

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA**

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In re:

Administrative Order 2020-11

**(I) Modification of the Automatic Stay
to Facilitate Forbearance Agreements
During COVID-19 and (II) Amendments to
and Modifications of Chapter 13 Plans to
Accommodate Forbearance Agreements**

The United States Bankruptcy Court for the Southern District of Florida continues to monitor the severity of the coronavirus (COVID-19) pandemic and its impact on debtors and creditors with cases pending in our Court. In anticipation that many debtors may qualify for and obtain agreements regarding the forbearance and/or deferment of post-petition payments to mortgage lenders and other secured creditors (“Forbearance Agreements”), the Court enters this Administrative Order. Accordingly, it is

ORDERED that, until further order of this court,

1. ***Applicability.*** This Administrative Order applies only to cases in which the debtor is an individual and which are currently pending before this court or are commenced while this Administrative Order remains in effect. This Administrative Order extends to Forbearance Agreements only and shall not be interpreted to grant relief from the automatic stay to pursue any other actions prohibited by 11 U.S.C. § 362.
2. ***Modification of the Automatic Stay.*** To the extent the automatic stay under 11 U.S.C. § 362 remains in effect with respect to the debtor and/or property of the estate, the automatic stay is modified to permit any creditor claiming a lien on property of the estate or property of the debtor to communicate with the debtor regarding the negotiation of a Forbearance Agreement, subject to the limitations set forth below.
3. ***Communications with Debtors.*** Direct communications between a debtor and a mortgage lender or other secured creditor, whether or not the debtor is represented by counsel, shall not be deemed a violation of the automatic stay provided that the debtor or counsel for the debtor initiated the request for forbearance and provided that counsel for the debtor has not instructed the lender to communicate with the debtor only through counsel.
4. ***Amendment to or Modification of a Chapter 13 Plan.*** The execution of a Forbearance Agreement between a chapter 13 debtor and a mortgage lender or other secured lender does not, by itself, alter or affect the chapter 13 trustee’s administration of the pending case. If a chapter 13 plan provides for payments to a mortgage lender or secured creditor and the debtor wishes the chapter 13 trustee to implement the terms of a fully executed Forbearance Agreement, the debtor must seek to amend or modify the plan as appropriate. If the debtor does not seek to amend or modify the plan to reflect the terms of the Forbearance Agreement, the most recent proposed plan or confirmed plan shall control and the chapter 13 trustee shall not in any way be bound by the Forbearance Agreement. The debtor’s failure to seek amendment or modification of the plan may result in administration of the case in conflict with the terms of a Forbearance Agreement.

5. ***Claims Not Provided for in Plan.*** If a debtor and a mortgage lender or other secured creditor enter into a Forbearance Agreement relating to a secured claim that is not provided for under the plan, no action by the debtor or chapter 13 trustee is required. The affected secured creditor may file a notice of forbearance agreement or similar document solely to provide notice of the existence of the agreement, but such notice will not constitute an amendment to or modification of the plan and will not affect in any way the duties of the chapter 13 trustee.

6. ***Professionalism and Civility.*** The court reminds debtors, creditors, and their attorneys that all parties are living and working under extraordinarily stressful circumstances. During this unprecedented time, it is more important than ever that all parties treat each other with dignity and respect.

ORDERED in the Southern District of Florida, this 20th day of August 2020.



Laurel Myerson Isicoff
Chief United States Bankruptcy Judge

c: All SD Bankruptcy Judges
Clerk of Court