

12/5/2011

IN THE COURT OF COMMON PLEAS  
OF BERKS COUNTY, PENNSYLVANIA

IN RE:  
ADMINISTRATIVE ORDER ESTABLISHING : CIVIL DOCKET NO. 11-38  
RESIDENTIAL MORTGAGE FORECLOSURE : CLERK OF COURT NO. FOUND 00000 23-2011  
DIVERSION PROGRAM :

AND NOW, this 1<sup>st</sup> day of DECEMBER, 2011, this Order is hereby promulgated in order to provide the parties in a residential mortgage foreclosure action a formal procedure by which to (1) resolve the mortgage foreclosure complaint while (2) enabling defendant homeowners to remain in their homes. Accordingly, the following Program is hereby adopted:

1. This Program is limited to actions on a consumer credit transaction (as defined by Pa.R.C.P. 2950) secured by a mortgage on owner-occupied residential property (a "Qualifying Action"). All actions, including mortgage foreclosures, arising from a commercial loan, or other non-consumer credit transaction, are specifically excluded from the provisions of this Program. All complaints which are filed in connection with (i) a consumer credit transaction (as defined above) which (ii) is secured by a mortgage on residential property shall be accompanied by a Certification which shall state whether or not the action arises from a consumer credit transaction secured by a mortgaged on residential property which is owned and occupied by the defendant therein.. (The required form of Certification is attached to this Order as Attachment "A"). The Certification shall be served upon all Defendants named in the Complaint with service of the Complaint.

For purposes of this Order, an "owner-occupied residential property" is a residential property in which at least one Defendant resides as his/her primary residence.

2. If the Certification indicates that the action is not a Qualifying Action, the remaining procedures in this Administrative Order shall not be applicable and the Plaintiff may proceed as per the Pennsylvania Rules of Civil Procedure. The Sheriff's return of service shall indicate service of the Certification along with service of the

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Complaint. If a Defendant believes that the action is a Qualifying Action, the Defendant may petition the Court to be included in the Program. If the Certification indicates that the action is a Qualifying Action, Plaintiff shall include a copy of the "URGENT NOTICE" form for service by the Sheriff upon each Defendant to be served. (The Urgent Notice form is attached as Attachment "B".) The Urgent Notice shall be filed with, but not attached to the Complaint and shall be served separately but contemporaneously with the Complaint. The Sheriff shall file a return of service which shall indicate the service of the Certification and the Urgent Notice along with service of the Complaint. The Urgent Notice and Certification shall accompany any Complaint to be served by deputized service. If service of the Complaint is to be effectuated by alternate service as provided by Pa.R.C.P. 410 and Pa.R.C.P. 430, the Urgent Notice and Certification shall be posted on the property and served via mail if such service of the Complaint is authorized by the court order authorizing alternate service.

3. If the Defendant in a Qualifying Action contacts the housing counselor provided in the Urgent Notice within the ten (10) day time limit, as stipulated in the Urgent Notice, the housing counselor shall, within three (3) days of the contact, notify the designated Court Administrator and counsel for the Plaintiff, in writing via fax or e-mail, of Defendant's election to participate in the Program. The Court Administrator shall prepare an order for a Conciliatory Conference (in the form which is attached as Attachment "C"), which shall be signed by a Judge of the Court. The Order for Conciliatory Conference shall be filed with the Prothonotary, noted in the docket entries for the case, and served by the Prothonotary by mail upon Plaintiff's Attorney, the Defendant(s), the housing counselor and the Defendant's attorney, if any. The Conciliatory Conference shall be scheduled to take place no sooner than 60 days or later than 70 days from the date of notification to the Court Administrator by the housing counselor.

4. The Defendant(s) shall meet with the housing counselor within a reasonable time after Defendant(s) contacted the housing counselor, and within 20 days from the Defendant's initial contact with the housing counselor, the Defendant shall provide the housing counselor with all financial information and documents requested by the housing counselor. The housing counselor shall transmit the financial information and

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documents to the Plaintiff and/or Plaintiff's Attorney via fax or e-mail at least 21 days prior to the date for the Conciliatory Conference. It is expected that the parties will exchange all required information and actively attempt to resolve the litigation.

5. The entry of the Order for Conciliatory Conference shall include a STAY of all further action in the case, including the issuance of the Important Notice (10 Day Notice). The Stay shall continue until further order of Court. After an order lifting the Stay, the Plaintiff's Attorney may serve the Important Notice (10 Day Notice) and proceed as per the Pennsylvania Rules of Civil Procedure.

6. The Conciliatory Conference shall be conducted by a Conciliator designated by the Court. The Defendant(s), the housing counselor, Defendant's attorney (if any) and Plaintiff's Attorney shall appear in person at the Conciliatory Conference. Plaintiff's representative who shall have authority to approve a settlement, shall be available via telephone on the date and at the time scheduled for the Conference.

7. At the conclusion of the Conciliatory Conference, the Conciliator shall issue a recommendation, which may (i) memorialize the results of the Conference, (ii) schedule future Conferences and other deadlines, (iii) lift the Stay, or (iv) propose a conference with a Judge, as the Conciliator deems appropriate. The Court may enter an order based on the recommendation of the Conciliator, or such other order as the Court deems appropriate. Such order may include dismissal of the foreclosure lawsuit, without prejudice, upon Defendant's acceptance by Plaintiff into a permanent modification, or such other time or circumstance as the Court may order.

8. This Order is effective for all civil actions filed on or after January 1, 2012 which arise from a consumer credit transaction secured by a mortgage on owner-occupied residential property.

