

VBA BANKRUPTCY LAW SECTION
Bench-Bar Brown Bag Lunch Meeting
with Hon. Colleen A. Brown, U.S. Bankruptcy Judge

United States Bankruptcy Court, Burlington

Wednesday, February 11, 2015 ~ 12:00 - 1:00 PM

AGENDA

1. ANNOUNCEMENT: CLE CREDIT AVAILABLE FOR OUR BENCH BAR MEETINGS Thomas Hart
 - We will take attendance at beginning and end of meeting
 - Credit available for in-person and teleconference participants
 - See Clerk's Announcement # 15-102 (*copy attached*)

2. NEW STANDING ORDERS Judge Brown
 - Standing Order # 15-01 modifies time within which T must file a motion to dismiss case in CMP cases when D defaults and fails to timely cure;
 - Standing Order # 15-02 revises Local Rule re Mtge Mediation Program, changes name of the Program, revises 4 forms, and adds 2 new forms;
 - *Copies of Standing Orders ## 15-01, 15-02 and related forms attached*

3. PRACTICE POINTER RE 522(F) MOTIONS: Judge Brown
 - Where movant is serving the atty for judgment holder who has not appeared in the bankruptcy case and is not listed on the schedules or matrix, the movant should file either:
 - an explanation on the cert of svc why that atty is served, or
 - a copy of the judgment showing that attorney as the judgment creditor's attorney.

4. UPDATE RE JOINT CLE OF VBA AND ALBANY BANKRUPTCY BAR ASS'N Douglas Wolinsky
 - All day seminar on March 27, 2015 at Equinox Inn, Manchester, Vt

5. VBA BANKRUPTCY, BUSINESS LAW & INTERNATIONAL LAW SEMINAR Judge Brown
 - US/ Canada Cross-Border Bankruptcy & Enforcement of Judgments
 - May 4, 2015 at Sheraton Hotel in South Burlington, Vt
 - Speakers: Bankruptcy Judges Colleen Brown and Allan Gropper, Justice Frank Newbould of Toronto Commercial Court, and attorneys Marc Bouchard, Mark Oettinger, Heather Cooper, Thomas Moody.

6. A 5-MIN TAX TIP FOR BANKRUPTCY PRACTICE Melissa Rinaldo

7. CM-ECF TIP OF THE DAY Kathleen Ford
 - Difference between the Stipulation and Motion Events in CM-ECF

8. ABLE ACT: ENACTED 12/19/14 (*copy attached*); IMPACT ON BK CASES: Judge Brown
- § 541(b) – creates an additional exception to property of the estate
 - § 521 – creates a requirement for debtors to submit ABLE accounts docs
 - § 707– creates an additional deduction on the Means Test form
9. DISCUSSION ITEM: ARE LOCAL FORMS NEEDED TO IMPLEMENT REV'D FRBPs? Judge Brown
- 7054(b)(2) (*copy attached*): do we need a local rule creating an expedited procedure for fee issues?
 - 8010(c) (*copy attached*): do we need a local rule requiring the movant to notify the bankruptcy court of
 - the filing of such a motion,
 - disposition of that motion, and the
 - records the movant needs the Clerk to transmit?
10. TOPICS SUGGESTED AT MEETING

These Bench-Bar lunch meetings are coordinated by the Bankruptcy Court
Have a question about them?
Contact Kathy Ford at 802-776-2003 or kathleen_ford@vtb.uscourts.gov

No fee and no pre-registration required.
Soft drinks and bottled water will be provided.

Attached: Clerk's Announcement # 15-102
Standing Orders #15-01 and #15-02 with related new and revised forms
ABLE Act
Revised Bankruptcy Rules 7054 and 8010

UNITED STATES BANKRUPTCY COURT
District of Vermont

Thomas J. Hart
Clerk of Court

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(802) 776-2000 Phone
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TO: Court Users
FROM: Thomas J. Hart
DATE: February 2, 2015
RE: Bench-Bar Meetings, awarding of CLE credits

**CLERK'S
ANNOUNCEMENT
15-102**

Effective immediately, attorneys who participate in the Bankruptcy Court's bi-monthly Bench Bar Meetings will be eligible to earn Vermont Continuing Legal Education (CLE) credit.

The Vermont Supreme Court's Mandatory Continuing Legal Education Board's representative has informed me that credit will be issued based upon the length of each Bench Bar Meeting, rounded to the nearest quarter hour. CLE credits will be available for both in person and telephonic participants.

Starting with the upcoming February 11th meeting, we will take attendance at the beginning and end of each Bench Bar meeting. At the conclusion of each meeting I will announce the number of credits earned and submit that information to the CLE Board. Consistent with MCLE protocols, each attorney is on the "honor system" in terms of participating in the entire meeting and accurately reporting the credit earned.

If you have any questions about the availability or reporting of CLE credits for the Bench Bar Meetings please contact me at (802) 776-2002.

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

In re:

**MODIFICATION OF
LOCAL RULES OF PRACTICE AND
PROCEDURE IN BANKRUPTCY COURT,
DISTRICT OF VERMONT**

STANDING ORDER # 15-01

**TO REVISE LOCAL RULE 3015-2(J)(5)(F)(I),
TO ALTER THE TIME PERIOD WITHIN WHICH,
UPON A DEBTOR'S FAILURE TO MAKE A PLAN
PAYMENT, THE CHAPTER 13 TRUSTEE MUST
FILE A MOTION TO DISMISS**


Based upon input from the bar and the Chapter 13 Trustee, and the Court's experience with the conduit mortgage program, as set forth under Vt. LBR 3015-2(j); and in an effort to expedite the efficient use of resources of the bar, the Chapter 13 Trustee and the Court; THE COURT FINDS there is good cause to modify the pertinent local rule to extend by approximately two weeks the date by which the Chapter 13 Trustee must file a motion to dismiss when a Chapter 13 debtor defaults on a plan payment obligation and fails to timely cure that default.

