MORTGAGE MODIFICATION MEDIATION PROGRAM PROCEDURES

Revised Effective August 1, 2014 as provided under Administrative Order 14-03 and Further Amended on April 1, 2015

I. PURPOSE:

These procedures and forms implement the Mortgage Modification Mediation (MMM) program established under Administrative Order 14-03 and further amended on April 1, 2015. This program is designed to function as a forum for individual debtors to 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 United States Bankruptcy Court for the Southern District of Florida. Mortgage Modification Mediation options include modification of a mortgage or surrender of real property owned by an individual debtor(s).

II. DEBTORS ELIGIBLE TO PARTICIPATE:

Subject to implementation provisions set forth in Administrative Order 14-03 and further amended on April 1, 2015, individuals who have filed for bankruptcy protection and currently have a case pending under any chapter are eligible to participate in MMM with respect to real property. The party seeking MMM shall include the address of the relevant property and the last four digits of the mortgage loan number in the MMM motion.

Individuals who seek to modify a mortgage must have paid their bankruptcy filing fee in full prior to filing a motion to participate in MMM.

III. MORTGAGE MODIFICATION MEDIATION PORTAL AND DOCUMENT PREPARATION SOFTWARE:

In an effort to expedite the exchange of information between the debtor and the lender, the Court has mandated the use of a secure online portal (the "MMM Portal") **and** an on-line program that facilitates the preparation of the debtor's loan modification package (Document Preparation Software). Submitting documents to the MMM Portal provides transparency in the mortgage modification process making information immediately available to the parties through a secure internet site. The use of the Document Preparation Software further ensures that the initial submission to the lender is complete and accurate and should expedite the lender's review. The use of an MMM Portal and Document Preparation Software eliminates

the need for multiple submissions of documents that were not received and unnecessary delay based upon incomplete documentation.

All written communication between the parties regarding the mediation must be sent through the MMM Portal only, unless otherwise ordered by the Court. Any litigated matters incidental to the mediation shall be considered as separate matters and not subject to the portal communication requirement. (For example, a motion to compel mediation or motions related to discovery, must be filed in the main bankruptcy case, not through the portal.) The current MMM Portal provider approved by the Court is managed and maintained by Default Mitigation Management LLC ("DMM"). Free training on the use of the MMM Portal shall be available to all attorneys and lenders. The Court's web page on MMM also includes MMM Portal training materials on mortgage modification, including contact information for the portal vendor and information on the Document Preparation Software. In the event other providers are approved by the Court, those providers will be listed on the Court's website.

IV. REQUEST FOR ORDER OF REFERRAL TO MMM: Unless otherwise ordered by the Court, requests for an order of referral to MMM must be filed within 90 days from the date of filing the Voluntary Petition.

A. EX PARTE BY ATTORNEY REPRESENTED DEBTOR:

1. Requirements for filing ex parte motion: A debtor seeking entry of an order of referral to MMM within 90 days of filing the Voluntary Petition may seek entry of an ex parte order of referral by filing the MMM Local Form "Attorney-Represented Debtor's Verified Ex Parte Motion for Referral to Mortgage Modification Mediation ("Ex Parte Motion") and attach as an exhibit the Local Form "Order Granting Debtor's Ex Parte Motion for Referral to Mortgage Modification Mediation" ("Ex Parte Order"). The debtor shall serve the Ex Parte Motion and proposed Ex Parte Order on the debtor, trustee, if applicable, lender, lender's counsel, if applicable, and any other required parties, and upload the Ex Parte Order to the Court's E-Orders program.

Prior to filing the Ex Parte Motion:

(a) The non-refundable Document Preparation Software fee of $40.00 shall have been paid directly to the approved vendor.

(b) Debtor's initial loan modification forms shall have been completed using the court-approved Document Preparation Software and ready for signature and submission. This includes collecting Debtor's required supporting documentation in order to submit Debtor's initial package ("Debtor's Prepared Package") to the Lender for review through the MMM Portal.

2. **ENTRY OF ORDER OF REFERRAL-DEADLINES FOR SEEKING RECONSIDERATION:** Upon filing of the Ex Parte Motion, the Court shall enter the Ex Parte Order. The Ex Parte Order shall establish a 14 day deadline for the Lender to seek reconsideration of the Order ("Reconsideration Deadline"). If a timely motion for reconsideration is filed, the Court will promptly schedule a hearing in accordance with Local Rule 9073-1.

