
Forecast monthly Principal and interest	\$600.23
Total payment before escrow adjustment	\$1,081.08
Actual cash balance in escrow account on date of estimation:	\$1,304.60
Additional trustee forecast deposits prior to Effective Date of estimation	\$0.00
Additional lender escrow disbursements forecast prior to Effective Date of estimation	\$0.00
Prior period shortfall adjustments	\$0.00
Total funds available as Date of Estimate Funds	\$1,304.60

Should a RESPA Reserve be Included? Results of Analysis	
Yes	(Select Yes or No from drop down list)

Results of Analysis		
Required escrow funds as of	Mar-23	\$1,822.12
Bankruptcy adjusted available funds		\$1,304.60
Shortfall (excess)		\$517.52
Monthly base escrow deposit		\$455.53
Monthly shortfall escrow deposit		\$43.13
Total increase in escrow deposit		\$41.92
PMI		\$24.11
New monthly total payment on mortgage		\$1,123.00

Amount and dates of forecast tax and insurance escrow disbursements for 12 month period commencing with effective date

		Amount	Month	Year	Disbursement Month
10	Hazard insurance (Select type of insurance or taxes from drop down list at left)	\$2,338.00	7	2023	Jul-23
11	County taxes (Select type of insurance or taxes from drop down list at left)	\$3,128.36	12	2023	Dec-23
12	Not applicable (Select type of insurance or taxes from drop down list at left)	\$0.00	0	0	Jan-00
13	Not applicable (Select type of insurance or taxes from drop down list at left)	\$0.00	0	0	Jan-00
14	Not applicable (Select type of insurance or taxes from drop down list at left)	\$0.00	0	0	Jan-00
15	Not applicable (Select type of insurance or taxes from drop down list at left)	\$0.00	0	0	Jan-00
16	Not applicable (Select type of insurance or taxes from drop down list at left)	\$0.00	0	0	Jan-00
17	Not applicable (Select type of insurance or taxes from drop down list at left)	\$0.00	0	0	Jan-00
		\$5,466.36			

Month	Deposit Amount	Forecast Disbursement	60 Day Reserve	Required Date of Estimate Funds	Test of Funds
Mar-23	\$479.64	\$24.11	\$911.06	\$455.53	FUNDS SHORTFALL \$455.53
Apr-23	\$479.64	\$24.11		\$0.00	
May-23	\$479.64	\$24.11		(\$455.53)	
Jun-23	\$479.64	\$24.11		(\$911.06)	
Jul-23	\$479.64	\$2,362.11		\$971.41	FUNDS SHORTFALL \$971.41
Aug-23	\$479.64	\$24.11		\$515.88	FUNDS SHORTFALL \$515.88
Sep-23	\$479.64	\$24.11		\$60.35	FUNDS SHORTFALL \$60.35
Oct-23	\$479.64	\$24.11		(\$395.18)	
Nov-23	\$479.64	\$24.11		(\$850.71)	
Dec-23	\$479.64	\$3,152.47		\$1,822.12	FUNDS SHORTFALL \$1,822.12
Jan-24	\$479.64	\$24.11		\$1,366.59	FUNDS SHORTFALL \$1,366.59
Feb-24	\$479.64	\$24.11		\$911.06	FUNDS SHORTFALL \$911.06
				Maximum Initial Funds Required	\$1,822.12
				\$5,755.68	

Starting cash balance from Proof of Claim	
Projected escrow shortage from Proof of Claim	\$1,560.09
"Bankruptcy Adjusted" starting escrow balance from Proof of Claim	\$1,560.09

Month	Year	Escrow Payment	PMI Paid In	PMI Paid Out	Refunds to Escrow account	Paid out from Escrow	Description	
1	3	2020	3/1/2020	\$ 390.00	\$ 24.11	\$ 24.11		\$ 1,950.09
2	4	2020	4/1/2020	\$ 390.00	\$ 24.11	\$ 24.11		\$ 2,340.09
3	5	2020	5/1/2020	\$ 390.00	\$ 24.11	\$ 24.11		\$ 2,730.09
4	6	2020	6/1/2020	\$ 390.00	\$ 24.11	\$ 24.11		\$ 3,120.09
5	7	2020	7/1/2020	\$ 390.00	\$ 24.11	\$ 24.11	\$ 169.50 hazard ins	\$ 3,340.59
6	8	2020	8/1/2020	\$ 390.00	\$ 24.11	\$ 24.11	\$ 1,864.50 hazard ins	\$ 1,866.09
7	9	2020	9/1/2020	\$ 390.00	\$ 24.11	\$ 24.11		\$ 2,256.09
8	10	2020	10/1/2020	\$ 390.00	\$ 24.11	\$ 24.11		\$ 2,646.09
9	11	2020	11/1/2020	\$ 390.00	\$ 24.11	\$ 24.11		\$ 3,036.09
10	12	2020	12/1/2020	\$ 390.00	\$ 24.11	\$ 24.11	\$ 2,944.36 taxes	\$ 481.73
11	1	2021	1/1/2021	\$ 390.00	\$ 24.11	\$ 24.11		\$ 871.73
12	2	2021	2/1/2021	\$ 390.00	\$ 24.11	\$ 24.11		\$ 1,261.73
13	3	2021	3/1/2021	\$ 450.91	\$ 24.11	\$ 24.11		\$ 1,712.64
14	4	2021	4/1/2021	\$ 450.91	\$ 24.11	\$ 24.11		\$ 2,163.55
15	5	2021	5/1/2021	\$ 450.91	\$ 24.11	\$ 24.11		\$ 2,614.46
16	6	2021	6/1/2021	\$ 450.91	\$ 24.11	\$ 24.11		\$ 3,065.37
17	7	2021	7/1/2021	\$ 450.91	\$ 24.11	\$ 24.11	\$ 171.00 hazard ins	\$ 3,345.28
18	8	2021	8/1/2021	\$ 450.91	\$ 24.11	\$ 24.11	\$ 1,881.00 hazard ins	\$ 1,915.19
19	9	2021	9/1/2021	\$ 450.91	\$ 24.11	\$ 24.11		\$ 2,366.10
20	10	2021	10/1/2021	\$ 450.91	\$ 24.11	\$ 24.11		\$ 2,817.01
21	11	2021	11/1/2021	\$ 450.91	\$ 24.11	\$ 24.11		\$ 3,267.92
22	12	2021	12/1/2021	\$ 450.91	\$ 24.11	\$ 24.11	\$ 3,135.73 taxes	\$ 583.10
23	1	2022	1/1/2022	\$ 450.91	\$ 24.11	\$ 24.11		\$ 1,034.01
24	2	2022	2/1/2022	\$ 450.91	\$ 24.11	\$ 24.11		\$ 1,484.92
25	3	2022	3/1/2022	\$ 456.74	\$ 24.11	\$ 24.11		\$ 1,941.66
26	4	2022	4/1/2022	\$ 456.74	\$ 24.11	\$ 24.11		\$ 2,398.40
27	5	2022	5/1/2022	\$ 456.74	\$ 24.11	\$ 24.11		\$ 2,855.14
28	6	2022	6/1/2022	\$ 456.74	\$ 24.11	\$ 24.11	\$ 194.84 hazard ins	\$ 3,117.04
29	7	2022	7/1/2022	\$ 456.74	\$ 24.11	\$ 24.11	\$ 2,143.16 hazard ins	\$ 1,430.62
30	8	2022	8/1/2022	\$ 456.74	\$ 24.11	\$ 24.11	\$ 194.84 hazard ins	\$ 1,692.52
31	9	2022	9/1/2022	\$ 456.74	\$ 24.11	\$ 24.11		\$ 2,149.26
32	10	2022	10/1/2022	\$ 456.74	\$ 24.11	\$ 24.11		\$ 2,606.00
33	11	2022	11/1/2022	\$ 456.74	\$ 24.11	\$ 24.11		\$ 3,062.74
34	12	2022	12/1/2022	\$ 456.74	\$ 24.11	\$ 24.11	\$ 3,128.36 taxes	\$ 391.12
35	1	2023	1/1/2023	\$ 456.74	\$ 24.11	\$ 24.11		\$ 847.86
36	2	2023	2/1/2023	\$ 456.74	\$ 24.11	\$ 24.11		\$ 1,304.60
37	3	2023	3/1/2023					\$ 1,304.60
38	4	2023	4/1/2023					\$ 1,304.60
39	5	2023	5/1/2023					\$ 1,304.60
40	6	2023	6/1/2023					\$ 1,304.60
41	7	2023	7/1/2023					\$ 1,304.60
42	8	2023	8/1/2023					\$ 1,304.60
43	9	2023	9/1/2023					\$ 1,304.60
44	10	2023	10/1/2023					\$ 1,304.60
45	11	2023	11/1/2023					\$ 1,304.60
46	12	2023	12/1/2023					\$ 1,304.60
47	1	2024	1/1/2024					\$ 1,304.60
48	2	2024	2/1/2024					\$ 1,304.60
49	3	2024	3/1/2024					\$ 1,304.60
50	4	2024	4/1/2024					\$ 1,304.60
51	5	2024	5/1/2024					\$ 1,304.60
52	6	2024	6/1/2024					\$ 1,304.60
53	7	2024	7/1/2024					\$ 1,304.60
54	8	2024	8/1/2024					\$ 1,304.60
55	9	2024	9/1/2024					\$ 1,304.60
56	10	2024	10/1/2024					\$ 1,304.60
57	11	2024	11/1/2024					\$ 1,304.60
58	12	2024	12/1/2024					\$ 1,304.60
59	1	2025	1/1/2025					\$ 1,304.60
60	2	2025	2/1/2025					\$ 1,304.60

[Click to reset all data](#)

Mortgage Proof of Claim Attachment

If you file a claim secured by a security interest in the debtor's principal residence, you must use this form as an attachment to your proof of claim. See separate instructions.

Part 1: Mortgage and Case Information		Part 2: Total Debt Calculation		Part 3: Arrearage as of Date of the Petition		Part 4: Monthly Mortgage Payment	
Case number:	██████████	Principal balance:	\$126,219.75	Principal & interest due:	\$10,203.91	Principal & interest:	\$600.23
Debtor 1:	██████████	Interest due:	\$7,397.94	Prepetition fees due:	\$3,746.48	Monthly escrow:	\$390.00
Debtor 2:	██████████	Fees, costs due:	\$3,746.48	Escrow deficiency for funds advanced:	\$6,505.29	Private mortgage insurance:	\$24.11
Last 4 digits to identify:	████	Escrow deficiency for funds advanced:	\$6,505.29	Projected escrow shortage:	\$1,560.09	Total monthly payment:	\$1,014.34
Creditor:	██████████	Less total funds on hand:	\$2,583.40	Less funds on hand:	\$2,583.40		
Servicer:	██████████	Total debt:	\$141,286.06	Total prepetition arrearage:	\$19,432.37		
Fixed accrual/daily simple interest/other:	Fixed						

Part 5: Loan Payment History from First Date of Default

A. Date	B. Contractual payment amount	C. Account Activity			F. Contractual due date	G. Prin, int & esc past due balance	H. How Funds Were Applied / Amount Incurred				I. Balance After Amount Received or incurred					
		D. Funds received	E. Amount incurred	Description			H. Amount to principal	I. Amount to interest	J. Amount to escrow	K. Amount to fees or charges	L. Unapplied funds	M. Principal balance	N. Accrued interest balance	O. Escrow balance	P. Fees / Charges balance	Q. Unapplied funds balance
				Starting Balance		\$0.00						\$129,159.55	\$0.00	\$1,629.89	\$462.90	\$0.00
06/01/2017	\$1,000.65			Regular Payment Due	06/01/2017	\$1,000.65						\$129,159.55	\$0.00	\$1,629.89	\$462.90	\$0.00
06/16/2017		\$1,197.55		Payment Received	07/01/2017	\$0.00	\$199.81	\$336.35	\$464.49	\$196.90		\$128,959.74	\$0.00	\$2,094.38	\$266.00	\$0.00
06/16/2017		\$266.00		Payment Received	07/01/2017	\$0.00					\$266.00	\$128,959.74	\$0.00	\$2,094.38	\$266.00	\$266.00
06/22/2017		(\$1,197.55)		Payment Reversal	06/01/2017	\$1,000.65	(\$199.81)	(\$336.35)	(\$464.49)	(\$196.90)		\$129,159.55	\$0.00	\$1,629.89	\$462.90	\$266.00
06/22/2017		(\$266.00)		Payment Reversal	06/01/2017	\$1,000.65					(\$266.00)	\$129,159.55	\$0.00	\$1,629.89	\$462.90	\$0.00
06/22/2017			\$25.00	NSF Fee	06/01/2017	\$1,000.65						\$129,159.55	\$0.00	\$1,629.89	\$487.90	\$0.00
06/26/2017			\$60.29	Escrow Disbursement: Mortgage Insurance	06/01/2017	\$1,000.65						\$129,159.55	\$0.00	\$1,569.60	\$487.90	\$0.00
07/01/2017	\$1,000.65			Regular Payment Due	06/01/2017	\$2,001.30						\$129,159.55	\$0.00	\$1,569.60	\$487.90	\$0.00
07/05/2017			\$2,076.00	Escrow Disbursement: Hazard Insurance	06/01/2017	\$2,001.30						\$129,159.55	\$0.00	(\$506.40)	\$487.90	\$0.00

Case number: _____

Debtor 1: _____

Part 5: Loan Payment History from First Date of Default

A. Date	Account Activity				F. Contractual due date	G. Prin, int & esc past due balance	How Funds Were Applied / Amount Incurred					Balance After Amount Received or incurred					
	B. Contractual payment amount	C. Funds received	D. Amount incurred	E. Description			H. Amount to principal	I. Amount to interest	J. Amount to escrow	K. Amount to fees or charges	L. Unapplied funds	M. Principal balance	N. Accrued interest balance	O. Escrow balance	P. Fees / Charges balance	Q. Unapplied funds balance	
07/19/2017			\$60.29	Escrow Disbursement: Mortgage Insurance	06/01/2017	\$2,001.30							\$129,159.55	\$0.00	(\$566.69)	\$487.90	\$0.00
08/01/2017	\$1,000.65			Regular Payment Due	06/01/2017	\$3,001.95							\$129,159.55	\$0.00	(\$566.69)	\$487.90	\$0.00
08/25/2017			\$60.29	Escrow Disbursement: Mortgage Insurance	06/01/2017	\$3,001.95							\$129,159.55	\$0.00	(\$626.98)	\$487.90	\$0.00
09/01/2017	\$950.66			Regular Payment Due	06/01/2017	\$3,952.61							\$129,159.55	\$0.00	(\$626.98)	\$487.90	\$0.00
09/21/2017			\$24.11	Escrow Disbursement: Mortgage Insurance	06/01/2017	\$3,952.61							\$129,159.55	\$0.00	(\$651.09)	\$487.90	\$0.00
10/01/2017	\$950.66			Regular Payment Due	06/01/2017	\$4,903.27							\$129,159.55	\$0.00	(\$651.09)	\$487.90	\$0.00
10/17/2017			\$24.11	Escrow Disbursement: Mortgage Insurance	06/01/2017	\$4,903.27							\$129,159.55	\$0.00	(\$675.20)	\$487.90	\$0.00
11/01/2017	\$1,014.73			Regular Payment Due	06/01/2017	\$5,918.00							\$129,159.55	\$0.00	(\$675.20)	\$487.90	\$0.00
11/14/2017			\$24.11	Escrow Disbursement: Mortgage Insurance	06/01/2017	\$5,918.00							\$129,159.55	\$0.00	(\$699.31)	\$487.90	\$0.00
11/29/2017			\$2,687.89	Escrow Disbursement: County Tax	06/01/2017	\$5,918.00							\$129,159.55	\$0.00	(\$3,387.20)	\$487.90	\$0.00
12/01/2017	\$1,014.73			Regular Payment Due	06/01/2017	\$6,932.73							\$129,159.55	\$0.00	(\$3,387.20)	\$487.90	\$0.00
12/19/2017			\$24.11	Escrow Disbursement: Mortgage Insurance	06/01/2017	\$6,932.73							\$129,159.55	\$0.00	(\$3,411.31)	\$487.90	\$0.00
01/01/2018	\$1,014.73			Regular Payment Due	06/01/2017	\$7,947.46							\$129,159.55	\$0.00	(\$3,411.31)	\$487.90	\$0.00
01/09/2018		\$3,500.00		Payment Received	07/01/2017	\$6,946.81	\$199.81	\$336.35	\$464.49			\$2,499.35	\$128,959.74	\$0.00	(\$2,946.82)	\$487.90	\$2,499.35
01/09/2018				Payment Applied	08/01/2017	\$5,946.16	\$200.33	\$335.83	\$464.49			(\$1,000.65)	\$128,759.41	\$0.00	(\$2,482.33)	\$487.90	\$1,498.70
01/09/2018				Payment Applied	09/01/2017	\$4,945.51	\$200.85	\$335.31	\$464.49			(\$1,000.65)	\$128,558.56	\$0.00	(\$2,017.84)	\$487.90	\$498.05
01/24/2018			\$24.11	Escrow Disbursement: Mortgage Insurance	09/01/2017	\$4,945.51							\$128,558.56	\$0.00	(\$2,041.95)	\$487.90	\$498.05
02/01/2018	\$1,014.73			Regular Payment Due	09/01/2017	\$5,960.24							\$128,558.56	\$0.00	(\$2,041.95)	\$487.90	\$498.05
02/14/2018			\$24.11	Escrow Disbursement: Mortgage Insurance	09/01/2017	\$5,960.24							\$128,558.56	\$0.00	(\$2,066.06)	\$487.90	\$498.05
03/01/2018	\$1,041.18			Regular Payment Due	09/01/2017	\$7,001.42							\$128,558.56	\$0.00	(\$2,066.06)	\$487.90	\$498.05
03/27/2018			\$24.11	Escrow Disbursement: Mortgage Insurance	09/01/2017	\$7,001.42							\$128,558.56	\$0.00	(\$2,090.17)	\$487.90	\$498.05
04/01/2018	\$1,041.18			Regular Payment Due	09/01/2017	\$8,042.60							\$128,558.56	\$0.00	(\$2,090.17)	\$487.90	\$498.05
04/19/2018			\$24.11	Escrow Disbursement: Mortgage Insurance	09/01/2017	\$8,042.60							\$128,558.56	\$0.00	(\$2,114.28)	\$487.90	\$498.05
05/01/2018	\$1,041.18			Regular Payment Due	09/01/2017	\$9,083.78							\$128,558.56	\$0.00	(\$2,114.28)	\$487.90	\$498.05
05/21/2018			\$24.11	Escrow Disbursement: Mortgage Insurance	09/01/2017	\$9,083.78							\$128,558.56	\$0.00	(\$2,138.39)	\$487.90	\$498.05
06/01/2018	\$1,041.18			Regular Payment Due	09/01/2017	\$10,124.96							\$128,558.56	\$0.00	(\$2,138.39)	\$487.90	\$498.05
06/11/2018			\$265.00	Title Cost	09/01/2017	\$10,124.96							\$128,558.56	\$0.00	(\$2,138.39)	\$752.90	\$498.05
06/19/2018			\$0.47	Certified Mail/Copies Cost	09/01/2017	\$10,124.96							\$128,558.56	\$0.00	(\$2,138.39)	\$753.37	\$498.05