Accordingly, IT IS HEREBY ORDERED that Vt. LBR 3015-2(j)(5)(F)(i) is and revised to read as follows:

- (F) Duties upon the Debtor's Default.** If the debtor fails to make any timely or full Chapter 13 plan payment, including the first Chapter 13 plan payment, then the Chapter 13 trustee must take the following steps:
- (i) The first time the debtor fails to make a timely or full Chapter 13 plan payment, the Chapter 13 trustee must file – and serve upon the debtor, the debtor's attorney, and the Mortgage Creditor – a notice of delinquency specifying the due date and amount of the missed payment, and the amount needed to cure the plan payment default, within 14 days of the default. If the debtor does not cure the default, or file a motion to modify the Chapter 13 Plan, within 30 days of the filing of the Chapter 13 trustee's notice, then the Chapter 13 trustee must promptly file and serve upon all parties in interest a motion to dismiss the case based upon the payment default and any other grounds the Chapter 13 trustee deems warrant dismissal of the case.

IT IS FURTHER ORDERED that these changes are effective upon entry of this Standing Order.
SO ORDERED.

February 2, 2015
Burlington, Vermont


Colleen A. Brown
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

In re:

**MODIFICATION OF
LOCAL RULES OF PRACTICE AND
PROCEDURE IN BANKRUPTCY COURT,
DISTRICT OF VERMONT**

STANDING ORDER # 15-02

**TO REVISE LOCAL RULE 4001-7,
ADOPT MM FORMS ## 12 AND 13, AND
REVISE MM FORMS ## 3, 5, 8, AND 9.**

On January 1, 2012, this Court established a mortgage mediation program (the "Program") via Standing Order # 11-05, and then incorporated the Program into its Local Rules as Vermont Local Bankruptcy Rule 4001-7. On May 1, 2013, the Court modified the Program through an amendment to Vt. LBR 4001-7, in Standing Order # 13-05.

On May 6, 2014, the Court reconvened its Mortgage Mediation Task Force to assess the effectiveness and efficiency of mortgage mediations conducted through the Program in Vermont bankruptcy cases, and whether Vt. LBR 4001-7 provides an efficient and transparent process which serves both debtors and creditors. Now, in light of the Court's experience with the Program for nearly three years, and the thoughtful recommendations of the Mortgage Mediation Task Force, THE COURT FINDS the Program would be more efficient and effective, and would better serve the needs of the bar, the parties, and the Court, if the pertinent Local Rule was modified, four of the Program forms were revised, and two additional forms were created.

Therefore, IT IS HEREBY ORDERED that Vt. LBR 4001-7 is revised to incorporate the changes set forth in Attachment A, appended to this Standing Order.

IT IS FURTHER ORDERED that local forms MM Form ## 3, 5, 8, and 9 are revised to incorporate the changes set forth in Attachments B - E.

IT IS FURTHER ORDERED that Attachment F shall be designated as MM Form # 12.

IT IS FURTHER ORDERED that Attachment G shall be designated as MM Form # 13.

IT IS FURTHER ORDERED that these changes are effective upon entry of this Standing Order.

February 2, 2015
Burlington, Vermont


Colleen A. Brown
United States Bankruptcy Judge

Attachment A: Copy of revised Vt. LBR 4001-7
Attachment B: Revised Order Granting Mortgage Mediation, MM Form # 3
Attachment C: Revised Debtor's Notice of Compliance, MM Form # 5
Attachment D: Revised Lender's Response to Notice of Compliance, MM Form # 8
Attachment E: Revised Debtor's Demand for Documents, MM Form # 9
Attachment F: Interim Mediator's Report, MM Form # 12
Attachment G: Alternate Scheduling Order, MM Form # 13

VT. LBR 4001-7. MORTGAGE MEDIATION AND LOSS MITIGATION PROGRAM

(a) Availability of Mediation in Bankruptcy Cases.

- (1) In any case filed under Chapter 7, 11, 12, or 13, a party may file a motion for mortgage mediation/loss mitigation (hereinafter "mediation") (Vt. LB MM Form #1).
- (2) Parties may seek mediation with respect to any mortgage on the debtor's primary residence provided the property has four units or less (regardless of whether the mortgage is subject to the HAMP guidelines).
- (3) With the creditor's consent, mediation will be available at any time during the pendency of any Chapter 7, 11, 12, or 13 bankruptcy case.
- (4) In the absence of the creditor's consent, the Court will not grant a debtor's motion for mediation if the Court has already entered either: (A) a discharge order; or (B) an order granting relief from stay to that creditor on the subject property.
- (5) Mediation will not be permitted if the creditor objects and:
 - (A) mediation has already been completed, or was begun and abandoned by the debtor; or
 - (B) modification of the mortgage is essential to the confirmation of a plan and the debtor has failed to file a motion for mediation prior to the confirmation hearing; or
 - (C) the parties have filed a stipulation in the bankruptcy case with respect to the debtor's obligations under the subject mortgage.

(b) The Mediation Process.

- (1) The parties engaged in mediation under this Rule shall cooperate in good faith under the direction of the mediator to produce the information required by this Rule in a timely manner so as to maximize the effectiveness of the mediation.
- (2) The creditor must consider all available foreclosure prevention tools, including but not limited to reinstatement, loan modification, forbearance, and short sales.
- (3) Where the creditor claims that a pooling and servicing or other similar agreement prohibits modification, the creditor must produce a copy of the agreement. All agreement documents are confidential and are not to be included in the mediator's report.
- (4) The following persons must participate in any mediation conducted under this Rule:
 - (A) the creditor, or a person designated by the creditor or its servicer, who
 - (i) has authority to agree to a proposed settlement, loan modification, or pursuit of lift stay relief; and
 - (ii) has real-time access during the mediation to the creditor's account information and to the records relating to consideration of the options available;
 - (B) counsel for the creditor, if any;
 - (C) the debtor and counsel for the debtor, if any; and
 - (D) the Court-appointed mediator.
- (5) The case trustee and holders of other liens on the subject property may also participate, subject to the mediator's approval.
- (6) The mediator, in the exercise of his or her discretion, may permit any party or attorney to participate in mediation by telephone or through video conferencing.
- (7) All mediations conducted under this Rule will take place in a mutually convenient location, as determined by the mediator.

(c) Time Frame for the Mediation Process.

