Mortgage Modification Mediation Program

A PADGETT LAW GROUP WHITE PAPER

PADGETT LAW GROUP

EXECUTIVE SUMMARY

Aggressive representation in your bankruptcy mediations can dramatically improve your results and reduce your exposure.

This Padgett Law Group White Paper provides a historical look at the genesis and growth of Mortgage Modification Mediation (MMM) programs and includes an overview of the strategic and broadly applicable legal tactics deployed by PLG attorneys as proven in the successful management of hundreds of mediated modifications. Bankruptcy leaders at PLG are intimately familiar with the nuanced requirements of MMM programs, their jurisdictional differences, and are well-versed in the aggressive legal strategies required to successfully navigate a Creditor's interest through the tight timelines and quick decision-points built into any MMM program. State and local iterations of MMM programs are required in 12 states, a majority of which are covered directly by attorneys at PLG. All other jurisdictions throughout the country requiring MMM can strategically leverage the firm's local attorney counsel network for jurisdictional support, while maintaining national oversight and program efficiencies driven by PLG's in-house bankruptcy leaders.

In jurisdictions that have implemented MMM programs, participation is mandatory. For the successful conclusion of a mediated modification, it is imperative that a Creditor's interests be clearly defended, articulated, and communicated in these highly localized and specialized programs. With the growing importance of MMM programs nationally, and as a tool available for Debtors, it is vital to have aggressive representation with a uniform, national strategy that leverages PLG's program knowledge and proven legal tactics to drive better results and reduce exposure. This White Paper concludes a comprehensive list of MMM and local programs that can be managed directly or via local attorney network counsel managed by PLG.

PROGRAM HISTORY & OVERVIEW

The Mortgage Modification Mediation Program (MMM) originated in Florida during the Great Recession in the aftermath of the 2008-09 Financial Crisis. The Home Affordable Modification Program (HAMP) initially had tight qualification criteria that kept many borrowers from accessing the modification relief as promised by then-president Barack Obama. While many borrowers could not qualify for HAMP modifications, there remained demand for additional modification relief as a foreclosure-avoidance strategy, which was the genesis of MMM programs around the country. This development, in conjunction with congested Bankruptcy Courts, created logistical difficulties. Debtors appeared in court advising that they had applied for a modification but had not received a response and were requesting a continuance of the matter that was pending to allow for the modification process to resolve. In addition, Debtors complained that they were faxing or emailing their applications and thereby submitting documents without little to no timely response from servicers. To the contrary, Creditors, primarily mortgage servicers, responded that they were receiving incomplete modification packages from borrowers. Thus began a cycle of events which culminated in delays within the Bankruptcy Court while both parties awaited the completion of the modification process.

As a result, Florida launched the first MMM program to resolve the document, communication, and timeline delays associated with modifications. The program was designed to eliminate complaints around documentation submission, acknowledgment, or package completion. In addition, the program provides some oversight by the Court to ensure that both parties are acting in good faith. Generally, Debtors initiation MMM by request; then, a mediator is assigned; the Debtor provides the appropriate documentation through a third-party portal, and the application is then reviewed for completion and accuracy. Finally, a mediation is scheduled, if needed. While not all jurisdictions follow this exact model or process, all MMM programs follow the same general principal of an exchange of information with the goal of a modified mortgage.

LEGAL STRATEGIES FOR AN AGGRESSIVE APPROACH

Be Mindful of Deadlines

It is important for Creditors and their counsel to be mindful of deadlines set forth in the MMM Order. The Debtor has a certain amount of time (typically seven days) to upload a complete package to the portal. Consequently, the Creditor has the same amount of time to review the documents and advise as to whether a complete package has been submitted. If the Debtor fails to submit a complete package and/or needs to submit additional documentation, the Creditor should take the action of requesting missing documents in order to timely comply with the MMM Order deadlines.

Motions to Vacate Order

This is a powerful tool and should be used more often. In the event a Debtor fails to comply with any of the deadlines in the MMM Order or fails to timely submit documents, Creditors should file a Motion to Vacate the MMM Order. The goal is to bring this to the Court's attention. Once these motions are filed, the Debtor usually takes notice and begins to comply. However, it is important not to withdraw the Motion to Vacate without negotiating an Agreed Order. Aside from this, Motions to Vacate may also be used when the Debtor has been previously denied a loan modification within the last 30 days. In these situations, the Courts are generally receptive and agree with Creditor's position.

Negotiate an Agreed Order

It is important to always have an Agreed Order on a Motion to Vacate an MMM Order. This avoids the Creditor having to refile the Motion to Vacate in the event the Debtor fails to comply. The Agreed Order should clearly spell out the obligations of the Debtor and what events constitute a default. In addition, if a third mediation is necessary due to delay on behalf of the Debtor, savvy Creditor's counsel should negotiate Debtor's payment of the third mediation. Moreover, the Order should provide that the fee for filing the Motion to Vacate be deemed recoverable in the event a loan modification is not offered.

Motions for Stay Relief

Most MMM Orders provide that once a final report has been filed that indicates an agreement has not been reached, the Debtor has a specified period of time (usually 14 days) to change the plan treatment to either cure and pay, surrender, or pay direct.

It is imperative that Creditors and their counsel strictly monitor these deadlines. If the plan treatment has not changed, a Motion for Relief from Stay (MFR) should be filed. Like the Motion to Vacate, an MFR will usually prompt Debtor's counsel to change the plan treatment. Any Order resolving this should provide for the fees to be recoverable.

MMM

Mortgage Modification Mediation Webinar

FEATURED PRESENTERS

Pictured left to right: Seth Greenhill, Esq., Senior Bankruptcy Attorney; Keena Newmark, Esq., Managing Attorney, Bankruptcy; Kris Zilberstein, Esq., Supervising Attorney, Bankruptcy; Joshua Goldman, Esq., Supervising Attorney, Tennessee.