Case number: _____

Debtor 1: _____

Part 5: Loan Payment History from First Date of Default

Part 5: Loan Payment History from First Date of Default																	
A. Date	B. Contractual payment amount	Account Activity			F. Contractual due date	G. Prin, int & esc past due balance	How Funds Were Applied / Amount Incurred					Balance After Amount Received or incurred					
		C. Funds received	D. Amount incurred	E. Description			H. Amount to principal	I. Amount to interest	J. Amount to escrow	K. Amount to fees or charges	L. Unapplied funds	M. Principal balance	N. Accrued interest balance	O. Escrow balance	P. Fees / Charges balance	Q. Unapplied funds balance	
06/19/2018			\$442.50	Foreclosure Attorney Fee	09/01/2017	\$10,124.96							\$128,558.56	\$0.00	(\$2,138.39)	\$1,195.87	\$498.05
06/21/2018			\$24.11	Escrow Disbursement: Mortgage Insurance	09/01/2017	\$10,124.96							\$128,558.56	\$0.00	(\$2,162.50)	\$1,195.87	\$498.05
07/01/2018	\$1,041.18			Regular Payment Due	09/01/2017	\$11,166.14							\$128,558.56	\$0.00	(\$2,162.50)	\$1,195.87	\$498.05
07/24/2018			\$24.11	Escrow Disbursement: Mortgage Insurance	09/01/2017	\$11,166.14							\$128,558.56	\$0.00	(\$2,186.61)	\$1,195.87	\$498.05
08/01/2018	\$1,039.12			Regular Payment Due	09/01/2017	\$12,205.26							\$128,558.56	\$0.00	(\$2,186.61)	\$1,195.87	\$498.05
08/24/2018			\$24.11	Escrow Disbursement: Mortgage Insurance	09/01/2017	\$12,205.26							\$128,558.56	\$0.00	(\$2,210.72)	\$1,195.87	\$498.05
09/01/2018	\$1,039.12			Regular Payment Due	09/01/2017	\$13,244.38							\$128,558.56	\$0.00	(\$2,210.72)	\$1,195.87	\$498.05
09/05/2018			\$442.50	Foreclosure Attorney Fee	09/01/2017	\$13,244.38							\$128,558.56	\$0.00	(\$2,210.72)	\$1,638.37	\$498.05
09/21/2018			\$24.11	Escrow Disbursement: Mortgage Insurance	09/01/2017	\$13,244.38							\$128,558.56	\$0.00	(\$2,234.83)	\$1,638.37	\$498.05
10/01/2018	\$600.23			Regular Payment Due	09/01/2017	\$13,844.61							\$128,558.56	\$0.00	(\$2,234.83)	\$1,638.37	\$498.05
10/05/2018			\$6.31	Certified Mail/Copies Cost	09/01/2017	\$13,844.61							\$128,558.56	\$0.00	(\$2,234.83)	\$1,644.68	\$498.05
10/05/2018			\$1,327.50	Foreclosure Attorney Fee	09/01/2017	\$13,844.61							\$128,558.56	\$0.00	(\$2,234.83)	\$2,972.18	\$498.05
10/05/2018			\$4.00	Notice Cost	09/01/2017	\$13,844.61							\$128,558.56	\$0.00	(\$2,234.83)	\$2,976.18	\$498.05
10/05/2018			\$50.00	Posting Cost	09/01/2017	\$13,844.61							\$128,558.56	\$0.00	(\$2,234.83)	\$3,026.18	\$498.05
10/05/2018			\$23.20	Recording Cost	09/01/2017	\$13,844.61							\$128,558.56	\$0.00	(\$2,234.83)	\$3,049.38	\$498.05
10/08/2018			\$300.00	Bankruptcy Attorney Fee	09/01/2017	\$13,844.61							\$128,558.56	\$0.00	(\$2,234.83)	\$3,349.38	\$498.05
10/08/2018			\$300.00	Bankruptcy Attorney Fee	09/01/2017	\$13,844.61							\$128,558.56	\$0.00	(\$2,234.83)	\$3,649.38	\$498.05
10/12/2018			\$650.00	Escrow Disbursement: Hazard Insurance	09/01/2017	\$13,844.61							\$128,558.56	\$0.00	(\$2,884.83)	\$3,649.38	\$498.05
10/23/2018			\$24.11	Escrow Disbursement: Mortgage Insurance	09/01/2017	\$13,844.61							\$128,558.56	\$0.00	(\$2,908.94)	\$3,649.38	\$498.05
11/01/2018	\$600.23			Regular Payment Due	09/01/2017	\$14,444.84							\$128,558.56	\$0.00	(\$2,908.94)	\$3,649.38	\$498.05
11/05/2018			\$350.00	Bankruptcy Attorney Fee	09/01/2017	\$14,444.84							\$128,558.56	\$0.00	(\$2,908.94)	\$3,999.38	\$498.05
11/20/2018			\$24.11	Escrow Disbursement: Mortgage Insurance	09/01/2017	\$14,444.84							\$128,558.56	\$0.00	(\$2,933.05)	\$3,999.38	\$498.05
11/23/2018			\$162.50	Escrow Disbursement: Hazard Insurance	09/01/2017	\$14,444.84							\$128,558.56	\$0.00	(\$3,095.55)	\$3,999.38	\$498.05
12/01/2018	\$600.23			Regular Payment Due	09/01/2017	\$15,045.07							\$128,558.56	\$0.00	(\$3,095.55)	\$3,999.38	\$498.05
12/10/2018			\$2,800.03	Escrow Disbursement: County Tax	09/01/2017	\$15,045.07							\$128,558.56	\$0.00	(\$5,895.58)	\$3,999.38	\$498.05
12/20/2018			\$24.11	Escrow Disbursement: Mortgage Insurance	09/01/2017	\$15,045.07							\$128,558.56	\$0.00	(\$5,919.69)	\$3,999.38	\$498.05
12/24/2018			\$162.50	Escrow Disbursement: Hazard Insurance	09/01/2017	\$15,045.07							\$128,558.56	\$0.00	(\$6,082.19)	\$3,999.38	\$498.05
01/01/2019	\$600.23			Regular Payment Due	09/01/2017	\$15,645.30							\$128,558.56	\$0.00	(\$6,082.19)	\$3,999.38	\$498.05

Case number: _____

Part 5: Loan Payment History from First Date of Default

A. Date	B. Contractual payment amount	Account Activity			F. Contractual due date	G. Prin, int & esc past due balance	How Funds Were Applied / Amount Incurred				L. Unapplied funds	Balance After Amount Received or incurred				
		C. Funds received	D. Amount incurred	E. Description			H. Amount to principal	I. Amount to interest	J. Amount to escrow	K. Amount to fees or charges		M. Principal balance	N. Accrued interest balance	O. Escrow balance	P. Fees / Charges balance	Q. Unapplied funds balance
01/10/2019		\$1,021.33		Payment Received	10/01/2017	\$14,694.64	\$201.37	\$334.79	\$414.50		\$70.67	\$128,357.19	\$0.00	(\$5,667.69)	\$3,999.38	\$568.72
01/11/2019		\$1,021.33		Payment Received	10/01/2017	\$14,694.64					\$1,021.33	\$128,357.19	\$0.00	(\$5,667.69)	\$3,999.38	\$1,590.05
01/14/2019				Payment Applied	11/01/2017	\$13,743.98	\$201.90	\$334.26	\$414.50		(\$950.66)	\$128,155.29	\$0.00	(\$5,253.19)	\$3,999.38	\$639.39
01/23/2019			\$162.50	Escrow Disbursement: Hazard Insurance	11/01/2017	\$13,743.98						\$128,155.29	\$0.00	(\$5,415.69)	\$3,999.38	\$639.39
01/28/2019			\$24.11	Escrow Disbursement: Mortgage Insurance	11/01/2017	\$13,743.98						\$128,155.29	\$0.00	(\$5,439.80)	\$3,999.38	\$639.39
02/01/2019	\$600.23			Regular Payment Due	11/01/2017	\$14,344.21						\$128,155.29	\$0.00	(\$5,439.80)	\$3,999.38	\$639.39
02/12/2019		\$2,042.66		Payment Received	12/01/2017	\$13,329.48	\$173.05	\$427.18	\$414.50		\$1,027.93	\$127,982.24	\$0.00	(\$5,025.30)	\$3,999.38	\$1,667.32
02/12/2019				Payment Applied	01/01/2018	\$12,314.75	\$173.62	\$426.61	\$414.50		(\$1,014.73)	\$127,808.62	\$0.00	(\$4,610.80)	\$3,999.38	\$652.59
02/25/2019			\$24.11	Escrow Disbursement: Mortgage Insurance	01/01/2018	\$12,314.75						\$127,808.62	\$0.00	(\$4,634.91)	\$3,999.38	\$652.59
02/25/2019			\$162.50	Escrow Disbursement: Hazard Insurance	01/01/2018	\$12,314.75						\$127,808.62	\$0.00	(\$4,797.41)	\$3,999.38	\$652.59
03/01/2019	\$600.23			Regular Payment Due	01/01/2018	\$12,914.98						\$127,808.62	\$0.00	(\$4,797.41)	\$3,999.38	\$652.59
03/14/2019		\$1,021.33		Payment Received	02/01/2018	\$11,900.25	\$174.20	\$426.03	\$414.50		\$6.60	\$127,634.42	\$0.00	(\$4,382.91)	\$3,999.38	\$659.19
03/25/2019			\$162.50	Escrow Disbursement: Hazard Insurance	02/01/2018	\$11,900.25						\$127,634.42	\$0.00	(\$4,545.41)	\$3,999.38	\$659.19
03/26/2019			\$24.11	Escrow Disbursement: Mortgage Insurance	02/01/2018	\$11,900.25						\$127,634.42	\$0.00	(\$4,569.52)	\$3,999.38	\$659.19
04/01/2019	\$600.23			Regular Payment Due	02/01/2018	\$12,500.48						\$127,634.42	\$0.00	(\$4,569.52)	\$3,999.38	\$659.19
04/09/2019		\$1,021.33		Payment Received	03/01/2018	\$11,485.75	\$174.78	\$425.45	\$414.50		\$6.60	\$127,459.64	\$0.00	(\$4,155.02)	\$3,999.38	\$665.79
04/23/2019			\$162.50	Escrow Disbursement: Hazard Insurance	03/01/2018	\$11,485.75						\$127,459.64	\$0.00	(\$4,317.52)	\$3,999.38	\$665.79
04/25/2019			\$24.11	Escrow Disbursement: Mortgage Insurance	03/01/2018	\$11,485.75						\$127,459.64	\$0.00	(\$4,341.63)	\$3,999.38	\$665.79
05/01/2019	\$600.23			Regular Payment Due	03/01/2018	\$12,085.98						\$127,459.64	\$0.00	(\$4,341.63)	\$3,999.38	\$665.79
05/22/2019			\$24.11	Escrow Disbursement: Mortgage Insurance	03/01/2018	\$12,085.98						\$127,459.64	\$0.00	(\$4,365.74)	\$3,999.38	\$665.79
05/23/2019			\$162.50	Escrow Disbursement: Hazard Insurance	03/01/2018	\$12,085.98						\$127,459.64	\$0.00	(\$4,528.24)	\$3,999.38	\$665.79
06/01/2019	\$600.23			Regular Payment Due	03/01/2018	\$12,686.21						\$127,459.64	\$0.00	(\$4,528.24)	\$3,999.38	\$665.79
06/11/2019		\$2,042.66		Payment Received	04/01/2018	\$11,645.03	\$175.36	\$424.87	\$440.95		\$1,001.48	\$127,284.28	\$0.00	(\$4,087.29)	\$3,999.38	\$1,667.27
06/11/2019				Payment Applied	05/01/2018	\$10,603.85	\$175.95	\$424.28	\$440.95		(\$1,041.18)	\$127,108.33	\$0.00	(\$3,646.34)	\$3,999.38	\$626.09
06/18/2019			\$24.11	Escrow Disbursement: Mortgage Insurance	05/01/2018	\$10,603.85						\$127,108.33	\$0.00	(\$3,670.45)	\$3,999.38	\$626.09
06/24/2019			\$162.50	Escrow Disbursement: Hazard Insurance	05/01/2018	\$10,603.85						\$127,108.33	\$0.00	(\$3,832.95)	\$3,999.38	\$626.09
07/01/2019	\$600.23			Regular Payment Due	05/01/2018	\$11,204.08						\$127,108.33	\$0.00	(\$3,832.95)	\$3,999.38	\$626.09

Case number: _____

Debtor 1: _____

Part 5: Loan Payment History from First Date of Default

A. Date	Account Activity				F. Contractual due date	G. Prin, int & esc past due balance	How Funds Were Applied / Amount Incurred				L. Unapplied funds	Balance After Amount Received or incurred				
	B. Contractual payment amount	C. Funds received	D. Amount incurred	E. Description			H. Amount to principal	I. Amount to interest	J. Amount to escrow	K. Amount to fees or charges		M. Principal balance	N. Accrued interest balance	O. Escrow balance	P. Fees / Charges balance	Q. Unapplied funds balance
07/25/2019			\$24.11	Escrow Disbursement: Mortgage Insurance	05/01/2018	\$11,204.08						\$127,108.33	\$0.00	(\$3,857.06)	\$3,999.38	\$626.09
07/29/2019			\$166.92	Escrow Disbursement: Hazard Insurance	05/01/2018	\$11,204.08						\$127,108.33	\$0.00	(\$4,023.98)	\$3,999.38	\$626.09
08/01/2019	\$600.23			Regular Payment Due	05/01/2018	\$11,804.31						\$127,108.33	\$0.00	(\$4,023.98)	\$3,999.38	\$626.09
08/08/2019		\$1,021.33		Payment Received	06/01/2018	\$10,763.13	\$176.54	\$423.69	\$440.95		(\$19.85)	\$126,931.79	\$0.00	(\$3,583.03)	\$3,999.38	\$606.24
08/14/2019			\$1,836.08	Escrow Disbursement: Hazard Insurance	06/01/2018	\$10,763.13						\$126,931.79	\$0.00	(\$5,419.11)	\$3,999.38	\$606.24
08/21/2019			\$24.11	Escrow Disbursement: Mortgage Insurance	06/01/2018	\$10,763.13						\$126,931.79	\$0.00	(\$5,443.22)	\$3,999.38	\$606.24
08/23/2019			\$166.92	Escrow Disbursement: Hazard Insurance	06/01/2018	\$10,763.13						\$126,931.79	\$0.00	(\$5,610.14)	\$3,999.38	\$606.24
08/31/2019			(\$166.92)	Escrow Refund: Insurance	06/01/2018	\$10,763.13						\$126,931.79	\$0.00	(\$5,443.22)	\$3,999.38	\$606.24
09/01/2019	\$600.23			Regular Payment Due	06/01/2018	\$11,363.36						\$126,931.79	\$0.00	(\$5,443.22)	\$3,999.38	\$606.24
09/13/2019		\$3,063.99		Payment Received	07/01/2018	\$10,322.18	\$177.12	\$423.11	\$440.95		\$2,022.81	\$126,754.67	\$0.00	(\$5,002.27)	\$3,999.38	\$2,629.05
09/13/2019				Payment Applied	08/01/2018	\$9,281.00	\$177.71	\$422.52	\$440.95		(\$1,041.18)	\$126,576.96	\$0.00	(\$4,561.32)	\$3,999.38	\$1,587.87
09/13/2019				Payment Applied	09/01/2018	\$8,241.88	\$178.31	\$421.92	\$438.89		(\$1,039.12)	\$126,398.65	\$0.00	(\$4,122.43)	\$3,999.38	\$548.75
09/18/2019			\$24.11	Escrow Disbursement: Mortgage Insurance	09/01/2018	\$8,241.88						\$126,398.65	\$0.00	(\$4,146.54)	\$3,999.38	\$548.75
10/01/2019	\$600.23			Regular Payment Due	09/01/2018	\$8,842.11						\$126,398.65	\$0.00	(\$4,146.54)	\$3,999.38	\$548.75
10/21/2019			\$24.11	Escrow Disbursement: Mortgage Insurance	09/01/2018	\$8,842.11						\$126,398.65	\$0.00	(\$4,170.65)	\$3,999.38	\$548.75
11/01/2019	\$600.23			Regular Payment Due	09/01/2018	\$9,442.34						\$126,398.65	\$0.00	(\$4,170.65)	\$3,999.38	\$548.75
11/20/2019			\$24.11	Escrow Disbursement: Mortgage Insurance	09/01/2018	\$9,442.34						\$126,398.65	\$0.00	(\$4,194.76)	\$3,999.38	\$548.75
12/01/2019	\$600.23			Regular Payment Due	09/01/2018	\$10,042.57						\$126,398.65	\$0.00	(\$4,194.76)	\$3,999.38	\$548.75
12/12/2019			\$2,677.09	Escrow Disbursement: County Tax	09/01/2018	\$10,042.57						\$126,398.65	\$0.00	(\$6,871.85)	\$3,999.38	\$548.75
12/18/2019			\$24.11	Escrow Disbursement: Mortgage Insurance	09/01/2018	\$10,042.57						\$126,398.65	\$0.00	(\$6,895.96)	\$3,999.38	\$548.75
01/01/2020	\$600.23			Regular Payment Due	09/01/2018	\$10,642.80						\$126,398.65	\$0.00	(\$6,895.96)	\$3,999.38	\$548.75
01/08/2020		\$1,024.59		Payment Received	09/01/2018	\$10,642.80					\$1,024.59	\$126,398.65	\$0.00	(\$6,895.96)	\$3,999.38	\$1,573.34
01/08/2020			(\$196.90)	Late Fee	09/01/2018	\$10,642.80						\$126,398.65	\$0.00	(\$6,895.96)	\$3,802.48	\$1,573.34
01/09/2020			\$196.90	Late Fee	09/01/2018	\$10,642.80						\$126,398.65	\$0.00	(\$6,895.96)	\$3,999.38	\$1,573.34
01/09/2020				Payment Applied	10/01/2018	\$9,603.68	\$178.90	\$421.33	\$438.89		(\$1,039.12)	\$126,219.75	\$0.00	(\$6,457.07)	\$3,999.38	\$534.22
01/09/2020			(\$196.90)	Late Fee	10/01/2018	\$9,603.68						\$126,219.75	\$0.00	(\$6,457.07)	\$3,802.48	\$534.22
01/24/2020			(\$266.00)	Corporate Advance	10/01/2018	\$9,603.68						\$126,219.75	\$0.00	(\$6,457.07)	\$3,536.48	\$534.22
01/27/2020			\$24.11	Escrow Disbursement: Mortgage Insurance	10/01/2018	\$9,603.68						\$126,219.75	\$0.00	(\$6,481.18)	\$3,536.48	\$534.22

Case number: _____

Debtor 1: _____

Part 5: Loan Payment History from First Date of Default

A. Date	B. Contractual payment amount	Account Activity			F. Contractual due date	G. Prin, int & esc past due balance	How Funds Were Applied / Amount Incurred					Balance After Amount Received or incurred					
		C. Funds received	D. Amount incurred	E. Description			H. Amount to principal	I. Amount to interest	J. Amount to escrow	K. Amount to fees or charges	L. Unapplied funds	M. Principal balance	N. Accrued interest balance	O. Escrow balance	P. Fees / Charges balance	Q. Unapplied funds balance	
02/01/2020	\$600.23			Regular Payment Due	10/01/2018	\$10,203.91							\$126,219.75	\$0.00	(\$6,481.18)	\$3,536.48	\$534.22
02/11/2020		\$2,049.18		Payment Received	10/01/2018	\$10,203.91						\$2,049.18	\$126,219.75	\$0.00	(\$6,481.18)	\$3,536.48	\$2,583.40
02/24/2020			\$24.11	Escrow Disbursement: Mortgage Insurance	10/01/2018	\$10,203.91							\$126,219.75	\$0.00	(\$6,505.29)	\$3,536.48	\$2,583.40
02/25/2020				Petition Date	10/01/2018	\$10,203.91							\$126,219.75	\$0.00	(\$6,505.29)	\$3,536.48	\$2,583.40
02/25/2020			(\$300.00)	Bankruptcy Attorney Fee	10/01/2018	\$10,203.91							\$126,219.75	\$0.00	(\$6,505.29)	\$3,236.48	\$2,583.40
03/04/2020			\$510.00	Foreclosure Attorney Fee	10/01/2018	\$10,203.91							\$126,219.75	\$0.00	(\$6,505.29)	\$3,746.48	\$2,583.40

Escrow Account Disclosure Statement

Statement Date: 03/24/2020

Loan Number:

Property

Address:

Dear Customer,

As trusted managers of your escrow account, we have safeguards in place to ensure there's enough money in your account to cover your tax and insurance payments.

Because you have an escrow account, it means that part of your monthly mortgage payment goes into an account to pay for your property taxes and/or insurance premiums. During the year, payments are made from your escrow account when tax and/or insurance bills become due. The Escrow Account Disclosure Statement shows how much money has been credited to and paid from the escrow account over the last 12 months. Additionally, both the projected and required balances are compared to ensure that we are collecting the appropriate amount.

Based on our recent analysis, your escrow account does not have a shortage or surplus.

Projected Minimum Balance	\$780.00
Required Minimum Balance	\$780.00

Escrow Account Disclosure Statement - Short Year

PART

1

Your Mortgage Payment

Payment Information

Payment Information	Payment on Prior Analysis	New Monthly Payment Effective 03/01/2020
PRIN & INTEREST	600.23	600.23
ESCROW PAYMENT	414.12	414.11
SHORTAGE PYMT	26.13	0.00
Total Payment:	\$1,040.48	\$1,014.34

(Continued on Next Page)

Your Escrow Account History

The chart below reflects what actually happened in your escrow account since your last analysis compared to what we estimated would happen.

