

Rule 9020-1 LOSS MITIGATION PROGRAM

(a) The Loss Mitigation Program (“LMP”) is a structured ~~forum for debtors and creditors to reach~~ process to facilitate consensual resolutions when residential property is at risk of foreclosure.

(b) For purposes of the LMP, the following definitions apply in W.P.A.LBR 9020-1 through 9020-7:

- (~~6~~ 1) “Core LMP Package” refers collectively to all of the forms and supporting documentation that the eCreditor requires ~~in order~~ to initiate the assessment of loss mitigation options.
- (~~5~~ 2) “eCreditor” refers to any mortgage holder, assignee, servicer or trustee of an eEligible Hloan.
- (~~2~~ 3) “debtor” means any individual debtor in a case filed under Chapter 7, 11, 12 or 13 of the Bankruptcy Code, including joint debtors.
- (4) “Document Preparation Software” refers to a secure online program that facilitates the preparation of the Core LMP Package by populating the Primary LMP Documents and generating a customized checklist. A list of approved Document Preparation Software providers and related information shall be posted on the Court’s website.
- (4 5) “Eligible Hloan” means any mortgage, lien or extension of money or credit secured by Eligible Property, regardless of whether the loan is considered to be subprime or non-traditional, was in foreclosure prior to the bankruptcy filing, is the first or junior mortgage or lien on the Eligible Property, and/or has been pooled, securitized or assigned to a creditor or trustee.
- (~~3~~ 6) “Eligible pProperty” means any real property used as ~~a~~ the debtor’s principal residence in which ~~an eligible~~ the debtor holds an interest.
- (7) “LMP Period” is the time during which the LMP is in effect prior to its expiration or termination by Court order.
- (~~1~~ 8) “loss mitigation” includes the full range of solutions that may prevent either the loss of a debtor’s Eligible pProperty to foreclosure, increased costs to the lender, or both, including but not limited to, loan modification, loan refinance, forbearance, short sale, or surrender of the Eligible pProperty in full satisfaction of obligations arising under an Eligible Loan.
- (~~8~~) ~~“Loss Mitigation Order” refers to an order of Court commencing the LMP and setting certain deadlines applicable to the participants, substantially in the form of Local Bankruptcy Form 41.~~

(7 9) “Portal” refers to a secure online service that allows LMP documents to be submitted, retrieved and tracked. A list of approved Portals and related information shall be posted on the Court’s website.

(10) “Primary LMP Documents” refers collectively to the documentation that is generated by the Document Preparation Software.

(c) Unless otherwise ordered by the Court, the Local Bankruptcy Rules apply to the LMP, including but not limited to the caption requirements set forth in W.PA.LBR 9004-1, the certificate of service requirements set forth in W.PA.LBR 2002-1 and the notice requirements set forth in W.PA.LBR 5005-8.

~~(d) — The confidentiality provisions of mediation set forth in W.PA.LBR 9019-5 shall apply to the LMP process.~~

Rule 9020-2 LOSS MITIGATION PROGRAM COMMENCEMENT

(a) At any time after the commencement of the case until three (3) days before the first date scheduled for the First Meeting of Creditors, ~~the a~~ debtor with Eligible Property secured by an Eligible Loan may request the commencement of the LMP by filing a ~~m~~Motion for Loss Mitigation (substantially in the form of Local Bankruptcy Form 39), ~~or the creditor may request the commencement of the LMP by filing a motion substantially in the form of Local Bankruptcy Form 40.~~ The Motion for Loss Mitigation shall be served on the Creditor and all other creditors whose claims are secured by liens against the Eligible Property.

(b) Prior to filing a Motion for Loss Mitigation, the debtor's counsel (or the debtor if not represented by counsel) shall:

- (1) perform adequate due diligence concerning the debtor's eligibility for loss mitigation by reviewing all of the loan documentation in the debtor's possession and confirming all information necessary to make the certifications required on the Certification of LMP Eligibility and Readiness (Local Bankruptcy Form 40);
- (2) fully and completely prepare the Primary LMP Documents using Court-approved Document Preparation Software; and
- (3) if the Creditor is registered on the Portal, download the Core LMP Package from the Portal and fully prepare all documentation that may be required and posted by the Creditor in addition to the Primary LMP Documents.

~~(b) — A proposed Loss Mitigation Order substantially in the form of Local Bankruptcy Form 41 shall be attached to any motion to commence the LMP.~~

(c) A Certification of LMP Eligibility and Readiness (substantially in the form of Local Bankruptcy Form 40) and a proposed Loss Mitigation Order (substantially in the form of Local Bankruptcy Form 41) shall be attached to any Motion for Loss Mitigation.