- (1) A debtor-mortgagor or creditor-mortgagee may file a motion for mediation (Vt. LB MM Form #1) that seeks an order directing the parties to engage in mediation, in compliance with the following procedures:

- (A) the movant must serve the motion on 14 days' notice to all creditors who would claim an interest in the property and the case trustee, along with a notice of motion regarding the motion for mediation (Vt. LB MM Form #2), and may use the default procedure;
 - (B) in the motion, the movant must specify why mediation would be useful to the parties and how it would benefit the estate;
 - (C) any objection to the motion must specify why mediation is not likely to be useful to the parties or likely to be of benefit to the estate;
 - (D) if the motion is granted, the Clerk will promptly enter a mediation order (Vt. LB MM Form # 3) and then
 - (i) the Clerk will forthwith send the parties a list of all Bankruptcy Court approved mediators;
 - (ii) within 7 days of the creditor's participation in the case, evidenced by the earlier of:
 - (aa) the creditor-mortgagee's filing of a proof of claim in the case;
 - (bb) the creditor-mortgagee appearing by counsel in the case, or
 - (cc) an individual creditor-mortgagee's appearing either by counsel or pro se, the parties may stipulate to the selection of a mediator; and
 - (iii) no party shall file a notice of selection of a mediator prior to the creditor-mortgagee's participation in the case (as defined in (ii) above).
 - (E) if the parties are unable to stipulate to the selection of a mediator within 7 days of the events specified in part (D) above, the debtor shall file a motion asking the Court to designate a mediator; and
 - (F) the mediator will be deemed appointed on the date the parties file the list identifying the mediator they have selected, unless the Court orders otherwise.
- (2) Within 14 days of the appointment of the mediator, the parties may file a stipulated proposed scheduling order (on Vt. LB MM Form # 13). If they fail to do so, the parties shall be bound by the deadlines set out below.
- (3) Within 21 days of the appointment of the mediator:
- (A) the debtor must serve on the mediator and the creditor all documents set forth on the mediation document list, with the complete loan number set forth on each page, along with a notice of compliance (Vt. LB MM Form #5) with the mediation order, and file with the Court a copy of the notice (without attachments) and a certificate of service; and
 - (B) if the debtor determines that he or she cannot proceed with mediation until the debtor has obtained certain information from the creditor, the debtor must serve on the creditor and the mediator a demand for documents from the creditor (Vt. LB MM Form #9) that identifies the documents the debtor needs from the creditor (e.g., copy of the promissory note, copy of the loan history) and why, and file with the Court a copy of the demand for creditor documents.
- (4) Within 45 days of the appointment of the mediator, the mediator must hold a pre-mediation telephone conference with the debtor and creditor to identify any missing documents, expedite exchange of any necessary documents, and address any impediments to moving forward or other pre-mediation issues. At the pre-mediation telephone conference, the mediator must, at a minimum, record the status of the parties' efforts, the progress the parties have made on the production and exchange of financial documents, any review of information that occurs during the conference, any request for additional information, the anticipated time frame for submission of any additional information and the creditor's review of the information, and the scheduling of the mediation session. The mediator may require the creditor's representative to participate in the pre-mediation telephone conference, and any other meetings the mediator deems appropriate in order to expeditiously conclude the mediation process.
- (5) Within 21 days of the date the debtor filed the notice of compliance (Vt. LB MM Form #5):
- (A) the creditor must serve the debtor and the mediator with a creditor's response to the adequacy of the debtor's mediation documents (Vt. LB MM Form #8) and file the same with the Court, with a certificate of service; or

- (B) if the creditor finds the documents from the debtor to be incomplete, finds the debtor has not served all documents articulated on the list, or determines additional documents are necessary in this particular case, the creditor may file a motion to compel compliance with the mediation order (Vt. LB MM Form #4) in lieu of the response; and
 - (C) if the debtor files a demand for documents from the creditor (Vt. LB MM Form #9), the creditor must serve the documents requested by the debtor on the debtor and mediator, along with a response to the demand for creditor documents, and file a copy of the response (without attachments) and a certificate of service with the Court.
- (6) If the creditor serves a motion to compel compliance with the mediation order (Vt. LB MM Form #4), the debtor will have 14 days to file a response and serve upon the creditor any documents required to bring the debtor into compliance with the mediation order. A motion to compel is a non-routine motion for purposes of this Rule. Cf. Vt. LBR 9013-2(b), (c)(5)(C). The creditor may set a hearing thereon, to be held shortly after the expiration of the debtors' response time; if the creditor does not set a hearing, the Court will do so if it deems a hearing necessary.
 - (7) The mediator must schedule the mediation session to be held within 21 days of the filing of the creditor's response, or of an order adjudicating the motion if the creditor files a motion in lieu of the creditor's response, whichever is later. The first mediation session must be held within 90 days of the appointment of the mediator, unless the Court grants a motion to enlarge the time. The mediation must conclude within 14 days of the first mediation session, unless the mediator determines there is good cause to extend the mediation period. The mediator shall have broad discretion and authority to manage the mediation process, including the authority to enlarge the 90-day time period between appointment of the mediator and the convening of the first mediation session, provided the mediator files (A) a statement setting forth the basis for enlarging this time period and (B) a precise and firm schedule for commencing and completing the mediation.
 - (8) If a modification is denied, the creditor must provide a written explanation at the time of denial as to why a modification is denied (including the input figures used in calculating eligibility for a modification). If the debtor believes the creditor denied the modification in bad faith, or reached a conclusion on the basis of erroneous facts or calculations, the debtor may file, within 14 days of the conclusion of the mediation, a motion to compel the creditor to participate in further mediation.
 - (9) The mediator must file a report of mediation (Vt. LB MM Form #6) within 14 days of the conclusion of the mediation. In lieu of Vt. LB MM Form # 6, the mediator may file a Vermont Foreclosure Mediation Report, as described in 12 V.S.A. § 4634.
 - (10) Unless, within 120 days of the date the mediator was appointed,
 - (A) the mediator files a statement and schedule, or a report (or interim report, Vt. LB MM Form # 12) of mediation, or
 - (B) the debtor files a stipulation between the debtor, creditor, and mediator deferring mediation due to a temporary payment plan,
 the Clerk shall set a status hearing for the next hearing date, at which the parties' representative and the mediator shall be required to appear and explain why the mediation has not been completed.