Date	Payment to Escrow	What Your Estimated Payment to Escrow Was	What We Paid Out	What We Estimated to Pay Out	Description	Actual Balance	Last Year's Estimated Balance
					BEGINNING BAL	-6481.18	1003.12
Feb 20	0.00 *	414.12	24.11 *	24.11	PRIV MTG INS	-6505.29	1393.13
Feb 20	0.00 *	0.00	0.00	166.92	LP HAZARD INS	-6505.29 LP	1226.21
Mar 20		414.12		166.92	LP HAZARD INS		1473.41
Mar 20		0.00		24.11	PRIV MTG INS		1449.30
Apr 20		414.12		166.92	LP HAZARD INS		1696.50
Apr 20		0.00		24.11	PRIV MTG INS		1672.39
May 20		414.12		166.92	LP HAZARD INS		1919.59
May 20		0.00		24.11	PRIV MTG INS		1895.48
Jun 20		414.12		166.92	LP HAZARD INS		2142.68
Jun 20		0.00		24.11	PRIV MTG INS		2118.57
Jul 20		414.12		166.92	LP HAZARD INS		2365.77
Jul 20		0.00		24.11	PRIV MTG INS		2341.66
Aug 20		414.12		166.92	LP HAZARD INS		2588.86
Aug 20		0.00		24.11	PRIV MTG INS		2564.75
Sep 20		414.12		166.92	LP HAZARD INS		2811.95
Sep 20		0.00		24.11	PRIV MTG INS		2787.84
Oct 20		414.12		166.92	LP HAZARD INS		3035.04
Oct 20		0.00		24.11	PRIV MTG INS		3010.93
Nov 20		414.12		166.92	LP HAZARD INS		3258.13
Nov 20		0.00		24.11	PRIV MTG INS		3234.02
Dec 20		414.12		166.92	LP HAZARD INS		3481.22
Dec 20		0.00		24.11	PRIV MTG INS		3457.11
Dec 20		0.00		2677.09	COUNTY TAX		780.02
Jan 21		414.12		166.92	LP HAZARD INS		1027.22
Jan 21		0.00		24.11	PRIV MTG INS		1003.11
TOTALS	842.20	4969.44	24.11	4969.45			

LEGEND:

IOE = Interest on the Escrow Balance
 LP = Lowest Actual Monthly Balance

E = Estimated Payments
 * = Projected and Actual Payments Differ

Last year we anticipated that payments from your escrow account would be made during this period equaling \$4,969.45. Under federal law, your actual lowest monthly balance should not have exceeded \$828.24 or 1/6 of the estimated payments from your escrow account unless your mortgage documents or state law specifies a lower amount. Your mortgage contract and state law are silent on this issue. Your actual lowest escrow balance was \$-6,505.29.

Estimated Escrow Payments Over the Next 12 Months

Summary of your projected escrow account for the coming year

Date	Payment to Escrow	What We Estimate to be Paid Out	Description	Your Estimated Balance	Balance Needed In Your Account
			BEGINNING BAL	1560.09	1560.09
Mar 20	414.11	24.11	PRIV MTG INS	1950.09	1950.09
Apr 20	414.11	24.11	PRIV MTG INS	2340.09	2340.09
May 20	414.11	24.11	PRIV MTG INS	2730.09	2730.09
Jun 20	414.11	24.11	PRIV MTG INS	3120.09	3120.09

Escrow Account Disclosure Statement

Statement Date: 03/24/2020

Loan Number: [REDACTED]

Property: [REDACTED]

Address: [REDACTED]

Date	Payment to Escrow	What We Estimate to be Paid Out	Description	Your Estimated Balance	Balance Needed In Your Account
Jul 20	414.11	2003.00	LP HAZARD INS	1507.09	1507.09
Jul 20	0.00	24.11	PRIV MTG INS	1507.09	1507.09
Aug 20	414.11	24.11	PRIV MTG INS	1897.09	1897.09
Sep 20	414.11	24.11	PRIV MTG INS	2287.09	2287.09
Oct 20	414.11	24.11	PRIV MTG INS	2677.09	2677.09
Nov 20	414.11	24.11	PRIV MTG INS	3067.09	3067.09
Dec 20	414.11	24.11	PRIV MTG INS	780.00	780.00
Dec 20	0.00	2677.09	COUNTY TAX	780.00	780.00
Jan 21	414.11	24.11	PRIV MTG INS	1170.00	1170.00
Feb 21	414.11	24.11	PRIV MTG INS	1560.00	1560.00
TOTALS	4969.32	4969.41	ENDING BAL	1560.00	1560.00

Cushion selected by servicer: \$780.00

Here's how to calculate your new monthly escrow payment:

LP HAZARD INS	\$2,003.00
PRIV MTG INS	\$289.32
COUNTY TAX	\$2,677.09
Total:	\$4,969.41
	÷ 12 Months

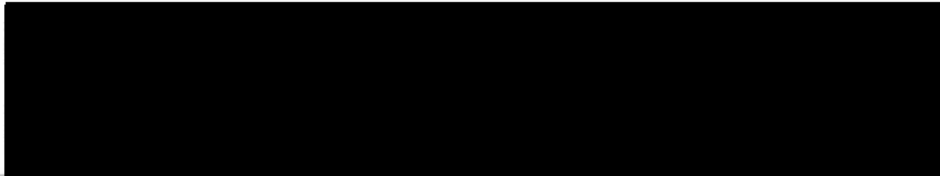
New Monthly Escrow Payment: \$414.11

Your ending escrow balance from the last month of account history is \$1,560.09, your starting balance according to this analysis should be \$1,560.09. This means that as of the effective date of your payment, you will not have a surplus or shortage.

PART

4

How You Can Reach Us With Questions



Fill in this information to identify the case:

Debtor 1 _____
 Debtor 2 _____
 (Spouse, if filing)
 United States Bankruptcy Court for the: Southern District of Texas
 (State)
 Case number _____

Example 2

Official Form 410S1

Notice of Mortgage Payment Change

12/15

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): 3-1

Last four 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 03/01/2021New total payment:
Principal, interest, and escrow, if any \$1,075.25

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: \$414.11 New escrow payment: \$475.02

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: Other Payment Change

3. 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 repayment 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: \$ _____

Escrow Account Disclosure Statement

Statement Date: 01/11/2021
Loan Number:
Property:
Address:

Dear Customer,

As trusted managers of your escrow account, we have safeguards in place to ensure there's enough money in your account to cover your tax and insurance payments.

Because you have an escrow account, it means that part of your monthly mortgage payment goes into an account to pay for your property taxes and/or insurance premiums. During the year, payments are made from your escrow account when tax and/or insurance bills become due. The Escrow Account Disclosure Statement shows how much money has been credited to and paid from the escrow account over the last 12 months. Additionally, both the projected and required balances are compared to ensure that we are collecting the appropriate amount.

Based on our recent analysis, you have a shortage of \$432.70.

Table with 2 columns: Description and Amount. Rows include Projected Minimum Balance (\$1,271.51), Required Minimum Balance (\$829.72), and Amount of Shortage (\$432.70).

The projection assumes that your escrow account was current at the start of the projected period. However your escrow account is not current. Your escrow balance should be \$1,659.48 but your current escrow balance, as of the effective date is \$1,226.78. If your escrow account had been current, there would have been a shortage of \$432.70. This projection assumes that your escrow account was current at the start of the projected period although this is not the case.

If you choose to pay the shortage amount in full in a lump sum you may do so within 30 days. Please note, because the escrow account is not current, payment of the shortage amount will not bring the escrow account current. If you do not wish to pay the amount shown above, we will adjust your payment to make up the difference. The shortage will be adjusted by (1/12) of the shortage amount and added to your monthly payment.

PART

1

Your Mortgage Payment

Table with 4 columns: Payment Information, Payment on Prior Analysis, New Monthly Payment with Shortage Payment Effective 03/01/2021, and New Monthly Payment if Shortage Paid Effective 03/01/2021. Rows include PRIN & INTEREST, ESCROW PAYMENT, SHORTAGE PYMT, and Total Payment.

(Continued on Next Page)

Your Escrow Account History

The chart below reflects what actually happened in your escrow account since your last analysis compared to what we estimated would happen.

Date	Payment to Escrow	What Your Estimated Payment to Escrow Was	What We Paid Out	What We Estimated to Pay Out	Description	Actual Balance	Last Year's Estimated Balance
					BEGINNING BAL	-6505.29	1560.09
Mar 20	842.20 *	414.11	24.11	24.11	PRIV MTG INS	-5687.20	1950.09
Apr 20	0.00 *	414.11	24.11	24.11	PRIV MTG INS	-5711.31	2340.09
May 20	414.11	414.11	24.11	24.11	PRIV MTG INS	-5321.31	2730.09
Jun 20	0.00 *	414.11	24.11	24.11	PRIV MTG INS	-5345.42	3120.09
Jul 20	414.11	414.11	24.11 *	24.11	PRIV MTG INS	-4955.42	3510.09
Jul 20	0.00	0.00	169.50	2003.00	LP HAZARD INS	-5124.92	1507.09
Aug 20	0.00 *	414.11	1864.50 *	0.00	LP HAZARD INS	-6989.42	1921.20
Aug 20	0.00 *	0.00	24.11	24.11	PRIV MTG INS	-7013.53	1897.09
Sep 20	0.00 *	414.11	24.11	24.11	PRIV MTG INS	-7037.64	2287.09
Oct 20	0.00 *	414.11	24.11	24.11	PRIV MTG INS	-7061.75	2677.09
Nov 20	0.00 *	414.11	24.11	24.11	PRIV MTG INS	-7085.86	3067.09
Dec 20	1242.33 *	414.11	2944.36 *	2677.09	COUNTY TAX	-8787.89	804.11
Dec 20	0.00 *	0.00	24.11	24.11	PRIV MTG INS	-8812.00 LP	780.00
Jan 21	0.00	414.11	0.00 E	24.11	PRIV MTG INS	-8812.00 E	1170.00
Jan 21	0.00	0.00	24.11 E	0.00	PRIV MTG INS	-8836.11 E	1170.00
Feb 21	0.00	414.11	0.00 E	24.11	PRIV MTG INS	-8836.11 E	1560.00
Feb 21	0.00	0.00	24.11 E	0.00	PRIV MTG INS	-8860.22 E	1560.00
TOTALS	2912.75	4969.32	5267.68	4969.41			

LEGEND:

IOE = Interest on the Escrow Balance
LP = Lowest Actual Monthly Balance

E = Estimated Payments
* = Projected and Actual Payments Differ

Last year we anticipated that payments from your escrow account would be made during this period equaling \$4,969.41. Under federal law, your actual lowest monthly balance should not have exceeded \$828.23 or 1/6 of the estimated payments from your escrow account unless your mortgage documents or state law specifies a lower amount. Your mortgage contract and state law are silent on this issue. Your actual lowest escrow balance was \$-8,812.00.

Estimated Escrow Payments Over the Next 12 Months

Summary of your projected escrow account for the coming year

Date	Payment to Escrow	What We Estimate to be Paid Out	Description	Your Estimated Balance	Balance Needed in Your Account
			BEGINNING BAL	1226.78	1659.48
Mar 21	438.97	24.11	PRIV MTG INS	1641.64	2074.34
Apr 21	438.97	24.11	PRIV MTG INS	2056.50	2489.20
May 21	438.97	24.11	PRIV MTG INS	2471.36	2904.06
Jun 21	438.97	24.11	PRIV MTG INS	2886.22	3318.92
Jul 21	438.97	2034.00	LP HAZARD INS	1267.08	1699.78
Jul 21	0.00	24.11	PRIV MTG INS	1267.08	1699.78
Aug 21	438.97	24.11	PRIV MTG INS	1681.94	2114.64
Sep 21	438.97	24.11	PRIV MTG INS	2096.80	2529.50
Oct 21	438.97	24.11	PRIV MTG INS	2511.66	2944.36
Nov 21	438.97	24.11	PRIV MTG INS	2926.52	3359.22
Dec 21	438.97	24.11	PRIV MTG INS	397.02	829.72
Dec 21	0.00	2944.36	COUNTY TAX	397.02	829.72

Escrow Account Disclosure Statement

Statement Date: 01/11/2021
Loan Number:
Property:
Address:

Date	Payment to Escrow	What We Estimate to be Paid Out	Description	Your Estimated Balance	Balance Needed In Your Account
Jan 22	438.97	24.11	PRIV MTG INS	811.88	1244.58
Feb 22	438.97	24.11	PRIV MTG INS	1226.74	1659.44
TOTALS	5267.64	5267.68	ENDING BAL	1226.74	1659.44

Cushion selected by servicer: \$629.72

Here's how to calculate your new monthly escrow payment:

LP HAZARD INS	\$2,034.00
PRIV MTG INS	\$289.32
COUNTY TAX	\$2,944.36
Total:	\$5,267.68
	+ 12 Months

New Monthly Escrow Payment: \$438.97

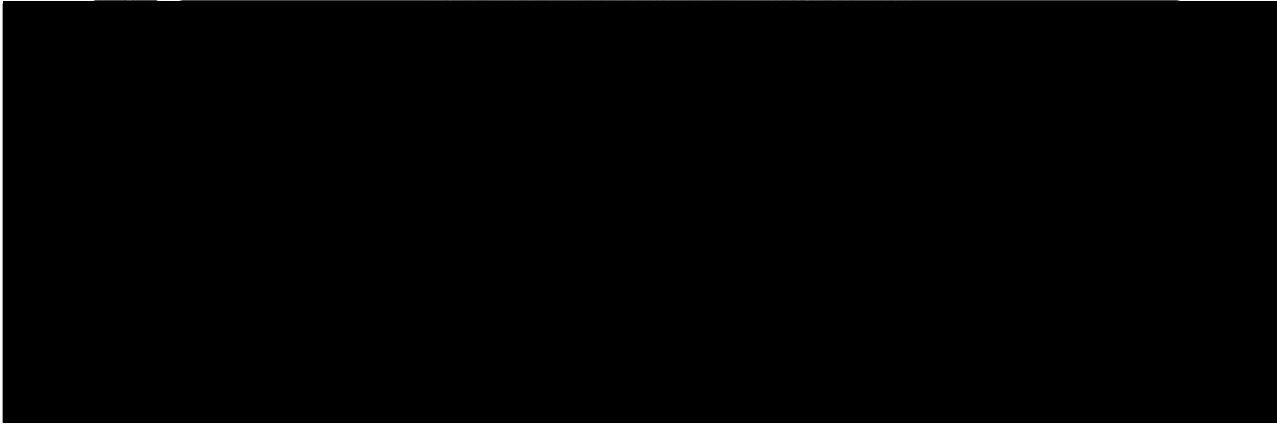
What This Means to You - Your balance is less than the amount needed in your account. The resulting shortage is \$432.70.

Your ending escrow balance from the last month of account history is \$1,226.78, your starting balance according to this analysis should be \$1,659.48. **This projection assumes that your escrow account was current at the start of the projected period although this is not the case.**

PART

4

How You Can Reach Us With Questions



Fill in this information to identify the case:

Debtor 1 [redacted]
Debtor 2 (Spouse, if filing) [redacted]
United States Bankruptcy Court for the: Southern District of Texas (State)
Case number [redacted]

Docket 63

Example 2

Official Form 410S1

12/15

Notice of Mortgage Payment Change

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: [redacted]

Court claim no. (if known): 3-1

Last four digits of any number you use to identify the debtor's account: [redacted]

Date of payment change: Must be at least 21 days after date of this notice 03/01/2022

New total payment: Principal, interest, and escrow, if any \$1,081.08

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: \$475.02 New escrow payment: \$480.85

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: Other Payment Change

3. 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 repayment 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: \$

Escrow Account Disclosure Statement	
Statement Date:	01/07/2022
Loan Number:	
Property:	
Address:	

Dear Customer,

As trusted managers of your escrow account, we have safeguards in place to ensure there's enough money in your account to cover your tax and insurance payments.

Because you have an escrow account, it means that part of your monthly mortgage payment goes into an account to pay for your property taxes and/or insurance premiums. During the year, payments are made from your escrow account when tax and/or insurance bills become due. The Escrow Account Disclosure Statement shows how much money has been credited to and paid from the escrow account over the last 12 months. Additionally, both the projected and required balances are compared to ensure that we are collecting the appropriate amount.

Based on our recent analysis, you have a shortage of \$293.26.

Projected Minimum Balance	\$1,445.85
Required Minimum Balance	\$864.62
Amount of Shortage	\$293.26

The projection assumes that your escrow account was current at the start of the projected period. However your escrow account is not current. Your escrow balance should be \$1,729.25 but your current escrow balance, as of the effective date is \$1,435.99. If your escrow account had been current, there would have been a shortage of \$293.26. This projection assumes that your escrow account was current at the start of the projected period although this is not the case.

The shortage will be adjusted by (1/12) of the shortage amount and added to your monthly payment.

PART

1

Your Mortgage Payment

Payment Information

Payment Information	Payment on Prior Analysis	New Monthly Payment Effective 03/01/2022
PRIN & INTEREST	600.23	600.23
ESCROW PAYMENT	436.97	456.42
SHORTAGE PYMT	36.05	24.43
Total Payment:	\$1,075.25	\$1,081.08

Helpful Tips About Your Escrow Account

Your Escrow Account History

The chart below reflects what actually happened in your escrow account since your last analysis compared to what we estimated would happen.

Date	Payment to Escrow	What Your Estimated Payment to Escrow Was	What We Paid Out	What We Estimated to Pay Out	Description	Actual Balance	Last Year's Estimated Balance
					BEGINNING BAL	-8032.00	1659.48
Mar 21	421.10 *	438.97	24.11	24.11	PRIV MTG INS	-7635.01	2074.34
Apr 21	421.10 *	438.97	24.11	24.11	PRIV MTG INS	-7238.02	2489.20
May 21	421.10 *	438.97	24.11	24.11	PRIV MTG INS	-6841.03	2904.06
Jun 21	424.36 *	438.97	24.11	24.11	PRIV MTG INS	-6440.78	3318.92
Jul 21	424.36 *	438.97	24.11 *	24.11	PRIV MTG INS	-6040.53	3733.78
Jul 21	0.00 *	0.00	171.00	2034.00	LP HAZARD INS	-8211.53	1699.78
Aug 21	424.36 *	438.97	1881.00 *	0.00	LP HAZARD INS	-7668.17	2138.75
Aug 21	0.00 *	0.00	24.11	24.11	PRIV MTG INS	-7692.28	2114.64
Sep 21	864.61 *	438.97	24.11	24.11	PRIV MTG INS	-6851.78	2529.50
Oct 21	828.22 *	438.97	24.11	24.11	PRIV MTG INS	-6047.67	2944.36
Nov 21	0.00 *	438.97	24.11	24.11	PRIV MTG INS	-6071.78	3359.22
Dec 21	1242.33 *	438.97	3135.73 *	2944.36	COUNTY TAX	-7965.18	853.83
Dec 21	0.00 *	0.00	24.11	24.11	PRIV MTG INS	-7989.29 LP	829.72
Jan 22	0.00	438.97	0.00 E	24.11	PRIV MTG INS	-7989.29 E	1244.68
Jan 22	0.00	0.00	24.11 E	0.00	PRIV MTG INS	-8013.40 E	1244.58
Feb 22	0.00	438.97	0.00 E	24.11	PRIV MTG INS	-8013.40 E	1659.44
Feb 22	0.00	0.00	24.11 E	0.00	PRIV MTG INS	-8037.51 E	1659.44
TOTALS	5471.54	5267.64	5477.05	5267.68			

LEGEND:

IOE = Interest on the Escrow Balance
LP = Lowest Actual Monthly Balance

E = Estimated Payments
* = Projected and Actual Payments Differ

Last year we anticipated that payments from your escrow account would be made during this period equaling \$5,267.68. Under federal law, your actual lowest monthly balance should not have exceeded \$877.94 or 1/8 of the estimated payments from your escrow account unless your mortgage documents or state law specifies a lower amount. Your mortgage contract and state law are silent on this issue. Your actual lowest escrow balance was \$-7,989.29.

