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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF ARIZONA**

In re:

Chapter

Case No.

Debtor(s).

**ORDER ON MOTION FOR REFERRAL  
TO MORTGAGE MODIFICATION  
MEDIATION PROGRAM**

This matter came before the Court upon the *Motion for Referral to Mortgage Modification Mediation Program* (“Motion for Referral”) (Dkt. \_\_\_) filed by the Debtor or Debtors (collectively, the “Debtor”) on \_\_\_\_\_, 20\_\_.

**IT IS HEREBY ORDERED** as follows:

1. The Motion for Referral is GRANTED. The non-moving party may seek reconsideration of this Order by filing a written motion within fourteen (14) days after entry of the Order. If a timely motion for reconsideration is filed, the party seeking reconsideration must promptly schedule a hearing. In the event a motion for reconsideration is timely filed, all deadlines set forth in this Order shall be suspended pending resolution of the motion, but all other provisions shall remain in effect.

2. The Debtor and Lender are required to participate in Mortgage Modification Mediation (“MMM”) Program in good faith and may be subject to possible sanctions by the Court for violation of this requirement. A copy of the Mortgage Modification Mediation Program

1 Procedures (“MMM Procedures”) and Mortgage Modification Mediation Forms (“MMM  
2 Forms”) may be obtained at the United States Bankruptcy Court, District of Arizona website,  
3 [www.azb.uscourts.gov](http://www.azb.uscourts.gov).

4 3. The MMM Program proceedings in this case shall be completed no later than 150  
5 days from the date of this Order, unless agreed to by the parties and the Mediator on the Mortgage  
6 Modification Mediation Portal (“MMM Portal”) or extended by an order of the Court.

7 4. All communications and information exchanged during MMM are privileged and  
8 confidential and shall be inadmissible in any subsequent proceeding as provided by Rule 408 of  
9 the Federal Rules of Evidence, except in circumstances of a motion for failure to participate in  
10 good faith under the MMM Program and procedures.

11 5. Within fourteen (14) days after entry of this Order, the Lender and, if applicable,  
12 Lender’s counsel shall register with the MMM Portal, unless already registered, and provide to  
13 the MMM Portal vendor any forms or documents which Lender may require to initiate a review  
14 under the MMM Program procedures. The MMM Portal vendor shall post any such forms or  
15 documents to the Lender’s profile on the MMM Portal. If the Lender fails to timely register on  
16 the MMM Portal, the Debtor may file a motion with the Court seeking sanctions against the  
17 Lender for failure to register.

18 6. Lender’s counsel or representative shall have the authority (within the investor’s  
19 guidelines) to settle and will attend and continuously participate in all MMM conferences in this  
20 case.

21 7. Within seven (7) days after entry of this Order or Lender’s registration on the MMM  
22 Portal, whichever is later, Debtor shall remit to the MMM Portal vendor the required non-  
23 refundable MMM Portal submission fee, and upload to the MMM Portal the following:

- 24 a. Debtor’s Prepared Package (prepared using the Document Preparation Software);
- 25 and
- 26 b. a copy of this Order.

27 8. Debtor shall, within seven (7) days after entry of this Order, identify the assigned  
28 Mediator on the MMM Portal.

1           9. Within fourteen (14) days after Lender provides the MMM Portal vendor with its list  
2 of required mortgage modification documents and information, Debtor shall provide Debtor's  
3 Completed Package to Lender through the MMM Portal.

4           10. The Lender shall, within seven (7) days after Debtor submits Debtor's Completed  
5 Package on the MMM Portal, acknowledge receipt of Debtor's Completed Package on the MMM  
6 Portal and designate its single point of contact and outside legal counsel (if any).

7           11. If Lender notifies Debtor on the MMM Portal that additional documents or  
8 information is required to perfect Debtor's Completed Package, Debtor shall provide such  
9 documents or information to Lender on the MMM Portal as may be reasonably requested by  
10 Lender.

11           12. Lender shall timely review and underwrite the loan modification request, and  
12 indicate on the MMM Portal that it has completed a review of Debtor's Completed Package.

13           13. Lender shall indicate its final decision on the MMM Portal.

14           14. If the Lender transfers the loan, the Lender or Debtor shall promptly update the  
15 MMM Portal to identify the new holder of the loan ("Successor Lender"). The Successor Lender  
16 shall:

- 17           a. Be obligated to comply with all terms of the Order;
- 18           b. Within twenty-one (21) days of the transfer, acknowledge that it is the new holder  
19           of the loan on the MMM Portal; and
- 20           c. Within twenty-one (21) days of the transfer, communicate to Debtor and the  
21           Mediator on the MMM Portal whether any additional documents or information  
22           are necessary to perfect Debtor's Completed Package.