3. **PROCESS FOR SELECTION OF MEDIATOR:** The parties shall, in consultation with one another, select a mediator by the later of (i) the Reconsideration Deadline, or (ii) 14 days after the entry of an order denying the motion for reconsideration, if a timely motion for reconsideration is filed (such period of time, the "Mediator Selection Period").

   (a) If the parties agree on the selection of a mediator during the Mediator Selection Period, the Debtor shall file the MMM Local Form "Debtor's Notice of Selection of Mortgage Modification Mediator" (Check Box 1 and insert mediator name and contact information), serve a copy of the Notice on all required parties, and file a Certificate of Service pursuant to Local Rule 2002-1(F).

   (b) If the lender fails to communicate with the debtor during the Mediator Selection Period, the debtor shall, within seven days, independently select a mediator and file the MMM Local Form "Debtor's Notice of Selection of Mortgage Modification Mediator" (Check Box 2 and insert mediator name and contact information), serve a copy of the Notice on all required parties, and file a Certificate of Service pursuant to Local Rule 2002-1(F). In this instance, it shall be deemed that the Lender has waived the right to challenge debtor's selection of a mediator.

   (c) If the parties attempt to reach agreement on the selection of a mediator, but fail to do so during the Mediator Selection Period, the Debtor shall file the MMM Local Form "Debtor's Notice of Selection of Mortgage Modification Mediator" (Check Box 3 indicating the impasse), serve a copy of the Notice on all required parties, and file a Certificate of Service pursuant to Local Rule 2002-1(F). The clerk shall then randomly select a mediator from the clerk's Mediation Register pursuant to Local Rule 9019-2(B)(3), without the necessity of a hearing. The clerk shall serve notice of the mediator selection on the required parties using the MMM Local Form "Notice of Clerk's Designation of Mortgage Modification Mediator". Local Rule 9019-2(B) shall apply to any challenge to the clerk's designation of mediator.

B. FILING A REQUEST OUT OF TIME ON NEGATIVE NOTICE:

1. An attorney-represented debtor seeking to initiate MMM later than 90 days from the date of filing the Voluntary Petition, must file the MMM Local Form Attorney-Represented Debtor's Verified Motion for Referral to Mortgage Modification Mediation ("Out of Time Motion"), on notice to the lender and any co-obligor, co-borrower or third party whose participation is required, and must attach as an exhibit the MMM Local Form "Order Granting Debtor's Verified "Out of Time Motion for Referral to Mortgage Modification Mediation ("Order"). A Certificate of Service must also be filed pursuant to Local Rule 2002-1(F).

2. Prior to filing the Out of Time Motion:

(a) The non-refundable Document Preparation Software fee of $40.00 shall have been paid directly to the approved vendor.

(b) Debtor's initial loan modification forms shall have been completed using the court-approved Document Preparation Software and ready for signature and submission. This includes collecting debtor's required supporting documentation in order to submit debtor's initial package ("Debtor's Prepared Package") to the lender for review through the LMM Portal.

3. The lender shall have 14 days from the date of service of debtor's Out of Time Motion to file a response. Failure by the lender or other party, who has been properly served with the Out of Time Motion to file a timely response, shall be deemed consent to the entry of the Order. Within seven days after the expiration of the 14 day response deadline, the debtor's attorney shall file the MMM Local Form "Certificate of No Response and Request for Entry of Order". The Lender may also file the MMM Local Form "Lender's Consent to Attend and Participate in Mortgage Modification Mediation" at any time after filing of the Negative Notice Motion.

4. If the lender or other party served with the Out of Time Motion files a

timely response, the debtor's attorney shall file the MMM Local Form "Certificate of Contested Matter" and the Court will promptly schedule a hearing in accordance with the procedures set forth in Local Rule 9073-1.

5. If the Court grants the debtor's Out of Time Motion, the Order shall establish a 14 day deadline for selection of a mediator in accordance with the Section IV. A. 3. above.

C. BY A SELF-REPRESENTED DEBTOR:

1. An eligible debtor seeking to participate in MMM who is not represented by an attorney, must file the MMM Local Form "Self-Represented Debtor's Verified Motion for Referral to Mortgage Modification Mediation" ("Pro Se Motion"), which will promptly be set for hearing by the Court in accordance with the procedures contained in Local Rule 9073-1.

