

## **Foreclosure Mediation Case Management Directive**

- I. Pre-Mediation Practice:
  - a. Upon referral into the Foreclosure Mediation Program, all motion practice and discovery shall be stayed.
- II. Pre-Mediation Conference:
  - a. The Pre-Mediation Conference will be scheduled and held within thirty (30) days of the referral into the Foreclosure Mediation Program.
  - b. Attendance:
    - i. Plaintiff's counsel shall appear in person at the Pre-Mediation Conference. Failure to appear will result in dismissal of Plaintiff's claims, without prejudice.
    - ii. Defendant/property owner shall appear in person at the Pre-Mediation Conference. Failure to appear will result in the case being returned to the Foreclosure Magistrate.
    - iii. Counsel for any other party with affirmative claims must appear at the Pre-Mediation Conference, or those claims will be dismissed without prejudice.
  - c. Required Documentation:
    - i. Plaintiff/Lender:
      1. The Plaintiff shall submit a completed Lender's Questionnaire at the time of the Pre-Mediation Conference. Failure to submit a completed Lender's Questionnaire will result in the dismissal of Plaintiff's claims without prejudice.
    - ii. Defendant/Property Owner:
      1. The Defendant shall submit two copies of the requested financial documentation at the time of the Pre-Mediation Conference. Documents required include, but are not limited to:
        - a. The lender-specific financial worksheet, or monthly budget
        - b. Pay-stubs or proof of income for the two most recent and consecutive months (this may include Social Security Income and Social Security Disability award letters)
        - c. If self-employed, a Profit and Loss statement, updated to the current month
        - d. Bank statements for the two most recent and consecutive months
        - e. Previous two years tax returns
        - f. A detailed hardship letter explaining the reason for default
        - g. Any rental/lease agreements that provide income to the household
        - h. Any other relevant financial documentation
      2. Failure to submit the required financial documentation at the Pre-Mediation Conference will result in the return of the case to the Foreclosure Magistrate.
    - iii. Loss Mitigation Worksheet:
      1. Should the lender require a specific loss mitigation worksheet to be completed, it must be sent to the property owner and the Court prior to the Pre-Mediation Conference. If no worksheet is provided, the lender may not request it at a later date.
- III. Mediation:
  - a. The full mediation shall be scheduled and held within ninety (90) days of the Pre-Mediation Conference. In total, a file should be in the Foreclosure Mediation Program for a total of 120 days, unless good cause can be shown otherwise.
  - b. Attendance:
    - i. Plaintiff's counsel and a client representative, or investor representative, with full authority to settle a case, shall appear in person at the full mediation. Failure to appear in person will result in the dismissal of Plaintiff's claims without prejudice.

- ii. Defendant/property owner, and any counsel, shall appear in person at the full mediation. Failure to appear in person will result in the return of the case to the Foreclosure Magistrate.
        - 1. The property owner may bring a support person to the full mediation.
      - iii. Any other party with affirmative claims shall appear in person with a client representative with full authority. Failure will result in the dismissal of those claims without prejudice.
    - c. Required Documentation:
      - i. Defendant/Property Owner:
        - 1. The Defendant shall bring updated proof of income to the full mediation, including:
          - a. The most recent two pay stubs
          - b. If self-employed, an updated Profit and Loss Statement
          - c. The most recent two bank statements
          - d. Any other documentation of a change in financial circumstance
    - d. Readiness:
      - i. Both parties shall be prepared to mediate in good faith at the time of the full mediation.
      - ii. If the Plaintiff has not reviewed the file by the time of the full mediation, sanctions may be imposed, including dismissal of Plaintiff's claims.
      - iii. If the Plaintiff requires extra documentation to complete a review of the file, Plaintiff's counsel must notify the Foreclosure Mediator at least fourteen (14) days prior to the full mediation.
        - 1. To be fully reviewed for any workout, the Defendant must bring the requested documentation to the full mediation.
      - iv. The Defendant/Property Owner is encouraged to contact the Cuyahoga County Foreclosure Prevention Program, through the United Way First Call for Help Line, at 2-1-1. The Defendant is also encouraged to seek legal assistance through the State of Ohio foreclosure prevention program, Save the Dream, at 888-404-4674.
        - 1. The Defendant should be aware of Foreclosure Rescue Scams and use caution when paying any money for services that may be available free of charge. For help recognizing scam operations, contact the Cuyahoga County Foreclosure Prevention Program.
    - e. Follow-up Mediation:
      - i. For good cause shown, or at the agreement of all parties, including the assigned Judge, a case may be set for a follow-up mediation within thirty (30) days of the date of the full mediation. In this instance, a file would be in the Foreclosure Mediation Program for a total of 150 days.
- IV. Sanctions:
- a. Plaintiff: The sanction enforced against Plaintiff is the dismissal of Plaintiff's claims, without prejudice. However, failure to follow the guidelines of the program or to negotiate in good faith may cause other sanctions to be imposed at the discretion of the Foreclosure Mediator and assigned Judge. Sanctions could include monetary fines.
  - b. Defendant: The sanction enforced against Defendant is the return of the case to the Foreclosure Magistrate for further proceedings that may result in a judgment and decree of foreclosure.
- V. Waiver:
- a. Participation in mediation shall not impose upon either party a waiver of any rights or affirmative defenses against the other party.
- VI. Dismissal:
- a. Plaintiff shall file a Notice of Dismissal within fourteen (14) days of the date of the mediation, or fourteen (14) days after the date of the first payment under any plan or modification, except H.A.M.P.
  - b. If the parties have reached an agreement on a H.A.M.P. modification, dismissal shall be fourteen (14) days after the date of the last trial period payment.