23           15. Selection of Mediator:

- 24           a. The eligible mediator identified in the Motion for Referral to Mortgage  
25           Modification Mediation Program is hereby assigned as the Mediator in this case.
- 26           b. Any objection to the assignment of this Mediator must be made on the MMM  
27           Portal. The parties shall communicate and attempt to agree on a successor  
28           mediator within fourteen (14) days after identification of the assigned Mediator

1 on the MMM Portal. If the parties agree on a successor mediator, the objecting  
2 party shall file with the Court a Stipulation Assigning Successor Mediator and  
3 concurrently lodge with the Court an Order approving the Stipulation. Once the  
4 Stipulated Order is entered, Debtor shall promptly update the MMM Portal to  
5 identify the successor Mediator of the case.

6 c. In the event the parties cannot agree on a successor mediator, within fourteen (14)  
7 days after identification of the assigned Mediator on the MMM Portal the  
8 objecting party must file with the Court an Objection to Selection of Mortgage  
9 Modification Mediation Program Mediator and set the matter for hearing. After  
10 notice and a hearing the Court shall select the mediator. Once a Mediator is  
11 assigned, Debtor shall promptly update the MMM Portal to identify the Mediator  
12 of the case.

13 d. If the objecting party fails to file with the Court and notice for hearing an  
14 Objection to Selection of Mortgage Modification Mediation Program Mediator  
15 within fourteen (14) days after identification of the assigned Mediator on the  
16 MMM Portal, the Mediator assigned under paragraph 15(a) of this Order shall  
17 remain assigned to the case.

18 16. The Mediator shall be:

19 a. governed by and subject to the Model Standards of Conduct for Mediators as  
20 adopted by the American Arbitration Association, American Bar Association,  
21 and Association of Conflict Resolution;

22 b. compensated in the amount required pursuant to the MMM Procedures for  
23 preparation for MMM, execution of required documents, facilitation of document  
24 and information exchange between the parties, and participation in two one-hour  
25 MMM conferences; and

26 c. compensated at the rate set by the U.S. Bankruptcy Court for the District of  
27 Arizona as adopted by this Court by General Order 23-2 and the MMM  
28 Procedures and, for any MMM conferences beyond the initial two one-hour

1 sessions, at such rate as may be agreed to in writing by the parties and the  
2 Mediator.

3 17. The Mediator's fee shall be paid equally by the parties as follows:

- 4 a. The Debtor shall pay its half of the non-refundable Mediator fee pursuant to the  
5 MMM Procedures directly to the Mediator within seven (7) days after receiving  
6 initial contact and payment instructions from the Mediator;
- 7 b. The Lender shall pay its half of the non-refundable Mediator fee pursuant to the  
8 MMM Procedures directly to the Mediator within seven (7) days after receiving  
9 initial contact and payments instructions from the Mediator; and
- 10 c. The Mediator's fee for MMM conferences that extend beyond the initial two  
11 one-hour conferences shall be paid equally by the parties, with payment made  
12 prior to the beginning of each successive MMM conference in accordance with  
13 the MMM Program procedures.

14 18. The Mediator shall, within seven (7) days after being identified as the assigned  
15 Mediator on the MMM Portal:

- 16 a. Log into the MMM Portal and confirm the assignment as the Mediator in the  
17 case;
- 18 b. Provide the parties with contact information and instructions on how to pay the  
19 Mediator's fee; and
- 20 c. Use the MMM Portal to facilitate any additional exchange of information or  
21 documentation between Debtor and Lender in an effort to perfect the documents  
22 needed for Lender to complete its analysis of Debtor's mortgage modification  
23 options.

24 19. If the Mediator fails to timely register or log in to the MMM Portal to begin  
25 facilitating the MMM process, any party to the mediation may file a motion requesting that the  
26 Mediator be removed from this case and, if applicable, be removed from the Clerk's Registry of  
27 Mediators.

1           20. Mediation Conference:

- 2           a. The Mediator shall schedule the initial MMM conference to take place within  
3           ninety (90) days after entry of this Order. The initial MMM conference may be  
4           scheduled as soon as the Mediator determines that Lender has completed its  
5           review of Debtor's Completed Package as required by Paragraph 12 of this Order.  
6           b. The Mediator may communicate with the parties in whichever manner the parties  
7           and Mediator agree.  
8           c. After consultation with the parties, the Mediator shall fix a reasonable time and  
9           place for the MMM conferences.  
10          d. The Mediator shall give the parties at least seven (7) days' notice on the MMM  
11          Portal of the date, time, and place for the MMM conferences.  
12          e. The Mediator shall report the scheduling of any and all MMM conferences  
13          through the MMM Portal.  
14          f. The initial MMM conference shall not exceed one (1) hour unless otherwise  
15          agreed by the parties and the Mediator.