2. If the debtor is seeking waiver of the mediation fee (see section XIII.3.a. below), the debtor shall include this request in the Pro Se Motion. If the use of the MMM Portal or the Document Preparation Software creates an undue hardship because the debtor does not have access to a computer, the Debtor shall also include a request in the Pro Se Motion to exchange documents with the Lender by fax or U.S. Mail.

3. The debtor must serve the Pro Se Motion and proposed MMM Local Form Order Granting Self-Represented Debtor's Motion for Referral to Mortgage Modification Mediation ("Pro Se Order") by U.S. Mail and, if possible, also by email, on the lender, the lender's counsel, if known, and any other party required to participate in the mediation, and file a Certificate of Service pursuant to Local Rule 2002-1(F).

4. A response to the debtor's Pro Se Motion must be filed within 14 days from the date of service of the motion on the lender.

5. If the Debtor's Pro Se Motion is granted, the Pro Se Order shall establish a 14 day deadline for the parties to agree upon the selection of a mediator.

6. Process for Selection of Mediator:

(a) Within seven days after expiration of the 14 day deadline, if the parties agree on the selection of a mediator, the debtor shall file the MMM Local Form "Debtor's Notice of Selection of Mortgage Modification Mediator" (Check Box 1 and insert mediator name

and contact information), serve a copy of the Notice on all required parties, and file a Certificate of Service pursuant to Local Rule 2002-1(F).

(b) If the parties fail to agree, within seven days after expiration of the 14 day deadline, the Debtor shall file the MMM Local Form "Debtor's Notice of Selection of MMM Mediator" (Check Box 3 indicating the impasse), serve a copy of the notice on all required parties, and file a Certificate of Service pursuant to Local Rule 2002-1(F). The clerk shall then randomly select a mediator from the clerk's Mediation Register pursuant to Local Rule 9019-2(B)(1), without the necessity of a hearing. The clerk shall serve notice of the mediator selection on the required parties using the MMM Local Form "Notice of Clerk's Designation of Mortgage Modification Mediator". Local Rule 9019-2(B)(3) shall apply to any challenge to the clerk's designation of mediator.

D. BY A LENDER:

A lender may request referral to MMM by filing and serving:

1. **Attorney-represented debtor -** upon the debtor and debtor's counsel, a motion requesting referral to MMM, together with a proposed order that substantially conforms to the MMM Local Form Ex Parte Order, except the provisions in paragraph one permitting reconsideration of the order shall not be included.

2. **Self-represented debtor -** upon the Debtor a motion requesting referral to MMM, together with a proposed order that substantially conforms to the MMM Local Form Pro Se Order.

The lender must file a Certificate or Service pursuant to Local Rule 2002-1(F). The debtor shall have 14 days from the date of service of the motion to file a written response. If the debtor fails to file a response objecting to the Lender's motion, the Court may enter the Order or, if the debtor is not represented by counsel, the Court will set the matter for hearing in accordance with the procedures set forth in Local Rule 9073-1.

If the lender's motion for referral to MMM is granted, the Order shall establish a 14 day deadline for the parties to agree upon the selection of a mediator. Within seven days after expiration of the 14 day deadline, if the parties agree on the selection of a mediator, the Debtor shall file the MMM Local Form "Debtor's Notice of Selection of MMM Mediator" (Check Box 1 and insert mediator name

and contact information), serve a copy of the Notice on all required parties, and file a Certificate of Service pursuant to Local Rule 2002-1(F).

If the parties fail to agree, within seven days after expiration of the 14 day deadline, the Debtor shall file the MMM Local Form "Debtor's Notice of Selection of MMM Mediator" (Check Box 3 indicating the impasse), serve a copy of the Notice on all required parties, and file a Certificate of Service pursuant to Local Rule 2002-1(F). The clerk shall then randomly select a mediator from the clerk's Mediation Register pursuant to Local Rule 9019-2(B)(1), without the necessity of a hearing. The clerk shall serve notice of the mediator selection on the required parties using the MMM Local Form "Notice of Clerk's Designation of Mediator". Local Rule 9019-2(B)(3) shall apply to any challenge to the clerk's designation of mediator.

E. BY THE BANKRUPTCY COURT:

The Court may order the assignment of a mortgage modification matter to MMM upon the Court's own motion.

