

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION-FLINT

IN RE:

CHAPTER 13

CASE NO:

JUDGE DANIEL S. OPPERMAN

Debtor(s)

_____ /

MOTION FOR MORTGAGE MODIFICATION REQUEST

The Debtor(s) request entry of an order setting deadlines and other parameters for [*Creditors with Mortgages Encumbering the Debtor(s)' Primary Residence*] to respond to debtor(s) request for a mortgage modification, and in support state:

1. The Debtor(s) filed this Chapter 13 case in an attempt to retain their primary residence.
2. The Debtor(s) would like to modify the terms of the mortgage(s) encumbering their primary residence. The Debtor(s)' income will allow them to contribute as much as 31 percent of their current gross income to payment of their modified mortgage debt.
3. An order setting forth certain deadlines and other parameters will assist the parties in negotiation of a modification of the relevant mortgage(s).
4. Debtor(s) will pay the DMM Web Portal cost in the amount of \$25.00 to the Chapter 13 Trustee.

WHEREFORE, Debtor(s) request the entry of an order setting deadlines and other parameters for a mortgage modification, and such other relief as this Court deems just and proper.

Dated: _____

/s/ _____

Attorney for Debtor(s)

**UNITED STATES BANKRUPTCY COURT
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JUDGE DANIEL S. OPPERMAN**

Debtor(s)

MORTGAGE MODIFICATION REQUEST ORDER

This case was considered by the Court on the Debtor(s)' Motion for Mortgage Modification Request [Doc. No.]. Finding that the Debtor(s) desire to retain their primary residence and have stated that they have sufficient income to justify modification with the goal of modifying the current mortgage(s) encumbering their primary residence, it is:

ORDERED:

1. Creditor Registration on the DMM Loss Mitigation Web Portal. Within 14 days of the entry of this Order, the creditor, if not already registered to use the DMM Loss Mitigation Web Portal(www.dclmwp.com), shall register to use the DMM loss Mitigation Web Portal and shall post creditor's loan modification package and requirements ("Creditor's Required Loan Modification Package") thereon. Questions about registration or posting of the Creditors Required Loan Modification Package can be directed to the Chapter 13 Trustee or DMM Support at 1-800-481-1013.
2. Mortgage Modification Report within 60 Days. Within 60 days from the date of this Order, the mortgage creditor shall file a report with the court, stating whether the mortgage modification request was granted or denied. If denied, the report shall state the reasons for the denial. Said report shall include a printout of the transactional history from the DMM Loss Mitigation Web Portal.
3. DMM Loss Mitigation Web Portal Requirement to file Documents. All filing of documents between debtor and creditor for purposes of this Mortgage Modification Request shall be accomplished by using the DMM Loss Mitigation Web Portal. The Chapter 13 Trustee is authorized to pay the \$25.00 Web Portal fee from the debtor's funds on hand. Questions by any party on the use of the DMM Loss Mitigation Web Portal can be directed to the Chapter 13 Trustee.
4. Debtor(s)' Financial Documents. Counsel for Debtor(s) or, if unrepresented, the Debtor(s) shall, within 28 days after entry of this order, provide to creditor Creditor's Required Loan Modification Package by filing it via the DMM Loss Mitigation Web Portal. Creditor's Required Loan Modification Package may be downloaded from the DMM Loss Mitigation Web Portal. Questions about downloading the Creditor's Required Loan Modification Package or filing it via the DMM Loss Mitigation Web Portal can be directed to the Chapter 13 Trustee or DMM Support at 1-800-481-1013.
5. Creditor Request for Additional or Updated Documents. At least 14 days prior to the scheduled mortgage modification report due date, creditor(s) and its counsel shall review the Debtor(s)' filed Creditor's Required Loan Modification Package and notify the Debtor(s) of any additional or updated financial records they must supply to the creditor(s). Debtor(s) shall provide creditor(s)' and its counsel all reasonably requested additional financial records within 72 hours of such notification. If there is a non-filing co-borrower, creditor(s) may request financial information from the non-filing co-borrower if the filing debtor intends to use the non-filing co-borrower's income to qualify for a modification. Upon receipt of all documents, creditor(s)' counsel shall timely submit the documents to underwriting at least 10 days in advance of the mortgage modification report due date. The filing of documents per this provision shall be accomplished via the DMM Loss Mitigation Web Portal.
6. Identification of Mortgage Modification Participants with Settlement Authority. At least 21 days prior to the scheduled mortgage modification report due date, counsel for the creditor(s) must provide a completed Certification

of Settlement Authority identifying the creditor(s)' representative(s) who will be acting upon the mortgage modification request, and to Debtor(s)' counsel along with the case number of the action and contact information for all of the parties. The contact information must include the last known mailing address, phone number, and email address for each party. **At least one of the creditor(s)' representatives designated in the Certificate of Settlement Authority must sign the mortgage modification report pursuant to this Order.** Creditor(s) may amend the Certificate of Settlement Authority to change the designated creditor(s)' representative provided they supply the amended Certificate of Settlement Authority to the debtor's counsel no later than 5 days prior to the mortgage modification report due date. Creditor shall also identify the designated creditor representative on the DMM Loss Mitigation Web Portal.

7. Parties Must Participate in the Mortgage Modification Process. The trustee of a securitized loan or its fully authorized designee with complete and master servicer settlement authority (to settle within the guidelines of any third party, or subject to any third party investor approval) or a specialist from the creditor(s)' mortgage modification department with complete and master servicer authority to settle must continuously participate in the entire mortgage modification request process.
8. Court Approval of Mortgage Modification. Parties are directed to promptly seek any necessary court approval for the mortgage modification and to formalize the modification in any needed legal documents.
9. Creditor Fee. Counsel for the creditor(s) is entitled to receive a reasonable fee for all work involved in connection with the mortgage modification, including requesting and reviewing documents, and will clearly delineate such fee in the completed agreement or by amended proof of claim.
10. Debtor(s) counsel's fee. Counsel for the Debtor(s) is entitled to receive reasonable compensation for all work involved in connection with the mortgage modification and shall file an application for allowance of attorney fees and costs for allowance by the Court.
11. Remedies. If a mortgage modification does not occur because the mortgage creditor(s) fails to designate a representative with settlement authority; fails to file the Certificate of Settlement Authority when due; fails to register on the DMM Loss Mitigation Web Portal; failed to provide Creditor's Required Loan Modification Package; fails to file the Mortgage Modification Report when due; or otherwise does not engage in the mortgage modification in good faith, then the Court may order a representative from the mortgage creditor(s) to physically appear before the court for a show cause hearing; order the mortgage creditor(s) and Debtor(s) to engage in mediation to modify the mortgage; and impose such other sanctions as the court deems appropriate including, but not limited to, an award of actual costs and attorney fees to the aggrieved party.
12. Privileged Communications. All statements made by the parties, attorneys, and other participants associated with the mortgage modification request are privileged and not reported, recorded, or placed into evidence, made known to the Court, or construed for any purposes as an admission.
13. Stay Lifted to Allow Loan Modification. The automatic stay is modified, to the extent necessary, to facilitate the mortgage creditor(s)' loan modification terms pursuant to this Order. The parties shall timely submit any agreed loan modifications to the Court for approval.
14. All parties are directed to comply with this Order and to engage in the mortgage modification in good faith. Failure to do so may result in the imposition of damages and sanctions.

IT IS SO ORDERED.

DANIEL S. OPPERMAN
United States Bankruptcy Judge