

STATE OF MAINE

Sagadahoc, ss.

SUPERIOR COURT

AMH - SAG - 1/9/2014

J.P. MORGAN CHASE BANK NATIONAL ASSOCIATION

Plaintiff

v.

Docket No. BATSC-RE-12-021

SUSAN M. HILL

Defendant

ORDER

This residential foreclosure case is before the court as a result of a Report of Noncompliance submitted by the assigned mediator for the Foreclosure Diversion Program. The mediator reported Plaintiff as non-compliant. Each party filed an initial response to the Report and each party filed a reply to each other's response. Counsel for the parties appeared January 7, 2014 and argued the parties' positions. The discussion was held in chambers and not recorded.

Based on the entire record, the court is not persuaded that sanctions are appropriate at this point. The mediator's Report is based on delay and inaction on the Plaintiff's part, and there is evidence to support that position. The mediation got underway in 2012, but it was not until a session August 6, 2013 that the Plaintiff advised of its decision denying a loan modification, based on insufficient income of the Defendant. Plaintiff's decision was apparently not issued in writing, and the Defendant to this day is not aware of the extent to which her income was deemed insufficient.

On the other hand, the Plaintiff points to delay on the Defendant's part since the August 6, 2013 mediation that makes it difficult for the court to assess fault against one

party and not the other. Specifically, the record of the August 6 mediation session reflects that the Defendant said her income had changed and that "Defendant [was] to resubmit application for review." Her materials were filed a month later, and after Plaintiff asked for clarification on an issue, another month passed before the question was answered via e-mail.

The court clearly agrees that there has been significant unnecessary delay in the mediation process, but is unable to say that one party is substantially more at fault than the other. Accordingly, no sanctions will be imposed at this time, although the court will keep that issue open for the time being, pending the outcome of the process set forth below. The court is retaining jurisdiction for the moment in order to get the mediation process and the process for loan modification back on track. The deadlines and dates for moving the process ahead that set forth below were discussed and agreed upon among the court and counsel.

IT IS HEREBY ORDERED:

1. By no later than January 14, 2014, Plaintiff will provide Defendant with a complete list of any and all documents or materials that the Plaintiff will require in order to decide whether to grant a loan modification to Defendant. Plaintiff's list will be limited requesting updated or current versions of documents and materials previously requested by Plaintiff. In other words, it is not expected that Plaintiff will be requesting significant documents or materials that it has not previously identified as being needed.

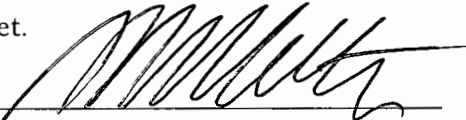
2. By no later than January 22, 2014, Defendant will provide Plaintiff with complete, legible documents or materials in response to all items on the Plaintiff's previously provided list.

3. Plaintiff will render a decision on loan modification within 30 days of receiving a complete, legible response to its list. The decision will be issued in writing and transmitted to Defendant or her attorney.

4. The clerk will schedule this case for a telephonic conference of counsel February 4, 2014.

Pursuant to M.R. Civ. P. 79(a), the clerk is hereby directed to incorporate this Decision and Judgment by reference in the docket.

Dated January 9, 2014



A. M. Horton
Justice, Superior Court

JPMORGAN CHASE BANK NATIONAL ASSOCIATION - PLAINTIFF

SUPERIOR COURT

SAGADAHOC, ss.

Docket No BATSC-RE-2012-00021

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C/O SUSAN M HILL 10 FRONT STREET

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