V. ADDITIONAL PARTIES:

CO-OBLIGORS/CO-BORROWERS OR OTHER THIRD PARTIES: Any co-obligor, co-borrower or other third party must participate in the MMM process. If the participation of a co-obligor, co-borrower or other third party is necessary, any party may request that such co-obligor, co-borrower or other third party participates in MMM. The co-obligor, co-borrower or other third party shall sign, and the debtor or attorney for the debtor shall file, simultaneously with the debtor's Ex Parte Motion, or Pro-Se Motion, the MMM Local Form "Third Party's Consent to Attend and Participate in Mortgage Modification Mediation".

VI. ORDER OF REFERRAL TO MORTGAGE MODIFICATION MEDIATION:

Upon entry of the Order the moving party shall serve the Order on the required parties, including the designated mediator, once determined, and file a Certificate of Service pursuant to Local Rule 2002-1(F). The moving party shall also upload a copy of the Order to the MMM Portal within seven days after filing of the Debtor's Notice of Selection of Mortgage Modification Mediator (or Notice of Clerk's Designation of Mortgage Modification Mediator) or the lender's registration on the MMM Portal, whichever occurs later, unless by Court order, the debtor has been excused from using the MMM Portal. The parties are required to comply with all deadlines set forth in the Order. However, any deadlines imposed by the Order may be extended by Court order or by stipulation of the parties.

The parties are required to participate in MMM in good faith or be subject to possible sanctions by the Court, including vacating the Order.

A. Lender Requirements:

Within seven days after entry of the Order (or after all motions for reconsideration have been heard and determined), the lender, if not already registered on the MMM Portal, shall ensure that it is registered, and if the lender has counsel, that the lender's counsel is registered as well. (Registration on the MMM Portal is a one-time event - i.e., once the lender is registered on the MMM Portal, the lender will not have to register again).

Within seven days after entry of the Order (or after all motions for reconsideration have been heard and determined), the lender will also confirm that all of the lender's initial mortgage modification requirements ("Lender's Initial Package") are available on the MMM Portal. Lender's Initial Package shall specify the forms and documentation the Lender requires to initiate a review of debtor's request for mortgage modification options. (Note: Lender's Initial Package should be provided to the MMM Portal vendor at the time of lender registration on the MMM Portal.)

If the lender transfers the loan, the lender must provide a copy of the 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.

Within seven days after delivery of the information provided for in section VI.B. below, the lender shall, on the MMM Portal, (i) acknowledge receipt of debtor's information and advise debtor of any additional or missing information required for lender to proceed with its review; and (ii) designate its single point of contact and its outside legal counsel, if any. 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 MMM conferences in this case. The lender shall timely underwrite the loan modification request.

B. Debtor Requirements:

Within seven days after filing the Debtor's Notice of Selection of Mortgage Modification Mediator (or Notice of Clerk's Designation of Mortgage Modification Mediator) or the lender's registration on the MMM Portal, whichever occurs later, the debtor shall upload and submit through the MMM Portal, Debtor's Prepared Package, together with any additional forms or documents which lender may post on the MMM Portal, and pay a non-refundable MMM Portal submission fee in the amount of $40.00.

If the debtor has been excused by Court order from using the MMM Portal, then within seven days after entry of the Order, the debtor shall mail or fax to the lender and the mediator the Debtor's Prepared Package, with any additional

forms or documents that the lender has, in writing, advised the debtor are required.

If the debtor fails to comply with these requirements, the Court will consider vacating the Order upon motion by the lender and after notice and hearing.

C. Mediator Requirements:

The designated mediator shall, within seven days of designation, or within seven days after the debtor has complied with requirements in section VI.B above, log in to the MMM 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 mortgage modification options.

If the debtor has been excused from using the MMM Portal, the mediator shall contact the debtor by phone or mail and contact the lender in which ever manner the lender and mediator agree to communicate.

The mediator shall schedule the initial MMM conference no later than seven days after the mediator determines that the lender has received and reviewed all the required information through the MMM Portal, or from the debtor if use of the MMM Portal has been excused. In the event the mediator cannot determine that the lender has received and reviewed all the required information, the mediator shall schedule the initial MMM conference within 90 days of entry of the Order. The initial MMM conference shall not exceed one hour. The mediator shall report the scheduling of any MMM conference(s) on the MMM Portal.

VII. MORTGAGE MODIFICATION MEDIATION CONFERENCE:

All parties are required to attend the MMM conference and must be authorized to settle all matters requested in the motion.

