

UNITED STATES DISTRICT COURT



DISTRICT OF MAINE

Pilot Plan

Maine Foreclosure Diversion Program

Effective July 18, 2022

I. Introduction

The Court is coordinating with the State of Maine Judicial Branch's [Foreclosure Diversion Program](#) (FDP) to resolve, through mediation, cases involving foreclosure of a mortgage of an owner-occupied residential property of no more than four units that is the primary residence of the owner-occupant. The FDP provides mediation at the request of a homeowner who lives in the property being foreclosed. Mediation in a foreclosure case includes the homeowner, the lender, attorneys on the case, and a neutral mediator. Foreclosure cases involving vacation properties, second homes, and commercial properties are not eligible for the Maine Foreclosure Diversion Program. This Plan is adopted on a pilot basis so the Court can evaluate the efficacy of the FDP in cases filed in this Court.

II. Interim Local Rule Change Adopted for Pilot

To advance the goals of this Pilot, the Court hereby adopts interim Local Rule 4 (b) as attached.

The Rule has been amended to require that a plaintiff in a foreclosure action serve notice on the defendant/owner-occupant that (1) failure to file an answer to the complaint within 21 days of being served, could result in foreclosure of the property; and (2) defendant has the right to request mediation in the FDP, pursuant to 14 M.R.S. § 6321-A.

III. Questions and Comments

Please direct any questions or comments regarding the Pilot to the Clerk of Court Christa K. Berry at localrules@med.uscourts.gov.

INTERIM RULE 4 – SPECIAL SERVICE OF PROCESS

(Amended July 18, 2022)

(a) Agreement between Maine Attorney General and the Court

For the following types of actions, service of process will follow the procedures set forth in the agreement between the Maine Attorney General and the Court reproduced in [Appendix III](#):

1. a civil case against the State of Maine, its agencies, or its employees in which the Court has granted a plaintiff *in forma pauperis* status; and,
2. a habeas corpus petition under 28 U.S.C. § 2254, regardless of whether the filing fee has been paid.

(b) Foreclosure of Owner-Occupied Residential Property

In cases involving foreclosure of a mortgage on an owner-occupied residential property of no more than four units that is the primary residence of the owner-occupant plaintiff must serve with the summons and complaint, a notice that

1. failure to file an answer to the complaint within 21 days of being served, could result in foreclosure of the property; and
2. defendant has the right to request mediation in the State Foreclosure Diversion Program pursuant to 14 M.R.S. § 6321-A using the Court's Form Request for Mediation or by otherwise requesting mediation in writing.

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

Plaintiff(s))
)
v.) Civil No.
)
Defendant(s))

IMPORTANT NOTICE TO HOMEOWNER

Your mortgage lender (the financial institution which loaned the money to finance your home or its successor) has filed a case against you in the United States District Court for the District of Maine (Federal Court), seeking foreclosure of your property. Foreclosure is the legal process a lender can take when a borrower is behind on their mortgage payments. Through the foreclosure process, the lender can recover money owed on a loan by taking ownership of the mortgaged property from the borrower(s) and selling it.

The purpose of this Notice is to inform you of the following:

(1) **File an Answer.** It is important that you file an answer to the complaint in this case within **21** days of being served with Summons and Complaint. A form Answer is available on the Court's website at <https://www.med.uscourts.gov/self-representation-forms> and a sample Answer form is enclosed with this Notice. Failure to file an Answer could result in the foreclosure of your property.

(2) **Request for Mediation.** You have a right to a free mediation through a program operated by the State of Maine Judicial Branch (State Court), called the Foreclosure Diversion Program. Mediation is an informal process in which you and the lender meet with a mediator (a neutral third party who acts as a go-between to see if a compromise can be reached). Mediation

can help both you and the lender reach a favorable outcome, without having to proceed with the case in court. Through mediation, you may be able to reach an agreement with the lender that would allow you to stay in your home. To request mediation, complete and return the enclosed Request for Mediation form within 21 days of receiving this Notice. If you request mediation, your case in Federal Court will be stayed (paused) until the mediation process is over. Should any party complete and return the Request for Mediation form, the Federal Court Clerk's Office will promptly notify the State Court Foreclosure Diversion Program that your case is ready to be scheduled for mediation. [The Request for Mediation form is available on the Court's website at <https://www.med.uscourts.gov/self-representation-forms>.] You will then await further instruction and scheduling notification from the Foreclosure Diversion Program. You can learn more about the Foreclosure Diversion Program by visiting this website: <https://www.courts.maine.gov/programs/fdp/index.html>.

Requests for Mediation should be returned to:

Edward T. Gignoux U.S. Courthouse
156 Federal Street
Portland, Maine 04101

or

Margaret Chase Smith Federal Building and U.S. Courthouse
202 Harlow Street
Bangor, Maine 04401

Once the mediation is over, there is no further involvement of the State Court or the Foreclosure Diversion Program. If at mediation you and the lender come to an agreement, paperwork will be filed with the Federal Court to close your court case. If no agreement is reached at mediation, your case will move forward in Federal Court.

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

Plaintiff(s))
)
v.) Civil No.
)
Defendant(s))

ANSWER

Defendant _____ answers Plaintiff's Complaint as follows:

Insert Name

1. Defendant [admits/denies/has insufficient information or knowledge to admit or deny paragraph one of Plaintiff's Complaint.]

2. [Follow the preceding example for each paragraph of Plaintiff's Complaint. If a paragraph contains more than one allegation and you cannot admit or deny them all, indicate which allegation(s) you admit, which allegation(s) you deny, and which allegation(s) you lack sufficient information or knowledge to admit or deny.]

....

DEFENSES

Without waiving the right to raise additional defenses, Defendant asserts the following defenses to the Complaint:

1. [In a series of numbered paragraphs set out any defenses you believe you have to the claim(s) set forth in the Plaintiff's Complaint. For reference see Rule 12 of the Federal Rules of Civil Procedure.]

....

CLOSING

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in my missing important Court notices and deadlines in my case, which could lead to a judgment against me.

Date of signing: _____, 20__.

Signature of Defendant _____

Printed Name of Defendant _____

Address _____

Phone _____

E-mail _____

Respectfully submitted this ___ day of _____, 20__.

The Answer should be returned to:

Edward T. Gignoux U.S. Courthouse
156 Federal Street
Portland, Maine 04101

or

Margaret Chase Smith Federal Building and U.S. Courthouse
202 Harlow Street
Bangor, Maine 04401

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

Plaintiff(s),)
)
v.) Civil No.
)
Defendant(s).)

REQUEST FOR MEDIATION

I agree to submit my case to the State of Maine Foreclosure Diversion Program for mediation. I understand that at mediation, a neutral court mediator will meet with me and the lender to try to come to an agreement.

I understand that upon signing and filing this form, that my case in Federal Court will be paused until the mediation is over. The Federal Court Clerk's Office will forward my case to the appropriate State Court Foreclosure Diversion Program for scheduling of a mediation meeting.

I understand that if no agreement is reached at mediation, that there is no further involvement of the State Court or the Foreclosure Diversion Program, and that my case will move forward in the Federal Court.

I prefer to have this mediation held (select one) by:

Videoconference; Telephone; or In-Person

Signature

Address

Printed name

Email

Dated: _____

Phone number