Estimated Escrow Payments Over the Next 12 Months

Summary of your projected escrow account for the coming year

Date	Payment to Escrow	What We Estimate to be Paid Out	Description	Your Estimated Balance	Balance Needed in Your Account
			BEGINNING BAL	1435.99	1729.25
Mar 22	456.42	24.11	PRIV MTG INS	1868.30	2161.56
Apr 22	456.42	24.11	PRIV MTG INS	2300.61	2593.67
May 22	456.42	24.11	PRIV MTG INS	2732.92	3026.18
Jun 22	456.42	24.11	PRIV MTG INS	3165.23	3458.49
Jul 22	456.42	2052.00	LP HAZARD INS	1545.54	1838.80
Jul 22	0.00	24.11	PRIV MTG INS	1545.54	1838.80
Aug 22	456.42	24.11	PRIV MTG INS	1977.85	2271.11
Sep 22	456.42	24.11	PRIV MTG INS	2410.16	2703.42
Oct 22	456.42	24.11	PRIV MTG INS	2842.47	3135.73
Nov 22	456.42	24.11	PRIV MTG INS	3274.78	3568.04
Dec 22	456.42	24.11	PRIV MTG INS	571.36	864.62
Dec 22	0.00	3135.73	COUNTY TAX	571.36	864.62
Jan 23	456.42	24.11	PRIV MTG INS	1003.67	1296.93
Feb 23	456.42	24.11	PRIV MTG INS	1435.98	1729.24
TOTALS	5477.04	5477.05	ENDING BAL	1435.98	1729.24

Cushion selected by servicer: \$864.62

Here's how to calculate your new monthly escrow payment:

LP HAZARD INS	\$2,052.00
PRIV MTG INS	\$289.32
COUNTY TAX	\$3,135.73
Total:	\$5,477.05
	+ 12 Months

New Monthly Escrow Payment:

\$456.42

What This Means to You - Your balance is less than the amount needed in your account. The resulting shortage is \$293.26.

Fill in this information to identify the case:

Debtor 1 [redacted]
Debtor 2 (Spouse, if filing) [redacted]
United States Bankruptcy Court for the: Southern District of Texas (State)
Case number [redacted]

Example 2

Docket 74

Official Form 410S1

Notice of Mortgage Payment Change

12/15

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: [redacted]

Court claim no. (if known): 3-1

Last four digits of any number you use to identify the debtor's account: [redacted]

Date of payment change: Must be at least 21 days after date of this notice 03/01/2023

New total payment: Principal, interest, and escrow, if any \$1,458.43

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: \$480.85 New escrow payment: \$858.20

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: Other Payment Change

3. 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 repayment 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: \$

Escrow Account Disclosure Statement	
Statement Date:	02/07/2023
Loan Number:	
Property Address:	

Dear Customer,

As trusted managers of your escrow account, we have safeguards in place to ensure there's enough money in your account to cover your tax and insurance payments.

Because you have an escrow account, it means that part of your monthly mortgage payment goes into an account to pay for your property taxes and/or insurance premiums. During the year, payments are made from your escrow account when tax and/or insurance bills become due. The Escrow Account Disclosure Statement shows how much money has been credited to and paid from the escrow account over the last 12 months. Additionally, both the projected and required balances are compared to ensure that we are collecting the appropriate amount.

Based on our recent analysis, you have a shortage of \$1,414.45.

Projected Minimum Balance	\$17.99
Required Minimum Balance	\$1,432.44
Amount of Shortage	\$1,414.45

The projection assumes that your escrow account was current at the start of the projected period. However your escrow account is not current. Your escrow balance should be \$2,864.96 but your current escrow balance, as of the effective date is \$1,450.51. If your escrow account had been current, there would have been a shortage of \$1,414.45. This projection assumes that your escrow account was current at the start of the projected period although this is not the case.

The shortage will be adjusted by (1/12) of the shortage amount and added to your monthly payment.

PART

1

Your Mortgage Payment

Payment Information

Payment Information	Payment on Prior Analysis	New Monthly Payment Effective 03/01/2023
PRIN & INTEREST	600.23	600.23
ESCROW PAYMENT	456.42	740.33
SHORTAGE PYMT	24.43	117.87
Total Payment:	\$1,081.08	\$1,458.43

Helpful Tips About Your Escrow Account

(Continued on Next Page)

Your Escrow Account History

The chart below reflects what actually happened in your escrow account since your last analysis compared to what we estimated would happen.

Date	Payment to Escrow	What Your Estimated Payment to Escrow Was	What We Paid Out	What We Estimated to Pay Out	Description	Actual Balance	Last Year's Estimated Balance
					BEGINNING BAL	-7623.40	1729.25
Mar 22	828.22 *	456.42	24.11	24.11	PRIV MTG INS	-6819.29 LP	2161.56
Apr 22	828.22 *	456.42	24.11	24.11	PRIV MTG INS	-6015.18	2593.87
May 22	414.11 *	456.42	24.11	24.11	PRIV MTG INS	-5625.18	3026.18
Jun 22	889.13 *	456.42	24.11	24.11	PRIV MTG INS	-4760.16	3458.49
Jul 22	950.04 *	456.42	24.11 *	24.11	PRIV MTG INS	-3834.23	3890.80
Jul 22	0.00 *	0.00	194.84	2052.00	LP HAZARD INS	-4029.07	1838.80
Aug 22	668.86 *	456.42	2143.16 *	0.00	LP HAZARD INS	-5502.37	2295.22
Aug 22	0.00 *	0.00	194.84	0.00	LP HAZARD INS	-5697.21	2295.22
Aug 22	0.00 *	0.00	24.11	24.11	PRIV MTG INS	-5721.32	2271.11
Sep 22	1425.06 *	456.42	24.11	24.11	PRIV MTG INS	-4320.37	2703.42
Oct 22	950.04 *	456.42	24.11	24.11	PRIV MTG INS	-3394.44	3135.73
Nov 22	475.02 *	456.42	24.11	24.11	PRIV MTG INS	-2943.53	3568.04
Dec 22	0.00 *	456.42	3128.36 *	3135.73	COUNTY TAX	-9071.89	888.73
Dec 22	0.00 *	0.00	24.11	24.11	PRIV MTG INS	-6096.00	864.62
Jan 23	974.15 *	456.42	48.22 *	24.11	PRIV MTG INS	-5170.07	1296.93
Feb 23	0.00	456.42	0.00 E	24.11	PRIV MTG INS	-5170.07 E	1729.24
Feb 23	0.00	0.00	24.11 E	0.00	PRIV MTG INS	-5194.18 E	1729.24
TOTALS	8403.85	5477.04	5974.63	5477.05			

LEGEND:

IOE = Interest on the Escrow Balance
LP = Lowest Actual Monthly Balance

E = Estimated Payments
* = Projected and Actual Payments Differ

Last year we anticipated that payments from your escrow account would be made during this period equaling \$5,477.05. Under federal law, your actual lowest monthly balance should not have exceeded \$912.84 or 1/6 of the estimated payments from your escrow account unless your mortgage documents or state law specifies a lower amount. Your mortgage contract and state law are silent on this issue. Your actual lowest escrow balance was \$-6,819.29.

Estimated Escrow Payments Over the Next 12 Months

Summary of your projected escrow account for the coming year

Date	Payment to Escrow	What We Estimate to be Paid Out	Description	Your Estimated Balance	Balance Needed in Your Account
			BEGINNING BAL	1450.51	2864.96
Mar 23	740.33	24.11	PRIV MTG INS	2165.73	3581.18
Apr 23	740.33	24.11	PRIV MTG INS	2882.95	4297.40
May 23	740.33	24.11	PRIV MTG INS	3599.17	5013.62
Jun 23	740.33	24.11	PRIV MTG INS	4315.39	5729.84
Jul 23	740.33	2338.00	LP HAZARD INS	2893.61	4108.06
Jul 23	0.00	24.11	PRIV MTG INS	2893.61	4108.06
Aug 23	740.33	24.11	PRIV MTG INS	3409.83	4824.28
Sep 23	740.33	24.11	PRIV MTG INS	4126.05	5540.50
Oct 23	740.33	24.11	PRIV MTG INS	4842.27	6256.72
Nov 23	740.33	24.11	PRIV MTG INS	5558.49	6972.94
Dec 23	740.33	24.11	PRIV MTG INS	17.99	1432.44
Dec 23	0.00	3128.36	COUNTY TAX	17.99	1432.44
Dec 23	0.00	3128.36	MISC TAX	17.99	1432.44
Jan 24	740.33	24.11	PRIV MTG INS	734.21	2148.66
Feb 24	740.33	24.11	PRIV MTG INS	1450.43	2864.88
TOTALS	8883.96	8884.04	ENDING BAL	1450.43	2864.88

Cushion selected by servicer: \$1,432.44

Here's how to calculate your new monthly escrow payment:

LP HAZARD INS	\$2,338.00
PRIV MTG INS	\$289.32
COUNTY TAX	\$3,128.36
MISC TAX	\$3,128.36
Total:	\$8,884.04
	+ 12 Months

New Monthly Escrow Payment:

\$740.33

Escrow Account Disclosure Statement	
Statement Date:	02/07/2023
Loan Number:	
Property	
Address:	

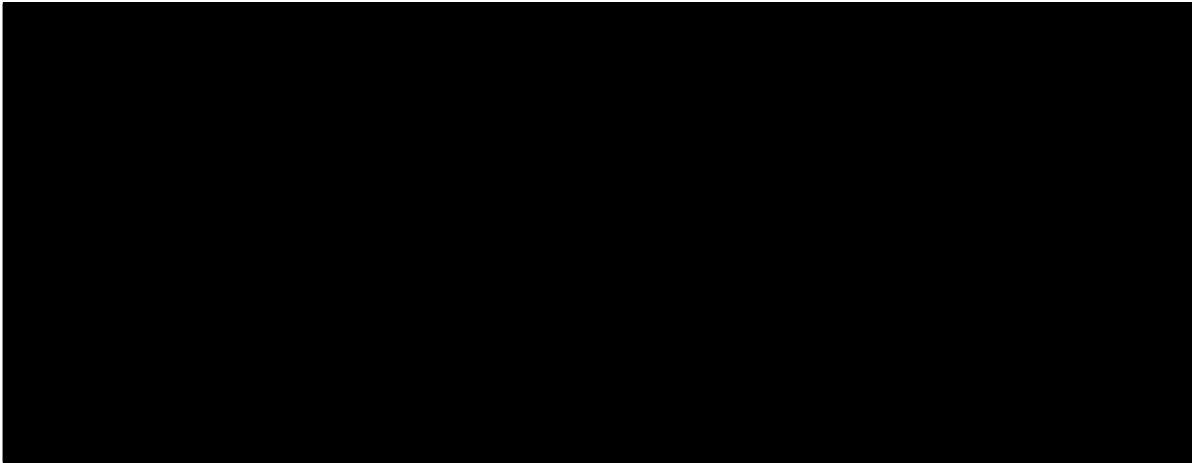
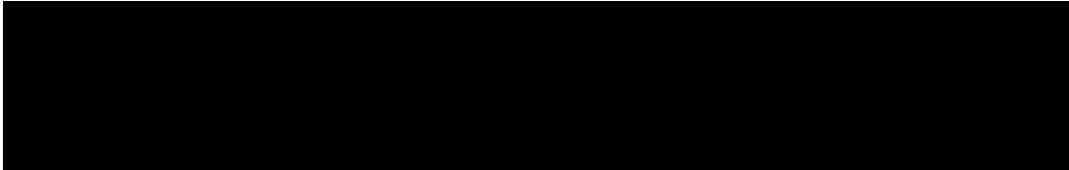
What This Means to You - Your balance is less than the amount needed in your account. The resulting shortage is \$1,414.45.

Your ending escrow balance from the last month of account history is \$1,450.51, your starting balance according to this analysis should be \$2,864.96. This projection assumes that your escrow account was current at the start of the projected period although this is not the case.

PART

4

How You Can Reach Us With Questions



**Chapter 7 Panel and Conversion To/From Chapter 13
“Pearls and Perils”
Panel: Allison D. Byman and Christopher Murray
Moderator: Abe Limon**

1st Annual Southern District of Texas
Consumer Bankruptcy Conference
January 23, 2024 – 1st Floor Jury Assembly Room –
Bob Casey Courthouse, 515 Rusk Ave. Houston Texas

List of Important Cases, Statutes, and Rules Regarding Conversion

Chapter 7 Panel - January 23, 2024

Panel: Allison D. Byman and Christopher Murray

Moderator: Abe Limon

I. CONVERTING FROM 7 TO 13

Marrama v. Citizens Bank of Massachusetts 549 US 365 (2007)

Law v Siegel 571 US 415 (2014)

In re Jacobsen, 609 F3d 647 (5th Cir. 2010)

In re Bartlett, 590 BR 175, 177 (WDMA Bk. Ct. 2018)

In re Mitchell, 368 B.R. 455 (Bankr. D. Idaho 2022)

In re Berry 166 B.R. 932, 934-35 (Bankr. D. Or. 1994)

In re Moore 235 BR 414, 416-17 (Bank W.D. Ky. 1999)

In re Hall, Case No. 20-20132, 2020 WL 10731233, at *2 (Bankr. S.D. Ala. Dec. 22, 2020)

In re Alcantar Case No. 19-B-24926, (Bankr. N.D. Ill. Septebmer 10, 2021)

In re David Lee Reeves, 509 B.R 35 (S.D. Tex. 2014, J. Bohm)

II. CONVERTING FROM 13 TO 7

Marrama v. Citizens Bank of Massachusetts, 549 US 365 (2007)

In Re Mullican, 417, BR 408 (Bankr. E.D. Tex, 2008) converting to 7 in bad faith voids exemptions of post-petition acquired assets in the 13 under 348(f). Further post-petition 13 transfers are voidable after bad faith conversion under 549(a).

In the Matter of Little Creek Development 779 F.2d 1068 (5th Cir., 1986) framework for bad faith generally as viewed by 5th Circuit.

Bad Faith:

- Very likely: Intentional concealment of assets. In re Jorge C. Zamora-Quezada, M.D., M.P.H., P.A., 622 B.R. 865 (Bankr. S.D. Tex. 2017) Zamora.
- Probably: Spending the windfall on yourself rather than paying creditors. In re Weddington, 457 B.R. 102, D. Kansas, (September 7, 2011).
- Maybe: Dilatory conduct, avoiding discovery, mere “schemes” to keep assets from creditors. In re Morris, 155 B.R. 122 (W.D. Texas, June 7, 1993). But see In re Farmer v. Taco Bell, 242 B.R. 435 (W.D. Tenn., December 7, 1999).
- Probably not: Where conversion keeps an asset for the debtor, but also improves recovery by creditors. In re Hurtado, Memornadum opinion in Case No. 17-10074 (Bankr. S.D. Tex. Nov 06, 2017).

Exemptions upon conversion:

In Re Perez, 345 B.R. 137, (D. Delaware, July 5, 2006) post-petition appreciation goes to Debtor;

absent bad faith, the value on the “petition date” controls.

In re Goins, 539 B.R. 510, (E.D. Virginia, October 5, 2015) post petition appreciation goes to the 7 estate after conversion.

In re Castleman, 75 F. 4th 1052, (9th Cir., July 28, 2023) goes to the 7 estate after conversion

In re Barrera III, 22 F. 4th 1217 (10th Cir., 2022) goes to the Debtor after conversion

In re Potter 228 B.R. 422 (BAP, 8th Cir., January 11, 1999) post petition appreciation in trust assets goes to ch 7 estate after conversion.

Liabilities (gap creditors):

In re Morris, 155 B.R. 422 (Bankr. W.D. Tex. June 7, 1993; J. King) bad faith conversion precludes addition of gap creditors.

III. PROCEDURAL OVERVIEW AND COMMON QUESTIONS

Converting a case from chapter 7 or from chapter 13 generally requires reference to the statutes and rules listed below. It may require a review of other sections and rules, but these are the primary ones. They regard only conversions to and from chapter 7 and 13. Converting to and from other chapters of the Code may have slightly different considerations under other provisions of the Code and Rules.

Relevant Code Sections:

11 U.S.C. §109: Who May Be a Debtor

11 U.S.C. §348: Effect of Conversion

11 U.S.C. §706: Conversion (to convert a case from 7 to 13) by motion only.

11 U.S.C. §707: Dismissal Of A Case Or Conversion To A Case Under Chapter 11 Or 13

(conversion by a non-debtor party) by motion only; Debtor must consent.

11 U.S.C. §1307: Conversion Or Dismissal (to convert a case from 13 to 7) by notice OR motion if converting; by motion if dismissing.

Relevant Bankruptcy Rules/Chapter 13 Plan sections:

B.R. 1017

B.R. 1019

B.R. 9013

B.R. 9014

Section 22 of Chapter 13 Form Plan: Effect of a Motion to Convert to Chapter 7

Section 24: Discharge and Vesting of Property

1. Is right to dismiss from 13 absolute as opposed to converting to 7?

Jacobsen v. Moser 609 F. 3d 647 (5th Cir. 2010): right of dismissal not absolute in chapter 13

In re Molitor, 76 F.3d 218 (8th Cir. 1996) right of dismissal not absolute in chapter 13

In re Pustejovsky, 577 B.R. 671 (Bankr. W.D. Tex. 2017) right of dismissal not absolute in 13.
Nichols v. Marana Stockyard & Livestock Market, Inc., 10 F.4th 956 (9th Cir. 2021) right of dismissal absolute even if some evidence of bad faith following Law v. Siegel.
In re Smith, 999 F.3d 452 (6th Cir. 2021) right of dismissal absolute even if bad faith
In re Duran 20-1045 (BAP 9th Cir. July 27, 2021) may be absolute, but with prejudice still option.

2. What happens to funds held by Chapter 13 Trustee at conversion?

Harris v. Vieghlan, (2015). 135 S.Ct. 1829(US May 18, 2015) Absent bad faith, funds held by 13 Trustee go to the Debtor upon conversion.

Vieghlan v. Lopez 897 F.3d 663 (5th Cir. 2018) Funds held by 13 Trustee go to the Debtor upon dismissal.

3. What is eligibility date under §109 after conversion to 7?

Eligibility to convert from 13 to 7 is measured from the filing date of the 13 and not the conversion date. Can be converted only if it has been more than 8 years from the date of the filing of the first chapter 7 to the date of the filing of the chapter 13.

11 U.S.C. §348(a)

11 U.S.C. §109

11 U.S.C. §727(a)(8)

4. What documents should be filed after conversion to chapter 7?

Conversion does not change the “petition date” in a good faith conversion. Initial schedules are still valid. If gap creditors are being added, new schedules should be filed with an amended creditor matrix. A Statement of Intent must be filed within 30 days from conversion. A disclosure of compensation and amended I and J should also be filed.

Rule 1007(c)

Rule 1019

Rule 1019(5)(B)(i)

Local Rule 1019-1 Supplemental schedules in converted cases

5. Should assets acquired post-petition chapter 13 be disclosed after conversion to 7?

Yes. Assets acquired post-petition 13 are property of the estate and they stay property of the estate upon conversion since the plan confirmation order does not vest the property at confirmation but at discharge. Assets acquired post-petition 13 should be consistently disclosed while in the 13 (In re Flugence , 738 F.3d 126 (5th Cir. 2013)) and therefore should be disclosed upon conversion if not previously disclosed in the 13.

Rule 1019(5)(C)(i)

11 U.S.C. §348(f)(2)

11 U.S.C. §541

11 U.S.C. §1306

6. What is the time limit to file conversion schedules after converting to 7?

Rule 1019(1)(B) for Statement of Intent – 30 days from conversion

Rule 1019(5)(B)(i) for schedules and statements - 14 days if adding “gap” creditors.

Local Rule 1019-1 – 14 days for notice if no changes in property of the estate. Some practitioners take the position that if they converted by “notice” instead of by “motion,” Local Rule 1019-1 does not apply. Query: which fight is easier to win -- a fight over whether an after-acquired asset is property of the estate or a bad faith fight for not disclosing the asset and which would greatly expand the estate automatically 348(f)?

7. Should a new means test be filed after converting to 7?

No. Initial one is still valid. An amended means test should be filed only if the Debtor was above the chapter 13 means test and has now fallen below the means test as leaving an original above-means test on file will not overcome a 707(b) motion after conversion.

In re Edwards, 367 B.R. 921 (Bankr. S.D. Ga. 2007).

11 U.S.C. §707(b)

11 U.S.C. §109

8. What about other important deadlines after converting to 7? See Rule 1019(2).

Most of the important deadlines re-start after conversion.

11 U.S.C. §348 Effect of Conversion

11 U.S.C. §707(b) and (c) Dismissal of a case or conversion to 11 or 13; new period restarts after conversion to 7.

Rule 1019(2) Conversion of a 13 to 7

Rule 1017 Dismissal or conversion of Case; Suspension

Rule 1019(2)(B) Deadline for filing objections to exemptions; new period restarts.

Rule 3002 Deadline for filing claims; new period restarts.

Rule 4004 Deadline for objection to discharge. New period restarts.

Rule 4007 Deadline for objecting to dischargeability of a debt. New period restarts.

Note: some time periods above DO NOT restart if case initially started in a chapter 7, converted to 13, reconverted back to 7 and the initial time periods in the first 7 had expired.

9. How does conversion to 7 affect reaffirmations on a car or furniture?

See 11 U.S.C. 348(1)(B) and (C).

