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STATE OF WISCONSIN

## FIRST JUDICIAL DISTRICT

MILWAUKEE COUNTY COURTHOUSE  
901 NORTH NINTH STREET, ROOM 609  
MILWAUKEE, WISCONSIN 53233-1425

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### CHIEF JUDGE DIRECTIVE 13-02

**DATE:** February 18, 2013

**TO:** All Judges, All Court Commissioners, District Court Administrator, Deputy District Court Administrator, County Executive, Clerk of Circuit Court, Corporation Counsel, Sheriff, District Attorney, City Attorney, Public Defender, Court Coordinators, Managing Court Reporter, CCAP, Legal Resource Center, IMSD, Facilities Management, Press

**FROM:** Chief Judge Jeffrey A. Kremers

**RE:** AMENDMENT OF DIRECTIVE 12-04 AS IT RELATES TO FORECLOSURE PROCEDURES

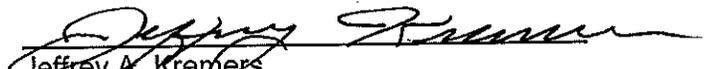
Effective March 1, 2013:

IT IS HEREBY DIRECTED that, until further notice, in all residential mortgage foreclosure actions filed after the effective date of this directive, the plaintiff shall attach to the summons and complaint served upon the mortgagor(s) the following forms printed on pink paper:

- (a) Notice of Availability of Mediation through the Metro Milwaukee Foreclosure Mediation Program;
- (b) Mediation Request Form.

Copies of these forms are attached hereto along with the "Foreclosure Mediation Process Description" which sets forth program details. All three documents can be downloaded from the Milwaukee County Court Services and the Milwaukee County Clerk of Circuit Court websites.

Dated at Milwaukee, Wisconsin, this 18<sup>th</sup> day of February, 2013

  
Jeffrey A. Kremers  
Chief Judge

JAK: dla

Attachments

## Notice of Availability of Mediation

### **What is the foreclosure mediation program?**

Milwaukee County's foreclosure mediation program is administered by the Metro Milwaukee Mediation Program and is part of the Wisconsin Foreclosure Mediation Network. This Network receives funding from the Wisconsin Department of Justice and support from your local courts.

The Program is available to assist homeowners facing a mortgage foreclosure action in Milwaukee County. Mediation is a confidential and voluntary process where you and the lender seeking to foreclose on your home may discuss ways to resolve your foreclosure case, including reinstatement of the loan and possible modification of the loan terms.

The Program is available to parties to a first or second mortgage foreclosure action involving a one-four family residential property. You need not reside in the property, but you may not own more than four other rental properties. In addition, the action must be pending in Milwaukee County. Vacation properties or "seasonal homes" are not eligible, nor are homes under bankruptcy protection.

### **How does the homeowner request foreclosure mediation?**

Along with this notice, you have also received the Mediation Request Form. This form is also available through the Court's website at <http://www.co.Milwaukee.wi.us/clerk-courts> and the Metro Milwaukee Foreclosure Mediation website at <http://www.MediateMilwaukee.com>. You should complete and send your request form to the program within 30 days of receiving the summons, but if that date has passed, you can still make a late request, as mediation might still be a possibility.

Within two business days of receiving the Request Form, the Program Administrator will refer a housing counseling agency to you via mail or email. Your second step is to contact your housing counselor to set up a meeting for the purpose of compiling a complete loan modification application. The housing counselor sends the loan modification application directly to the Program Administrator. Your third step is to pay the mediation fee of \$150 by check, money order or credit card payment.

After you have completed all three mediation request steps, the Program Administrator will notify your lender to request their participation, seeking a response within 10 business days. Your Lender's non-refundable mediation fee of \$150 is due at the time of their consent.

### **Is participation in mediation required?**

Participation is voluntary for the homeowner/borrower and lender. Sometimes, lenders will choose not to participate in mediation. Some reasons lenders may not participate include situations when prior refinances or modifications didn't work out.

