

## **Highlights of Policies Regarding Claims, Plans and Motions**

### **Auto**

- Any request for new debt requires a motion. This is different than a request for replacement of an auto expense. There is no change to our replacement of auto policy and requirements.
- We will only pay the creditor if a proof of claim is filed. WE WILL NOT FILE A PROOF OF CLAIM ON BEHALF OF THE CREDITOR. If a POC is not filed, debtor's counsel should consider filing one on the creditor's behalf. Funds may otherwise be distributed to other creditors.

### **Claims unaffected by plan**

- We will set up all filed claims for payment, except student loans, and will pay claims per the plan, unless you file an objection to the claim. Student loans will be paid or not depending on the plan and confirmation order.

### **Claims filed for higher amounts**

- Claims will be set up for payment with NO reserve. If you do not agree with claim, you need to file a motion objecting to the claim. Depending on the effect of feasibility of the plan, we may file a motion to dismiss if the plan is no longer feasible. Since you receive a copy of the claim, it is your duty to review and address the claims filed.

### **Late Filed Proof of Claim**

- Claim will be set up for payment with NO reserve. Since you receive a copy of the claim, it is your duty to review and address the claims filed.

### **Loan Modifications – Treatment of Claims**

- Upon entry of a loan modification order that requires the Trustee to suspend payments to the mortgage company until an amended proof of claim is filed **or** until the Trustee is notified that the loan modification was not consummated, we will put a reserve on the claim. If the mortgage creditor does not file an amended claim or notify the Trustee that the loan modification was not consummated within sixty days of the loan modification order, we will file an objection to the claim and adjust claim to paid to date unless otherwise ordered by the court.
- Upon entry of a loan modification order that does not address pre-petition arrears due to the mortgage, we will put a reserve on the claim. If an amended proof of claim is not filed **of the** Trustee is not notified whether that loan modification was consummated within sixty days of loan modification order, we will file an objection to the claim and adjust claim to paid to date.

### **Lump Sum Payments Received**

- We will require a source of funding certification for any payment that equals more than 3 months of debtor's normal monthly payment.
- We will not close out a case before the end of the commitment period unless it is 100%, all court orders are met and the bar date has elapsed.

## **Mortgage Claims**

- If a plan provides for mortgage arrears to be paid through plan and creditor does not file a proof of claim, we will set up the proposed plan amount **with a reserve** for a limited period of time. **WE WILL NOT FILE A PROOF OF CLAIM ON BEHALF OF THE CREDITOR.** If at the time we conduct our post bar review, a claim is still not filed, we will file a notice of reserve and state that if no claim is filed after 60 days, reserve will be removed and creditor will not get paid. At that point in time, we will decide if case should proceed or if we should file a motion to dismiss. You may will to file a POC on behalf of that mortgagee. Funds will then be paid to other creditors and we will not seek refunds if or when the claim is filed.
- If mortgage debt was treated as surrendered in full satisfaction or \$0.0 remaining unsecured, and a deficiency claim is filed, **we will not set up claim to be paid.**

## **Objections**

- If you filed an objection and we have already disbursed money to a creditor and you wish for the money to be returned, you must include language in your motion and proposed order for the creditor to return the money to the Trustee. It will be your responsibility to obtain refunds on your objections.

## **Trustee's Motion to Dismiss/Certifications of Default etc.**

- Keith Guarneri is assigned to handle all Trustee's motions and certifications for Judge Papalia & Judge Sherwood. Extension 135.
- Sheila Alvarado is assigned to handle all Trustee's motions and certifications for Judge Meisel & Judge Gambardella. Extension 124.