(e d) The deadline for filing an objection to a ~~motion to commence the LMP~~ Motion for Loss Mitigation is fourteen (14) days from the filing service of the motion. Objections shall identify with specificity the grounds for the objection. If no objection is filed, the Court may enter a Loss Mitigation Order without further notice or hearing.

Rule 9020-3 LOSS MITIGATION PROGRAM PARTICIPATION & DUTIES

(a) The debtor and eCreditor are the primary LMP participants. Any interested party may request by motion, or the Court may on its own direct, that a co-debtorobligor, additional creditors or other third parties participate in the LMP in furtherance of pursuing a global resolution.

(b) The Chapter 13 Trustee may participate in the LMP to the extent that such participation would be consistent with the Chapter 13 Trustee's duties under the Bankruptcy Code.

(e c) LMP participants shall ~~negotiate~~ act in good faith. A party failing to participate in good faith may be subject to sanctions after notice and a hearing.

~~(e d) LMP sessions may be conducted in person, telephonically, online via the Portal, or by videoconference. Prior to the conclusion of each LMP session, the participants shall determine whether additional sessions are necessary. If additional sessions are necessary, the participants shall schedule the next session and establish a precise schedule for exchanging all required information and documentation. During the LMP all material communications between the debtor and Creditor shall be conducted exclusively through the Portal.~~

~~(d e) The debtor and creditor shall have a person with full settlement authority present during each LMP session. During a status conference or settlement conference with the Court, a person with full settlement authority shall attend the conferences. On behalf of each participating party, a person with complete knowledge of the file so as to be reasonably capable of answering questions posed by the Court related to the LMP shall attend all LMP-related hearings and conferences before the Court. Attendance at all hearings and conferences related to the LMP shall be in person unless participation by telephone or videoconference is expressly authorized by the Court.~~

(f) A debtor who files a ~~motion to commence the LMP (Local Bankruptcy Form 39), Motion for Loss Mitigation~~ shall immediately shall make (or cause to be made) adequate protection payments to the eCreditor in an amount that is at least sixty percent (60%) of the monthly principal and interest payment that is contractually due, plus one hundred percent (100%) of any required monthly escrow payment. If the eCreditor objects to the amount of the adequate protection payment ~~proposed by the debtor~~, then after adequate notice, the Court shall hold a hearing to consider the objection.

(g) If the debtor is required to direct adequate protection payments to a different address than the debtor utilized prior to the filing of the bankruptcy case, the eCreditor shall promptly advise the debtor of the correct address and any other requirements to ensure the proper posting and processing of the payments. In Chapter 13 cases, the debtor immediately shall file a motion and proposed order requesting the Court to authorize the Chapter 13 Trustee to make payments to the specified payee at the specified address.

(h) In the event that the Eligible Loan is transferred or the service rights are assigned to a new servicer, then immediately on notice of the same the debtor shall file a proposed Order

Substituting LMP Servicer (substantially in the form of Local Bankruptcy Form 46) and initiate the change of Creditor in the Portal.

(h i) If a relief from stay motion pursuant to section 362(d) is pending when a Loss Mitigation Order is entered or if such a motion is filed during the LMP period, the Court may condition the stay upon ~~compliance by the debtor with the~~ fulfillment of the debtor's obligations under the Loss Mitigation Order. If the debtor fails to comply with the debtor's LMP process duties or the Loss Mitigation Order, the ~~e~~Creditor may apply to terminate the ~~Loss Mitigation Order~~ LMP pursuant to W.PA.LBR 9020-5. Additionally, unless the Creditor specifically objects in writing, it is deemed to consent to a waiver of the deadlines set forth in section 362(e) of the Bankruptcy Code until thirty (30) days after the conclusion of the LMP.

~~——(i)—— In a Chapter 13 case, the Chapter 13 Trustee may recommend entry of an Interim Confirmation Order substantially in the form of Local Bankruptcy Form 43 pending the resolution of the LMP process. Under the terms of the Interim Confirmation Order, distribution to administrative, priority, and secured creditors, including the payment of arrearages, if any, and adequate protection, may be set forth, and a date for a Confirmation Hearing, consistent with the terms of the Loss Mitigation Order, shall be fixed.~~

Rule 9020-4 LOSS MITIGATION PROGRAM DEADLINES

(a) The LMP commences upon the entry of a Loss Mitigation Order. The Court, at its discretion, may alter any of the deadlines set forth in ~~this section~~ these Local Rules. Where there is a conflict between the Loss Mitigation Order and these Local Rules, the Order governs.