(d) Required Documents. Unless waived by the creditor, the debtor must deliver the following documents to the creditor and mediator:

- (1) a request for modification and affidavit or an alternative, analogous form required by the creditor;
- (2) an IRS Form 4506T (with § 5 left blank);
- (3) a fully completed financial worksheet for loan modification (Vt. LB MM Form #10) with all supporting information required by the worksheet;
- (4) the two most recent bank statements for each account on which the debtor is a signatory (all pages; no computer printouts);
- (5) the two most recently filed federal tax returns with affidavit affirming that the debtor has signed them and that these are true and correct copies of what the debtor has filed;

- (6) a copy of the Schedules I & J filed with the bankruptcy petition, and, if the bankruptcy case has been pending more than 60 days, amended Schedules I & J showing income and expenses as of the date of the motion for mediation;
- (7) a Dodd-Frank Certification;
- (8) a debtor's hardship letter (Vt. LB MM Form #7, or the hardship form required by the creditor, if any) specifying the circumstances pertinent to the debtor;
- (9) the debtor's two most recent electric utility bills;
- (10) the debtor's current property tax bill;
- (11) a copy of the debtor's current driver's license or a statement from the debtor affirming s/he does not have a driver's license;
- (12) the debtor's homeowner's insurance declarations page;
- (13) a contribution letter from each household member who, though not liable on the loan, has been contributing to loan payments, specifying the amount of any continuing contribution, along with other income information from that person and his or her consent to any credit check required by the creditor;
- (14) the debtor's payment advices representing the most recent consecutive 30-day period;
- (15) if the debtor is self-employed, profit and loss statements for the last two quarters and for the year to date, and the most recent four months of business bank statements (all pages; no computer printouts);
- (16) if the debtor receives social security, disability, pension, or other public assistance benefits, the award letter and the most recent benefit statement;
- (17) if the debtor owns real property that the debtor rents, including rental of part of the property subject to the mediation, a copy of the current rental agreements (or an affidavit describing lease terms), a listing of monthly rental income, and two months' canceled rent checks;
- (18) if the debtor is divorced, a copy of all divorce decrees and all separation agreements signed by the debtor in the past eight years, and a copy of any quitclaim deed to the occupant spouse;
- (19) a statement describing any alimony and/or child support award paid to either debtor, if the debtor wishes to have that income considered; and
- (20) a statement articulating whether the debtor is a member of a homeowners' association.

(e) Cost of Mediation.

- (1) The mediator is entitled to a flat fee of \$900 per mediation. This fee covers all services of the mediator, including but not limited to the pre-mediation telephone conference(s), communications with the parties, the filing of an interim and final report, and conduct of the mediation session(s).
- (2) The fee for the mediator will be split equally among the parties to the mediation, except that the case trustee shall not be required to pay any portion of the mediator's fee, even if he participates.
- (3) If the mediator or a party seeks any of the following relief, that person must file a motion with the Court, on 14 days' notice to all parties to the mediation and the case trustee, showing cause for such relief:
 - (A) a different fee for the mediator;
 - (B) a different allocation of the mediator's fee; or
 - (C) an assessment of costs against a party to the mediation.
- (4) An application for any of these forms of relief must:
 - (A) show good cause for the relief sought, including an explanation of the circumstances giving rise to the application;
 - (B) be on notice to all parties to the mediation plus the case trustee; and
 - (C) include a specific breakdown of the time spent, any costs incurred, and a computation of the amount sought.

(f) Post-Mediation Requirements and Obligations.

- (1) Within 14 days of the conclusion of the mediation, the mediator must file a report of mediation (Vt. LB MM Form #6) that:

- (A) sets out the names and addresses of all persons who participated in the mediation session(s), identifying each person's role in the mediation, and specifying which representative of each party had decision-making authority;
 - (B) states whether any person required to participate in mediation failed to
 - (i) participate in the mediation,
 - (ii) make a good faith effort to mediate,
 - (iii) timely supply documentation, information, or input figures necessary to the mediation, or
 - (iv) timely supply responses, information, or data requested by the mediator;
 - (C) summarizes the results of the mediation, stating whether full or partial settlement was reached and appending any agreement of the parties, if available; and
 - (D) if the mediation failed because a party (or parties) failed to follow through on a proposal or an instruction from the mediator, describes those circumstances.
- (2) Within 14 days of the filing of the report of mediation, the party who filed the motion for mediation (Vt. LB MM Form #1) must file a post-mediation motion or stipulation, with a proposed order declaring mediation closed (Vt. LB MM Form #11), seeking entry of an order that:
- (A) finds that the parties have had a full opportunity to mediate the subject mortgage;
 - (B) states whether the mediation proceeded in good faith;
 - (C) states whether an agreement was reached; and
 - (D) sets a status hearing for a date shortly after the conclusion of any trial modification period, or establishes a scheduled next step necessary to move the case forward.
- (g) Preclusion on Mediator Testifying.** No mediator will be required to testify in any action relating to any mortgage or debt at issue in a mediation conducted pursuant to this Rule.
- (h) Criteria for Eligibility as a Mediator in Bankruptcy Court Mediations.** In order to be on the panel of approved bankruptcy mediators, an attorney must meet the minimum certification requirements of the Vermont state court mediation program and have significant bankruptcy experience.
- (i) Retention of Jurisdiction.** This Court retains jurisdiction to interpret and enforce any agreement reached through mortgage mediation conducted pursuant to this Rule or in a bankruptcy case in this District.
- (j) Service.** Whenever the debtor is required to serve the creditor under this Rule, the debtor must serve the creditor at the address set forth on the creditor's proof of claim in this case, or the address on record with the Clerk for such purposes. If the creditor has not filed a proof of claim in this case or given the Clerk a preferred service address, the debtor must serve the creditor by serving the attorney who represents the creditor in a pending foreclosure action against the subject property. If there is no foreclosure action pending and no other address on record, the debtor must serve the creditor as required by Fed. R. Bankr. P. 7004.

VTB MM Form # 3

2/2/15

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

In re

[_____],

Debtor(s).

