

**PROCEDURES ADOPTED BY THE BANKRUPTCY COURT CONCERNING MODIFICATION OF
LOANS SECURED BY DEBTOR'S RESIDENCE (REAL PROPERTY) DURING THE PENDENCY
OF A CHAPTER 7 BANKRUPTCY CASE**

The Court has adopted the following procedures to facilitate negotiation of a mortgage loan modification concerning a debtor's residence in a Chapter 7 bankruptcy case.

1. LBR 4008-2 provides that at any time during the pendency of a Chapter 7 case, the debtor and the mortgage creditor(s) may negotiate an agreement to modify the terms of the underlying loan agreement. A creditor's contact with the debtor and/or debtor's attorney to seek a modification of the debt shall not constitute a violation of the automatic stay of 11 U.S.C. §362. However, no agreement can become effective unless and until the trustee abandons the property. Negotiations with represented debtors must be with debtor's counsel who may consent to the creditor communicating directly with the debtor.

2. In order to implement LBR 4008-2, the notice of the meeting of creditors sent to interested parties in a Chapter 7 case contains the following provision:

“NOTICE RE ABANDONMENT OF DEBTOR'S RESIDENCE (REAL PROPERTY)

YOU ARE NOTIFIED: At least 5 days prior to the date of the meeting of creditors, any party in interest who objects to abandonment of the debtor's residence (real property) must file with the clerk of the court a written objection and serve a copy on the debtor and debtor's attorney. If no timely objection is filed, the trustee can abandon the property at or after the meeting of creditors upon request of the debtor or mortgage creditor without any further notice requirement. Mortgage creditors are authorized to negotiate a loan modification with a debtor either before or after the meeting of creditors, but any modification reached cannot become effective until the property is abandoned. Mortgage creditors may use the procedure outlined in LBF #751.7, available at www.orb.uscourts.gov, to obtain such abandonment. A creditor's contact with debtor and/or debtor's attorney to effect a modification shall not be considered a violation of the automatic stay of 11 U.S.C. §362. Negotiations with represented debtors must be with debtor's counsel who may consent to the creditor communicating directly with the debtor.”

3. To request abandonment, send the trustee a written request that s/he abandon the debtor's residence and provide documentation showing a perfected security interest and that no non-exempt equity exists for the benefit of the estate.

4. If the trustee agrees that abandonment of the property is appropriate, and no objections to the proposed abandonment have been filed per ¶2 above, the trustee will file LBF #751.5 (*Trustee's Abandonment of Debtor's Residence (Real Property)*) with the Court.