While entry into the Foreclosure Mediation Program is voluntary for both parties, by consenting, the parties agree to abide by the process set forth in the court's local rules or directives.

If the Lender declines the invitation to mediate, the Program Administrator will refund \$125 of your mediation fee. The remaining \$25 is non-refundable and used to off-set program administrative costs.

**How can the Housing Counselor help?**

In order to increase the chance of success at mediation, you are matched with a housing counselor in your area. Housing Counselors are specially trained and certified to go over financial information with you, and to discuss programs that may be available to avoid foreclosure. If you do not take this step, the mediation cannot proceed. **It is crucial that you provide them all the items they request.**

**What does mediation cost?**

There is no cost to request mediation or to work with a housing counselor. You and your lender must each pay a non-refundable mediation fee of \$150 before the case can be scheduled for mediation. Credit card payments are accepted by telephone at 414-939-8800 or you may mail a check or money order to the Metro Milwaukee Foreclosure Mediation Program at P.O. Box 633, Milwaukee, WI 53201.

**Does the foreclosure stop during the mediation process?**

Even after applying for mediation, you are required to comply with all mandatory deadlines set by the court, including the time to answer the Complaint. Please read the Summons and Complaint *carefully* and make sure you understand your rights and the time period for filing an Answer or Responsive Pleading. If you do not file an Answer or Responsive Pleading, the court may grant judgment against you and you may lose your right to object to anything that you disagree with in the Complaint.

**Do you need a lawyer to participate in the mediation program?**

While everyone is always strongly encouraged to consult with an attorney, you are not required to be represented by an attorney. You may contact the statewide Lawyer Referral and Information Service at (800) 362-9082 or the local Legal Aid Society of Milwaukee, 414- 727-5373, to obtain the names of attorneys who may be able to assist you. If you are working with a lawyer, please notify the Program Administrator of their name and contact information.

**Who must attend the mediation session?**

The mediation session must be attended in person by all homeowners who signed the note. All attorneys must also attend in person or by video conference, if available. The loan servicer will attend by telephone. Either party may have other support persons such as attorneys, loan officers and tax advisers attend or available by phone.

**Where can I find additional foreclosure resources?**

More information on resources for homeowners facing foreclosure is available at [www.mediatewisconsin.com](http://www.mediatewisconsin.com).



# Mediation Request Form

Within 30 days from the date you received the foreclosure Summons, complete this Request Form and return it to the Metro Milwaukee Foreclosure Mediation Program by:



**Mail:** Metro Milwaukee Foreclosure Mediation Program (MMFMP), P.O. Box 633, Milwaukee, WI 53201  
**Phone:** (414) 939-8800      **Fax:** (414) 939-8803  
**Email:** [apply@mediatemilwaukee.com](mailto:apply@mediatemilwaukee.com)  
**Online:** [www.mediatemilwaukee.com](http://www.mediatemilwaukee.com)

Name of all Homeowner(s) (who has title):	
Name of all Borrower(s) (who signed the loan):	
Full property address (Street/City/State/ZIP):	
Mailing address (if different):	
Number of units you own at property location:	
Email address:	
We prefer to use e-mail as our main way to contact you. Is that acceptable? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Home Phone:	Work Phone:
Cell Phone:	Alternate Phone:
Best phone to reach you during the day? <input type="checkbox"/> Home <input type="checkbox"/> Work <input type="checkbox"/> Cell <input type="checkbox"/> Alternate	
Name of Lender/Plaintiff in your case:	
Name of Servicer (you make your mortgage payment to them):	
Name of County where this home is located:	
Case Number (located on your Summons):    20      CV	
Date you received the Summons and Complaint:	
Is this property your primary residence? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Do you own the property? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Did you sign the Mortgage Note? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Have you started a bankruptcy that is still ongoing? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Does an attorney represent you for your foreclosure? <input type="checkbox"/> Yes <input type="checkbox"/> No    If yes, name & email address:	
Have you met with a housing counselor? <input type="checkbox"/> Yes <input type="checkbox"/> No    If yes, with whom have you met?	
If English is not your primary language, will you bring an interpreter to the mediation? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Have you received a prior loan modification for this property? <input type="checkbox"/> Yes <input type="checkbox"/> No	

How did you hear about the Metro Milwaukee Foreclosure Mediation Program?