Cramdowns on secured claims are not binding after conversion to chapter 7 under 11 U.S.C. 348(f)(1)(B) and (C). The secured claim is now wholly secured. Cramdown is out the window. Any balance due after any credits from the chapter 13 plan on the contract principal will become the new wholly secured balance under any applicable provisions of the contract. If

the claim is not completely current at conversion, a creditor can consider the claim to be in default under non-bankruptcy law. Reaffirmations in chapter 7 typically are not offered by a creditor unless the account is current. Perhaps its time to surrender the car and find another one?

10. What documents get filed in a case converted to chapter 13?

“Petition date” of the chapter 7 is still valid which makes the initial schedules still valid. But a plan should be filed. First payment under the plan due within 30 days from the conversion date. Code seems to be silent by when the new plan must be filed but if payments are due within 30 days from conversion, plan should be filed before then. Additionally, if the conversion to 13 is due to post-petition assets that accrued after the chapter 7 (i.e. inheritance), then the asset should be disclosed in the 13 as there is a continuing duty to disclose assets in the Fifth Circuit post petition Flugence v. Axis Surplus Ins. Co. (In re Flugence), 738 F.3d (5th Cir. Nove. 22, 2013). Further, if conversion to chapter 13 was filed in an attempt to “salvage” a pre-petition undisclosed transfer then SOFA should be amended as it may affect the liquidation test under the plan.

11 U.S.C. §348

11 U.S.C. §1321

Rule 1007(c)

Rule 3015(b)

11. When is the first plan payment due after conversion to chapter 13?

30 days from the conversion date.

11 U.S.C. §1326(a)

11 U.S.C. §348

12. Does a new Schedule I and J or means test get filed after converting to 13?

Yes on both documents. Likely the Chapter 7 Schedules I and J show no income to fund payments to creditors so a new I and J are necessary to prove feasibility.

11 U.S.C. §348

Rule 1007(c)

11 U.S.C. §1321

Rule 3015(b)

A chapter 13 means test may allow for more deductions than in a 7 and that may affect final disposable income under 1322 and 1325.

11 U.S.C. 1322

11 U.S.C. 1325

13. Can claims be barred after conversion to 13 for being untimely filed?

Creditors have 70 days from the conversion date to file a claim. If chapter 7 was an asset case and claims got filed, those are still good.

Rule 3002(c)

11 U.S.C. §348

14. Who bears burden of proof in converting from 7 to 13?

Debtor bears burden of proof for prima facie case for conversion. Objecting party bears burden of proof to show Debtor is not “eligible” to convert (Marrama). The burden then shifts back to the Debtor to show good faith and that it is in the “best interest of creditors.” Motions to convert should be well-pled and a proposed chapter 13 should ideally be filed to show eligibility/feasibility.

Marrama v. Citizens Bank of Massachusetts 549 US 365 (2007);

In re Hurtado, Memorandum opinion in Case No. 17-10074 (Bankr. S.D. Tex. Nov 06, 2017);

See also In re George Love Farming LC, 366 BR 170 (Bankr. D. Utah, 2007)(conversion to chapter 11 context but same analysis applies).

15. Should a Debtor consider a hardship discharge vs. a conversion to chapter 7?

11 USC §1328(b): three prong test.

In re Roberts, 279 F.3d 91 (1st Cir. 2002) 1328(b) is in conjunctive; all three prongs must be proven.

In re Elvira, Case No. 05-81841-G3-13 (Bankr. S.D. Tex. Dec 09, 2009) conclusory statements not enough; proof required at an evidentiary hearing. Burden of proof on the Debtor.

See also In re Spencer, 301 B.R. 730 (8th Cir. BAP 2003)

In re Dark, 87 B.R. 497 (Bankr. N.D. Ohio 1988) “changed circumstances need to be permanent”

In re Noblin-Williams, No. 20-00208, 2020 WL 8551779, at *7 (Bankr. S.D. Miss. Nov. 23, 2020) changes must be catastrophic.

In re Martone, 652 B.R.245 (Bankr.S.C. 2023) good discussion of catastrophic vs. non-catastrophic.

Practice tip: Motions for hardship discharge should be well-pled and analyzed. Query: if some courts now consider that post-petition appreciation goes to the estate upon conversion to chapter 7, do estate assets need to be re-valued under the second prong of 1328(b) as the hardship analysis requires a “hypothetical” conversion to chapter 7? What does “on such date” refer to in 1328(b), the date of the confirmed plan or the date of the hypothetical conversion?

16. If the Debtor gets an unanticipated receipt of readily available cash such as a post-petition personal injury claim, should the debtor convert to chapter 7 or risk the chapter 13 Trustee filing a modification under §1329 to sweep the new cash into the plan for creditors?

11 U.S.C. §348(f)
11 U.S.C. §1306
11 U.S.C. §1325(a)(4)
11 U.S.C. §1329

If Debtor converts:

Not bad faith to take advantage of what a statute provides; post-petition cash would go to the Debtor in a conversion to 7 barring bad faith:

Cooper v. Crow, 16-CV-00258, 2017 WL 3277123 (W.D.N.C. 2017).

In re Stillwaggon, 2014 WL 1087898 (Bankr. M.D. Fla. Mar.19, 2014).

In re Bejarano, 302 B.R. 559 (Bankr. N.D. Ohio 2003) (using conversion provisions to protect assets acquired after petition but before conversion not bad faith).

In re Wiczek-Spalding, 223 B.R. 538 (Bankr. D. Minn. 1998) (taking advantage of Code provisions is not bad faith on part of debtor who converted to chapter 7 to exclude employee severance pay from property of estate).

Some courts say post-petition assets in a 13 go to the Debtor; 348(f) controls breadth of estate:

In re Taylor, 631 B.R. 346 (Bankr. D. Kan. 2021)

In re Madrid, (memo. decision in 19-42260-MJH, Doc 47, Bankr. W.D. Wash. May 19, 2023);

In re Sanchez, 270 B.R. 322 (Bankr. D.N.H. 2001)

In re Forbes, 215 B.R. 183 (8th Cir. BAP 1997)

Some courts say post-petition assets go to creditors; 1306 controls breadth of estate:

In re Barbosa, 235 B.R. 540 (Bankr. D. Mass. 1999), aff'd, Barbosa v. Solomon, 243 B.R. 562 (D.Mass. 2000), aff'd 235 F.3d 31 (1st Cir. 2000)

In re Davenport, No. 08-41213, 2011 WL 6098068 (Bankr. D. Kan. Dec. 7, 2011).

In re Wilson, 555 B.R. 547 at 555 (Bankr. W.D. La. 2016).

In re Bratcher, No. 08-36225, 2013 Bankr. LEXIS 3904 (Bankr. S.D. Tex. Sep. 19, 2013).

In re Moran, No. 08-60201-RLJ-13, 2012 Bankr. LEXIS 4426 (Bankr. N.D. Tex. Sep. 25, 2012)

Query: if some courts now consider that post-petition appreciation goes to the estate upon conversion to chapter 7, do estate assets need to be re-valued under the second prong of 1325(a)(4) as a modification analysis requires an analysis of a "hypothetical" conversion to chapter 7 on the effective date of the plan which is the date of the modification? Note: 1325(a)(4) and 1328(b)(2) are identical other than the words "actually distributed" in 1328(b)(2).

**2023 CONSUMER LAW RELEVANT CASES
UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS¹**

Curtis v. Awbrey (In re Longhorn Paving & Oilfield Servs.), 648 B.R. 300 (Judge Rodriguez - January 3, 2023)

“Rule 59(e) provides that, “[a] motion to alter or amend a judgment must be filed no later than 28 days after the entry of the judgment.” Unlike Rule 60(b), Rule 59(e) does not enumerate specific grounds that parties may seek relief under. The Fifth Circuit has stated that a Rule 59(e) motion is not a proper vehicle for rehashing evidence, legal theories, or arguments that could have been offered or raised before the entry of judgment. Rather, Rule 59(e) “serves the narrow purpose of allowing a party to correct manifest errors of law or fact or to present newly discovered evidence.” “Reconsideration of a judgment after its entry is an extraordinary remedy that should be used sparingly.”

In re Sanchez Energy Corp., 2023 Bankr. LEXIS 73 (Judge Isgur - January 11, 2023)

“The Court uses ordinary principles of contract interpretation in interpreting the Plan. *Compton v. Anderson (In re MPF Holdings US LLC)*, 701 F.3d 449, 457 (5th Cir. 2012) (“[C]ourts regularly apply principles of contract interpretation to clarify the meaning of the language in reorganization plans.”).

“In Texas, “objective intent is the alpha and omega of contract interpretation” *Harris Cnty. Water Control & Improvement Dist. No. 89 v. Phila. Indem. Ins. Co.*, 31 F.4th 305, 310 (5th Cir. 2022). If determinable from the text, the parties’ unambiguous expression of objective intent governs. *Id.* (quoting *Piranha Partners v. Neuhoff*, 596 S.W.3d 740, 743 (Tex. 2020)); see *Heatcraft Refrigeration Prods. LLC v. Freezing Equip. Co., LLC*, No. 3:20-CV-1689-L, 2022 U.S. Dist. LEXIS 59556, 2022 WL 975611, at *12 (N.D. Tex. Mar. 31, 2022) (“The primary concern in construing a written contract is to ‘effectuate the parties’ intent as expressed by the words chosen to memorialize their agreement.” (quoting *Exxon Mobil Corp. v. Ins. Co. of State*, 568 S.W.3d 650, 657 (Tex. 2019))). Contract terms should be “given their plain, ordinary meaning unless the [contract] itself shows that the parties intended the terms to have a different, technical meaning.” *See Am. Nat. Gen. Ins. Co. v. Ryan*, 274 F.3d 319, 323 (5th Cir. 2001) (applying Texas contract law to interpret an insurance policy (citing *Puckett v. U.S. Fire Ins. Co.*, 678 S.W.2d 936, 938 (Tex. 1984))).”

In re Semco Mfg. Co., 649 B.R. 155 (Judge Rodriguez - January 13, 2023)

“Bankruptcy Rule 1008 mandates that “[a]ll petitions, lists, schedules, statements and amendments thereto shall be verified or contain a sworn declaration as provided in 28 U.S.C. § 1746.” Rule 1008 has been interpreted to mean that debtors must sign all enumerated documents

¹ Judge Rodriguez loves footnotes. His decisions are replete with them. To conserve space and what little sanity I have left, footnotes have been omitted from the quotes throughout this paper. Please see the actual decisions for the footnotes, most of which are the case citations for the cited proposition. SGW

"as a means of not only authorizing the filing of those documents, but of verifying, under penalty of perjury, that they have reviewed the information contained therein and that it is true and correct to the best of their knowledge, information and belief." Separately, Debtors' attorneys also have their own corresponding duty under Bankruptcy Rule 1008 — "any attorney who files schedules and statements on a debtor's behalf makes a certification regarding the representations contained therein." The attorney's certification is not an "absolute guaranty of accuracy," but is instead an endorsement "based upon the attorney's best knowledge, information and belief, 'formed after an inquiry reasonable under the circumstances.'" What constitutes an "inquiry reasonable" under the circumstances must be taken up on a case-by-case basis."

"Bankruptcy Rules, Local Rules, and case law collectively provide that an attorney may not sign a bankruptcy petition in lieu of an authorized representative of an entity debtor or on behalf of an individual debtor."

"Bankruptcy Rule 5005(a)(2) authorizes bankruptcy courts "to permit documents to be filed, signed or verified by electronic means . . ." When the filing of bankruptcy documents is accomplished by electronic means, Bankruptcy Rule 5005(a)(2), together with Bankruptcy Rule 9029, allow courts to adopt procedures and protocols to administratively handle the electronically filed. Acting under this authority, this district has issued Bankruptcy Local Rules 1001-1 and 5005-1, which authorize "Administrative Procedures for the Filing, Signing, and Verifying of Documents by Electronic Means in Texas Bankruptcy Courts" (the "Procedures")."

"Regarding bankruptcy petitions, Courts have long held that an "imperfect verification is not a jurisdictional defect." Instead, violation of these rules by Semco and James Wimberley merely created a procedural defect to which an "amendment may cure [the] imperfect verification[.]'"

In re Porter Dev. Partners, LLC, 648 B.R. 309 (Judge Rodriguez - January 25, 2023)

"Bankruptcy Code § 502(j) provides that "[a] claim that has been allowed or disallowed may be reconsidered for cause." Bankruptcy Rule 3008 implements this Code section, providing that a "party in interest may move for reconsideration of an order allowing or disallowing a claim against the estate." When deciding whether to reconsider a claim, the Fifth Circuit has held that bankruptcy courts may exercise "virtually plenary" discretion."

"Accordingly, Fifth Circuit precedent requires that bankruptcy courts apply Rule 60(b) standards to the reconsideration of claims that *have in fact been litigated*. By inference, this also means that "Rule 60(b) standards do not apply if the parties have not in fact litigated the proof of claim." Indeed, in applying Fifth Circuit law, this Court has already held that:

[I]f the parties have not litigated the merits of the proof of claim, Rule 60 is inapplicable and the bankruptcy court has wide discretion pursuant to § 502(j) to determine whether "cause" exists for reconsidering the allowance of a claim.

Therefore, this Court must now determine whether the merits of the Taylor Claimants' Claims have in fact been previously litigated. If the Claims have in fact been litigated, Rule 60 will guide the for cause standard under § 502(j). If the Claims have not in fact been litigated, Rule 60 is inapplicable and the Court will simply exercise its "virtually plenary" discretion."

Schmidt v. Nordlicht (In re Black Elk Energy Offshore Operations, LLC), 649 B.R. 249 (Judge Isgur - January 27, 2023)

Good primer on good faith and fraudulent transfers

Rohifard v. Brewer & Prichard, P.C. (In re ABC Dentistry, P.A.), 2023 Bankr. LEXIS 336 (Judge Isgur - February 8, 2023)

“While not expressly applicable, federal courts may hold attorneys accountable to state codes of professional conduct. *Bright*, 6 F.3d at 341 (“The Texas Disciplinary Rules of Professional Conduct do not expressly apply to sanctions in federal courts, but a federal court may nevertheless hold attorneys accountable to the state code of professional conduct.” (citing *In re Snyder*, 472 U.S. 634, 645 n.6, 105 S. Ct. 2874, 86 L. Ed. 2d 504 (1985))); *Lake Eugenie Land & Dev., Inc. v. BP Expl. & Prod., Inc. (In re Deepwater Horizon)*, 824 F.3d 571, 577 (5th Cir. 2016). As Texas attorneys, the Court may hold the Brewer Defendants accountable to the Texas code of professional conduct.”

“The Texas Disciplinary Rules of Professional Conduct require an attorney to surrender papers and property to which the client is entitled. TEX. DISCIPLINARY R. PRO. CONDUCT 1.15(d). (“Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as . . . surrendering papers and property to which the client is entitled . . .”). In Texas, the client is entitled to the contents of the client's file, including work product. *In re George*, 28 S.W.3d 511, 516 (Tex. 2000) (citing *Hebisen v. State*, 615 S.W.2d 866, 868 (Tex.Civ.App.-Houston [1st Dist.] 1981, no writ)); *Positive Software Solutions v. New Century Mortg. Corp.*, No. 3:03-CV-0257-N, 2008 U.S. Dist. LEXIS 139588, 2008 WL 11347959, at *4 (N.D. Tex. Sept. 17, 2008) (“Texas is firmly in the camp of those states that hold the client owns the file, including any work product.” (citing *George*, 28 S.W.3d at 516)); *Resolution Tr. Corp. v. H---*, P.C., 128 F.R.D. 647, 648 (N.D. Tex. 1989) (“But so long as the files were created in the course of the representation of the client, they belong to the client.”); *In re McCann*, 422 S.W.3d 701, 704 (Tex. Crim. App. 2013) (“To whom does a client's file belong? The client's file belongs to the client.”); see Tex. Comm. On Pro. Ethics Op. 570 (“Under the Texas Disciplinary Rules of Professional Conduct, a lawyer must upon request provide to a former client the notes of the lawyer from the lawyer's file for that former client . . .”).

“The Court agrees that a client file includes “correspondence,” but disagrees with Mr. Brewer that emails are not “correspondence.” (ECF No. 163 at 83). Common definitions indicate that emails are “correspondence.” See Correspondence, Merriam-Webster Online, <https://www.merriam-webster.com/dictionary/correspondence> (last visited Feb. 6, 2023) (“[C]ommunication by letters or email”); Correspondence, Oxford English Dictionary, <https://www.oed.com/view/Entry/41948?redirectedFrom=correspondence#eid> (last visited Feb. 6, 2023) (“Intercourse or communication by letters.”). Perhaps unsurprisingly, the Brewer Defendants include “emails” in the definition of “correspondence” in a request for production of documents they sent to Dr. Rohi on July 1, 2021. (ECF No. 168-4 at 3). The position that an “email” is not “correspondence” is not credible. Having listened carefully to the testimony and judged the credibility of the witnesses, the Brewer Defendants' unreasonable refusal to turn over emails in contravention of their duties was more than mere negligence; it was bad faith.”

Trevino v. U.S. Bank Trust, N.A. (In re Trevino), 648 B.R. 847 (Judge Rodriguez - February 9, 2023)

“It is well established law that, absent compliance with the Bankruptcy Code and Rules, an attorney has no absolute right to an award of compensation.” It is within this Court’s discretion to reduce attorney’s fees when attorneys do not comply with the rules governing employment and compensation of counsel.” [50% reduction in fees - but not expenses - for failure to follow Bankruptcy Rule 2016(b)]

“The Fifth Circuit has adopted the lodestar method for determining the reasonable amount of attorneys’ fees. The lodestar is calculated by multiplying the number of hours reasonably expended by the prevailing hourly rate in the community for similar work. There is a strong presumption of the reasonableness of the lodestar amount. However, after calculating the lodestar amount, the Court has discretion to adjust the fee upwards or downwards based on the twelve factors outlined in *Johnson v. Georgia Highway Express, Inc.* Those twelve factors are:

- (1) the time and labor required;
 - (2) the novelty and difficulty of the questions;
 - (3) the skill requisite to perform the legal service properly;
 - (4) the preclusion of other employment by the attorney due to acceptance of the case;
 - (5) the customary fee;
 - (6) whether the fee is fixed or contingent;
 - (7) time limitations imposed by the client or other circumstances;
 - (8) the amount involved and the results obtained;
 - (9) the experience, reputation, and ability of the attorneys;
 - (10) the "undesirability" of the case;
 - (11) the nature and length of the professional relationship with the client;
 - (12) awards in similar cases.
- 68Link to the text of the note

The lodestar may be adjusted only as to those Johnson factors not already taken into account by the lodestar. The four Johnson factors already reflected in the lodestar calculation are: (2) the novelty and complexity of the issues; (3) the special skill and experience of counsel; (8) the results obtained from the litigation; and (9) the quality of the representation. Aside from the Johnson factors, the Court may also "consider all relevant factors" in making any adjustment to the lodestar fee.”

“Bankruptcy courts wield "considerable discretion" when determining whether an upward or downward adjustment of the lodestar is warranted." Although the party seeking attorney’s fees bears the initial burden of submitting adequate documentation of the hours reasonably expended and of the attorney’s qualifications and skill, the party seeking reduction of the lodestar bears the burden of showing that a reduction is warranted.”

“A reasonable hourly rate is based on the prevailing market rates in the community where the trial court sits. The applicant must prove that the rates sought are in accordance with the prevailing community rates for similar services by reasonably comparable attorneys.80Link to the text of the note A district court may not rely on its own experience in the relevant legal market to set a reasonable hourly billing rate. In the Fifth Circuit, out-of-town counsel may be awarded out-of-town rates under certain limited circumstances and Applicants have the burden to establish the necessity of hiring out of town counsel. Courts employ a two-prong test to determine whether out-of-town rates may be awarded: (1) "whether hiring out-of-town counsel was reasonable in the first instance," and (2) "whether the rates sought by the out-of-town

counsel are reasonable for an attorney of his or her degree of skill, experience, or reputation.””

GACP Fin. Co., LLC v. Keystone Oilfield Fabrication LLC (In re BJ Servs., LLC), 2023 Bankr. LEXIS 540 (Judge Isgur - March 1, 2023)

“[Texas Property Code] 70.004 is narrowly applied to towing companies who take possession of a vehicle without an owner's knowledge. *See Chase Manhattan Bank Usa, N.A. v. Daimler Motors, Inc.*, No. 05-01-01904-CV, 2002 Tex. App. LEXIS 8055, 2002 WL 31513404, at *3 (Tex. App.—Dallas Nov. 13, 2002, no pet.) (“[Section 70.004] applies largely-if not solely-to such entities as towing companies, who often take possession of a vehicle without the owner's knowledge.”).”

