



# Mortgage Modification Mediation Program-10 Year Retrospective

Speakers: Robert Branson and Tammy Branson

# How we got here

- State Foreclosure Court wasn't working to assist Debtors
- Less than 4% were successful at modifying loan
- Current success approximately 60%

# Collabartive Process

- All sides of the process participated
  - Debtor attorneys
  - Chapter 13 Trustee
  - Creditor attorneys
  - Creditors
  - Mediators
- Florida Statewide Summit
  - 11 Florida bankruptcy Judges
  - 7 of 8 Florida Chapter 13 Trustees
  - National Major Servicers
  - 160 in attendance!

# Programs across the Country

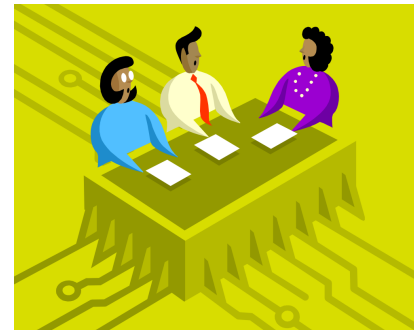
Judge Karen S. Jennemann (1<sup>st</sup> mediation program)

- Rhode Island
- Eastern District of Pennsylvania
- Western District of Wisconsin
- Southern District of Indiana
- Nevada
- Arizona
- Northern and Central District of California
- New Jersey
- South Carolina
- Southern District of Ohio



# How it's done

- Mediation
- Status conferences and hearings with the Court
- Portals



# What do established programs have in common?

- Work under Orders that have timelines
- Element of Good Faith
- Adequate protection
  - Debtors have skin in the game
  - Pay and cure doesn't work when delinquency is high
- Judicial oversight



# Why does it work?



- Communication!
- Dealing with underwriter or mediation specialist
- Debtor attorneys generally do a better job at submitting complete packages
- Creditor attorneys are good at the process
- Act in Good Faith or face Sanctions
- Portals or documents provided thru Creditor Counsel

Life Post HAMP!

APPROVAL





# Fannie Mae Flex Program

- Contractual rate or Market Rate
- Over 480 months
- Forbearance up to 30%



# Fannie Mae Flex Eligibility

- First mortgage more than 12 months from origination
- Not previously modified more than 3 times
- Not have failed out of Flex Program in last 12 months

# FHA

- FHA continues HAMP!
  - Goal 31%
- FHA's stand alone
  - Market rate
  - 360 months
  - Partial Claim: FHA's forbearance up to 30%
  - Affordability





Insert real deal

# Mixed bag

- Down payments required 20% of arrearages



- Chapter 13 helps with down payments if Trustee holds funds until modification is offered

# Will modification work?

- Use tools that help determine if loan modification will work
- B&H Legal Forms has developed a PDF form that does the math, waterfalls for you

## Few Examples of Adequate Protection



Court Location	Calculation
Florida	31% of monthly gross income less monthly amount of HOA or contractual payment
District of New Jersey	60% of contractual monthly principal and interest payment plus 100% of escrow
District of Rhode Island	31% of Debtor's gross monthly income, in the event 31% of the debtor's gross income is insufficient to pay the escrow portion, the Debtor shall pay the escrow portion. If 31% is more than the contractual payment with escrow the Debtor shall pay the contractual amount
Western District of PA	60% of contractual monthly principal and interest plus 100% of escrow
Eastern District of Wisconsin	31% of gross income or 75% of current contractual payment whichever is less
District of Nevada	31% of gross income or such other amount sufficient to pursue mortgage modification

# How should documents be exchanged?



Court Location	Mechanism	Document Prep by Vendor Required
Florida	DMM Portal (40.00 charge) Hope Loan Portal (no cost)	No in No & Middle/ Yes in Southern 40.00 charge
Southern District of New York	Portal or to creditor Counsel	No
Eastern District of New York	Portal or to creditor Counsel	No
District of New Jersey	Portal	No
District of Rhode Island	Decided by parties	No
Western District of Pennsylvania	Portal (25.00 charge)	Yes-40.00 charge
Eastern District of Wisconsin	Portal (25.00 charge)	No





## Confirmation subject to Process?

- Many courts allow cases to be confirmed subject to confirmation with language that stay relief is granted if process is unsuccessful and the debtor fails to modify plan within 14 days of final report

# Approval? Now what?

- Seek court approval
- Lenders require if in bankruptcy
- Protect debtor



Insert motion and order

# Do's and Don'ts

- Debtor Perspective
  - Complete packages
  - Analyzing qualification
  - Know the programs
- Creditor Perspective
  - Understand order duties and timelines
  - Keep up with program changes
- Trustee's Perspective
  - Calculate adequate protection correctly
  - Change addresses if Trial Payment address different than POC
  - Encourage Mortgage Modification, filings are down!



# Question and Answer Time

