

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
OFFICE OF THE CLERK**



July 14, 2009

CLERK'S NOTICE 09-03

**Notice Regarding Procedure for Obtaining Approval of
Mortgage Loan Modifications in Chapter 13**

The bankruptcy judges of the Northern District of Texas have determined that court approval is required when a mortgage loan modification or refinancing occurs in a pending Chapter 13 case. In order to carry out this directive, the Clerk's office has devised procedures to be followed when seeking approval for such an agreement. The procedures outlined below are effective immediately.

1. Approval of a mortgage loan modification or refinancing should be sought via the filing of a motion on notice to creditors, the standing trustee, the Office of the U.S. Trustee, and all other parties in interest.
2. The pleading and/or notice served should contain the standard twenty-day suspense language set out in Local Bankruptcy Rule 9007.1(b).
3. A copy of the agreement in question must be attached to the motion as well as a settlement statement detailing any fees and expenses assessed as a part of the process and an amended Schedule I and J.
4. The Motion must also specify whether the mortgage arrearage is being subsumed in the refinancing and whether a plan modification will be required.
5. Motions drawing an objection from any party would be set for hearing on the next available Chapter 13 docket day in the Court in question.
6. As directed by the judges, all motions seeking approval of a mortgage loan modification or refinancing will be reviewed by the standing trustee who shall have standing to lodge such

objections to the motion as may be deemed appropriate in the exercise of his discretion. The standing trustee's review will be guided by a consideration of the feasibility of the proposal and its impact on the ability of the debtor to complete the payments required under their plan. Specific factors to be considered will include the following:

- Is the agreement being concluded with the previous lender or a new party?
- Are additional monies being borrowed?
- Is the debtors' monthly payment being reduced?
- Is the interest rate paid by the debtors being reduced? Is the reduced rate subject to further adjustment at a later date?
- Is the term of the loan being extended?

Questions regarding this notice should be directed to the chapter 13 trustee assigned to the case.

FOR THE COURT
Tawana C. Marshall
Clerk of Court