“To succeed on a quantum meruit claim, the claimant must prove:

(1) valuable services were rendered or materials furnished; (2) for the person sought to be charged; (3) those services and materials were accepted by the person sought to be charged, and were used and enjoyed by him; and (4) the person sought to be charged was reasonably notified that the plaintiff performing such services or furnishing such materials was expecting to be paid by the person sought to be charged.

Hill v. Shamoun & Norman, LLP, 544 S.W.3d 724, 732-33 (Tex. 2018) (*Vortt Expl. Co., Inc. v. Chevron U.S.A., Inc.*, 787 S.W.2d 942, 944 (Tex. 1990)) (emphasis added). Because Keystone seeks to charge GACP, it must show that GACP was notified of Keystone's expectation to be paid by GACP.”

“Section 38.001 of the Texas Civil Practice and Remedies Code permits recovery of attorneys' fees if the claim is for rendered services or performed labor. Tex. Civ. Prac. & Rem. Code § 38.001. Keystone's claim is for rendered services or performed labor. Section 70.008 of the Texas Property Code permits the recovery of attorneys' fees in "a suit concerning possession of a motor vehicle, motorboat, vessel, or outboard motor and a debt due on it." Tex. Prop. Code § 70.008. This suit concerns possession of motor vehicles and debt due on them. Keystone has presented sufficient facts to plausibly allege a claim for attorneys' fees.”

Ali v. Riverstone Resort, LLC (In re Riverstone Resort, LLC), 2023 Bankr. LEXIS 801 (Judge Norman - March 30, 2023)

“Under Texas law, a constructive trust is not actually a trust, but rather an equitable remedy imposed by law to prevent unjust enrichment resulting from an unconscionable act. A constructive trust has long been used as a remedy for unjust enrichment obtained from a fiduciary's breach of duty. The two circumstances that generally justify the imposition of a constructive trust are actual fraud and the breach of a confidential or fiduciary relationship. A claim for constructive trust under Texas law requires the establishment of three elements: (1) breach of a fiduciary relationship or, in the alternative, actual fraud, (2) unjust enrichment of the wrongdoer, and (3) tracing of the property to an identifiable res.”

“In Texas, “[f]iduciary duties arise as a matter of law in certain formal relationships, including

attorney-client, partnership, and trustee relationships.””

In re Perkins, 2023 Bankr. LEXIS 946 (Judge Isgur - April 6, 2023)

“The Chapter 13 Trustee objects to the Perkins' proposed chapter 13 plan. The Trustee alleges that the plan does not pay all the Perkins' disposable income to creditors due to proposed contributions to Mr. Perkins' 401(k) savings account.”

“Courts must enforce a statute as it is written if the statute's language is plain. *Demarest v. Manspeaker*, 498 U.S. 184, 190, 111 S. Ct. 599, 112 L. Ed. 2d 608 (1991). However, a statute's plain language does not control if following that plain language would produce an absurd result. *United States v. Solis-Camposano*, 312 F.3d 164, 166 (5th Cir. 2002). Additionally, a statute's interpretation must "fit coherently into the statute's overarching structure," with the court taking into account both the context of the language in question and the context of the entire statute, including the Bankruptcy Code, as a whole. *In re Lively*, 467 BR 884, 891 (Bankr. S.D. Tex. 2012); *In re Sierra*, 560 B.R. 296, 302 (Bankr. S.D. Tex. 2016) (explaining that statutory interpretation requires looking at language in light of both its specific context and the greater context of the entire statute). Statutes should be construed so that no clause, sentence, or word becomes superfluous, void, or insignificant. *TRW, Inc. v. Andrews*, 534 U.S. 19, 31, 122 S. Ct. 441, 151 L. Ed. 2d 339 (2001).”

“A chapter 13 plan may only be confirmed if it was "proposed in good faith and not by any means forbidden by law." 11 U.S.C. § 1325(a)(3). If the Trustee objects to confirmation of a proposed plan, the plan must provide for all the debtor's projected disposable income be paid to unsecured creditors. § 1325(b)(1)(B). Because the Trustee has objected to the Second Amended Plan, the Court must determine whether the plan pays all the Debtors' projected disposable income to creditors. Good faith must always be shown.”

“The Bankruptcy Code does not provide a definition of *projected* disposable income. *Hamilton v. Lanning*, 560 U.S. 505, 509, 130 S. Ct. 2464, 177 L. Ed. 2d 23 (2010). The Code does, however, define disposable income to mean "current monthly income received by the debtor . . . less amounts reasonably necessary to be expended." 11 U.S.C. § 1325(b)(2). "Current monthly income," in turn, is defined as the debtor's monthly income in the six months preceding the filing of the bankruptcy petition. § 101(10A)(A). After examining the language in § 1325(b), the Supreme Court held that the Bankruptcy Code's use of the word "projected" with reference to the debtor's disposable income does not strictly limit the plan to encompassing only the debtor's actual income and expenses during the six months immediately preceding the bankruptcy petition. *Hamilton*, 560 U.S. at 523-24. Instead, when calculating the debtor's projected disposable income, "the court may account for changes in the debtor's income or expenses that are known or virtually certain at the time of confirmation." *Id.* at 524. Per the Supreme Court's holding in *Hamilton*, the debtors can make adjustments that lower their disposable income, lowering payments to creditors. Whether 401(k) contributions are a permissible adjustment hinges on further interpretation of the Code.”

“The calculation of a debtor's disposable income is not a purely mechanical calculation. *Hamilton*, 560 U.S. 523-24. Instead, disposable income is forward-looking and takes into account changes in the debtor's circumstances. *Hamilton*, 560 U.S. 523-24.

“The court does not determine which assets are included and excluded from the property of the estate solely at the case's commencement, but rather on a continuous basis throughout the case. See *Garza*, 575 B.R. at 747-48 (reading § 541 to be generally inclusive of property acquired post-petition). As such, a chapter 13 debtor's 401(k) contributions are not limited to any particular amount by § 541.”

“Nevertheless, the statute does not permit the Debtor to deduct a 401(k) contribution that is never made. The exclusion in § 541(b)(7) is only for amounts "withheld" from the Debtor's wages. An intent to make a contribution will not suffice unless it is actually made.”

“Good faith is examined using a totality of the circumstances test. *In re Whitt*, 616 B.R. 323, 331 (Bankr. S.D. Miss. 2020). This test examines a non-exclusive list of factors to consider: the proposed plan's reasonableness, whether the plan shows an attempt to abuse the spirit of the bankruptcy code, whether the debtor genuinely intends to effectuate the plan, evidence of misrepresentation or manipulation, fraudulent intent on the part of the debtor, whether the plan reflects the debtor's ability to pay, and whether a creditor has objected to the plan. *Id.* More broadly, the test requires an examination of all the facts to "determine the bona fides of the debtor." *Matter of Chaffin*, 816 F.2d 1070, 1074 (5th Cir. 1987).”

“Consequently, courts have been reluctant to find bad faith based solely on the amount of [*20] a debtor's proposed post-petition 401(k) contributions. Courts have found good faith in situations where the debtor's pre-petition contributions were lower than those proposed by the plan, the plan proposed to contribute the maximum amount allowed by the IRS, and the plan contributed to a 401(k) despite paying nothing to unsecured creditors. See *Egan*, 458 B.R. at 850-51 (holding that 401(k) contributions were proposed in good faith despite being higher than pre-petition contributions); *In re Nowlin*, 366 B.R. 670, 676 (Bankr. S.D. Tex. 2007) (holding that a debtor may make 401(k) contributions to the maximum amount allowed by IRS guidelines); *In re Whitt*, 616 B.R. 323, 332 (Bankr. S.D. Miss. 2020) (holding that post-petition 401(k) contributions were not in bad faith despite paying a 0% return to unsecured creditors). A lack of good faith is most often found where the debtor's proposed plan violates a provision of the Code. See *In re Jones*, No. 07-10902-13C, 2008 Bankr. LEXIS 3127, 2008 WL 4447041, at *5 (Bankr. D. Kan. Sep. 26, 2008) (declining to find that a plan was proposed in good faith where the plan didn't pay all sources of future income to creditors); *Nowlin*, 366 B.R. at 676 (finding a chapter 13 plan inadequate to the extent that post-petition 401(k) contributions exceeded the IRS limit).”

***In re Talen Energy Supply*, LLC, 2023 Bankr. LEXIS 1271 (Judge Isgur - May 12, 2023)**

“Counsel for several claimants filed proofs of claim in Talen Montana, LLC's bankruptcy after the bar date. Counsel failed to timely file the proofs of claim because of his own carelessness. The clients request that the Court allow the late-filed proofs of claim based on their counsel's "excusable neglect" under Federal Rule of Bankruptcy Procedure 9006(b)(1). Because allowing the claims to be filed will not materially prejudice the Debtors, the claims will not impact judicial proceedings, and counsel acted in good faith, counsel's neglect is excusable. The late-filed claims will be recognized as timely filed.”

“A court may allow a proof of claim filed after the bar date if the claimant failed to timely file because of "excusable neglect." *Greyhound Lines, Inc. v. Rogers (In re Eagle Bus Mfg., Inc.)*, 62 F.3d 730, 736 (5th Cir. 1995); FED. R. BANKR. P. 9006(b)(1). Four factors, [*6] commonly

referred to as the "Pioneer factors," guide the excusable neglect determination; those factors are: (1) the danger of prejudice to the debtor; (2) the length of the delay and its potential impact on judicial proceedings; (3) the reason for the delay, including whether it was within the reasonable control of the movant; and (4) whether the movant acted in good faith. *Id.* at 737 (quoting *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 395, 113 S. Ct. 1489, 123 L. Ed. 2d 74 (1993)).”

“The determination of whether neglect is excusable is "at bottom an equitable one, taking account of all relevant circumstances surrounding the party's omission." *Pioneer*, 507 U.S. at 395. "[I]nadvertence, ignorance of the rules, or mistakes construing the rules do not usually constitute 'excusable' neglect[.]" *Id.* at 392. But excusable neglect "is a somewhat 'elastic concept' and is not limited strictly to omissions caused by circumstances beyond the control of the movant." *Id.* "The burden to show excusable neglect is on the movant—i.e., the creditor seeking to file a late claim." *W. Wilmington Oil Field Claimants v. Nabors Corp. Servs, Inc. (In re CJ Holding Co.)*, 27 F.4th 1105, 1112 (5th Cir. 2022) (quoting *Jinil Steel Co. v. ValuePart, Inc. (In re ValuePart, Inc.)*, 802 F. App'x 143, 146 (5th Cir. 2020)).”

“Under *Pioneer*, a party may act with neglect, but such neglect may be excusable under Rule 9006(b)(1): "[R]eading Rule 9006(b)(1) inflexibly to exclude every instance of an inadvertent or negligent omission would ignore the most natural meaning of the word 'neglect' and would be at odds with the accepted meaning of that word in analogous contexts." *Pioneer*, 507 U.S. at 394-95. There is no doubt that the Supreme Court views excusable neglect as a flexible concept in which courts may be permitted to accept late filings even when the failure to timely perform a duty is within a party's reasonable control:

By empowering the courts to accept late filings "where the failure to act was the result of excusable neglect," Rule 9006(b)(1), Congress plainly contemplated that the courts would be permitted, where appropriate, to accept late filings caused by inadvertence, mistake, or carelessness, as well as by intervening circumstances beyond the party's control. Contrary to petitioner's suggestion, this flexible understanding of "excusable neglect" accords with the policies underlying Chapter 11 and the bankruptcy rules.

Id. at 388-89 (emphasis added). HN9 To determine whether neglect is excusable, the Supreme Court looks to the four factors. *Id.* at 395 ("With regard to determining whether a party's neglect of a deadline is excusable, we are in substantial agreement with the factors identified by the Court of Appeals."). The Fifth Circuit has frequently applied *Pioneer*. See, e.g., *United States v. Clark*, 51 F.3d 42, 43 (5th Cir. 1995) ("In *Pioneer*, the Supreme Court flexibly interpreted the excusable neglect standard of Bankruptcy Rule 9006(b)(1), which allows a bankruptcy court to permit a late filing of proofs of claim if the movant's failure to comply with an earlier deadline was the result of excusable neglect. The Court rejected the argument that excusable neglect was limited to errors caused by circumstances beyond the late-filing party's control, concluding that the concept of neglect is 'somewhat elastic' and may include 'inadvertent delays.'"); *id.* at 44 ("To the extent, then, that our prior decisions strictly interpret excusable neglect in conflict with *Pioneer*, they are disapproved."); see also *Razvi v. Dallas Fort Worth Int'l Airport*, No. 21-10016, 2022 U.S. App. LEXIS 26058, 2022 WL 4298141, at *2 (5th Cir. Sept. 16, 2022) (reversing the district court's dismissal for a single calendaring error leading to a missed deadline to file a certificate of interested persons); cf. *CJ Holding*, 27 F.4th at 1117 (stating that excusable neglect is "the failure to timely perform a duty due to circumstances that were beyond the

reasonable control of the person whose duty it was to perform." (quoting *ValuePart*, 802 F. App'x at 146)).”

“Bad faith may prevent neglect from being excusable. *Pioneer*, 507 U.S. at 398 ("To be sure, were there . . . any indication at all of bad faith, we could not say that the Bankruptcy Court abused its discretion in declining to find the neglect to be 'excusable.'"). And a lack of diligence may be severe enough to undermine a party's contention that it acted in good faith. See CJ Holding, 27 F.4th at 1118; see also *Gilmore*, No. 4:21-CV-435, 2022 U.S. Dist. LEXIS 58051, 2022 WL 956226, at *8 ("Even though he learned of Unit's bankruptcy on June 5, 2020, Gilmore took no action to ascertain the General Bar Date until he received the mailed notice on July 22, 2020."). But a lack of diligence does not constitute bad faith per se. CJ Holding, 27 F.4th at 1118.”

In re Palasota, 2023 Bankr. LEXIS 1374 (Judge Rodriguez - May 25, 2023)

“Section 502 provides that "a claim or interest, proof of which is filed under § 501 of this title, is deemed allowed, unless a party in interest . . . objects." The legislative history of § 502 provides in relevant part, that "a proof of claim or interest is prima facie evidence of the claim or interest. Thus, it is allowed under subsection (a) unless a party in interest objects." While § 502 addresses the form and content of claims it does not, by itself, establish grounds for disallowance of a claim. Rather, Bankruptcy Rule 3001 allocates the burden of proof with respect to a proof of claim for which an objecting party has raised an objection that would warrant disallowance under Section 502. The court in *In re DePugh* described the interplay between § 502 and Bankruptcy Rule 3001 during a proof of claim dispute. If, for example, a creditor files a proof of claim in full compliance with Bankruptcy Rule 3001, that claim is deemed prima facie valid and, if the debtor objects to that claim, he or she must produce evidence sufficient to rebut the presumption of validity and establish that the claim should be disallowed pursuant to § 502(b). If, however, a creditor files a proof of claim that fails to comply with Bankruptcy Rule 3001, the Debtor has no evidentiary burden to overcome when lodging a claim objection pursuant to § 502(b), at which point the burden shifts back to the claimant to prove the underlying validity of its claim by a preponderance of the evidence in order to have its claim allowed.”

“Bankruptcy Rule 3001 requires that a proof of claim: (1) be in writing; (2) make demand on the debtor's estate; (3) express the intent to hold the debtor liable for the debt; (4) be properly filed; and (5) be based upon facts which would allow, as a matter of equity, to have the document accepted as a proof of claim.”

“The elements of judicial estoppel are: (1) the party against whom judicial estoppel is sought has asserted a legal position which is plainly inconsistent with a prior position; (2) a court accepted the prior position; and (3) the party did not act inadvertently.”

“As stated previously, § 524(e) provides that the "discharge of a debt of the debtor does not affect the liability of any other entity on, or the property of any other entity, for such debt." This includes the liability of a guarantor. The only exception to § 524(e) is when a confirmed plan of reorganization expressly provides for discharge or release of claims against non-debtors.100Link to the text of the note This exception is limited, however. In *In re Applewood*, the Fifth Circuit refused to enforce a release against a third-party guarantor in a later action because the plan at issue "contained no provision specifically releasing the personal guaranties of the [third party].”

The release language provided:

The provisions of the confirmed plan shall bind all creditors and parties in interest, whether or not they accept the plan and shall discharge the Debtor, its officers, shareholders and directors from all claims that arose prior to Confirmation.

The third-party argued that the language provided for a general release. However, the Fifth Circuit disagreed reasoning that since the provision did not specifically release the guarantor, who was also an officer, from his personal guaranties, then the creditor was allowed to proceed with his claim to recover from the guarantor.”

“In order to successfully support a claim for waiver, Debtor must demonstrate: (1) an existing right, benefit, or advantage; (2) knowledge, actual or constructive, of its existence; and (3) actual intent to relinquish the right, which can be inferred from conduct.”

“In regard to the third element, Prosperity must demonstrate actual intent to relinquish a right, which can be inferred from conduct. The intent to waive "must be clear, decisive, and unequivocal." A court should conclude a waiver occurred only when a party unequivocally manifested the intent not to assert its rights.”

Entrust Energy, Inc. v. Shell Energy N. Am. (US), L.P. (In re Entrust Energy, Inc.), 2023 Bankr. LEXIS 1477 (Judge Isgur - June 6, 2023)

“The turnover provisions of the Bankruptcy Code cannot be used to convert a disputed payment into estate property.”

In re Royce Homes, 652 B.R. 488 (Judge Lopez - July 10, 2023)

“Section 541(a)(7) of the Bankruptcy Code states that property of the estate includes “[a]ny interest in property the estate acquires after the commencement of the case.” 11 U.S.C. § 541(a)(7). The Bankruptcy Code does not define "interest," "property," or "acquire" so we look to their ordinary meaning. *See Schindler Elevator Corp. v. United States ex rel. Kirk*, 563 U.S. 401, 407, 131 S. Ct. 1885, 179 L. Ed. 2d 825 (2011) (internal citation omitted). The definitions of these words have not changed. The relevant definition of "interest" means a "right, title, or legal share in something." Property means "something owned or possessed" and "something to which a person or business has legal title." And acquire means "to get as one's own; to come into possession or control of . . .”

“Any litigation about the nature and extent of the property of the estate acquired as part of the settlement agreement lies within this Court's exclusive jurisdiction under 28 U.S.C. § 1334(e). *See, e.g., Manges v. Atlas (In re Duval Cty. Ranch Co.)*, 167 B.R. 848, 849 (Bankr. S.D. Tex. 1994) (“[w]henver there is a dispute regarding whether property is property of the bankruptcy estate, exclusive jurisdiction is in the bankruptcy court”) (internal citations omitted); *Brown v. Fox Broad. Co. (In re Cox)*, 433 B.R. 911, 920 (Bankr. N.D. Ga. 2010) (internal citations omitted); *Schroeder v. New Century Holdings, Inc. (In re New Century Holdings, Inc.)*, 387 B.R. 95, 105 (Bankr. D. Del. 2008) (“[A] determination of what is property of the estate and

concurrently, of what is available for distribution to creditors of that estate, is precisely the type of proceeding over which the bankruptcy court has exclusive jurisdiction") [**18] (internal citation omitted).”

In re Flores, 652 B.R. 276 (Judge Rodriguez - July 14, 2023)

“Section 110 was enacted to protect consumers from abuses by non-lawyer petition preparers. "Bankruptcy petition preparer" is defined in § 110 of the Bankruptcy Code as "a person, other than an attorney for the debtor or an employee of such attorney under the direct supervision of such attorney, who prepares for compensation a document for filing" by the debtor in connection with his bankruptcy case. Notably, § 101(41) defines a "person" to include a corporation."Document for filing" is defined as "a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under [Title 11].”

“In response, Auto Recovery Partners, LLC first argues that it is not a bankruptcy petition preparer since a representative of Auto Recovery Partners, LLC contracted solely with Ashley de la Garza and it was her husband Alvaro Flores, Jr. who filed the pending chapter 13. Nonetheless, Auto Recovery Partners, LLC's distinction is without merit. An identical argument was raised in *In re Martinez* and the Fifth Circuit concluded that the debtor's spouse was not a disinterested party since Texas is a community property state. As such, the bankruptcy estate included certain interests of the debtor and the debtor's spouse. Thus, as in *In re Martinez*, Auto Recovery Partners, LLC's first argument is meritless.