- Colored forms attached to summons (pink, yellow or green)
- Website (which one):
- Housing Counselor (Name):
- Radio announcement (which one):
- Hotline (which one):
- Other (please explain):

**Authorization for Research and Evaluation.** The Metro Milwaukee Foreclosure Mediation Program is operated by Metro Milwaukee Mediation Services, Inc. MMFMP will share your contact or financial information only with program partners, such as your HUD certified housing counselor, your attorney, or your lender's representatives. We also compile anonymous aggregate case file or results information for the purpose of evaluating our services, gathering valuable research information, designing future programs and engaging in academic research, analysis and publication. I consent to the use of my information for these purposes. I also authorize my servicer to disclose all information and supply any documents that relate to the loan which is described in this Request to the Mediation Program through a program designated online Portal.

I also certify that I am the owner and mortgagor of the property that is subject to this foreclosure action.

\_\_\_\_\_  
Property Owner's Signature

\_\_\_\_\_  
Date

**PLEASE NOTE: You are not "in mediation" until you have completed all three steps below. Once you have fully completed all three steps, you will be considered "in mediation."**

**Step 1:**

Within 30 days from the date you received the foreclosure Summons, complete the attached Request form and return it to the Metro Milwaukee Foreclosure Mediation Program:

**Mail:** Metro Milwaukee Foreclosure Mediation Program (MMFMP), P.O. Box 633, Milwaukee, WI 53201  
**Phone:** (414) 939-8800 **Fax:** (414)939-8803  
**Email:** apply@mediatemilwaukee.com  
**Online:** www.mediatemilwaukee.com

*You have Completed Step 1. If you are deemed eligible for mediation, you will receive the name of your housing counselor within two (2) business days.*

**Step 2:**

Call and meet with your assigned housing counselor and help them put together a complete financial package. Promptly collect and deliver to them all of the items they request. This step is critical. This should be done within two (2) weeks or sooner.

**Step 3:**

Pay to the Metro Milwaukee Foreclosure Mediation Program the Mediation Request fee of \$150 by check, money order, or to make a credit/debit card payment call 414-939-8800.



**The Foreclosure Mediation Process**  
**Description, effective March 1, 2013**

**A. Goal.** The Metro Milwaukee County Foreclosure Mediation Program is patterned after the Wisconsin Foreclosure Mediation Network Model. The goal of the Program is to assist parties determine, within a reasonable period of time, whether foreclosure can be avoided by an alternate mutually agreeable arrangement, such as a loan modification or repayment plan, or to allow for a graceful exit from the property. The mediation program seeks to achieve this goal by structuring the collection and exchange of information to prepare the parties for their mediation session. The neutral and impartial mediator then guides and summarizes the communications so that parties gain a complete and clear understanding of any options that may exist, or the reasons retention options are not available.

**B. Eligibility.** The Program is available to parties to a first or second mortgage foreclosure action involving a one-four family residential property. The homeowner need not reside in the property, but they may not own more than four other rental properties. This is consistent with the eligibility criteria for the U.S. Treasury's Making Homes Affordable loan modification program. In addition, the action must be pending in Milwaukee County. Vacation properties or "seasonal homes" are not eligible, nor are homes subject to a bankruptcy.

**C. Request/Consent Process:**

**1. Mediation Request Form.** To initiate the mediation process, either party may make a request. The homeowner's request must utilize the "Mediation Request Form." Within two business days of receiving the Request Form, the Program Administrator will refer a housing counseling agency to the homeowner via mail or email. The homeowner's second step is to contact a housing counselor to set up a meeting for the purpose of compiling a complete financial package. The housing counselor sends the package directly to the Program Administrator. The homeowner's third step is to pay the application fee of \$150 by check, money order or credit/debit payment via telephone.

