

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
_____ DIVISION**

In re:

Case No.

Debtor(s)
_____ /

**ORDER OF REFERRAL OF SELF-REPRESENTED DEBTOR
TO LOSS MITIGATION MEDIATION**

This matter came on for hearing before the Court on _____, on the Self-Represented Debtor's Verified Motion for Referral to Loss Mitigation Mediation ("Verified *Pro Se* Motion"). The Court, having reviewed the Verified *Pro Se* Motion and considered the record in this case, it is:

ORDERED:

1. The Verified *Pro Se* Motion is granted.

2. The Debtor and Lender are required to participate in loss mitigation mediation (“LMM”) in good faith. LMM shall be completed no later than 150 days from the date of this Order, unless the Debtor and Lender both agree to extend the time.
3. The Debtor’s request to be excused from using the LMM Portal is
 granted denied.
4. All communications and information exchanged during LMM are privileged and confidential as provided by Federal Rule of Evidence 408 and Chapter 44 of the Florida Statutes, and shall be inadmissible in any subsequent proceeding.
5. Lender and, if applicable, Lender’s counsel shall register with the approved portal (“LMM Portal”), unless already registered, within seven days after entry of this Order. If the Lender fails to register, the Debtor may file a motion with the Court seeking sanctions against the Lender for Lender’s failure to register. This paragraph does not apply where a Debtor has been excused from using the LMM Portal because the Debtor does not have a computer.
6. Debtor shall,
 - a. within seven days after entry of this Order, upload to the LMM Portal the following:
 - (i) Debtor’s Prepared Package (as defined in the Verified *Pro Se* Motion);
 - (ii) a copy of this Order;

- (iii) any additional lender-specific information identified by Lender on the LMM Portal; and
- (iv) remit to the LMM Portal the required non-refundable LMM Portal submission fee in the amount of \$25.00, and the required non-refundable Document Preparation Software fee in the amount of \$40.00 at the time of submission, via credit or debit card.

OR

- b. The Debtor shall, within seven days of the date of this Order, mail or fax to the Lender the following:
 - (i) Debtor's Prepared Package (as defined in the Verified *Pro Se* Motion);
 - (ii) a copy of this Order; and
 - (iii) any additional lender-specific information identified by Lender in its written instructions to the Debtor.

7. _____ shall serve as the loss mitigation Mediator ("Mediator") in this case. The Mediator's contact information is:

Address: _____

Email address: _____

Telephone number: _____

8. The Debtor's request for *pro bono* mediation is granted denied. The Mediator shall notify the Court, and the Debtor immediately, by motion

if the Mediator is not willing to serve *pro bono* and state in the motion to be excused from *pro bono* mediation, the reasons why the Mediator seeks to be excused.

9. Debtor shall assign the Mediator as the Mediator in this case on the LMM Portal when uploading Debtor's Prepared Package to the LMM Portal and email a copy of this Order to the Mediator at the address listed above immediately upon receipt. If the Debtor is excused from using the LMM Portal, the Clerk shall serve this Order on all parties to the mediation.
10. The Mediator shall 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 to the same extent as a judge.
11. The Mediator shall be compensated in the amount of \$600.00 for preparation for LMM, execution of required documents, facilitation of document and information exchange between the parties, and participation in no more than two one-hour LMM conferences. The Mediator shall be compensated at the rate set by this Court's Local Rule 9019-2(6) for any LMM conferences that extend beyond the initial two, one-hour conferences; however, the Mediator, by accepting the *pro bono* assignment, agrees to accept \$300.00 from the Lender as full payment for the initial mediation services.
12. The Mediator's fee shall be paid equally by the parties as follows:

- a. The Debtor shall pay a non-refundable fee in the amount of \$300.00 directly to the Mediator within seven days after entry of this Order BY CASHIER'S CHECK OR MONEY ORDER;
- OR**
- The Court finds that the Debtor qualifies for a Mediator *pro bono*. The Mediator shall notify the Court and the Debtor immediately by motion if the Mediator is not willing to serve *pro bono* and state in the motion to be excused from *pro bono* mediation, the reasons why the Mediator seeks to be excused.
- b. The Lender shall pay a non-refundable fee in the amount of \$300.00 directly to the Mediator within seven days of this Order.
- c. The Mediator's fee for LMM conferences that extend beyond two, one-hour conferences, shall be paid equally by the parties (unless the Debtor is receiving *pro bono* mediation, in which case the Lender shall pay its half) and is due and payable at the beginning of each successive LMM conference in accordance with the program procedures.