Case # _____

Chapter ____

ORDER GRANTING MOTION FOR MORTGAGE MEDIATION

[*Debtor*] filed a motion seeking an order directing [*name of other party*] to proceed with mediation with respect to a certain mortgage dated [*date*], more fully described in that motion, filed on [*date*], with respect to property located at [*address*]. Any objections filed in response to this motion have been withdrawn or overruled.

Based upon the record in this case and the representations set forth in the motion, THE COURT FINDS that adequate notice has been given, the motion satisfies the procedural requirements of the Local Rules, the mediation is in the best interest of the bankruptcy estate, and good cause has been shown for entry of an Order approving the Motion for Mortgage Mediation.

Based upon those findings, IT IS HEREBY ORDERED that the Motion for Mortgage Mediation is GRANTED.

IT IS FURTHER ORDERED the parties shall proceed with mediation as follows:

1. Upon entry of this Order, the Clerk shall send the parties a list of all Bankruptcy Court approved mediators (the "List"). Within 7 days of [*name of other party*]'s participation in the case, the parties must file a joint selection of mediator. If the parties are unable to agree on a mediator within 7 days, the Debtor shall file a motion asking the Court to designate a mediator. Upon selection or appointment of a mediator, the Court shall enter an Order via a docket entry.

2. Within 14 days of appointment of the Mediator, the parties may file a stipulated proposed scheduling order (Vt. MM Form # 13). If the parties fail to do so within 14 days, the parties shall comply with the schedule set forth in Vt. LBR 4001-7(c)(3)-(10).

3. The parties shall split equally the Mediator's \$900 flat fee. If a party seeks to shift the expense of a portion or all of the Mediator's fee, that party shall file a motion with the Court, on 14 days notice to all parties to the mediation and the case trustee, showing cause for such relief.

4. The Mediator shall file a Report of Mediation (Vt. MM Form # 6) within 14 days of the conclusion of the mediation.

5. Unless, within 120 days of the date the mediator was appointed,

(A) the mediator files a statement and schedule, or a report (or interim report, Vt. LB MM Form # 12) of mediation, or

(B) the debtor files a stipulation between the debtor, creditor, and mediator deferring mediation due to a temporary payment plan,

the Clerk shall set a status hearing for the next hearing date, at which the parties' representative and the mediator shall be required to appear and explain why the mediation has not been completed.

6. Within 14 days of the filing of the Report of Mediation, the party who filed the Motion for Mortgage Mediation shall file a Post-Mediation Motion or Stipulation, with a proposed Order Declaring Mediation Closed, seeking entry of an Order that: (A) finds that the parties had a full opportunity to mediate; (B) states whether the parties mediated in good faith; (C) states whether an agreement was reached; and (D) if needed, sets a status hearing or other next step necessary to move the case forward.

SO ORDERED.

_____, 20____
Burlington, Vermont

Colleen A. Brown
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

In re:

_____,

Debtor(s)

Case # _____

Chapter ____

DEBTOR'S NOTICE OF COMPLIANCE WITH MEDIATION ORDER*

I/We, _____, hereby certify under penalty of perjury that on _____ (enter date), I/we have complied with the Mediation Order issued by this Court on _____ (enter date) by providing the following documents (check all that apply) to _____ via _____ (describe method of service (e.g., "by first-class mail, postage prepaid")) to the following address: _____.

- ☐ a request for Modification and Affidavit (RMA) or alternative, analogous form required by the Creditor [specify];
- ☐ a IRS form 4506T (with § 5 left blank);
- ☐ a fully completed financial worksheet for loan modification (Vt. LB MM Form #10) with all supporting information required by the worksheet;
- ☐ the two most recent bank statements for each account on which the Debtor is a signatory (all pages; no computer print-outs);
- ☐ the two most recently filed federal tax returns with affidavit affirming that the Debtor has signed and that these are true and correct copies of what the Debtor has filed;
- ☐ a copy of the Schedules I & J filed with the bankruptcy petition, and, if the bankruptcy case has been pending more than 60 days, amended Schedules I & J showing income and expenses as of the date of the Motion for Mediation;
- ☐ a Dodd-Frank Certification;
- ☐ a debtor's hardship letter (Vt. LB MM Form #7, or the hardship form required by the creditor, if any) specifying the circumstances pertinent to the debtor;
- ☐ the Debtor's two most recent electric utility bills;
- ☐ the Debtor's current property tax bill;
- ☐ a copy of the debtor's current driver's license or a statement from the debtor affirming s/he does not have a driver's license
- ☐ the Debtor's homeowner's insurance declarations page;
- ☐ a contribution letter from each household member who, though not liable on the loan, has been contributing to loan payments, specifying the amount of any continuing contribution, along with other income information from that person and his or her consent to any credit check required by the creditor;
- ☐ the Debtor's payment advices representing the most recent 30 consecutive day period;
- ☐ if the Debtor is self-employed, profit and loss statements for the last 2 quarters and for the year-to-date, and the most recent 4 months of business bank statements (all pages; no computer print outs);
- ☐ if the Debtor receives social security, disability, pension, or other public assistance benefits, the award letter and the most recent benefit statement;
- ☐ if the debtor owns real property that the debtor rents, including rental of part of the property subject to the mediation, a copy of the current rental agreements (or an affidavit describing lease terms), a listing of monthly rental income, and two months' canceled rent checks;
- ☐ if the debtor is divorced, a copy of all divorce decrees and all separation agreements signed by the debtor in the past eight years, and a copy of any quitclaim deed to the occupant spouse;
- ☐ a statement describing any alimony and/or child support award paid to either Debtor, if the Debtor wishes to have that income considered; and
- ☐ a statement articulating whether the debtor is a member of a homeowners' association.

Dated: _____

By: _____

Signature [or /s/ + typed name]

Printed Name

Address, E-Mail Address,

Phone Number, Fax Number

* The Debtor must file this Notice within 21 days of entry of the appointment of the mediator, unless otherwise directed by this Court.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

In re

[_____,

Debtor(s)

Case # _____

Chapter ____

CREDITOR'S RESPONSE TO THE DEBTOR'S MEDIATION DOCUMENTS*

NOW COMES [name of Creditor representative] acting as agent for [name of Creditor] and responds to the Debtor's filing of mediation documents as follows:

1. As of [date] the Creditor received the following documents from the Debtor in connection with the mortgage mediation taking place in this Court [can be itemized here or a list can be attached].

