

D.N.J. LBR 4001-2 NEGOTIATIONS BETWEEN DEBTOR(S) AND MORTGAGE SERVICER(S) TO CONSIDER LOAN MODIFICATIONS AND THE PROCEDURE REQUIRED TO APPROVE LOAN MODIFICATIONS

- (a) This rule applies to negotiations between debtors and mortgage servicers to consider loan modifications and to the procedure required to approve loan modifications.
- (b) Communications and/or negotiations between debtors and mortgagees/mortgage servicers about loan modifications shall not be deemed as a violation of the stay.
- (c) Any such communication or negotiation shall be subject to Federal Rule of Evidence 408.
- (d) Prior to consummation of a loan modification agreement, the agreement must be presented for approval to the Court by motion, on fourteen (14) days notice to the Standing Chapter 13 Trustee and to all creditors whose claims are secured by liens against the underlying real estate. A copy of the proposed loan modification agreement must accompany the motion. Unless an objection to the loan modification is served and filed with the Court, an order may be entered approving the proposed loan modification, which will be effective as of the date on which the motion was filed. If a timely objection is filed, the Court will schedule a hearing at the earliest opportunity.
- (e) If a loan modification approved by the Court impacts on the provisions of a Chapter 13 plan, a modified plan must be filed.
- (f) A debtor need not dismiss a pending case in order to enter into negotiations with a mortgagee/mortgage servicer, or to achieve a loan modification.

NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES

2011 Comment: The provisions of this local rule were previously contained in the Court's Amended General Order Regarding Negotiations Between Debtor(s) and Mortgage Servicer(s) to Consider Loan Modifications. In September 2009, the Judicial Conference approved a set of Guidelines for Distinguishing Between Matters Appropriate for Standing Orders and Matters Appropriate for Local Rules. In response to these Guidelines, the Board of Bankruptcy Judges concluded that the provisions of the Court's General Order cited above should be addressed in a local rule. As a result, on August 1, 2011, the Court adopted D.N.J. LBR 4001-2 and incorporated the provisions of the General Order, with some minor changes, into the rule.