13. The Mediator shall log in to the LMM Portal:
- a. within seven days of this Order and use the LMM Portal to facilitate the exchange of information and documentation between Debtor and Lender in an effort to perfect the documentation needed for Lender to complete its analysis of Debtor's loss mitigation options. Failure of the Mediator to either timely register or log in to begin to

facilitate the LMM process shall render the Mediator ineligible to serve as a Mediator for a period of one year, and his or her name, if applicable, will be removed from the Clerk's Mediation Register.

- b. If the Debtor is not using the LMM Portal because the Debtor does not have a computer, sub-paragraph 12.a. above shall not apply; instead the Mediator will be required to contact the Debtor at the phone number listed in the Verified *Pro Se* Motion and contact the Lender when the Mediator receives the Lender's contact information.

14. In the event the Lender requires additional information to consider the Debtor's requested loss mitigation options as specified in the Verified *Pro Se* Motion, the Lender shall:

- a. notify Debtor through the LMM Portal within seven days of Debtor's submission ("Notice"). The Debtor shall provide all additional documents through the LMM Portal within seven days of the Notice,
OR
- b. If the Debtor does not have a computer and the LMM Portal is not being used, the Lender shall mail the Debtor a notice of additional documents required no later than seven days after the Debtor has provided Lender with the Debtor's Prepared Package.

15. All communication between the parties to the mediation:

- a. shall be sent through the LMM Portal; **OR**

- b. If the LMM Portal is not being used because the Debtor does not have a computer, then all communications shall be by phone and/or in writing.
- 16. The Lender shall designate its single point of contact and its outside legal counsel (if any):
 - a. on the LMM Portal, **OR**
 - b. if applicable, by phone and written notice to the Debtor and the Mediator.

Such Lender's counsel or representative shall have the authority (within the investor's guidelines) to settle and will attend and continuously participate in all LMM conferences in this case.

- 17. If the Lender transfers the loan, the Lender must provide a copy of this Order to the new holder of the loan ("Successor Lender"), and the Successor Lender will be obligated to comply with all terms of the Order.
- 18. The Mediator shall schedule the initial LMM conference no later than seven days after determining that the Lender has received and reviewed all requested information. In the event the Mediator cannot determine that the Lender has received all the requested information, the Mediator shall schedule the initial LMM conference within 90 days after entry of this Order. The initial LMM conference shall not exceed one hour. The Mediator shall report the scheduling of all LMM conferences on the LMM Portal, or, if the LMM Portal is not being used, by U.S. Mail.

19. The Lender and Lender's representative may participate in the LMM conference by telephone.
20. **BECAUSE THE DEBTOR IS NOT REPRESENTED BY AN ATTORNEY, THE DEBTOR AND ANY CO-BORROWER SHALL BE PHYSICALLY PRESENT WITH THE MEDIATOR AT THE MEDIATOR'S SELECTED LOCATION AND PRESENT IDENTIFICATION TO THE MEDIATOR FOR ALL LMM CONFERENCES.**
21. The Debtor shall provide a foreign language interpreter, if necessary, at the Debtor's own expense.
22. All parties attending the LMM conference must be ready, willing and able to sign a binding settlement agreement at the LMM conference and have the ability to scan, send and receive documents by facsimile, email or other electronic means at the time of the LMM conference.
23. In the event the parties are unable to reach an agreement and require an additional LMM conference, the Mediator shall schedule a final LMM conference no later than 30 days thereafter. The final LMM conference shall not exceed one hour.
24. In the event the parties reach a final resolution or, if no agreement has been reached, the Mediator shall, if the LMM Portal is being used, report the results of the LMM on the Portal. The Mediator shall also prepare and file the LMM Local Form "Final Report of Loss Mitigation Mediator" ("Final Report") on the LMM Portal not later than seven days after the conclusion of the final LMM conference.

25. If applicable, the Debtor shall file the LMM Local Form “Self-Represented Motion to Approve Loss Mitigation Agreement with Lender”, no later than 14 days following the Final Report. The parties shall also seek any necessary court approval and formalize any required legal documents in a timely fashion thereafter.
26. The automatic stay is modified to the extent necessary to facilitate LMM pursuant to this Order.
27. Any of the deadlines imposed by this Order may be extended by order of the Court.
28. The Court may impose sanctions against any parties or counsel who do not comply with the terms of this Order.
29. The clerk shall serve a copy of this Order on all parties to the mediation.

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Copies furnished to: