

FILED

May 15, 2020

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

In re)
NOTICE OF FORBEARANCE FILED BY)
CREDITORS, DEBTORS, OR DEBTORS)
IN POSSESSION)
SECURED CLAIM PLAN)
DISBURSEMENTS)
_____)

General Order 20-03

The Coronavirus Economic Stabilization Act of 2020 (“CARES Act”) provides for a borrower to obtain a forbearance on Federally backed mortgage loans (statutorily defined term). Documents titled “Notice of Forbearance” (or similarly phrased title) stating that a forbearance on payments (current monthly payment, arrearage cure payment, or both) on secured claims included in bankruptcy plans has been granted and such amounts are not to be paid to that creditor are now being filed. Additionally, creditors with secured claims not subject to the CARES Act forbearance provisions are granting such forbearance and filing Notices of Forbearance with the court.

Therefore, to provide a process for a Chapter 12 or 13 trustee (“Trustee”) or plan administrator to efficiently administer plan payments and disbursements, to minimize unnecessary judicial proceedings and legal expense for creditors and debtors, to allow for the proper administration of bankruptcy plans confirmed by the court, Congress imposing a mandatory forbearance on claims that are the subject of ongoing bankruptcy cases and confirmed plans, and good cause appearing:

///

1 **IT IS ORDERED** that if a Trustee or plan administrator determines that a Notice of
2 Forbearance (however titled) has been filed for payments on a secured claim that are to be made
3 through the bankruptcy plan, the Trustee or plan administrator shall administer the Notice of
4 Forbearance and determine the required plan payments and disbursements altered thereby in the
5 same manner as a Notice of Mortgage Payment Change given pursuant to Federal Rule of
6 Bankruptcy Procedure 3002.1, except that the trustee or plan administrator may treat the
7 forbearance granted being immediately effective in computing the plan payment(s) and the
8 disbursement amount(s) due on the claim(s) subject to the forbearance.

9 The Trustee or plan administrator (if not the debtor) may file and serve on the debtor a
10 Statement Re: Notice of Forbearance which reports that the Trustee or plan administrator has
11 received a Notice of Forbearance, and identifies the claim, forbearance period, and plan payment
12 and claim disbursement amounts that are impacted by the Forbearance.

13 If the debtor or creditor disagrees with the Trustee's or plan administrator's interpretation
14 of the Notice of Forbearance, such debtor or creditor shall promptly (recognizing the need to
15 timely administer the plan and monthly disbursements thereunder) notify the trustee in writing
16 and take such action as appropriate in this court to enforce or modify the confirmed plan, the
17 Forbearance, or their respective rights as apply to the bankruptcy plan and case.

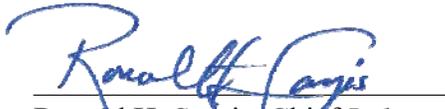
18 Further, if the Trustee or plan administrator: (1) has been notified by the debtor that a
19 forbearance has been granted, but no Notice of Forbearance has been filed by the creditor;
20 (2) cannot determine the scope of the forbearance as stated in a Notice of Forbearance; or (3) has
21 been notified that the debtor asserts different terms for the Forbearance, then, in addition to any
22 other rights or remedies, the Trustee or plan administrator may set a Forbearance Status
23 Conference.

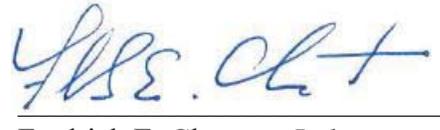
24 The Forbearance Status Conference shall be set by the Trustee or plan administrator for
25 the court's regular law and motion calendar. The Forbearance Status Conference shall be filed
26 and served on the debtor, creditor whose claim is the subject of the Notice of Forbearance, their
27 respective counsel (if represented), and the U.S. Trustee, and provide at least seven days notice.

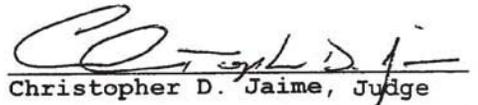
28 ///

1 This General Order does not prejudice or alter any right or interests of any persons to
2 pursue applicable remedies under the Bankruptcy Code, the Federal Rules of Bankruptcy
3 Procedure, or other applicable law.

4 Dated: May 15, 2020

5
6 
7 Ronald H. Sargis, Chief Judge
8 United States Bankruptcy Court

5
6 
7 Fredrick E. Clement, Judge
8 United States Bankruptcy Court

9
10
11 
12 Christopher D. Jaime, Judge
13 United States Bankruptcy Court

11 
12 René Lastrero II, Judge
13 United States Bankruptcy Court