

Student Loan Mediation Before Litigation Program Adopted by the United States Bankruptcy Court for the Southern District of New York

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As a follow up to our previous client alert titled "[Student Loan Debt Discharged in Recent Bankruptcy Court Opinion](#)," Judge Cecelia Morris of the Southern District of New York, the current Chief Judge who oversees bankruptcy courts in White Plains and Manhattan, signed General Order M-536: the Adoption of the Student Loan Mediation Before Litigation Program (the "SLM Program") on January 27, 2020.

The SLM Program resolves student loan disputes by allowing borrowers and lenders to discuss available repayment options through mediation, rather than costly litigation. The SLM Program includes procedural guidelines, a request form, sample order and a final report [available here](#). The SLM Program facilitates two different types of student loan scenarios: (a) requests for student loan modifications and (b) requests for the resolution of disputes over the dischargeability of student loan debt. The SLM Program will be managed by the bankruptcy court, although the court has no power to compel parties to agree to terms.

The SLM Program, while new in New York, exists in other jurisdictions, including the United States Bankruptcy Court for the Middle District of Florida, which established a similar program on September 1, 2019. The SLM Program is not the first initiative created by bankruptcy courts in New York to address debt related to social issues.

For example, former Chief Judge, Stuart M. Bernstein adopted Loss Mitigation Program Procedures (the "Loss Mitigation Program") on December 18, 2008, during the mortgage foreclosure crisis, to facilitate consensual resolutions for individual debtors whose residential real property was at risk of loss to foreclosure. The Loss Mitigation Program remains in existence and all bankruptcy courts in New York implement this program. The SLM Program is modeled after the Loss Mitigation Program.

The adoption of the SLM Program emphasizes the role courts can play assisting in the resolution of overarching social issues faced by parties. Only time will tell how well the SLM Program will work, as parties look to this process to navigate and resolve disputes related to student loan debt.

Please note that this is a general overview of developments in the law and does not constitute legal advice. Nothing herein creates an attorney-client relationship between the sender and recipient. If you have questions regarding these provisions, or any other aspect of bankruptcy law, please contact Michael Traison at [312.860.4230](tel:312.860.4230)

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