

Hearing Date:
Location:
Objections Due by:

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

Chapter 13

CAPTION

**MOTION TO DECLARE THAT MORTGAGE DEFAULT
HAS BEEN CURED AND THAT LOAN IS CURRENT**

The Debtors, _____, herein move the Court pursuant to §§ 1322, 1327, and 1328 of the Bankruptcy Code, for the entry of an order in this case to declare the mortgage loan currently serviced by _____ to have been cured by the completion of the Debtors' Chapter 13 Plan and to be current as of the date of entry of the Discharge Order in this case. In support of their motion, the Debtors aver that:

1. This case was commenced by the filing of a petition with the Clerk of this court on _____.
2. The Debtors' Chapter 13 Plan provided for a cure of the Debtors' mortgage delinquency and the maintenance of current mortgage payments during the plan pursuant to 11 U.S.C. § 1322(b)(5).
3. The Debtors' mortgage delinquency was determined by the allowance of

mortgagee's proof of claim in the amount of _____ .

4. The Debtors' Chapter 13 Plan providing for payment of that amount and maintenance of current payments by the Debtor was confirmed by Order of this Court and is binding on _____ under 11 U.S.C. § 1327.

5. After the Debtors completed their plan payments, the trustee filed a Final Report in this case on _____ .

6. The amount established as the arrearage to be cured by the Debtors on their mortgage has been paid, according to the Final Report of the trustee.

7. The Debtors have made all of their post-petition mortgage payments to up to and including the date of the filing of this motion.

8. The court has not, since confirmation of the Plan, approved any further expenses, fees, or charges in connection with the claim of _____ .

WHEREFORE, the Debtors request this Court to declare:

1. That the Debtors' mortgage loan has been cured, so that it is current as of the effective date of the Debtors' discharge and the Debtors' remaining balance due is the amount that it would have been if their default had never occurred;

2. That any amount for charges, fees or expenses that _____ may allege the Debtors to owe as of the date of the discharge in connection with any default on their mortgage or otherwise, that have not been approved by this Court through the allowance of the claim of _____ or otherwise, be deemed cured by

completion of the Plan and therefore canceled and discharged by the discharge order.

3. That any attempt to collect any of these discharged charges, fees or expenses be deemed to be a willful violation of the discharge injunction and contempt of the orders of this Court.

4. That the Debtors be afforded such other and further relief as is just and proper.

Dated:

NAME
ADDRESS
PHONE NUMBER