

**Explanation: The proposed changes are made to reflect changes made to the numbering of referenced national forms.**

#### **Rule 9004-1 CAPTIONS OF PLEADINGS AND ORDERS**

Except as specified herein, any document filed in the general case or miscellaneous docket of a bankruptcy proceeding, including, but not limited to, any proposed order, pleading, notice, declaration, motion, application, response, or reply, shall contain a caption substantially conforming to Official Form 416D (Caption for Use in Adversary Proceeding), governing adversary captions except that the party seeking relief shall be designated as “Movant,” and the party against whom relief is sought shall be designated as “Respondent.” When there is no entity to be named as a respondent, the words “No Respondent(s)” shall be stated. In the caption of each motion and any response thereto, the case number shall be entered as well as the Chapter number. “Document No.” shall be stated instead of “Adversary Proceeding No.” A certificate of service, proposed order, or any subsequent pleading to a motion, objection, or other request for relief shall include in the caption the hearing date and time, the objection date, and the document number of the document to which it pertains. The foregoing requirement as to captions shall not apply as to a bankruptcy petition and other related preliminary filings in a bankruptcy case (Official Forms 101 through 207~~1 through 15, 18, 19, 21, 22, 23, 25, and 26~~, or any Supplement or Attachment thereto); ~~Directors Procedural Forms 13S through 231A B, 253~~; Local Bankruptcy Forms 1A-1B, 10, and 13; a Chapter 11 plan of reorganization; a plan of reorganization in a small business case; a Chapter 12 plan; and a Chapter 13 plan and related disclosure statements.

**Explanation: The proposed change to subpart (a) incorporates the Order issued in Case No. 19-22141-JAD at Doc. No. 79, clarifying that the thirty day deadline begins to run when the First Meeting of Creditors is originally scheduled, even if the meeting is rescheduled for a later date.**

## **Rule 9020-2 LOSS MITIGATION PROGRAM COMMENCEMENT**

(a) At any time after the commencement of the case until thirty (30) days after the first date originally scheduled for the First Meeting of Creditors whether or not it actually takes place, or at any time during the case with the lender's consent, a debtor with Eligible Property secured by an Eligible Loan may request the commencement of the LMP by filing a Motion for Loss Mitigation (substantially in the form of Local Bankruptcy Form 39). 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.

(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.

(d) The deadline for filing an objection to a Motion for Loss Mitigation is fourteen (14) days from the 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.

**Explanation: Subpart (e) is added to ensure that a proposed loan modification will bring the entire loan current, including any applicable escrow components.**

## **Rule 9020-6 LOSS MITIGATION PROGRAM RESOLUTION**

(a) LMP participants shall seek the Court's 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.P.A.LBR 9010-3 and W.P.A.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 Creditor, the debtor, and the debtor's attorney, if applicable.

(d) If parties agree to a final or long-term loan modification, the debtor shall file a Motion to Authorize the Loan Modification, which shall be served immediately on any applicable trustee and all creditors whose claims are secured by liens against the 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, the proposed order shall 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 fourteen (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 fourteen (14) days of the entry of the order approving the loan modification.

(e) In addition to the requirements of Subsection (d), above, as part of the Motion to Authorize the Loan Modification, the Creditor shall attach a certification stating the following:

- (1) an escrow analysis was performed in connection with the offer of a loan modification.
- (2) approval of the loan modification will bring any arrearages in the Debtor's escrow account obligations current as of the effective date of the loan modification.
- (3) the Debtor's timely loan payment per month will adequately satisfy all escrow requirements over the ensuing 12 months (including but not limited to, all projected disbursements from the account together with the

two-month's minimum balance required under the Real Estate Settlement Procedures Act (RESPA)) without the need for an increase in the escrow payment (unless such payment is solely caused by an increase in the tax or insurance obligations funded from the account).

(~~f~~e) Where a debtor is represented by counsel, a resolution may be 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 the Court may conduct 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.

(~~g~~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.