

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

In re	:	Chapter 13
	:	
CHARLES ANTHONY MALIZIA	:	Case No. 16-11199 (BLS)
	:	
Debtor.	:	BAP No. 16-00037
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CHARLES ANTHONY MALIZIA,	:	
	:	
Appellant,	:	
	:	
v.	:	C. A. No. 16-618-GMS
	:	
MICHAEL B. JOSEPH, et al.,	:	
	:	
Appellee.	:	

RECOMMENDATION

At Wilmington this **19th** day of **September , 2016**.

WHEREAS, pursuant to paragraph 2(a) of the Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District dated September 11, 2012, a teleconference was held on Thursday, September 15, 2016 for an initial review and discussion with the pro se appellant and counsel for appellees to determine the appropriateness of mediation in this matter;

WHEREAS, as a result of the above screening process, the issues involved in this case are not amenable to mediation and mediation at this stage would not be a productive exercise, a worthwhile use of judicial resources nor warrant the expense of the process.

This matter involves a loan issued in 2007 and has been in default for awhile, which

resulted in appellee M&T instituting foreclosure proceedings. Presently, a foreclosure proceeding is scheduled to occur on Tuesday, September 20, 2016. Appellant has filed repeated bankruptcy proceedings close to the time when prior sheriff sales had been scheduled to occur. This appears to be at least the third such filing by appellant. Although appellant claims he may have found a lender to refinance his debt, according to appellee M&T, appellant had made similar claims before and the refinancing failed to materialize, with appellant filing bankruptcy on the eve of the foreclosure. Appellee M&T intends to proceed with the sheriff sale this week, in part because appellant has been in default on his debt since 2014 and his repeated conduct in filing for bankruptcy. Appellant claims that he seriously attempted to market the property, which is beach property located in Sussex County, in April 2016. What prior efforts he made before foreclosure is unknown.

THEREFORE, IT IS RECOMMENDED that, pursuant to paragraph 2(a) Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District and 28 U.S.C. § 636(b), this matter be withdrawn from the mandatory referral for mediation and proceed through the appellate process of this Court. The parties were informed during the teleconference of their option to file objections to this Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B), FED. R. CIV. P. 72(a) and D. DEL. LR 72.1.

Local counsel are obligated to inform out-of-state counsel of this Order.

/s/ Mary Pat Thyng
Chief U.S. Magistrate Judge Mary Pat Thyng