2. Based upon my review of the documents from the Debtor, I affirm that
_____ the Debtor has now satisfied the document requirements for the mediation OR
_____ the Debtor has not satisfied the requirements for mediation as the following required documents have not been delivered to Creditor as of today's date:

Date: _____

Signature [or /s/ + typed name]

Title

Name of Lender / Servicer

Address, E-Mail Address,

Phone Number, Fax Number

* The Lender shall file this Response within 21 days of the date the Debtor filed the Notice of Compliance, unless provided otherwise by an Order of this Court.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

In re

[_____],

Debtor(s)

Case # _____

Chapter ____

DEBTOR'S DEMAND FOR DOCUMENTS FROM CREDITOR*

I am the Debtor in the above-referenced bankruptcy case.

1. I affirm that I need the following documents from the Creditor in order to prepare for mediation:

2. ____ I requested these documents from the Creditor on [date] as follows: _____,
and have not yet received them; OR
____ I have not previously requested these documents.
3. I anticipate mediation will occur on [date] and need these documents at least one week in advance of mediation, and therefore request that the Creditor provide them to me no later than [date – one week before mediation].
4. I request that the Creditor send these documents via [specify mode of delivery] to the following address.

Date: _____

Signature [or /s/ + typed name]
Address, E-Mail Address,
Phone Number, Fax Number

* If the Debtor needs documents from the Creditor, the Debtor shall serve this Demand on the Creditor's attorney within 21 days of the date the mediator was appointed.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

In re

[_____,

Debtor(s).

Case # _____

Chapter ____

MEDIATOR'S INTERIM REPORT [FILED PURSUANT TO VT. LBR 4001-7(C)(10)]

1. Name of Mediator: _____
2. Date Mediator was appointed: _____
3. Date Mediator held a pre-mediation telephone conference: _____
4. Date Mediator has set for first mediation session: _____
5. Date by which Mediator anticipates mediation will conclude: _____
6. Mediator's assessment of progress : progress ___ has/___ has not been made in this mediation.
*(If progress is not being made, Mediator to specify why, and if lack of progress is due to a lack of document production, Mediator to specify which documents still needed and from whom.
If progress is being made, Mediator to specify why mediation is behind schedule and set forth new date by which Mediator expects mediation to conclude and deadlines in place for moving forward.)*
7. Mediator's position for moving forward:
 - ___ it would advance the mediation to have a status hearing in the case,
 - ___ it would be more effective for the Court to hold an in-chambers conference to address the mediation process,
 - ___ no Court intervention is necessary at this time because the mediation is likely to conclude within 30 days, or because of the following circumstances: _____,
 - ___ another course of action is warranted at this time, namely, _____, because _____.
8. Mediator's disclosure of other information pertinent to the status or conduct of this mediation: _____.

Date: _____

By : _____

Signature [or /s/ + typed name]
with Mediator's printed name,
address, e-mail address,
telephone number, and fax number

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

In re

_____,
Debtor(s).

Case # _____

Chapter ____

STIPULATED PROPOSED SCHEDULING ORDER

1. The parties to this mediation are _____ [Debtors] and _____ [Creditor], and the Mediator is _____.
2. We propose that the following deadlines govern this mediation :
 - a. By _____ [date], the Mediator shall conduct a pre-mediation telephone conference in which the following parties shall participate: _____.
 - b. By _____ [date], the Debtor shall (i) serve on the Mediator and the Creditor all documents set forth on the mediation document list, with the complete loan number set forth on each page, along with a notice of compliance (Vt. LB MM Form #5) with the mediation order, and (ii) file with the Court a copy of the notice (without attachments) and a certificate of service.
 - c. By _____ [date], the Creditor shall (i) serve the Debtor and the Mediator with its response to the adequacy of the debtor's mediation documents (Vt. LB MM Form #8), and (ii) file with the Court a copy of the response and a certificate of service.
 - d. By _____ [date], the Mediator shall schedule the first mediation session.
 - e. By _____ [date], the Mediator shall hold the first mediation session.
 - f. By _____ [date], the Mediator shall conclude the mediation.
 - g. By _____ [date], the following other events [necessary in this particular case] shall be completed:
_____.
3. The parties request the following additional requirements or conditions be imposed in this mediation: _____, and/or the following status hearing be set: _____, because _____.

Date

Attorney for Debtor

Date

Attorney for Creditor

Date

Mediator

ORDER

Based upon the stipulation of the parties, IT IS HEREBY ORDERED that the dates proposed for this mediation, and as set out above, are approved; and

IT IS FURTHER ORDERED that the parties and mediator shall comply with these deadlines unless the Court modifies these dates or conditions in a subsequent Order.

SO ORDERED.

Date: _____
Burlington, Vermont

Colleen A. Brown
United States Bankruptcy Judge

H. R. 5771
One Hundred Thirteenth Congress of the United States of America
AT THE SECOND SESSION
Begun and held at the City of Washington on Friday,
the third day of January, two thousand and fourteen
Signed by President Obama on December 19, 2014

An Act

To amend the Internal Revenue Code of 1986 to extend certain expiring provisions and make technical corrections, to amend the Internal Revenue Code of 1986 to provide for the tax treatment of ABLE accounts established under State programs for the care of family members with disabilities, and for other purposes. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

DIVISION A—TAX INCREASE PREVENTION ACT OF 2014
SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This division may be cited as the “Tax Increase Prevention Act of 2014”.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

DIVISION A—TAX INCREASE PREVENTION ACT OF 2014

Sec. 1. Short title, etc.

TITLE I—CERTAIN EXPIRING PROVISIONS

Subtitle A—Individual Tax Extenders

- Sec. 101. Extension of deduction for certain expenses of elementary and secondary school teachers.
- Sec. 102. Extension of exclusion from gross income of discharge of qualified principal residence indebtedness.
- Sec. 103. Extension of parity for employer-provided mass transit and parking benefits.
- Sec. 104. Extension of mortgage insurance premiums treated as qualified residence interest.
- Sec. 105. Extension of deduction of State and local general sales taxes.
- Sec. 106. Extension of special rule for contributions of capital gain real property made for conservation purposes.
- Sec. 107. Extension of above-the-line deduction for qualified tuition and related expenses.
- Sec. 108. Extension of tax-free distributions from individual retirement plans for charitable purposes.