9. In any case which was commenced before December 31, 2011, and which would be a Qualifying Action if it had been filed after that date, but in which no judgment has been entered or in which an Important Notice (10 day notice) has not yet been sent to the Defendant(s), the 10 day notice shall be accompanied by the Certification and Urgent Notice as provided in Attachment "A" and "B", giving the Defendant(s) in that pending action notice of the availability of the Program. A subsequent praecipe for default judgment in such cases shall include a statement of compliance with this

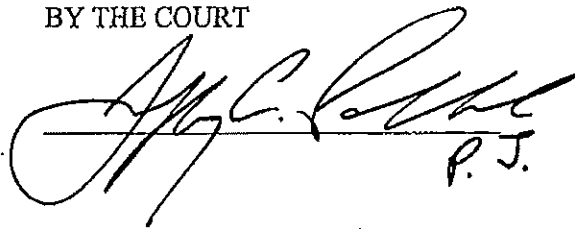
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requirement. Prior to the filing of a Motion for Summary Judgment, Motion for Judgment on the Pleadings or Motion for Judgment Upon Admission, Plaintiff shall send via regular mail to all defendants at the address where service of the Complaint was effectuated and to defendant's counsel (if any), the Certification and Urgent Notice as provided in Attachment "A" and "B". However, such transition cases will not be automatically stayed should the defendant(s) elect to participate in the Program by following the instructions on the Urgent Notice. Instead, defendant(s) may petition the court for a stay, pursuant to applicable Pennsylvania and Berks County Rules of Civil Procedure, while resolution negotiations take place.

10. Nothing in this Administrative Order shall limit the authority of a Judge, *sua sponte*, or in his/her discretion on motion by a party, to refer any pending action which such Judge believes to be a Qualifying Action to the Program and impose a Stay of all proceedings.

11. This Administrative Order shall remain in effect until further Order of the Court.

BY THE COURT

  
P. J.

RECEIVED  
PROTHONOTARY'S OFFICE  
2011 DEC - 1 P 3:33  
BERKS COUNTY, PA  
MARIANNE R. SUTTON  
PROTHONOTARY

12/5/2011

IN THE COURT OF COMMON PLEAS OF BERKS COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

No.
, Plaintiff
v.
, Defendant

CERTIFICATION REGARDING STATUS OF FORECLOSED PREMISES

Pursuant to the Administrative Order dated \_\_\_\_\_, 2011 regarding the Berks County Residential Mortgage Foreclosure Diversion Program, I hereby certify that this action:

Check the appropriate one:

\_\_\_\_\_ involves a consumer credit transaction (as defined in Pa.R.C.P. 2950) which is secured by a mortgage on owner occupied residential property.

\_\_\_\_\_ does not involve a consumer credit transaction, or is not secured by a mortgage on owner occupied residential property.

The undersigned verifies that the statements made herein are true and correct to the best of my knowledge, information and belief. I understand that this statement is made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Signature of Plaintiff or Counsel for Plaintiff

DEFENDANTS MAY CHALLENGE THIS CERTIFICATION IF THEY BELIEVE THAT THEY ARE ELIGIBLE FOR THE CONCILIATION PROGRAM BY PETITIONING THE COURT OR BY CONTACTING THE NEIGHBORHOOD HOUSING SERVICES OF READING, 213 N. 5th STREET, READING, PA. (610-372-8433.)

LOS DEMANDADOS PUEDE DISPUTAR ESTE CERTIFICADO SI ELLOS CREEN REUNIR LOS REQUISITOS PARA EL PROGRAMA DE CONCILIACION, PUEDEN HACERLO AL PRESENTAR UNA PETICION AL TRIBUNAL O AL CONTACTAR A LOS SERVICIOS VECINALES DE VIVIENDA DE READING, 213 N. 5th STREET, READING, PA. (610-372-8433)

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# **URGENT NOTICE**

Under a new Pilot Program of the Court of Common Pleas of the  
County of Berks.

**You May Be Able to Get Help to Save Your Home**

**Call the Save Your Home Hotline**

**Immediately at:**

**610-372-8433**

You will be in touch with a housing counsellor from the Neighborhood Housing Services of Reading, 213 N. 5<sup>th</sup> Street, Reading, PA, a non-profit agency, to help you try to work out arrangements with your mortgage company **FREE OF CHARGE**.

To get help, you must call the Hotline within the next **TEN (10) days**. They will tell you what to do next. Call the Hotline immediately. If you do not call the Hotline, you will not be able to get help to save your home.

**MAKE THIS CALL TO  
SAVE YOUR HOME!  
THIS PROGRAM IS FREE**

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# ADVISO URGENTE

Bajo un nuevo Programa Experimental del Tribunal de Primera Instancia del Condado Berks.

**Usted Puede Obtener Ayuda Para Salvar Su Hogar  
Llame inmediatamente a la Línea Directa para Salvar Su  
Hogar al:**

**610-372-8433**

Le pondrán en contacto con un Consejero de Viviendas de Neighborhood Housing Services of Reading, 213 N. 5<sup>th</sup> St., Reading, PA, una agencia sin fines de lucro, para ayudarle a tratar de hacer arreglos con su compañía hipotecaria, SIN NINGUN COSTO ALGUNO.

Para obtener ayuda, usted debe llamar a la Línea Directa dentro los siguientes diez (10) días. Le dirán que hacer después. Llame inmediatamente a la Línea Directa. Si usted no llama a la Línea Directa, usted no podrá obtener ayuda para salvar su hogar.

**¡HAGA ESTA LLAMADA PARA  
PROTEGER SU HOGAR!  
ESTE PROGRAMA ES  
GRATUITO**