A. LENDER: The lender and lender's representative may participate in the MMM conference by telephone.

B. DEBTOR:

1. A debtor represented by an attorney, and any co-obligor, co-borrower or other third party obligated on the note or mortgage, may also participate in the MMM conference by telephone provided they are physically present with debtor's attorney and present identification to debtor's

attorney during all MMM conferences. **The debtor shall provide a foreign language interpreter, if necessary, at the debtor's own expense.**

2. A self-represented debtor, and any co-obligor, co-borrower or other third party obligated on the note/mortgage, must be physically present with the mediator at the mediator's selected location and present identification to the Mediator for all MMM conferences. **The debtor shall provide a foreign language interpreter, if necessary, at the debtor's own expense.**

C. SETTLEMENT AGREEMENT:

All parties attending the MMM conference shall be ready, willing and able to sign a binding settlement agreement at the MMM conference and have the ability to scan, send and receive documents by facsimile, email or other electronic means at the time of the MMM conference.

D. PROCEDURE:

The initial MMM conference shall not exceed one hour. In the event the parties are unable to reach an agreement and require a second MMM conference, the mediator shall schedule a final MMM conference not later than 30 days thereafter. The second MMM conference shall not exceed one hour.

Notwithstanding, the mediator may continue the MMM conference, if necessary, beyond the two, one-hour conferences upon written agreement of the parties.

MMM shall be concluded not later than 150 days from the date of the Order, unless extended by written consent on the portal, or, as provided in Section VI, by court order or by stipulation of the parties.

E. CONFIDENTIAL COMMUNICATION:

All communication and information exchanged during the MMM conference shall remain confidential and shall be inadmissible in any subsequent proceeding pursuant to Federal Rules of Evidence 408 and Chapter 44 of the Florida Statutes.

VIII. EFFECT OF MEDIATION:

A. AUTOMATIC STAY: The automatic stay will be modified to the extent necessary to facilitate MMM pursuant to the Order.

Once the Order has been entered:

1. Any pending motion for stay relief with respect to property that is subject to MMM shall be continued until such time as the MMM has been concluded; the pendency of MMM constitutes good cause and compelling circumstances under 11 U.S.C. §362(e) to delay entry of any final decision on a pending request for stay relief. Any lender seeking relief prior to the conclusion of the MMM must file a motion requesting a hearing, setting forth the reasons why relief must be considered prior to conclusion of the MMM.

2. No motion for stay relief with respect to the property subject of the MMM may be filed on an ex parte basis.

B. **NO DELAY:** The referral of a matter to MMM does not relieve the parties from complying with any other court orders or applicable provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, Administrative Orders or Local Rules. Notwithstanding a mortgage modification matter being referred to MMM, the case shall not be stayed or delayed without further order of the Court.

C. If the debtor's case is otherwise in a posture for administrative closing, the case shall remain open during the pendency of MMM, unless otherwise ordered by the Court.

IX. POST MORTGAGE MODIFICATION MEDIATION:

In the event the parties reach a final resolution or, if no agreement has been reached, the mediator shall report the results of the MMM on the MMM Portal not later than seven days after the conclusion of the final MMM conference. The Mediator shall also complete and file the MMM Local Form "Final Report of Mortgage Modification Mediator" ("Final Report") with the Court, either electronically or by conventional filing, not later than two business days following entry of the "Final Report" data on the MMM Portal.

Within 14 days of the filing of the Final Report, if the debtor and the lender have reached a resolution through the MMM conference, the debtor's attorney shall file the MMM Local Form "Ex-Parte Motion to Approve Mortgage Modification Mediation Agreement with Lender" and upload to the Court's E-Orders program the proposed MMM Local Form "Order Granting Motion to Approve Mortgage Modification Agreement with Lender". The debtor shall serve the ex-parte motion and proposed order on all required parties and file a certificate of service pursuant to Local Rule 2002-1(F).

If the debtor is not represented by an attorney, and the debtor and the lender have reached a resolution through the MMM conference, within 14 days of the filing of the Final Report, the

debtor shall file the MMM Local Form "Self-Represented Debtor's Motion to Approve Mortgage Modification Mediation Agreement with Lender", and the Court will promptly schedule a hearing in accordance with the procedures set forth in Local Rule 9073-1. The Debtor shall serve the motion on all required parties and file a certificate of service pursuant to Local Rule 2002-1(F).

The parties shall formalize any required legal documents in a timely fashion thereafter.

