

Mortgage Modification Mediation

Docketing Event

- Bankruptcy > Motions/Applications/Objections > Motion for Referral to Mortgage Modification Mediation
 - Bankruptcy > Answer/Response > Objection > Objection to Selection of Mediator
 - Bankruptcy > Motions/Applications/Objections > Motion for Reconsideration
 - Bankruptcy > Miscellaneous > Mediator's Report and Notice
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-

Negative Notice: Yes, required for a Motion to Permanently Approve Agreement. Yes, permitted for a Motion to Vacate Mortgage Modification Mediation Order.

Accompanying Orders: Yes for a Motion for Referral to Mortgage Modification Mediation. The Court prepares the order. Yes for a Motion to Approve Temporary Mortgage Modification Mediation Agreement. Attorneys to submit the order.

Code and Rule References:

[Admin. Order FLMB-2015-5](#)

[Admin. Order FLMB-2017-6](#)

[Admin. Order FLMB-2017-3](#)

Fee: Parties to bear costs equally.

Applicable Chapters: 7, 11, 12, 13

Implemented: 2/9/16

Last Revision: 7/26/2018 12:06:00 PM

Description

The Mortgage Modification Mediation (MMM) program helps individual debtors explore mortgage modification options with their lenders for real property in which the debtors have an interest or are obligated on the promissory note or mortgage. The goal of MMM is to facilitate communication and exchange of information in a confidential setting and encourage the parties to finalize a feasible and beneficial agreement with the assistance and supervision of the Court.

The Court's form order directing MMM provides many details of the process, including direction to the parties and, where necessary, remedies in the following areas:

- Selection of a mediator;
- Objections to mediation;
- Mandatory use and rules of use of a document submission portal;
- Scheduling and concluding mediation;
- Settlement authority;
- Lender and mediator obligations;
- Fees; and
- Lifting of the stay and adequate protection for Chapter 12 or 13 cases.

Mediators are selected by the parties from a list of approved mediators and complying with Administrative Order FLMB-2017-6. Those who want to be added to the list of residential

mortgage foreclosure mediators may do so by completing an application. There is a separate procedure on how to become a mortgage foreclosure mediator.

The following terms apply:

1. MMM is available in all cases and for any type of real property;
2. Motions must contain the information listed in the filing checklist below;
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 to a Chapter 12 or 13 case. The Court will prepare and enter an order directing MMM on timely filed motions. If not timely filed, the Court may set a hearing and will grant the request only if good cause is demonstrated for the delay;
5. The parties must use a secure portal (e.g. <https://www.dclmwp.com/Home> or <https://www.hlp.org>) (“Portal”) for submission of documents to initiate the MMM and follow guidelines included in the Court’s order directing MMM in each individual case;
6. The parties must 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;
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-2015-5. If the parties cannot agree on a mediator, the debtor will select a 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 select the mediator;
8. Both debtor and lender each shall pay \$250 directly to the mediator within seven days of designating 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. The mediator shall file a report within seven days of each mediation conference indicating the current status of the mediation. If a mediator fails to comply with this reporting requirement, upon motion, notice, and hearing, the Court may order a mediator to disgorge mediation fees and the mediator’s removal from the Registered Mediation Panel. The mediator is not required to commence work until payment of \$500 is received, but if the parties settle before the payment due date, the mediator shall not be entitled to a fee.
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 **shall** use negative notice when filing a motion seeking approval of a *permanent* MMM agreement or a motion to vacate mortgage modification mediation order;
13. Parties may use negative notice when filing a motion to vacate mortgage modification mediation order;
14. 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;

15. In Chapter 12 and 13 cases, debtors seeking MMM must provide adequate protection to the lenders through payments made to the Chapter 12 or 13 trustee. For *homestead* properties, the debtor must pay 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 75% of the gross rental income generated by the property. The Chapter 12 or 13 trustee shall disburse these adequate protection payments to the lender unless the Court orders or the parties file a written stipulation otherwise. In all other chapters, the debtor shall make the trial payments directly to the lender as agreed between the parties and without requiring Court approval or any modification of the automatic stay;
16. If a debtor in a Chapter 12 or Chapter 13 case is successful in obtaining a mortgage modification at any time during the case, payments on the modified mortgage shall be paid through the Chapter 12 or Chapter 13 plan;
17. Unless the parties have agreed to the contrary, MMM payments made during the MMM process will be applied under the loan documents and non-bankruptcy law;
18. MMM is deemed concluded upon the earliest of: (a) the filing of report of conclusion by the mediator, (b) an order approving a temporary or permanent payment plan, or (c) other order of the Court indicating the MMM concluded. Upon conclusion of the MMM, any payments not yet disbursed to the lender by the Chapter 12 or 13 trustee shall be disbursed:
 - a. If MMM resulted in an agreed mortgage modification agreement, which may include the lender's decision to decline receipt of additional funds, as agreed by the parties.
 - b. If MMM did not result in a mortgage modification agreement, then:
 - i. To the lender to be applied under the applicable loan documents and non-bankruptcy law, or
 - ii. If the lender affirmatively rejects the undisbursed funds, the Chapter 12 or 13 trustee shall distribute payments as provided by the Chapter 13 Plan or Confirmation Order.
19. Notwithstanding the foregoing, if a Chapter 12 or 13 case is dismissed or converted to a Chapter 7 or 11 case, the Chapter 12 or 13 trustee shall disburse any funds remaining in the trustee's possession to the debtor and, if the debtor is represented by an attorney, the trustee shall mail the funds to the debtor in care of the debtor's attorney.
20. In Chapter 12 and 13 cases, the Court may confirm a plan of reorganization subject to pending MMM;
21. The MMM procedures do not affect amounts of allowed attorney fees for debtor and creditor attorneys participating in the MMM program. Divisional practices and limitations on such fees still control; and
22. Debtor attorneys should collect monies from their client to pay the MMM mediator before filing a motion seeking mediation.
23. Parties should file all motions in compliance with Administrative Order FLMB-2017-3 and FLMB-2017-6. Failure to comply with the terms of the Administrative Orders will result in the entry of an order abating.

Filing Checklist: Motion for Mortgage Modification Mediation

Review the motion to determine if it:

- Is signed;

- Has the attorney's name and address complete and consistent with the filing attorney's name and address in CM/ECF;
- Is properly served and includes a proper certificate of service;
- Includes a complete property address on the first page;
- Includes the last four digits of the mortgage loan number on the first page;
 - ❖ **Note:** Failure to list the last four digits of the loan number on the first page of the motion will result in the entry of an order abating the document.
- Includes the name of the creditor holding the mortgage; and
- Is filed within 90 days of the petition date or conversion date.
 - ❖ **Note:** If filing an amended motion, you must select **amended** from the drop-down menu on the modify as appropriate screen.

Filing Checklist: Objection to Selection of Mediator

Review the objection to determine if it:

- Is signed;
- Has the attorney's name and address complete and consistent with the filing attorney's name and address in CM/ECF; and
- Is properly served and includes a proper certificate of service.

Filing Checklist: Motion for Reconsideration of Order Directing Mortgage Modification Mediation

Review the motion to determine if it:

- Is signed;
- Has the attorney's name and address are complete and consistent with the filing attorney's name and address in CM/ECF; and
- Is properly served and includes a proper certificate of service.

Filing Checklist: Motion for Approval of Temporary Mortgage Modification Agreement

Review the motion to determine if it:

- Is signed;
- Has the attorney's name and address are complete and consistent with the filing attorney's name and address in CM/ECF; and
- Is properly served and includes a proper certificate of service.
 - ❖ **Note:** Attorneys may upload order simultaneously with Motion.

Filing Checklist: Motion for Approval of Permanent Mortgage Modification Agreement

Review the motion to determine if it:

- Is signed;
- Has the attorney's name and address are complete and consistent with the filing attorney's name and address in CM/ECF
- Is properly served and includes a proper certificate of service; and
- Contains negative notice that contains correct language and is located on the first page.

- ❖ **Note: Negative notice is required pursuant to Paragraph 11 of Administrative Order FLMB-2016-6.** Response period is 21 days (plus an additional three days for service if any party was served by U.S. Mail).

Filing Checklist: Motion to Vacate Mortgage Modification Mediation Order

Review the motion to determine if it:

- Is signed;
- Has the attorney's name and address are complete and consistent with the filing attorney's name and address in CM/ECF
- Is properly served and includes a proper certificate of service; and
- Contains negative notice that contains correct language and is located on the first page.
 - ❖ **Note:** Response period is 21 days (plus an additional three days for service if any party was served by U.S. Mail).

Forms

[Motion for Referral Mortgage Modification Mediation](#)

[Motion for Approval of a Permanent Mortgage Modification Agreement](#)

[Order Granting Motion for Permanent Mortgage Modification](#)

[Order Approving Temporary Loan Modification of Debtor's Real Estate Mortgage](#)

Helpful Information

[DMM Portal](#)

[Hope Loan Portal](#)

Jacksonville Mortgage Modification

[Chapter 13 Trustee for Jacksonville Douglas W. Neway](#)

Orlando Mortgage Modification

[Chapter 13 Trustee for Orlando Laurie Weatherford](#)

Tampa/Fort Myers Mortgage Modification

[Chapter 13 Trustees for Tampa/ Fort Myers Jon Waage](#)

[Chapter 13 Trustee for Tampa/ Fort Myers Kelly Remick](#)