“Next, Auto Recovery Partners, LLC contends that the assistance provided to Ashley de la Garza and Flores was merely for administrative tasks and does not constitute "preparing" the chapter 13 petition under §110(a)(1). Once again, Auto Recovery Partners, LLC's position is misguided. While Auto Recovery Partners, LLC did not physically fill out the chapter 13 petition, numerous courts across the country have found that this omission is not controlling. For example, in *In re Jolly*, the Bankruptcy Court for Southern District of Iowa held that "[t]he fact that the person does not place the data and numbers on the form does not excuse that person from advising the court of their participation in the process of preparing the documents for filing with the bankruptcy court." Instead the Court reasoned that "'preparation' of a document includes both the physical preparation and the dictation or the determination of the information to be placed on the document by the 'preparer.'”

“The interpretation of "preparer" to include the dictation or determination of the information to be placed on the document is supported by the House of Representatives report discussing the implementation of § 110. There, the House of Representatives explained "While it is permissible for a petition preparer to provide services solely limited to typing, far too many of them also attempt to provide legal advice and legal services to debtors. . . These services may take unfair advantage of persons who are ignorant of their rights both inside and outside the bankruptcy system." From this text, it is clear that the purpose of § 110 is to protect innocent debtors from unqualified legal advice. To interpret "preparer" so narrowly as to include only those who physically fill out the documents, would provide a glaring workaround for bad actors and undermine the very purpose of the statute. Thus, this Court will interpret "preparation" of a document under §110(a)(1) to include both the physical preparation and the dictation or the determination of the information to be placed on the document.”

In re Davis, 2023 Bankr. LEXIS 1795 (Judge Rodriguez - July 19, 2023)

Same petition preparer as *In re Flores*.

In re United States Trustee, 652 B.R. 731 (Judge Rodriguez - July 26, 2023)

Another petition preparer

“Sections 110(b)-(l) were enacted to protect consumers from abuses by non-lawyer petition preparers.³⁴Link to the text of the note Congress added § 110 to the Bankruptcy Code in 1994 in response to abuses by non-attorneys selling their "assistance services" to unwary debtors. "Bankruptcy petition preparer" is defined in § 110 of the Bankruptcy Code as "a person, other than an attorney for the debtor or an employee of such attorney under the direct supervision of such attorney, who prepares for compensation a document for filing" by the debtor in connection with his bankruptcy case. "Document for filing" is defined as "a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under [Title 11]." Furthermore, § 101(41) defines a "person" to include a corporation.”

“Section 110 "proscribes virtually all conduct falling into the category of guidance or advice effectively restricting 'petition preparers' to rendering only scrivener/typing services." Anything more, "be it suggesting bankruptcy as an available remedy for a debtor's financial problems, merely explaining how to fill out the schedules, or answering questions about exemptions or whether a claim is or is not secured will invariably contravene either state laws proscribing the unauthorized practice of law or other more specific provisions of § 110.”

Brandler v. Brandler (In re Brandler), 2023 Bankr. LEXIS 1785 (Judge Rodriguez - July 18, 2023)

“To survive a motion to dismiss under Rule 12(b)(6), a plaintiff's complaint must clear two hurdles. First, the complaint must describe the claim in enough detail to give fair notice of the claim and the grounds for it. "[A] formulaic recitation of the elements of a cause of action will not do. Specifics are unnecessary, but some facts must support each element. Second, the complaint must state a claim "plausible on its face," meaning the plaintiff's right to relief must rise above a "speculative level." Rule 8(a)(2) requires a plaintiff to plead "a short and plain statement of the claim showing that the pleader is entitled to relief." *In Ashcroft v. Iqbal*, the Supreme Court held that Rule 8(a)(2) requires that "the well-pleaded facts ... permit the court to infer more than the mere possibility of misconduct." "A claim has facial plausibility when the plaintiff leads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." "The plausibility standard is not akin to a 'probability requirement,' but it asks for more than a sheer possibility that a defendant has acted unlawfully.”

“Fraud claims must, in addition, meet Rule 9(b)'s heightened pleading requirements. Under Rule 9(b), fraud claims must be alleged with particularity concerning the circumstances of the fraud. "To plead fraud adequately, the plaintiff must 'specify the statements contended to be fraudulent, identify the speaker, state when and where the statements were made, and explain why the statements were fraudulent.”

“ Rule 12(e) provides that "a party may move for a more definite statement of a pleading to which a responsive pleading is allowed but which is so vague or ambiguous that the party cannot reasonably prepare a response." The complaint must "give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests." A Rule 12(e) motion may be appropriate "if a pleading fails to specify the allegations in a manner that provides sufficient notice." When evaluating a motion for a more definite statement, the Court must assess the complaint in light of the minimal pleading requirements of Rule 8. Given the liberal pleading standard set forth in Rule 8(a), Rule 12(e) motions are disfavored. The trial judge is given considerable discretion in deciding whether to grant a Rule 12(e) motion. Finally, a Rule 12(e) motion is not a substitute for the discovery process.”

Rodriguez v. Smith (In re Rodriguez), 652 B.R. 750 (Judge Rodriguez - August 4, 2023)

“Rule 11 is incorporated into bankruptcy proceedings by Bankruptcy Rule 9011.35Link to the text of the note "The purpose of Rule 9011 is to deter litigation abuse and unnecessary filings." The rule is meant "to dissuade litigants, those represented and unrepresented, from presenting matters to the court that are baseless or filed in bad faith.””

“The procedures for filing a Bankruptcy Rule 9011 motion for sanctions are specific so as to provide the respondent adequate notice of the motion and an opportunity to resolve the offending pleading before suffering sanctions. The first condition is that a request for sanctions by a party other than the Court must be instigated by filing a motion "made separately from other motions or requests," and "describing the specific conduct alleged to violate" Bankruptcy Rule 9011(c)(1). Bankruptcy Rule 9011(c) requires that, prior to the filing of a motion for sanctions, 21 days notice of the motion must be given to the respondent, so the respondent has an opportunity to correct whatever mistakes have been made. The courts refer to this 21-day period as the "safe harbor period." The purpose of the safe harbor requirement is to ensure that the party against whom sanctions are sought has an opportunity to correct the problem. Generally, the motion for sanctions filed with the court must be the same as the one served.”

Section 105(a) confers both statutory and inherent authority upon bankruptcy courts to impose sanctions.62Link to the text of the note Section 105(a) states:

The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.

“First, under 11 U.S.C. § 105, bankruptcy courts have civil contempt authority to provide remedies necessary to enforce the Bankruptcy Code. These civil penalties must either be compensatory in nature, or be designed to coerce compliance with a court order. In order to find a party in civil contempt, the movant must show a specific and definite violation of court order, by clear and convincing evidence. Second, under 11 U.S.C. § 105(a), bankruptcy courts have inherent sanction authority to deter and provide compensation for a wide range of improper conduct, provided that the Court make an explicit finding of bad faith. Bad faith must be shown by clear and convincing evidence.”

“28 U.S.C. § 1927 provides that "Any attorney or other person admitted to conduct cases in any court of the United States or any Territory thereof who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct." Sanctions under the statute must be predicated on actions that are both "unreasonable" and "vexatious." To find that an attorney's conduct is "unreasonable" and "vexatious," there must be evidence of bad faith, improper motive, or reckless disregard of the duty owed to the court.”

“Under § 105(a), "[s]anctions pursuant to that section include actual damages incurred and reasonable attorney's fees." A court may "exercise discretion and judgment" in allocating litigation expenses, and "may take into account its overall sense of a suit." Additionally, § 1927 provides for an award of attorney's fees where an attorney "multiplies the proceedings in any case unreasonably and vexatiously.””

In re Alvarez, 2023 Bankr. LEXIS 1981 (Judge Jones - August 9, 2023)

“Fed. R. Bankr. P. 3002.1 applies to claims in chapter 13 cases that are secured by a lien [*4] on a debtor's principal residence. The rule provides that:

(c) Notice of Fees, Expenses, and Charges

The holder of the claim shall file and serve on the debtor, debtor's counsel, and the trustee a notice itemizing all fees, expenses, or charges (1) that were incurred in connection with the claim after the bankruptcy case was filed, and (2) that the holder asserts are recoverable against the debtor or against the debtor's principal residence. The notice shall be served within 180 days after the date on which the fees, expenses, or charges are incurred.

(emphasis added). Rule 3002.1(i) also provides guidance regarding the consequences of a creditor's failure to comply with the rule's requirements:

(i) Failure to Notify.

If the holder of a claim fails to provide any information as required by subdivision (b), (c), or (g) of this rule, the court may, after notice and hearing, take either or both of the following actions:

(1) preclude the holder from presenting the omitted information, in any form, as evidence in any contested matter or adversary proceeding in the case, unless the court determines that the failure was substantially justified or is harmless; or

(2) award other appropriate relief, including reasonable expenses [*5] and attorney's fees caused by the failure.

Despite the mandatory nature of the rule, the Minnicks assert that as any failure to comply with Rule 3002.1 was remedied by the dismissal of the case under 11 U.S.C. § 349(b). 11 U.S.C. 349(b) provides as follows:

§ 349. Effect of dismissal

(b) Unless the court, for cause, orders otherwise, a dismissal of a case other than under section 742 this title—

(1) reinstates—

(A) any proceeding or custodianship superseded under section 543 of this title;

(B) any transfer avoided under section 522, 544, 545, 547, 548, 549, or 724(a) of this title, or preserved under section 510(c)(2), 522(i)(2), or 551 of this title; and

(C) any lien voided under section 506(d) of this title;

(2) vacates any order, judgment, or transfer ordered, under section 522(i)(1), 542, 550, or 553 of this title; and

(3) reverts the property of the estate in the entity in which such property was vested immediately before the commencement of the case under this title.

The Minnicks cite to *In re Hollingsworth* as support for their conclusion that 11 U.S.C. § 349(b) erases all obligations and effects of noncompliance upon dismissal. No. AP 08-00244-BGC, 2012 Bankr. LEXIS 4430, 2012 WL 4465593, at *4 (Bankr. N.D. Ala. Sept. 25, 2012). To the contrary, section 349(b)'s effects are limited. "The objective of section 349(b) is to restore all property rights, as far as practicable, to the positions they occupied at the commencement of a case." *U.S. v. Ramirez*, 291 B.R. 386, 391 (N.D. Tex. 2002); see also *In re Gamble*, No. 06-36485, 2007 Bankr. LEXIS 949, 2007 WL 895809 (Bankr. S.D. Tex. March 22, 2007). Nothing in § 349(b) vitiates the requirements of Rule 3002.1 or the consequences [*6] of a creditor's failure to comply. The issue is one of transparency and goes to the very heart of the bankruptcy process. The Court respectfully disagrees with *Hollingsworth* to the extent that it is read to amend § 349(b) to create additional effects caused by a dismissal."

"On its face, Rule 3002.1(i)(1) limits the Court's ability to preclude the introduction of evidence regarding fees and expenses for which a proper notice was not filed to the case in which the notices were supposed to be filed. Rule 3002.1(i)(2) contains no such limitation. The *Blanco* decision cited by the Minnicks supports the Debtor's pursuit of relief in this case for harm caused in the prior case."

"The Court further finds that the Minnicks' proof of claim filed in this case did not comply with Fed. R. Bankr. P. 3001. In their proof of claim, the Minnicks included a one-line entry for "Legal Fees" in an amount of \$12,699.49 with no explanation of the services provided (despite the form's clear instructions to the contrary) or any supporting attachments [Docket No. 62-5]. HN4 Rule 3001(c)(2)(A) requires an itemized statement of all pre-petition fees, expenses and charges sought in a proof of claim. Rule 3001(c)(2)(D) provides the consequences for failing to comply with Rule 3001(c)."

"Under Rule 3001(c)(2)(D), the Court may (i) preclude the introduction of evidence regarding fees and expenses for which an itemization was not provided and award other appropriate relief, including attorney's fees caused by the creditor's failure to comply. In both the original objection

(Docket No. 50) and the subsequent brief (Docket No. 63), the Debtor did not explicitly seek to prohibit the Minnicks from introducing evidence or request the award of attorney's fees. Instead, the Debtor requested only the disallowance of the attorney fee portion of the Minnicks' claim (Docket No. 50). That request was subsequently amended to the disallowance of all but \$4,334 of the Minnicks' requested fees and expenses.”

“For each of the foregoing reasons, the Court sustains the Debtor's objection and reduces the allowed fees and expenses to \$4,334.00. Any disallowed fees and expenses are prohibited from being collected by the Minnicks or their successors from the Debtor or his property. All other relief is denied.”

Austin v. Brown & Fortunato, P.C. (In re Uplift Rx, LLC), 2023 Bankr. LEXIS 2050 (Judge Isgur - August 21, 2023)

“The attorney immunity doctrine provides that "as a general rule, a party may not sue opposing counsel under any theory of recovery for 'acts or omissions undertaken as part of the discharge of their duties as attorneys to opposing parties.'" *Miller v. Stonehenge/Fasa-Texas, JDC, L.P.*, 993 F. Supp. 461, 464 (N.D. Tex. 1998) (quoting *Taco Bell Corp. v. Cracken*, 939 F.Supp. 528, 532 (N.D.Tex.1996)). While the rule does not "provide absolute immunity for every tort committed by a lawyer," it does shield an attorney acting within her role as an attorney. *Id.* The rule stems from the fact that an attorney does not typically owe duties of professional care to non-client third parties. *Cantey Hanger, LLP v. Byrd*, 467 S.W.3d 477, 481 (Tex. 2015). As a matter of public policy, this allows attorneys to pursue their clients' legal rights and render advice to clients without being "forced to constantly balance his own potential exposure against his client's best interest." *Id.* at 483 (citing *Alpert v. Crain, Caton & James, P.C.*, 178 S.W.3d 398, 405 (Tex. App.--Hous. [1st Dist.] 2005)). While an attorney may be liable for fraud falling outside the scope of her representation of a client, wrongful conduct which falls within the scope of client representation is protected by the doctrine. *Id.*”

“Here, the complaint alleges that, acting within its role at attorney, Brown & Fortunato provided a client with legal advice which was allegedly used to perpetuate a fraudulent scheme. As the court details in the background section above, the allegations in the complaint each involve Brown & Fortunato rendering advice considering the legality of Alliance's actions in dealing with the insurers or otherwise operating its business. Though the complaint alleges that the advice and assistance rendered by Brown & Fortunato was both wrong and wrongful, *Cantey Hanger* holds that even wrongful behavior is captured by the immunity doctrine. *Id.* None of the factual allegations in the complaint show that Brown & Fortunato did anything outside the scope of its role as the attorney for certain Alliance entities. See, e.g., *Alpert*, 178 S.W.3d at 407 (finding that none of the acts alleged in a complaint constituted conduct other than the ordinary duties of an attorney in order to "facilitate the rendition of legal services"). Therefore, the claim for aiding and abetting fraudulent misrepresentation is barred under Texas Law by the attorney immunity doctrine.”

“Under Texas law, the attorney immunity doctrine bars a claim brought by a non-client against an attorney for aiding and abetting wrongful conduct by the attorney's client. The case law clarifies that there is no fraud exception. *Cantey Hanger, LLP*, 467 S.W.3d at 483. The only exception is where an attorney acts outside the scope of her role. *Id.* While committing "independently fraudulent activities" falls outside the scope of an attorney's role, the complaint

does not allege that Brown & Fortunato committed a fraud on its own behalf. There are no allegations in the complaint suggesting that Brown & Fortunato did anything other than provide legal advice and services to the Alliance entities. The allegation is not that it rendered this advice fraudulently, but rather that the advice assisted its client in perpetuating a fraud. Therefore, the doctrine applies, and this claim is barred under Texas law.”

Byman v. RRL Cap. Invs., LLC (In re Providence Hosp. of N. Houston LLC), 653 B.R. 612 (Judge Rodriguez - September 7, 2023)

“Trustee asserts that Defendant committed a willful stay violation pursuant to § 362(k) by: (1) sending the Letter to the Trustee to cease and desist prosecution of the UMMC Adversary Proceeding, and (2) by asserting an invalid Security Interest in Debtor's assets despite the underlying Loans being paid off October 29, 2020.”

“The Fifth Circuit has enumerated three elements to establish a stay violation pursuant to § 362(k): "(1) the defendant must have known of the existence of the stay; (2) the defendant's acts must have been intentional; and (3) these acts must have violated the stay." "Section 362(k) does not require a specific intent to violate the automatic stay, only that the defendant's actions which violated the stay were intentional.”

“ First, the Court notes that assertion of the mere existence of a valid, perfected, pre-petition security interest in estate property is not, by itself, a violation of § 362(a)(4). Thus, the operative inquiry is whether a subsequent finding that the Security Interest is invalid, as the Court has done here, retroactively makes Defendant's assertion of its Security Interest as an act to create and enforce a lien against estate property in contravention of § 362(a)(4).”

“The Court finds that absent evidence of bad faith and knowledge that Defendant's Security Interest was invalid when it was asserted, that it does not. Normally, the only requisite mental state required to show a willful stay violation is that the defendant intended to commit the act, not that they intended to violate the stay. However, the issue here is that the act of merely asserting the existence of a pre-petition security interest, without taking any other action, does not violate the stay. Thus, the Court concludes that for this action to constitute a stay violation, additional evidence must be provided that the Security Interest was asserted in bad faith and with knowledge that the Security Interest was invalid. Otherwise, creditors who assert security interests in property of the estate in good faith might be subject to § 362(k) sanctions merely because of a subsequent judicial determination that the interest is invalid.”

In re Vasquez, 2023 Bankr. LEXIS 2242 (Judge Isgur - September 12, 2023)

“The Trustee claims that the requested attorneys' fees may not be awarded because the services provided by Gonzalez are covered by paragraph 1C of the fixed fee agreement. ECF No. 115. Paragraph 1C provides the following:

1. Counsel to Debtor(s) in this case, agrees to provide the following services to the Debtor(s) on a fixed fee basis: . . . C. Assist the Debtor(s) in preparing and filing the documents required by § 521 of the Bankruptcy Code and any required amendments.

ECF No. 7.”

“Section 521 provides a list of duties for debtors in a bankruptcy proceeding. See 11 U.S.C. § 521(a). Among them, as the Trustee cites, are the duties to file a schedule of current income and current expenditures and to cooperate with the trustee as necessary to enable the trustee to perform her duties. *Id.* § 521(a)(1)(B)(ii), (a)(3); ECF No. 115.”

“The Trustee asserts that Gonzalez's assistance to the Debtors in providing updated wage information, updated Schedules I and J, and a revised wage order constitutes assistance to the Debtors in complying with § 521 because “[t]he trustee has an obligation to adjust plan payments and file Notices of Wage Order Adjustments which are mailed to the debtor's employer,” and, therefore, “it is necessary for the trustee to have updated and current income and employment information.” ECF No. 115. The Trustee claims that these services are subject to the Debtors' continuing duty under § 521, and since the fixed fee agreement already provides for a total of \$4,500.00 in attorneys' fees to Gonzalez, an award of fees for these services is precluded by paragraph 1C as covered by the fees provided in the plan. ECF No. 115.”

“Section 521(a)(1) governs filings required by a debtor to commence a bankruptcy case. *See In re Cortez*, 457 F.3d 448, 457 (5th Cir. 2006). Providing current income and expenditure information under § 521 is intended to assist the court in determining a debtor's post-petition earnings and ability to fund a chapter 13 plan at the time of filing. *See Cortez*, 457 F.3d at 457. On the other hand, the updated wage information was requested by the Trustee to adjust plan payments and file Notices of Wage Order Adjustments. ECF No. 115.”

“The services subject to the fee application were performed by Gonzalez post-confirmation upon requests for updated information by the Trustee. Providing updated wage information, updated Schedules I and J, and a revised wage order after plan confirmation is not equivalent to the § 521 duty of providing a schedule of current income and current expenditures for the purposes of plan confirmation.”

“The Fifth Circuit has held that the Bankruptcy Code imposes a continuing duty of disclosure of certain assets. *See In re Coastal Plains, Inc.*, 179 F.3d 197, 207-08 (5th Cir. 1999); *In re Flugence*, 738 F.3d 126, 129, 129 n.1 (5th Cir. 2013); *In re Superior Crewboats, Inc.*, 374 F.3d 330, 335 (5th Cir. 2004); *Love v. Tyson Foods, Inc.*, 677 F.3d 258, 259-61 (5th Cir. 2012). This continuing duty is a general duty arising under the Bankruptcy Code. *See Coastal Plains*, 179 F.3d at 207-08. The text of § 521 does not in itself provide any continuing duty for the assets identified in the statute. *See, e.g., Coastal Plains*, 179 F.3d at 207-08. Although Gonzalez was required to provide the updated information requested by the Trustee, this was the product of a general continuing duty, not one directly arising under § 521. Paragraph 1C of the fixed fee agreement is inapplicable to these services.”

