

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In re:)
)
Abandonment of Real Property;)
Modification of Debt Secured By) **GENERAL ORDER NO. 09-3**
Debtor's Residence (Real Property))
During Pendency of Chapter 7 or)
Chapter 13 Bankruptcy Case)
_____)

In order to provide an efficient procedure for the voluntary modification of debt secured by debtor's residence (real property) during the pendency of a Chapter 7 or Chapter 13 Bankruptcy case, **IT IS HEREBY ORDERED** as follows:

1. This General Order (G.O.) is effective on August 31, 2009.
2. LBR 6007-1 is amended to read as follows:

"Rule 6007-1. Abandonment.

- (a) **Trustee Abandonment/Motion to Compel Abandonment.** A trustee must use the appropriate LBF when filing under §554(a). Except as provided in (b), a party requesting relief under §554(b) must give notice under LBR 2002-1(b) of its intent to submit a proposed order to compel abandonment, and must contemporaneously serve documents evidencing the interest of that party and any perfection of a security interest, on the trustee and any creditors' committee.
- (b) **Trustee's Abandonment of Debtor's Residence in Chapter 7 Cases.** At least 5 days prior to the meeting of creditors in a Chapter 7 case, any party in interest who objects to an abandonment of the debtor's residence (real property) must file with the clerk of the court a written objection, and must contemporaneously serve a copy on the debtor's attorney (if not an ECF Participant), and, if debtor is not represented by an attorney, on debtor. 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. If the trustee consents to the request, a *Trustee's Abandonment of Debtor's Residence (Real Property)* must be filed with the court using LBF #751.5.

Cross-references:

- Voluntary Modification of Debt Secured by Debtor's Residence in Chapter 7 and Chapter 13 Cases - LBR 4008-2.
 - Definition of 'Mortgage Creditor' - LBR 9001-1(y)."
3. The following text is added to the Local Bankruptcy Rules as LBR 4008-2:

“Rule 4008-2. Voluntary Modification of Debt Secured by Debtor's Residence in Chapter 7 and Chapter 13 Cases

- (a) **Chapter 7 Cases.** Mortgage creditors are authorized to negotiate a modification of the underlying debt with debtor and debtor's attorney at any time during the pendency of a Chapter 7 case. A modification is voluntary on the part of any secured creditor and the debtor and is subject to procedures set forth in LBF #751.7. A mortgage creditor's contact with debtor and/or debtor's attorney and any negotiation to effect a modification shall not be considered a violation of the automatic stay of 11 U.S.C. §362. However, the trustee must abandon the property before any modification can become effective. Negotiations with represented debtors must be with debtor's counsel who may consent to the creditor communicating directly with the debtor.
- (b) **Chapter 13 Cases.** Mortgage creditors are authorized to negotiate a modification of the underlying debt with debtor and debtor's attorney at any time during the pendency of a Chapter 13 case. A modification is voluntary on the part of any secured creditor and the debtor. A mortgage creditor's contact with debtor and/or debtor's attorney and any negotiation to effect a modification shall not be considered a violation of the automatic stay of 11 U.S.C. §362. However, the trustee must consent in writing to the modification or the court must approve the modification before any modification can become effective. Negotiations with represented debtors must be with debtor's counsel who may consent to the creditor communicating directly with the debtor.

Cross-references:

- Trustee's Abandonment of Debtor's Residence in Chapter 7 Cases - LBR 6007-1(b).
- Definition of 'Mortgage Creditor' - LBR 9001-1(y)."

4. The following text is added to the Local Bankruptcy Rules as LBR 9001-1(y):

“(y) ‘Mortgage creditor’ includes any creditor secured by a mortgage, trust deed, or land sale contract on real property used as debtor's residence at the time the debtor files bankruptcy.”

5. LBRs 9001-1(y) - (jj) are renumbered as LBRs 9001-1(z) - (kk) in light of the addition of LBR 9001-1(y) in ¶4 above.

/s/ Elizabeth L. Perris
Elizabeth L. Perris
Chief Bankruptcy Judge