X. TRIAL PAYMENTS DURING THE MMM PROCESS:

A. CHAPTER 7 AND CHAPTER 11 PAYMENTS: In a chapter 7 or chapter 11 case, if the lender requests trial payments as part of MMM, absent a court order to the contrary, the debtor must pay to the lender a monthly payment (a) with respect to the debtor's homestead, of no less than the lower of the prepetition monthly contractual mortgage payment or 31% of the debtor's gross monthly income (after deducting any amount paid toward HOA fees due for the property) and (b) with respect to income producing property, of no less than 75% of the gross income generated by such property. Payments will be made by the debtor directly to the lender as agreed by the parties and without requiring Court approval or any modification of the automatic stay.

Unless otherwise agreed to by the lender trial payments shall continue until the MMM is completed and either (a) the payments are superseded by whatever agreement is reached between the debtor and the lender during the MMM process or (b) the parties have reached impasse and no agreement is reached. If the parties reach impasse, the lender may seek relief including stay relief, dismissal or, in a chapter 11, 12 or 13 cases, an order compelling the debtor to amend the plan. If the court requires adequate protection payments in its order on the lender's post MMM motion, the amount of such adequate protection payments may be different than the amounts required during the MMM process.

B. CHAPTER 12 AND CHAPTER 13 PLAN LANGUAGE: When mortgage modification is sought as part of MMM in a chapter 12 case or chapter 13 case, the debtor shall include the following language in "Other Provisions" of the plan, which plan must be filed at the time that the Ex-Parte Motion, the Out of Time Motion or the Pro Se Motion is filed:

"The debtor has filed a Verified Motion for Referral to MMM with _____("Lender"), loan number _____, for real property located at _____. The parties shall timely comply with all requirements of the Order of Referral to MMM and all Administrative Orders/Local Rules regarding MMM. While the MMM is pending and until the trial/interim payment plan or the permanent mortgage

modification/permanent payment is established by the parties, absent Court order to the contrary, the debtor has included a post-petition monthly plan payment (a) with respect to the debtor's homestead, of no less than the lower of the prepetition monthly contractual mortgage payment or 31% of the debtor's gross monthly income (after deducting any amount paid toward HOA fees due for the property) and (b) with respect to income producing property, of no less than 75% of the gross income generated by such property, as a good faith adequate protection payment to the lender. All payments shall be considered timely upon receipt by the trustee and not upon receipt by the lender.

Until the MMM is completed and the Final Report of Mortgage Modification Mediator is filed, any objection to the lender's proof of claim on the real property described above shall be held in abeyance as to the regular payment and mortgage arrearage stated in the proof of claim only. The debtor shall assert any and all other objections to the proof of claim prior to confirmation of the plan or modified plan.

If the debtor, co-obligor/co-borrower or other third party (if applicable) and the lender agree to a settlement as a result of the pending MMM, the debtor will file the MMM Local Form "Ex Parte Motion to Approve Mortgage Modification Agreement with Lender" (or Self-Represented Debtor's Motion to Approve Mortgage Modification Agreement with Lender) no later than 14 calendar days following settlement. Once the settlement is approved by the Court, the debtor shall immediately amend or modify the plan to reflect the settlement and the lender shall amend its Proof of Claim to reflect the settlement, as applicable.

If a settlement is reached after the plan is confirmed, the debtor will file a motion to modify the plan no later than 30 calendar days following approval of the settlement by the Court and the Lender shall have leave to amend its Proof of Claim to reflect the settlement reached after confirmation of the plan. The parties will then timely comply with any and all requirements necessary to complete the settlement.

In the event the debtor receives any financial benefit from the lender as part of any agreement, the debtor shall immediately disclose the financial benefit to the Court and the trustee and amend or modify the plan accordingly.

If the lender and the debtor fail to reach a settlement, then no later than 14 calendar days after the mediator's Final Report is filed, the debtor will amend or modify the plan to (a) conform to the lender's Proof of Claim (if the lender has filed a Proof of Claim) or (b) provide that the real property will be surrendered. If the amended or modified plan provides that the real property

is to be surrendered, then the obligations to the lender will be considered "treated outside the plan" and the lender shall have in rem relief from the automatic stay as to the real property being surrendered. Notwithstanding the foregoing, lender may file a motion to confirm that the automatic stay is not in effect as to the real property.

Confirmation of the plan will be without prejudice to the assertion of any rights the lender has to address payment of its Proof of Claim."

C. APPLICATION OF MMM PAYMENTS:

Unless the parties have agreed to the contrary, MMM payments made during the MMM process will be applied in accordance with applicable loan documents and non-bankruptcy law.