» CLICK TO REGISTER

ABOUT THIS WEBINAR EVENT JUNE 22 2:00 P.M. VIA ZOOM

This PLG webinar will guide attendees through the Mortgage Modification Mediation (MMM) program, identify variations by jurisdictions, and introduce strategies to improve a Creditor's MMM process and program management. Panelists will lead an in-depth discussion addressing MMM program specifics and jurisdictional differences, drawing particular attention to timeline pitfalls and highlighting strategies that can improve a Creditor's modification and mediation results nationally.

» CLICK TO REGISTER

MMM

Jurisdictions with Applicable Programs

Arizona - Arizona - Phoenix
Arizona - Arizona - Prescott
Arizona - Arizona - Tucson
Arizona - Arizona - Yuma
California - Central - Los Angeles
California - Central - Riverside
California - Central - Santa Ana
California - Central - Santa Barbara
California - Central - Woodland Hills
California - Northern - Oakland
California - Northern - San Francisco
California - Northern - San Jose
California - Northern - Santa Rosa
Florida - Middle - All Divisions
Florida - Northern - All Divisions
Florida - Southern - All Divisions
Indiana - Northern - Hammond
Indiana - Southern - Evansville
Indiana - Southern - Indianapolis
Indiana - Southern - New Albany
Indiana - Southern - Terre Haute
Michigan - Western - All Divisions
Nevada - Nevada - Las Vegas
Nevada - Nevada - Reno
New Jersey - New Jersey - Camden
New Jersey - New Jersey - Newark
New Jersey - New Jersey - Trenton
North Carolina - Eastern - Fayetteville
North Carolina - Eastern - Greenville
North Carolina - Eastern - New Bern
North Carolina - Eastern - Raleigh
North Carolina - Eastern - Wilmington
North Carolina - Eastern - Wilson
North Carolina - Middle - Durham
North Carolina - Middle - Greensboro
North Carolina - Middle - Winston Salem
North Carolina - Western - Asheville
North Carolina - Western - Bryson City
North Carolina - Western - Charlotte
North Carolina - Western - Shelby
North Carolina - Western - Statesville
Ohio - Southern - Cincinnati
Ohio - Southern - Columbus
Ohio - Southern - Dayton
Pennsylvania - Middle - Harrisburg
Pennsylvania - Middle - Wilkes Barre
Pennsylvania - Western - All Offices
South Carolina - South Carolina - Columbia
Texas - Northern - All Other Divisions
Texas - Northern - Dallas
Texas - Northern - Fort Worth
Texas - Western - Austin
Texas - Western - El Paso
Texas - Western - Midland
Texas - Western - San Antonio
Texas - Western - Waco
West Virginia - Northern - Wheeling
Wisconsin - Eastern - Milwaukee
Wisconsin - Western - All Offices

ABOUT OUR PROCESS AND ANCILLARY SUPPORT

As part of PLG's portfolio oversight role, PLG serves as a single point-of-contact between the client and network counsel; PLG handles all billing exchanges with network counsel and export into the client's billing system; PLG serves as the client's single point-of-contact for client management systems such as VendorScape, LoanSphere, or other relevant platform as required; and PLG will assist with coordinating in-person mediation or trial requests.

STEP ONE **Bankruptcy Intake Team**	STEP TWO **National Bankruptcy Team**	STEP THREE **National Bankruptcy Counsel**
Referrals received via Client Management System or Email File set-up in PLG case management system	Referral Package compiled along with all other relevant information for PLG in-house management or referral to Network Counsel Devoted staff for portfolio oversight, client communication, and Network counsel management	Counsel navigates Mediator Selection, DMM Portal Registration, and Coordination of Document Submission Resolution-driven conference attendance, post-conference discussions, and Motion to Approve TPP or LMA Enforcement Mechanism including Motion for Relief & Motion to Compel

MILESTONE ONE
MMM Order Entered

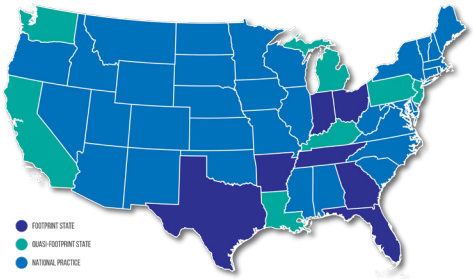
MILESTONE TWO
Mediator Selected

MILESTONE THREE
Mediation Conference

BILLING MILESTONE

MILESTONE FOUR
Post-Conference Resolution

Throughout the process, devoted in-house PLG staff handles communications with the servicer to obtain necessary information and backup documentation regarding the servicer's loss mitigation policies, borrower financial information, and other relevant information before, during, and after the mediation process. Additionally, PLG will monitor the servicer's negotiations with the debtor; prepare any court motions and other papers; communicate with the court and mediation personnel; and attend mediation sessions, including any follow-up activities after the session, such as reporting to the servicer.



NATIONAL FOOTPRINT

PLG provides default legal services nationally, with expanded service offerings in Florida, Georgia, Tennessee, Arkansas, Texas, Ohio, Indiana, California, New Jersey, Pennsylvania, Michigan, Kentucky, Louisiana, Colorado, Nebraska, and Washington. PLG began offering national solutions in 2017 and today offers Clients a vetted, proven network with demonstrable success in managing large national portfolios. PLG's network is typically layered with at least two back-up firms in each jurisdiction and in most cases network counsel have no-objection status from the GSEs. Semi-annual capacity surveys are conducted and new firms are continuously vetted for network inclusion. Contact us below for additional details.

CONTACT US

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