Subtitle B—Business Tax Extenders

- Sec. 111. Extension of research credit.
- Sec. 112. Extension of temporary minimum low-income housing tax credit rate for non-federally subsidized buildings.
- Sec. 113. Extension of military housing allowance exclusion
- Sec. 114. Extension of Indian employment tax credit.
- Sec. 115. Extension of new markets tax credit.
- Sec. 116. Extension of railroad track maintenance credit.
- Sec. 117. Extension of mine rescue team training credit.
- Sec. 118. Extension of employer wage credit for employees who are active duty members of the uniformed services.
- Sec. 119. Extension of work opportunity tax credit.
- Sec. 120. Extension of qualified zone academy bonds.
- Sec. 121. Extension of classification of certain race horses as 3-year property.
- Sec. 122. Extension of 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements.
- Sec. 123. Extension of 7-year recovery period for motorsports entertainment complexes.
- Sec. 124. Extension of accelerated depreciation for business property on an Indian reservation.
- Sec. 125. Extension of bonus depreciation.
- Sec. 126. Extension of enhanced charitable deduction for contributions of food inventory.
- Sec. 127. Extension of increased expensing limitations and treatment of certain real property as section 179 property.
- Sec. 128. Extension of election to expense mine safety equipment.
- Sec. 129. Extension of special expensing rules for certain film and television productions.
- Sec. 130. Extension of deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
- Sec. 131. Extension of modification of tax treatment of certain payments to controlling exempt organizations.
- Sec. 132. Extension of treatment of certain dividends of regulated investment companies.

- Sec. 133. Extension of RIC qualified investment entity treatment under FIRPTA.
- Sec. 134. Extension of subpart F exception for active financing income.
- Sec. 135. Extension of look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company rules.
- Sec. 136. Extension of temporary exclusion of 100 percent of gain on certain small business stock.
- Sec. 137. Extension of basis adjustment to stock of S corporations making charitable contributions of property.
- Sec. 138. Extension of reduction in S-corporation recognition period for built-in gains tax.
- Sec. 139. Extension of empowerment zone tax incentives.
- Sec. 140. Extension of temporary increase in limit on cover over of rum excise taxes to Puerto Rico and the Virgin Islands.
- Sec. 141. Extension of American Samoa economic development credit.
- Subtitle C—Energy Tax Extenders
- Sec. 151. Extension of credit for nonbusiness energy property.
- Sec. 152. Extension of second generation biofuel producer credit.
- Sec. 153. Extension of incentives for biodiesel and renewable diesel.
- Sec. 154. Extension of production credit for Indian coal facilities placed in service before 2009.
- Sec. 155. Extension of credits with respect to facilities producing energy from certain renewable resources.
- Sec. 156. Extension of credit for energy-efficient new homes.
- Sec. 157. Extension of special allowance for second generation biofuel plant property.
- Sec. 158. Extension of energy efficient commercial buildings deduction.
- Sec. 159. Extension of special rule for sales or dispositions to implement FERC or State electric restructuring policy for qualified electric utilities.
- Sec. 160. Extension of excise tax credits relating to certain fuels.
- Sec. 161. Extension of credit for alternative fuel vehicle refueling property.
- Subtitle D—Extenders Relating to Multiemployer Defined Benefit Pension Plans
- Sec. 171. Extension of automatic extension of amortization periods.
- Sec. 172. Extension of shortfall funding method and endangered and critical rules.

TITLE II—TECHNICAL CORRECTIONS

- Sec. 201. Short title.
- Sec. 202. Amendments relating to American Taxpayer Relief Act of 2012.
- Sec. 203. Amendment relating to Middle Class Tax Relief and Job Creation Act of 2012.
- Sec. 204. Amendment relating to FAA Modernization and Reform Act of 2012.
- Sec. 205. Amendments relating to Regulated Investment Company Modernization Act of 2010.
- Sec. 206. Amendments relating to Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.
- Sec. 207. Amendments relating to Creating Small Business Jobs Act of 2010.
- Sec. 208. Clerical amendment relating to Hiring Incentives to Restore Employment Act.
- Sec. 209. Amendments relating to American Recovery and Reinvestment Tax Act of 2009.
- Sec. 210. Amendments relating to Energy Improvement and Extension Act of 2008.
- Sec. 211. Amendments relating to Tax Extenders and Alternative Minimum Tax Relief Act of 2008.
- Sec. 212. Clerical amendments relating to Housing Assistance Tax Act of 2008.
- Sec. 213. Amendments and provision relating to Heroes Earnings Assistance and Relief Tax Act of 2008.
- Sec. 214. Amendments relating to Economic Stimulus Act of 2008.
- Sec. 215. Amendments relating to Tax Technical Corrections Act of 2007.
- Sec. 216. Amendment relating to Tax Relief and Health Care Act of 2006.
- Sec. 217. Amendment re Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005: A Legacy for Users.
- Sec. 218. Amendments relating to Energy Tax Incentives Act of 2005.
- Sec. 219. Amendments relating to American Jobs Creation Act of 2004.
- Sec. 220. Other clerical corrections.
- Sec. 221. Deadwood provisions.

TITLE III—JOINT COMMITTEE ON TAXATION

- Sec. 301. Increased refund and credit threshold for Joint Committee on Taxation review of C corporation return.

TITLE IV—BUDGETARY EFFECTS

- Sec. 401. Budgetary effects.

DIVISION B—ACHIEVING A BETTER LIFE EXPERIENCE ACT OF 2014

Sec. 1. Short title; etc.

TITLE I—QUALIFIED ABLE PROGRAMS

Sec. 101. Purposes.

Sec. 102. Qualified ABLE programs.

Sec. 103. Treatment of ABLE accounts under certain Federal programs.

Sec. 104. Treatment of ABLE accounts in bankruptcy.

