

PROCEDURES RE: MORTGAGE MODIFICATION

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. **Negotiations.** Local Bankruptcy Rule (LBR) 4008-2 provides that at any time during the pendency of a chapter 7 case, the debtor and a mortgage creditor 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 will 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. **Notice.** To implement LBR 4008-2, the Notice of Chapter 7 Bankruptcy Case sent to parties and creditors in a chapter 7 case contains the following provision:

Notice Re: Abandonment of Debtor's Residence (Real Property)

At least 5 days prior to the date of the meeting of creditors, any party in interest who objects to abandonment of the debtors' residence (real property) must file with the Court a written objection and serve a copy on the debtors and debtors' attorney. If no timely objection is filed, the trustee can abandon the property at or after the meeting of creditors upon request of the debtors 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 <https://www.orb.uscourts.gov>, to obtain such abandonment. A creditor's contact with the debtors and/or debtors' attorney to effect a modification will not be considered a violation of the automatic stay of 11 U.S.C. § 362. Negotiations with represented debtors must be with debtors' counsel who may consent to the creditor communicating directly with the debtor.

3. **Request.** To request abandonment, send the trustee a written request to 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. **Trustee's Action.** If the trustee agrees that abandonment of the property is appropriate, and no objection to the proposed abandonment has been filed per paragraph 2 above, the trustee will file [LBF 751.5](#) (Trustee's Abandonment of Debtor's Residence (Real Property)) with the court.