“Similarly, the Debtors' § 521(a)(3) duty of cooperation with the Trustee “as necessary to enable the trustee to perform the trustee's duties” does not preclude an award of the requested hourly fees. HN4 The language of paragraph 1C states that the paragraph applies to Gonzalez's services in assisting the Debtors in “preparing and filing the documents required by § 521,” but the § 521(a)(3) duty is not an independent document filing requirement. *See Cortez*, 457 F.3d at 457-58; ECF No. 7. Rather, the duty is intended to ensure that debtors cooperate with the trustee during the administration of the bankruptcy case to assist the trustee in determining whether to support or oppose confirmation of a chapter 13 plan. *See Cortez*, 457 F.3d at 457-58.”

“Finally, post-confirmation updated wage information, updated Schedules I and J, and a revised wage order are not "required amendments" under the language of paragraph 1C. ECF No. 7. Section 521 amendments are required when they are necessary for plan confirmation. *See Cortez*, 457 F.3d at 457-58. The requested updated information was not required for plan confirmation, because, as discussed, it was requested post-confirmation by the Trustee for plan payment adjustments and to file Notices of Wage Order Adjustments. ECF No. 115. Indeed, nothing in § 521 even requires that a wage order be filed.”

“Paragraph 1C does not preclude the attorneys' fees requested in the March 9, 2023, Chapter 13 Fee Application.”

In re Griffin, 2023 Bankr. LEXIS 2528 (Judge Rodriguez - October 12, 2023)

“There is no specific provision for a motion to reconsider under the Federal Rules of Civil Procedure. ¹⁷Link to the text of the note In the Fifth Circuit, a motion to reconsider may be brought under Rule 54(b) or Rule 59(e). Whereas Rule 59(e) applies only to final judgments and does not permit consideration of arguments that could have been raised previously, Rule 54(b) applies to interlocutory judgments and permits a bankruptcy court to reconsider and reverse its decision for any reason. "Rule 54(b)'s approach to the interlocutory presentation of new arguments as the case evolves can be more flexible, reflecting the inherent power of the rendering district court to afford such relief from interlocutory judgments as justice requires." Here, the Court's Extension Order is interlocutory and thus reconsideration pursuant to Rule 54(b) is appropriate.”

“The Supreme Court has articulated four factors to consider in finding that excusable neglect exists under 9006(b), to wit: (i) the danger of prejudice to the debtor; (ii) the length of the delay and its potential impact on judicial proceedings, (iii) the reason for the delay (including whether it was in the reasonable control of the movant); and (iv) whether the movant acted in good faith.”

“While the Fifth Circuit has held that misunderstandings of the federal rules usually do not constitute excusable neglect, it has also indicated that it "continue[s] to leave open the possibility that some misinterpretations of the federal rules could constitute excusable neglect." This Court is also bound by and must consider the Supreme Court's guidance in *Pioneer*, which, concerning motions to extend pursuant to Bankruptcy Rule 9006(b)(1), held that, "the determination is at bottom an equitable one, taking account of all relevant circumstances surrounding the party's omission.””

Heslin v. Jones (In re Jones), 2023 Bankr. LEXIS 2580 (Judge Lopez - October 19, 2023)

“Plaintiffs can invoke collateral estoppel to establish that a debt is nondischargeable. *See Grogan v. Garner*, 498 U.S. 279, 284 n.11, 111 S. Ct. 654, 112 L. Ed. 2d 755 (1991) ("We now clarify that collateral estoppel principles do indeed apply in discharge exception proceedings pursuant to § 523(a)."). Collateral estoppel prevents parties from relitigating issues of fact that were already "determined by a valid and final judgment" in a prior lawsuit in any future lawsuit involving the same parties. *Ashe v. Swenson*, 397 U.S. 436, 443, 90 S. Ct. 1189, 25 L. Ed. 2d 469 (1970). Federal courts must give full faith and credit to state-court judgments. *Parsons Steel, Inc. v. First Ala. Bank*, 474 U.S. 518, 523, 106 S. Ct. 768, 88 L. Ed. 2d 877 (1986) ("[U]nder the Full

Faith and Credit Act a federal court must give the same preclusive effect to a state-court judgment as another court of that State would give."); *Shimon v. Sewerage & Water Bd. of New Orleans*, 565 F.3d 195, 199 (5th Cir. 2009) (quoting *Parsons Steel*)."

"The laws of the state in which the judgments were entered determine whether collateral estoppel applies. *Gober v. Terra + Corp. (In re Gober)*, 100 F.3d 1195, 1201 (5th Cir. 1996). So the Texas rules apply here. Under Texas law, collateral estoppel bars a party from relitigating issues when "(1) the facts sought to be litigated in the second action were fully and fairly litigated in the first action; (2) those facts were essential to the judgment in the first action; and (3) the parties were cast as adversaries in the first action." *John G. & Marie Stella Kenedy Mem'l Found. v. Dewhurst*, 90 S.W.3d 268, 288 (Tex. 2002) (citations omitted)."

"A bankruptcy court does not necessarily need a full state court record to apply collateral estoppel. See *Fielder v. King (In re King)*, 103 F.3d 17, 19 n.1 (5th Cir. 1997) (citing *Sheerin v. Davis (In re Davis)*, 3 F.3d 113, 114-15 (5th Cir. 1993)). But a state court record devoid of factual findings to support a dischargeability determination is not entitled to summary judgment. See *Pancake v. Reliance Ins. Co. (In re Pancake)*, 106 F.3d 1242, 1244 (5th Cir. 1997) (denying application of collateral estoppel where state court record lacked findings of fact)."

"Under Texas law, the allegations in a petition are deemed admitted and the defendant's liability established if a default judgment is entered against a defendant based on discovery abuse. See, e.g., *Morgan v. Compugraphic Corp.*, 675 S.W.2d 729, 731 (Tex. 1984). The state court's Final Judgment is based on "the jury's findings, along with the Court's default judgment and resulting admissions." So the allegations in the Heslin/Lewis petition are deemed admitted by Jones."

"Default judgment orders like the ones entered against Jones have the effect of fully and fairly adjudicating a claim. See *Gober v. Terra + Corp., (In re Gober)*, 100 F.3d 1195, 1201 (5th Cir. 1996) (holding that an issue had been fully and fairly litigated even when pleadings were struck for discovery abuse); *Guion v. Sims (In re Sims)*, 479 B.R. 415, 421 (Bankr. S.D. Tex. 2012) (same); *Dahlin v. Dahlin (In re Dahlin)*, No. 16-36169, 2018 Bankr. LEXIS 1441, 2018 WL 2670501, at *4 (Bankr. S.D. Tex. May 15, 2018) (same)."

"In *Gober*, the Fifth Circuit found that, even though the court ultimately entered a default judgment, the issue of "willful and malicious injury" had been fully litigated. *Gober*, 100 F.3d at 1205. It based that conclusion on several factors, including the defendant's ability to participate in the damages hearing, participation in the process for two years, consistent disregard for the discovery rules, and refusal to comply with court orders. *Id.* at 1205-06. The defendant knew that the discovery sanctions were possible and what the resulting disposition would be if a default judgment was entered. *Id.* at 1202."

"And in *Pancake v. Reliance Insurance Co.*, the Fifth Circuit affirmed using collateral estoppel in a dischargeability action where a Texas state court struck a defendant's answer to a complaint for discovery abuse and then entered a judgment against that party. See *Pancake*, 106 F.3d at 1244. The Circuit stated that "where the court enters a default judgment after conducting a hearing or trial at which the plaintiff meets [its] evidentiary burden, the issues raised therein are considered fully and fairly litigated for collateral estoppel purposes." *Id.*"

In re Hassell, 2023 Bankr. LEXIS 2622 (Judge Isgur - October 25, 2023)

“A creditor who fails to file its proof of claim before the bar date, and who fails to request an extension of time to file, . . . may not file a late claim and participate in the voting or distribution from the debtor's estate.” *United States v. Kolstad (In re Kolstad)*, 928 F.2d 171, 173 (5th Cir. 1991); see also FED. R. BANKR. P. 3003(c)(2). However, “amendments to timely [filed] creditor proofs of claim have been liberally permitted to 'cure a defect in the claim as originally filed, to describe a claim with greater particularity or to plead a new theory of recovery on the facts set forth in the original claim.” *Id.* (quoting *In re International Horizons, Inc.*, 751 F.2d 1213, 1216 (11th Cir. 1985)). Amendments to proofs of claim relate back to the original filing they amend, whether the amendments are filed timely or tardily. *In re Friesenhahn*, 169 B.R. 615, 618 (Bankr. W.D. Tex. 1994).”

“Amendments do not vitiate the role of bar dates: indeed, courts that authorize amendments must ensure that corrections or adjustments do not set forth wholly new grounds of liability.” *Kolstad*, 928 F.2d at 175 (citing *In re Commonwealth Corp.*, 617 F.2d 415, 420 (5th Cir. 1980)). “[T]he court must subject post bar date amendments to careful scrutiny to assure that there was no attempt to file a new claim under the guise of an amendment.” *Int'l Horizons*, 751 F.2d at 1216 (citing *Commonwealth Corp.*, 617 F.2d at 420). “The deadlines have a purpose: they enable a debtor and his creditors to know, reasonably promptly, what parties are making claims against the estate and in what general amounts.” *Kolstad*, 928 F.2d at 173. “[T]he principal concern of claims amendments [is] that no new claim be tardily asserted” *Id.* at 175.”

In re Dominguez, 2023 Bankr. LEXIS 2675 (Judge Isgur - November 2, 2023)

“The Bankruptcy Code does not allow a plan to modify the rights of the holder of a claim secured only by a security interest in real property that is the debtor's principal residence. 11 U.S.C. § 1322(b)(2). The “rights” referred to in § 1322(b)(2) have been defined by the Supreme Court as those “reflected in the relevant mortgage instruments, which are enforceable under Texas law.” *Nobelman v. Am. Sav. Bank*, 508 U.S. 324, 324, 113 S. Ct. 2106, 124 L. Ed. 2d 228 (1993) (where Texas law was the state law controlling the mortgage on the principal residence).”

“The relevant mortgage instrument “right” in dispute is the due on sale clause. The right provided by a due on sale clause is the “mortgagee's future right to deal only with the original mortgagor as owner of its collateral, and to consent to a transfer only if the mortgage payments are current and the proposed transferee otherwise meets with the mortgagee's approval.” *In re Allen*, 300 B.R. 105, 118 (Bankr. D.D.C. 2003). “Due on sale clauses are valid and enforceable in Texas.” *In re Mullin*, 433 B.R. 1, 9-10 (Bankr. S.D. Tex. 2010) (citing *Sonny Arnold v. Sentry Savings Assoc.*, 633 S.W.2d 811 (Tex.1982)).”

“Applying this understanding to the statute, § 1322(b)(2) prohibits a plan from modifying the right of a home lender reflected in a due on sale clause. “That right is destroyed if the court allows the debtor's plan to force a new owner on the mortgagee in continued violation of the due-on-transfer clause.” *Allen*, 300 B.R. at 118.”

“The Bankruptcy Code provides an exception to § 1322(b)(2)'s prohibition on modifying a home lender's rights. Section 1322(b)(5) provides that, notwithstanding § 1322(b)(2), a plan may “provide for the curing of any default within a reasonable time” 11 U.S.C. § 1322(b)(5). Curing a default refers to restoration of the way things were before the default. *Mullin*, 433 B.R. at 13 (citing *In re Clark*, 738 F.2d 869, 872 (7th Cir. 1984)).”

“In the context of the default of a due on sale clause, “[t]he plain meaning of this language is that full title in the [p]roperty would be reinstated in the [original borrower].” *Id.* Returning title restores matters to the status quo ante. *See In re Clark*, 738 F.2d 869, 872 (7th Cir. 1984).”

“Notably, curing does not refer to “forc[ing] a new owner on the mortgagee” by treating the default in the plan because to do so would modify the mortgagee’s right in violation of § 1322(b)(2) to the extent that “[t]hat right is destroyed[.]” *Allen*, 300 B.R. at 118.”

Tex. Gen. Land Off. v. Pearl Res. LLC (In re Pearl Res. LLC), 2023 Bankr. LEXIS 2936 (Judge Rodriguez - December 13, 2023)

Keep this case handy for a great primer on expert witnesses.

DISTRICT COURT CASES

Ovation Servs., LLC v. Morgan, 2023 U.S. Dist. LEXIS 178356 (Judge Ramos - August 28, 2023)

The bankruptcy court may require a creditor to disclose post-petition charges for such things as attorney's fees, late fees, and force-placed insurance premiums.

In re Eichor, 2023 U.S. Dist. LEXIS 152028 (Judge Hanks - August 29, 2023)

Attempting to collect in rem can still be a violation of the discharge injunction.

“ “[D]ischarge establishes a legal right not to pay a debt and safeguards against harassment by the creditor.” *In re Walker*, 180 B.R. at 840. “Accordingly, a creditor's ability to proceed in rem against a debtor's collateral post-discharge requires that the creditor have a perfected security interest in the collateral.” *In re Loe*, No. 12-4108, 2013 Bankr. LEXIS 5263, 2013 WL 6628960, at *8 (Bankr. N.D. Tex. Dec. 17, 2013). “[A] creditor may not proceed in rem against a debtor's property interest if the creditor did not have a lien before the bankruptcy case and the debtor's personal liability has been discharged.” *Id.* Furthermore, “[n]umerous cases have held that a party who exercises its in rem rights nonetheless violates [the discharge injunction] if either the purpose or the objective effect of the action is to coerce the [bankruptcy] debtor into paying the debt personally.” *In re Mejia*, 559 B.R. 431, 442-43 (Bankr. D. Md. 2016) (emphasis in *Mejia*).”

“ “To determine whether a party should be held in contempt for violating a discharge injunction, courts employ an objective standard, and contempt is appropriate when there is not a 'fair ground of doubt' as to whether the creditor's conduct might be lawful under the discharge order.” *In re McKinney*, No. 21-50046, 2022 Bankr. LEXIS 1155, 2022 WL 1632156, at *2 (Bankr. N.D. Tex. Apr. 28, 2022) (some quotation marks omitted; quoting *Taggart v. Lorenzen*, 139 S. Ct. 1795, 1804, 204 L. Ed. 2d 129 (2019)). Under *Taggart*, three elements must be proven for a court to hold a party in contempt: “(1) the party violated a definite and specific order of the court requiring him to refrain from performing particular acts; (2) the party did so with knowledge of the court's order; and (3) there is no fair ground of doubt as to whether the order barred the party's conduct.” *In re McKinney*, 2022 Bankr. LEXIS 1155, 2022 WL 1632156 at *2 (ellipses omitted; quoting *In re City of Detroit, Michigan*, 614 B.R. 255, 265 (Bankr. E.D. Mich. 2020)). The bankruptcy debtor (or other moving party) must prove “at least” the first two elements by clear and convincing evidence. *In re City of Detroit*, 614 B.R. at 265-66. “Clear and convincing evidence” is evidence “so clear, direct and weighty and convincing as to enable the fact finder to come to a clear conviction, without hesitancy, of the truth of precise facts of the case.” *Hornbeck Offshore Services, L.L.C. v. Salazar*, 713 F.3d 787, 792 (5th Cir. 2013).”

In re Tug Robert J. Bouchard Corp., 2023 U.S. Dist. LEXIS 102356 (Judge Rosenthal - June 13, 2023)

“A creditor of a bankrupt debtor may file a proof of claim, 11 U.S.C. § 501(a), that “shall be executed by the creditor or the creditor's authorized agent.” FED. R. BANKR. P. 3001(b). A proof of claim “executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and the amount of the claim.” *Id.* 3001(f). Such a claim “is deemed

allowed, unless a party in interest . . . objects." 11 U.S.C. § 502(a).”

“An objecting debtor (or other party in interest) may introduce evidence to rebut the claim's presumptive validity. The "objecting party is tasked with putting forth such evidence sufficient to rebut the presumption of validity and establish that the claim should be disallowed." *In re Northbelt, LLC*, 630 B.R. 228, 245 (Bankr. S.D. Tex. 2020) (footnote and citations omitted). The objector must "produce evidence that is equal in probative force to that of the proof of claim." *Id.* This means that:

[T]he objecting party [must] produc[e] specific and detailed allegations that place the claim into dispute, by the presentation of legal arguments based upon the contents of the claim and its supporting documents, or by the presentation of pretrial pleadings, such as a motion for summary judgment, in which evidence is presented to bring the validity of the claim into question.

Id. (quoting *In re High Standard Mfg. Co., Inc.*, No. 15-33794, 2016 WL 5947244, at *3 (Bankr. S.D. Tex. Oct. 13, 2016)). If the objector meets this burden, the burden shifts back to the claimant to prove his claim by a preponderance of the evidence. *Id.*”

“Under Rule 3001, a proof of claim is a "written statement setting forth a creditor's claim." There is no requirement that the proof of claim be supported by admissible evidence for it to be presumptively valid. The bankruptcy court cannot disallow a presumptively valid claim on the sole basis that it is not supported by admissible evidence. See 11 U.S.C. § 502(b) (listing bases for disallowance of claims in whole or in part).”

Student Loans

11 U.S. Code § 523 - Exceptions to discharge

11 U.S.C. § 523

(a) A discharge under section 727, 1141, 1192 [1] 1228(a), 1228(b), or 1328(b) of this title does not discharge an individual debtor from any debt—

(8) Unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor's dependents, for—

A.

- i. An educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or
- ii. An obligation to repay funds received as an educational benefit, scholarship, or stipend; or

B. Any other educational loan that is a qualified education loan, as defined in section 221(d)(1) of the Internal Revenue Code of 1986, incurred by a debtor who is an individual

The Bruner Test

Brunner v New York State Higher Education Services Corp., 831 F.2d 395 (2d Cir. 1987)

To discharge a student loan under the Brunner test, a bankruptcy court must find that the debtor has established that:

- The debtor cannot presently maintain a minimal standard of living if required to repay the student loan
- Circumstances exist that indicate the debtor's financial situation is likely to persist into the future for a significant portion of the loan repayment period
- The debtor has made good faith efforts in the past to repay the student loan

Department of Justice new guidance

Issued November 17, 2022

Does NOT change

- Statute

- Case law

- Requirement to file adversary

Does provide objective standards and streamlined process

- No full discovery – focus on Attestation provided by debtor

- Allows AUSA with DOE to stipulate that “undue hardship” exists and recommend discharge if three conditions are met:

 - The debtor presently lacks an ability to repay the loan

 - The debtor’s inability to pay the loan is likely to persist in the future

 - The debtor has acted in good faith in the past in attempting to repay the loan

Through July 17, 2023, over 75% of final determinations resulted in stipulation

Currently ONLY applies to Direct loans

Can consolidate FFEL but ONLY before BK filed

Consolidation after filing may require court approval and create a post-petition debt

Does not limit potential discharge to specific bankruptcy chapters.

Partial discharge specifically called for where appropriate and permissible.
Paragraph IV(E)

Footnote #22:

This memorandum applies only to future bankruptcy proceedings, as well as (wherever practical) matters pending as of the date of this Guidance.

Can you reopen case...? Maybe...appears to be a case-by-case analysis by court.

To initiate, an adversary under 523(a)(8) must be filed

Make sure correct entities are served with the Complaint and Summons. This should be made in accordance with Bankruptcy Rule 7004(b)(5)

United States Department of Education
US Trustee for the Southern District of Texas
Attorney General of the United States

Practice Pointer: Once Complaint filed, extend answer date or stay proceedings for 120 days by consent motion

After adversary is filed, debtor must provide completed Attestation to the DOJ (most request by email)

Debtor lacks current ability to pay the student loans

Debtor's inability to pay is likely to persist in the future

Debtor has made a good faith effort to repay the student loans

DoJ "consults proactively" with DoE to determine if discharge should be granted

DoJ reports determination to Debtor

If stipulation agreed to, work with Assistant US Atty to properly document and present to court.

Income Driven Repayment Plans

Currently 9 repayment plans under HEA, 4 balance-based, 5 income-driven

All plans are “by right”, eligible debtors cannot be denied

Balance-based allow for full repayment of loans w/interest over time

Income-driven allow for payments based on borrowers' disposable income

Include provisions for forgiveness at end of plan

Include Public Service Loan Forgiveness

Generally last 10 – 25 years

Borrowers must enroll in plans and recertify income annually

SAVING ON A VALUABLE EDUCATION (SAVE)

The initiative, which is set to launch in February, will provide debt relief for borrowers who have made 10 years of monthly payments and have an original principal balance of \$12,000 or less in loans.

Debt relief will be automatically applied to borrowers' accounts, meaning they do not have to take any action. Borrowers who have a principal balance greater than \$12,000 are also eligible for forgiveness, though it will not be immediate.

For every \$1,000 borrowed above \$12,000, a borrower can receive forgiveness after an additional year of payments