16          21. In the event the parties are unable to reach an agreement and require an additional  
17          MMM conference, the Mediator shall schedule a final MMM conference to be held no later than  
18          thirty (30) days after the conclusion of the initial MMM conference. The final MMM conference  
19          shall not exceed one (1) hour in duration unless otherwise agreed by the parties and the Mediator.

20          22. In the event the parties reach a trial loan modification agreement:

- 21          a. Within seven (7) days after the parties reach such an agreement the Mediator shall  
22          upload to the MMM Portal and file with the Court an Interim Report of Mortgage  
23          Modification Mediation Program Mediator.  
24          b. Within seven (7) days after the Mediator files the Interim Report with the Court:  
25          i. Debtor shall file a Motion to Approve Trial Loan Modification Agreement;  
26          ii. Debtor shall lodge with the Court an Order Approving Trial Loan  
27          Modification Agreement. The Court may grant such relief on an *ex parte*  
28          basis; and

1           iii. Once entered by the Court, Debtor shall serve a copy of the Order on all  
2           Required Parties and the trustee, if applicable, and file a certificate of service  
3           demonstrating that these parties were properly served.

4           c. The Mediator and all other Required Parties shall monitor the trial loan  
5           modification and manage the mediation until a final loan modification has been  
6           executed or Lender has denied a final loan modification. Access to the MMM  
7           Portal shall remain open during the pendency of a trial loan modification.

8           23. In the event the parties reach a final loan modification agreement:

9           a. Within seven (7) days after the parties reach such an agreement the Mediator shall  
10           upload to the MMM Portal and file with the Court a Final Report of Mortgage  
11           Modification Mediation Program Mediator.

12           b. Within fourteen (14) days after the Mediator files the Final Report with the Court:

13           i. Debtor shall file a Motion to Approve Final Loan Modification Agreement. If  
14           Debtor is represented by an attorney, this Motion may be filed *ex parte* and  
15           Debtor's attorney shall concurrently lodge with the Court an Order Approving  
16           Final Loan Modification Agreement, which the Court may grant on an *ex*  
17           *parte* basis. If Debtor is not represented by an attorney, this Motion must be  
18           noticed, served, and set for a hearing using a Notice of Hearing on Self-  
19           Represented Debtor's Motion to Approve Final Loan Modification  
20           Agreement.

21           ii. Once an Order Approving Final Loan Modification Agreement is entered by  
22           the Court, either *ex parte* or after notice and hearing, Debtor shall serve a copy  
23           of the Order on all Required Parties, the trustee, if applicable, and file a  
24           certificate of service demonstrating that these parties were properly served.

25           c. In Chapter 13 Proceedings – Pursuant to Local Rule 2084-4, and within twenty-  
26           eight (28) days after the final loan modification is approved by the Court, Debtor  
27           shall file an Amended Chapter 13 Plan or Modified Chapter 13 Plan providing  
28           for conduit loan modification payments pursuant to Section III(A) of the MMM

1 Program Procedures, if the Chapter 13 Plan does not already contain such  
2 provisions.

3 d. In Chapter 11 and 12 Proceedings – The Final Loan Modification Agreement  
4 shall be binding upon the parties upon entry of the Order Approving the Final  
5 Loan Modification Agreement. The Debtor shall incorporate the terms of the  
6 Final Loan Modification Agreement into the plan.

7 24. If the parties fail to reach an agreement at the conclusion of the MMM conferences:

8 a. Within seven (7) days after the conclusion of the MMM conferences the Mediator  
9 shall upload to the MMM Portal and file with the Court a Final Report of  
10 Mortgage Modification Mediation Program Mediator.

11 b. In Chapter 13 Proceedings – Pursuant to Local Rule 2084-4, and within twenty-  
12 eight (28) days after the Mediator files the Final Report with the Court, Debtor  
13 shall file an Amended Chapter 13 Plan or Modified Chapter 13 Plan providing  
14 for appropriate treatment of Lender’s claim.

15 25. In Chapter 7 Proceedings –

16 a. Debtor shall deposit the Estimated Monthly Payment (“EMP”) into the EMP  
17 Account or into their attorney’s IOLTA account and shall upload proof of the  
18 deposit to the MMM Portal within thirty (30) days after filing the Motion for  
19 Referral. Debtor shall continue to deposit the EMP into the EMP Account or into  
20 their attorney’s IOLTA account every thirty (30) days thereafter, and upload  
21 proof of each deposit within thirty (30) days of the deposit, until such time as a  
22 further order of the Court provides otherwise.

23 b. The Debtor’s Chapter 7 discharge is delayed pending conclusion of the  
24 MMM proceedings, either by entry of an Order Approving Final Loan  
25 Modification Agreement, or a Mediator’s Final Report indicating that a final loan  
26 modification was denied by Lender and not timely appealed.

27 26. The automatic stay is modified to the extent necessary to facilitate MMM pursuant  
28 to this Order.

