



United States Bankruptcy Court  
Middle District of Florida



Karen S. Jennemann  
Chief Judge

Lee Ann Bennett  
Clerk

DATE: August 14, 2014

FROM: US Bankruptcy Court, Middle District of Florida

TO: Participants in Mortgage Modification Mediations in Bankruptcy

SUBJECT: Uniform District-wide Mortgage Modification Mediation Procedures

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Effective August 15, 2014, the Bankruptcy Court for the Middle District of Florida is adopting uniform district-wide mortgage modification mediation procedures (MMM). The following general terms apply:

1. MMM is available in all cases and for any type of real property.
2. A motion seeking MMM shall include a complete property address of the relevant property and the last four digits of the mortgage loan number. If not included, the motion will be abated until an amended motion containing the required information is filed.
3. No negative notice is required for a motion seeking MMM but lenders may seek reconsideration for cause within 14 days of entry of an order directing MMM.
4. A motion seeking MMM shall be filed within 90 days of the filing or conversion of the case. If not timely filed, the Court will set a hearing and will grant the request only if good cause is demonstrated for the delay.
5. The parties will conclude the MMM process within 150 days of the filing or conversion of the case, unless that time is enlarged by written consent on the portal, by stipulation of the parties, or by Court order.
6. If timely filed, the Court will prepare and enter an order directing MMM.

7. Parties shall have 14 days after the entry of the order directing MMM to jointly select a mediator qualified pursuant to [Administrative Order FLMB-2013-3](#) or to object to the mediator selection process. If the parties cannot agree on a mediator, the Debtor will select a mediator, and the lender may file an objection within 7 days. If a timely objection to a mediator is filed, the Chapter 12 or 13 Trustee or the Clerk in a Chapter 7 or 11 case will select the mediator.
8. Both Debtor and Lender each shall pay \$250 directly to the mediator within seven days of the designation of the mediator. Parties also shall equally pay the Mediator for any additional hourly fees incurred from MMM conferences that extend beyond two, one-hour sessions.
9. Parties must use the secure portal (the "Portal") (e.g. <https://www.dclmwp.com/Home>) for submission of documents to initiate the MMM and follow guidelines included in the Court's order directing MMM.
10. The parties may communicate outside the Portal orally, but all written communication shall occur through the Portal.
11. Parties may submit a proposed order simultaneously with a motion seeking approval of a *temporary* MMM agreement without need of negative notice or hearing.
12. Parties may use negative notice when filing a motion seeking approval of a *permanent* MMM agreement.
13. An order approving a permanent MMM agreement (i) shall be in a format that can be recorded in the public records of the county where the relevant property is located, and (ii) should be recorded by the Debtor within 90 days of the entry of the order, unless the parties agree otherwise.
14. In Chapter 12 and 13 cases, Debtors seeking MMM must provide adequate protection as directed in the Court's order directing MMM.
15. In Chapter 12 and 13 cases, the Court may confirm a plan of reorganization subject to pending MMM.

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
\_\_\_\_\_ DIVISION  
[www.flmb.uscourts.gov](http://www.flmb.uscourts.gov)

In re:

Case No.  
Chapter

Debtor\*  
\_\_\_\_\_ /

**ORDER DIRECTING  
MORTGAGE MODIFICATION MEDIATION**

THIS CASE came on for consideration of Debtor's Motion for Mortgage Modification [Doc. No. # ] (the "Motion").

Accordingly, it is

**ORDERED:**

1. The Motion is granted.
2. Selection of Mediator. Parties shall have 14 days after entry of this Order to jointly select a Mediator qualified pursuant to Administrative Order FLMB-2013-3. If the parties cannot timely agree on a Mediator, the Debtor will select the Mediator, and the Lender may file an objection within seven days. If a timely objection to a Mediator is filed, the Chapter 12 or 13 Trustee or the Clerk in a Chapter 7 or 11 case will appoint the Mediator from the Court's list of approved Mediators. If the Debtor is not represented, the Court may select a Mediator.
3. Objections to Mortgage Modification Mediation ("MMM"). Lender may seek reconsideration of this Order by written motion filed within 14 days after entry of this Order. If a timely motion for reconsideration is filed, the Court will set a hearing, and all deadlines in this Order are suspended pending resolution of the motion.
4. MMM Portal. Parties must use a secure Portal (e.g. <https://www.dclmwp.com/Home>) for the submission of all documents related to the MMM process. Any Lender ordered to participate in the MMM process shall post on the Portal those documents required by that Lender for the mediation to proceed and designate its single point of contact and outside legal counsel, if any, within seven days after entry of this Order. If the Lender fails to register and is represented by counsel in this case, the Debtor may file a motion with the Court seeking sanctions for Lender's failure to post the needed information on the Portal. The parties may communicate outside the Portal orally, but all written communication relating to the MMM process shall occur

through the Portal. Any litigated matters incidental to the mediation are considered separate matters, and parties are not required to use the Portal for these separate matters.