(b) If not previously registered, Wwithin fourteen (14) days after the entry of the Loss Mitigation Order, the eCreditor shall ~~ensure that it has~~ registered and posted its entire Core LMP Package on the Portal.

(c) Within ~~thirty five~~ seven (~~35~~ 7) days after ~~the~~ entry of the Loss Mitigation Order or the Creditor's registration on the Portal, whichever occurs later, the debtor shall upload and submit a through the Portal debtor's completed Core LMP Package ~~via the Portal~~.

(d) Within ~~ten~~ fourteen (~~10~~ 14) business days after the debtor's submission of the Core LMP Package, the eCreditor shall designate, via the Portal, a specific individual who, on behalf of the eCreditor, is the single point of contact for the LMP and is responsible for communicating with the debtor ~~about the Core LMP Package in order to arrive at a Package that the creditor deems complete~~. The eCreditor shall provide the designee's name, title, email address and either a direct telephone number or direct extension. At the same time, Creditor shall acknowledge, via the Portal, receipt of debtor's Core LMP Package and advise debtor of any additional or missing information required for Creditor to proceed with its review. The eCreditor shall immediately notify the debtor if there is a substituted designee and/or any change in the designee's contact information.

(e) Within sixty (60) days after the entry of the Loss Mitigation Order, the debtor, on notice to ~~and in cooperation with~~ the eCreditor, shall ~~submit a status report substantially in the form of Local Bankruptcy Form 42 file and serve an LMP Status Report with an attached~~ If the status report includes a request for an extension of the LMP period, the debtor shall attach a proposed order substantially in the form of Local Bankruptcy Form 44. The status report shall include a printout of the current and complete account history page from the Portal. The LMP Status Report shall be completed in accordance with the instructions provided in the Portal.

(f) Within ~~fourteen~~ seven (~~14~~ 7) days after the ~~final~~ conclusion of the LMP ~~p~~Period, the debtor, on notice to ~~and in cooperation with~~ the eCreditor, shall ~~submit an online final report at <http://www.pawb.uscourts.gov/lmp-reporting>. A PDF of file and serve an LMP Final Report with an attached printout of the current and complete and current Portal account history from the Portal. shall be uploaded during the completion of the online final report. The LMP Final Report shall be completed in accordance with the instructions provided in the Portal. The obligation to timely file an LMP Final Report applies in all cases where a Loss Mitigation Order was issued, regardless of whether the case was subsequently dismissed or converted.~~

(g) If the LMP participants agree to the terms of a loan modification on a trial/interim basis, the debtor shall file a proposed order to approve the interim trial loan modification (substantially in the form of Local Bankruptcy Form 47) not less than fourteen (14) days before the first modification payment is due. In Chapter 13 cases, when trial payments are included as

part of the trial loan modification, the proposed order must be filed not less than fourteen (14) days prior to the Chapter 13 Trustee's distribution date preceding the month in which the first trial payment is to begin.

Rule 9020-5 LOSS MITIGATION PROGRAM DURATION

(a) The ~~initial~~ LMP ~~p~~Period shall be ninety (90) days unless otherwise specified in the Loss Mitigation Order.

(b) A request to extend the LMP ~~p~~Period shall ~~either be set forth in a status report pursuant to W.P.A.LBR 9020-4(e) or be requested by way of a motion setting forth all factual reasons in support of the request, with an attached proposed order substantially in the form of Local Bankruptcy Form 44.~~ be made by way of a Motion To Extend the Loss Mitigation Period (substantially in the form of Local Bankruptcy Form 42). A proposed order (substantially in the form of Local Bankruptcy Form 43) and a complete and current printout of the account history from the Portal shall be attached to the Motion.

(c) A request to terminate the LMP process shall be made by way of ~~a motion setting forth all factual reasons in support of the request, with an attached proposed order substantially in the form of Local Bankruptcy Form 45.~~ Motion To Terminate the Loss Mitigation Program (substantially in the form of Local Bankruptcy Form 44). A proposed order (substantially in the form of Local Bankruptcy Form 45) and a complete and current printout of the account history from the Portal shall be attached to the Motion.

(d) Requests to extend or terminate the LMP process shall be served on all parties in interest, including, where applicable, the trustee or Chapter 13 Trustee.

(e) The deadline for objecting to a request to extend or terminate the LMP process is ~~three~~ seven (3 ~~7~~) business days from the service of the ~~request~~ motion.

(f) Where a timely objection is filed, the Court may schedule a hearing to determine whether granting the relief requested is appropriate under the circumstances.