When the MMM is concluded, if all payments provided by a chapter 12 or chapter 13 bankruptcy plan have not been distributed to the lender then the balance held by the trustee shall be distributed:

1. If MMM is successful, as specifically agreed to by the parties in the agreement reached by the parties (which may include the lender's decision to decline receipt of the additional funds);

2. If MMM is not successful, then the balance

   (a) shall be distributed to the lender to be applied by the lender in accordance with the applicable loan documents and non-bankruptcy law, or

   (b) or the lender may affirmatively reject the balance of the payments (failure to object is not sufficient).

XI. DELAY OF DISCHARGE FOR CHAPTER 7 DEBTOR:

Until the MMM process is completed and either an agreement is reached or the parties reach impasse, the debtor's discharge shall be delayed. Note: This provision is effective for chapter 7 debtors filing motions for referral to MMM after April 1, 2015.

XII. MORTAGE MODIFICATION MEDIATOR:

Unless otherwise agreed to by the parties, the mediator shall be selected from the Clerk's Register of Mediators maintained under Local Rule 9019-2(A)(1).

1. **Registration:** Each mediator shall be registered on the MMM Portal.

2. **Standards of Professional Conduct**. 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.

3. **Compensation:** Mediators shall be paid equally by the parties as follows:

   (a) Unless the debtor's case has been accepted as a *pro bono* case, the debtor shall pay a non-refundable fee in the amount of $300.00 directly to the mediator within seven days of designation of the mediator. A debtor may request a mediator to serve pro bono only if debtor's income is less than 150% above the poverty level.

   (b) The lender shall pay a non-refundable fee in the amount of $300.00 directly to the mediator within seven days of the designation of mediator.

   (c) The fee includes the mediator's assistance in determining all documentation is uploaded to the MMM Portal, or, for a debtor with no computer, otherwise exchanged between the debtor and lender, scheduling of the mediation, and participation in a maximum of two, one-hour mortgage modification conferences.

   (d) For sessions that extend beyond the initial two, one-hour sessions, the mediator shall be compensated in accordance with Local Rule 9019-2(A)(6).

   (e) Fees for MMM conferences that extend beyond the initial two, one-hour sessions shall be divided equally between the parties, except in the case of a *pro bono* matter in which case the mediator will be paid one half of his or her fee by the lender and the balance will be credited to the mediator's *pro bono* commitment. Payment shall be made by the debtor and the lender prior to the beginning of each successive MMM conference. If the debtor is not represented by an attorney, the debtor shall bring a money order or cashier's check to the MMM conference in an amount equal to the debtor's share of the one hour session. Any balance owed for a session that extends beyond the pre-paid session shall be paid as soon as possible, or within two business days following conclusion of the final session.

XIII. COMPENSATION OF DEBTOR'S COUNSEL:

Without application to the Court, attorneys for debtors shall be permitted to charge an attorney's fee not to exceed $2500.00, and $100.00 in costs for MMM, subject to the compensation requirements for the chapter under which the case is filed. In chapter 13 cases, charges shall be made in accordance with the "Guidelines for Compensation For Professional Services or Reimbursement of Expense by Attorneys for Chapter 13 Debtors Pursuant to Local Rule 2016-1(B)(2)(a)".

1. The $2500.00 fee shall include:

(a) Filing of the Motion and proposed Order;

(b) Preparation of all forms required for mediation;

(c) Filing of other required pleadings and preparation of proposed orders, and settlement papers, as applicable;

(d) Communicating with the lender and the mediator, including communications through the portal; and

(e) Attendance at all MMM conferences and Court hearings.

(f) Review of all modified loan documents.

2. In a chapter 13 case the $2500.00 fee shall be paid as follows:

(a) The sum of $1500.00 shall be presumed to compensate debtor's attorney for initial services relating to MMM, including but not limited, collecting and uploading documents to the MMM Portal, drafting and filing the motion and communicating with the lender and mediator.

(b) The remaining balance of $1000.00 shall become payable once the mediator has scheduled the initial MMM conference.

(c) If modification of a chapter 13 plan after confirmation becomes necessary, the debtor's attorney may charge an additional $500.00 in fees and $25 in costs in accordance with the "Guidelines for Compensation for Professional Services or Reimbursement of Expense by Attorneys for Chapter 13 Debtors Pursuant to Local Rule 2016-1(B)(2)(a)".