5. Identification of Mediators. Debtor shall identify the Mediator on the Portal within seven days of the Mediator's selection.
6. Submission of Documents on Portal. No later than seven days after identifying the Mediator on the Portal or confirming that the Lender is registered on the Portal, whichever occurs later, the Debtor shall a) pay the Portal fee, b) upload a copy of this Order to the Portal, and c) submit all documents and financial information requested by the Lender to the Portal. Within 14 days thereafter, the Lender shall acknowledge receipt of the Debtor's information and advise the Debtor of any additional or missing information needed by the Lender to proceed with its review. Debtor must supply any missing or additional information to the Lender via the Portal within seven days from the time of the Lender's request.
7. Scheduling Mediation. Within 28 days of the entry of this Order, the Mediator shall work diligently with the parties to coordinate a mutually convenient date, time, and place of the mediation.
8. Conclusion of Mediation within 150 Days. Parties will conclude the MMM process within 150 days of the filing or conversion of the case, unless that time is enlarged by written consent on the Portal, by stipulation of the parties, or by Court order.
9. Settlement Authority. Lender's designated representative shall have the authority (within investor guidelines) to settle and will attend and continuously participate in all scheduled mediation sessions.
10. Telephonic Attendance. Parties may participate in mediation sessions by telephone with the Mediator's approval. Debtor shall provide a foreign language interpreter, if necessary, at the Debtor's expense. All parties not physically present must be ready, willing, and able to sign a binding settlement agreement by facsimile, email, or other electronic means at the time of mediation.
11. Lender Obligations. Lender shall timely underwrite the loan modification request. If the Lender transfers the loan, the Lender must provide a copy of this Order to the Successor Lender, who is obligated to comply with all terms of this Order and is bound by all agreements, whether interim or final.
12. Mediator Obligations. The mediator shall:
  - a) Be governed by the standards of professional conduct set forth in the Florida rules for certified and court-appointed mediators and shall have judicial immunity in the same manner and the same extent as a judge;

- b) Receive compensation in the amount of \$500.00 for preparation for the mediation, execution of required documents, facilitation of document and information exchange between the parties, and participation in no more than two one-hour conferences;
- c) Receive compensation at an agreed hourly rate for any MMM conferences that extend beyond two one-hour conferences;
- d) Login to the MMM portal within seven days after designation and use the Portal to facilitate the exchange of information of additional documentation between the Parties in an effort to perfect the documents needed for Lender to complete its review;
- e) Report on the Portal the scheduling of all mediation sessions and maintain a log of attendees at each session; and
- f) File with the Court a final report not later than seven days after conclusion of the final mediation session indicating whether an agreement was reached or not.

13. Mediator Fees. Both Debtor and Lender each shall pay \$250 directly to the Mediator within seven days of the designation of the Mediator. Parties also shall equally pay the Mediator for any additional hourly fees incurred from MMM conferences that extend beyond two, one-hour sessions.
14. Privileged Communications. All oral or written statements made by the parties, attorneys, and other participants at or associated with the mediation are privileged and confidential except that the log of attendees maintained by the Mediator is not confidential. All confidential statements shall not be reported, recorded, placed into evidence, made known to the Court, or construed for any purposes as an admission. No party shall be bound by any statement made or action taken at the mediation conference unless an agreement is reached.
15. Stay Lifted to Allow Loan Modification. The automatic stay is modified, to the extent necessary, to facilitate the MMM process. Participation in mediation conducted pursuant to this Order does not preclude participation in state court foreclosure mediation.
16. Adequate Protection Payments in Chapter 12 and 13 Cases. In Chapter 12 and 13 cases, Debtors seeking MMM must provide adequate protection to the Lenders. For homestead properties, the Debtor must pay the Chapter 12 or 13 Trustee the lesser of (1) 31% of their gross disposable income (after deducting homeowner association fees), or (2) the normal monthly contractual mortgage payment. For non-homestead property, the Debtor shall pay to the Chapter 12 or 13 Trustee 75% of all rental income generated by the property. The Trustee shall hold the funds pending either further Order of the Court or a joint stipulation of the parties. In addition, with Chapter 12 and 13 cases, the Court may confirm a plan of reorganization subject to pending MMM.

17. Abatement of Payment Changes. All changes to the regular contractual mortgage payments are abated pending the conclusion of the MMM process, including during any trial payment period.
18. Good Faith Requirement. All parties are directed to comply with this Order and to engage in the MMM process in good faith. Failure to do so may result in the imposition of damages and sanctions.
19. Extension of Deadlines. Any of the deadlines imposed by this Order may be extended by order of the Court.
20. Parties Directed to Comply. If any parties or their counsel fail to comply with the terms of this Order, the Court will consider a motion to vacate this Order and also may impose sanctions.

DATED: \_\_\_\_\_

\_\_\_\_\_

United States Bankruptcy Judge

Movant's Attorney is directed to serve a copy of this order on interested parties and file a Proof of Service within 3 days of entry of the order

\*All references to "Debtor" shall include and refer to both the Debtors in a case filed jointly by two individuals.