Sec. 105. Investment direction rule for 529 plans.

TITLE II—OFFSETS

Sec. 201. Correction to workers compensation offset age.

Sec. 202. Accelerated application of relative value targets for misvalued services in the Medicare physician fee schedule.

Sec. 203. Consistent treatment of vacuum erection systems in Medicare Parts B and D.

Sec. 204. One-year delay of implementation of oral-only policy under Medicare ESRD prospective payment system.

Sec. 205. Modification relating to Inland Waterways Trust Fund financing rate.

Sec. 206. Certified professional employer organizations.

Sec. 207. Exclusion of dividends from controlled foreign corporations from the definition of personal holding company income for purposes of the personal holding company rules.

Sec. 208. Inflation adjustment for certain civil penalties under the Internal Revenue Code of 1986.

Sec. 209. Increase in continuous levy.

SEC. 104. TREATMENT OF ABLE ACCOUNTS IN BANKRUPTCY.

(a) **EXCLUSION FROM PROPERTY OF THE ESTATE.**—**Section 541(b)** of the title 11, United States Code, is amended—

- (1) in paragraph (8), by striking “or” at the end;
- (2) in paragraph (9), by striking the period at the end and inserting a semicolon and “or”; and
- (3) by inserting after paragraph (9) the following:
 - (10) funds placed in an account of a qualified ABLE program (as defined in section 529A(b) of the Internal Revenue Code of 1986) not later than 365 days before the date of the filing of the petition in a case under this title, but—
 - (A) only if the designated beneficiary of such account was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were placed in such account;
 - (B) only to the extent that such funds—
 - (i) are not pledged or promised to any entity in connection with any extension of credit; and
 - (ii) are not excess contributions (as described in §4973(h) of the Internal Revenue Code of 1986); and
 - (C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed \$6,225.

(b) **DEBTOR’S MONTHLY EXPENSES.**—**Section 707(b)(2)(A)(ii)(II)** of title 11, United States Code, is amended by adding at the end

Such monthly expenses may include, if applicable, contributions to an account of a qualified ABLE program to the extent such contributions are not excess contributions (as described in § 4973(h) of the Internal Revenue Code of 1986) and if the designated beneficiary of such account is a child, stepchild, grandchild, or stepgrandchild of the debtor.

(c) RECORD OF DEBTOR'S INTEREST— **Section 521(c)** of title 11, United States Code, is amended by inserting

an interest in an account in a qualified ABLE program (as defined in section 529A(b) of such Code,' after “Internal Revenue Code of 1986).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to cases commenced under title 11, United States Code, on or after the date of the enactment of this Act.

Rule 7054. Judgments; Costs

(a) JUDGMENTS. Rule 54(a)-(c) F.R.Civ.P. applies in adversary proceedings.

(b) COSTS; ATTORNEY'S FEES.

(1) *Costs Other Than Attorney's Fees.* The court may allow costs to the prevailing party except when a statute of the United States or these rules otherwise provides. Costs against the United States, its officers and agencies shall be imposed only to the extent permitted by law. Costs may be taxed by the clerk on 14 days' notice; on motion served within seven days thereafter, the action of the clerk may be reviewed by the court.

(2) *Attorney's Fees.*

A) Rule 54(d)(2)(A)-(C) and (E) F.R.Civ.P. applies in adversary proceedings except for the reference in Rule 54(d)(2)(C) to Rule 78.

(B) By local rule, the court may establish special procedures to resolve fee-related issues without extensive evidentiary hearings.

Rule 8010. Completing and Transmitting the Record

(a) REPORTER'S DUTIES.

(1) *Proceedings Recorded Without a Reporter Present.* If proceedings were recorded without a reporter being present, the person or service selected under bankruptcy court procedures to transcribe the recording is the reporter for purposes of this rule.

(2) *Preparing and Filing the Transcript.* The reporter must prepare and file a transcript as follows:

(A) Upon receiving an order for a transcript in accordance with Rule 8009(b), the reporter must file in the bankruptcy court an acknowledgment of the request that shows when it was received, and when the reporter expects to have the transcript completed.

(B) After completing the transcript, the reporter must file it with the bankruptcy clerk, who will notify the district, BAP, or circuit clerk of its filing.

(C) If the transcript cannot be completed within 30 days after receiving the order, the reporter must request an extension of time from the bankruptcy clerk. The clerk must enter on the docket and notify the parties whether the extension is granted.

(D) If the reporter does not file the transcript on time, the bankruptcy clerk must notify the bankruptcy judge.

(b) CLERK'S DUTIES.

(1) *Transmitting the Records—In General.* Subject to Rule 8009(f) and subdivision (b)(5) of this rule, when the record is complete, the bankruptcy clerk must transmit to the clerk of the court where the appeal is pending either the record or a notice that the record is available electronically.

(2) *Multiple Appeals.* If there are multiple appeals from a judgment, order, or decree, the bankruptcy clerk must transmit a single record.

(3) *Receiving the Record.* Upon receiving the record or notice that it is available electronically, the district, BAP, or circuit clerk must enter that information on the docket and promptly notify all parties to the appeal.

- (4) *If Paper Copies are Ordered.* If the court where the appeal is pending directs that paper copies of the record be provided, the clerk of that court must so notify the appellant. If the appellant fails to provide them, the bankruptcy clerk must prepare them at the appellant's expense.
- (5) *When Leave to Appeal is Requested.* Subject to subdivision (c), if a motion for leave to appeal has been filed under Rule 8004, the bankruptcy clerk must prepare and transmit the record only after the district court, BAP, or court of appeals grants leave.

(c) **RECORD FOR A PRELIMINARY MOTION IN THE DISTRICT COURT, BAP, OR COURT OF APPEALS.** This subdivision (c) applies if, before the record is transmitted, a party moves in the district court, BAP, or court of appeals for any of the following relief:

- leave to appeal;
- dismissal;
- a stay pending appeal;
- approval of a supersedeas bond, or additional security on a bond or undertaking on appeal;
- or
- any other intermediate order.

The bankruptcy clerk must then transmit to the clerk of the court where the relief is sought any parts of the record designated by a party to the appeal or a notice that those parts are available electronically.