~~(g) — Upon the entry of an order terminating the LMP process, the creditor may file a motion seeking relief from stay.~~

Rule 9020-6 LOSS MITIGATION PROGRAM RESOLUTION

(a) LMP participants shall seek ~~the Court's approval of~~ authorization to enter into any agreement reached during the LMP process, including, but not limited to, a stipulation, sale, plan of reorganization, amended plan of reorganization, or loan modification, by way of a motion that complies with W.PA.LBR 9010-3 and W.PA.LBR 9019-1.

(b) Dismissal of the bankruptcy case shall not be made a requirement of an agreement reached through the LMP.

(c) Consent to the resolution shall be acknowledged in writing by an authorized representative of the ~~e~~Creditor, the debtor, and the debtor's attorney, if applicable.

(d) ~~In a Chapter 13 case in which a~~ If parties agree to a final or long-term loan modification ~~has been agreed upon,~~ the debtor shall file a ~~m~~Motion to ~~approve~~ Authorize the ~~H~~Loan ~~m~~Modification, which shall be served immediately on ~~the Chapter 13 Trustee~~ any applicable trustee and all creditors whose claims are secured by liens against the ~~residence~~ Eligible Property. The motion shall contain a detailed analysis of the proposed loan modification, and shall include a Loan Modification Summary (substantially in the form of Local Bankruptcy Form 48). A copy of the loan modification agreement shall accompany the motion. In a Chapter 13 case, ~~T~~he proposed order shall ~~provide~~ include the following provisions, where applicable:

- (1) If the loan modification approved by the Court impacts on the provisions of the debtor's Chapter 13 plan, a modified plan shall be filed within ~~ten~~ fourteen (~~10~~ 14) days of the entry of the order approving the loan modification.
- (2) If the loan modification approved by the Court results in a material change in the debtor's expenses, the debtor shall file an amendment to the impacted schedules reflecting income and expenses (Schedules I and J) within ~~ten~~ fourteen (~~10~~ 14) days of the entry of the order approving the loan modification.

(e) Where a debtor is represented by counsel, a resolution may be ~~approved~~ authorized by the Court without further notice, or upon such notice as the Court directs. Where a debtor is not represented by counsel, prior to authorizing a resolution ~~shall not be approved until~~ after the Court ~~has~~ may conducted a hearing at which the debtor shall appear in person. To be authorized by the Court, a proposed resolution must be in the best interests of the debtor and the bankruptcy estate.

(f) In the event a debtor satisfies all payment obligations under a trial/interim loan modification order, the Creditor shall extend an offer to enter into a final loan modification agreement within fourteen (14) days of receipt of the last interim payment. If the debtor accepts the offer, then the debtor immediately shall file and serve a Motion to Authorize the Loan Modification pursuant to W.PA.LBR 9020-6(d). If the debtor rejects the offer, then the debtor immediately shall file and serve either a Motion to Extend the Loss Modification Period

(pursuant to W.PA.LBR 9020-5(b)) or a Motion to Terminate the Loss Modification Program (pursuant to W.PA.LBR 9020-5(c)) that sets forth the specific reasons for rejecting the offer.

Rule 9020-7 LOSS MITIGATION PROGRAM FEES, COSTS & CHARGES

(a) Use of the Document Preparation Software requires the debtor to pay a fee of up to \$40.00 to the provider of the Document Preparation Software. Use of the Portal requires the debtor to pay a fee of up to \$25.00 to the administrator of the Portal. If use of the Document Preparation Software and/or the Portal creates an undue hardship, the debtor may file a motion specifying why the use of the Document Preparation Software and/or the Portal creates an undue hardship and requesting permission to prepare and exchange documents and communications conventionally with the eCreditor in another manner.

(b) If a proposed LMP resolution provides for a eCreditor to receive payment or reimbursement of any fee, cost or charge that arose from the LMP process, all such fees, costs and charges shall be disclosed to the debtor, the trustee, the U.S. Trustee, and to the Court prior to approval of the resolution. Counsel for the eCreditor is may be entitled to receive a reasonable fee for all work involved in connection with the mortgage modification, including requesting and reviewing documents, LMP and shall clearly delineate such fee in the LMP resolution or by amended proof of claim.

(c) Counsel for the debtor is entitled to receive reasonable compensation for all work involved in connection with the LMP process and shall file an application for allowance of attorney fees and costs with the Court, or alternatively accept a “no look” fee in the a reasonable amount of not to exceed \$1,000.00 to be paid as an administrative expense. Debtor’s counsel may also treat the Document Preparation Software fee of up to \$40.00 and the Portal fee of up to \$25.00 as an administrative expenses. Counsel for the debtor shall request compensation for LMP work in excess of the no look fee by way of a fee application substantially conforming to W.PA.LBR 2016-1 which shall separately itemize and designate fees and expenses arising from LMP-related services.