If the homeowner does not complete all three steps within 60 days from receipt of the

Mediation Request Form, in the absence of extenuating circumstances, the application will be deemed inactive.

**2. Lender's Consent.** After the homeowner has completed all three application steps, the Program Administrator will notify Lender's counsel and request Lender's participation, seeking a response within 10 business days. Lender's non-refundable fee of \$150 is due at the time of consent. If no response is received within 30 days, the Program Administrator will notify the Court that Lender has not responded and will close the mediation

**D. Mediation Preparation/Document Exchange:**

**1. On-line Portal.** By consenting, Lender agrees to utilize an Administrator selected secure internet based portal to:

- a. Post the lender required loan modification application forms and requirements,
- b. Receive the homeowner's loan modification package documents and
- c. Exchange messages about any outstanding documents or information.

**2. Initial Submission of Loan Modification Request Packet ("Financial Package").** Within 2 business days of lender's consent, the Program Administrator will send the homeowner's financial package to the lender, either via the Portal or via lender's counsel.

**3. Notice of Deficient Package and (Lender's Confidential Loan Data Sheet).** Within 5 business days after receipt of homeowner's initial submission of information, Lender shall:

- a. Notify the Program Administrator of any known deficiencies, including any missing information or documentation required for the loan modification application to be complete, and
- b. Send the completed Confidential Loan Data Sheet.

**4. Supplemental Submission.** Within 10 days from the date of the Lender's notification of deficiencies in the financial package, homeowner shall submit supplemental information or documents. This deadline may be extended for compelling circumstances beyond the homeowner's control.

**5. Notice of Commencement of Review Period.** When no outstanding Lender requests for information or documents remain, the Program Administrator will send a Notice to the Court advising that:

- a. The Homeowner has delivered to Lender, via Program Administrator, a completed application for a loan modification;
- b. Lender is reviewing the application for alternatives to foreclosure; and
- c. The next scheduled mediation activity.

#### **E. Mediation Session**

**1. Assignment of Mediator.** At the time of the Initial Submission, the Program Administrator will assign a trained neutral and impartial mediator, who will utilize the facilitative style of mediation, refraining from directing or advising the parties, and will abide by the Uniform Model Standards of Mediator Conduct.

**2. Attendance by Parties with Authority.** By consenting, Lender agrees to designate a representative with knowledge of all of the Lender's loss mitigation programs either with full authority to make a determination on the homeowner's request or access to persons having such authority. Such representative may appear via video or teleconference. All attorneys will appear in person or via videoconference (if such accommodations are available). Absent prior arrangements, all mortgagors and the mediator must be present at the mediation session. If subsequent mediation sessions are scheduled, all appearance may be via teleconference.

**3. Confidentiality and Privilege.** All communications made by the parties, attorneys and other participants at or in

connection with the mediation shall be privileged and not reported, recorded or placed into evidence, or made known to the Court or construed for any purposes to be an admission. The Mediator will keep confidential all statements made during the mediation session, and will report to the Court only the results of the mediation or the procedural status of the mediation case.

**4. Scope of Subject Matter.** The mediation session may include negotiation of a modification of the homeowner's loan, whether by new payment terms, reduction or forgiveness in principal, interest, escrow shortage or advanced costs, surrender or sale of the mortgaged property or otherwise. Disputes of the amount due, application of payments, or other claims are within the scope of mediation only if both parties expressly make such election.

**5. Close of Mediation.** The Mediator shall cause the mediation process to conclude when:

- a. The homeowner has withdrawn from the mediation process,
- b. The Lender has reached a determination about the Homeowner's eligibility for a loan modification and the Homeowner has been afforded an opportunity to discuss the determination during a mediation session, or
- c. The Homeowner has failed, after 10 business days, to supply information or documents identified as outstanding by the Lender and the Lender has requested that mediation be closed.

The Program Administrator shall send to the Court a Final Mediation Report no later than 10 days after the conclusion of the mediation.