

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF VERMONT**

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In re:

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

**STANDING ORDER # 16-02**

**TO ALLOW PARTIES OTHER THAN  
A DEBTOR TO MOVE TO CLOSE  
LOSS MITIGATION MORTGAGE  
MEDIATION AND  
TO REVISE LOCAL RULE 4001-7(F).**

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The Court's current Local Rules require the party who filed a motion seeking, and obtained an order granting, loss mitigation mortgage mediation as the only party who may file a motion to close mediation. See Vt. LBR 4001-7(f)(2). During the four years the mediation program has been in effect in this District, there have been some instances of debtors failing to comply with the mediation procedures, or failing to actively participate in the mediation process, which have prompted the mortgagee party to the mediation to file a motion to vacate the mediation order. **THE COURT FINDS** that the more appropriate remedy in such circumstances is the closing of mediation.

After considering the procedural question of whether only the party who initiated mediation should be permitted to file a motion to close a loss mitigation mortgage mediation process, and after giving the bankruptcy bar an opportunity to consider and express its position on this issue, **THE COURT FINDS** there is no impediment to granting this right to all parties engaged in loss mitigation mortgage mediation.


Therefore, **IT IS HEREBY ORDERED** that, effective immediately, Vermont Local Bankruptcy Rule 4001-7(f) is revised to include a new subparagraph (3) and read as follows:

**(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 attended the mediation session(s), identifying their role in the mediation and specifically identifying the representative of each party who had decision-making authority;
  - (B) a statement as to whether any person required to participate in mediation failed to
    - (i) attend the mediation,
    - (ii) make a good faith effort to mediate, or
    - (iii) timely supply documentation, information, or data requested by the mediator;
  - (C) a summary of 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.
- (3) If the party who filed the motion for mediation fails to timely file a motion to close mediation, or if at any time during the mediation process, the party who initiated the mediation is not complying with this Rule, any party to the mediation may file a motion to close the mediation.

SO ORDERED.

May 4, 2016  
Burlington, Vermont

  
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Colleen A. Brown  
United States Bankruptcy Judge