

- witness for examination. Any exhibit offered in evidence should, at the time of such offer, be handed to opposing counsel.
80. In making objections, counsel should state only the legal grounds for the objection and should withhold all further comment or argument unless elaboration is requested by the court.
 81. Generally, in examining a witness, counsel shall not repeat or echo the answer given by the witness.
 82. Offers of, or requests for, a stipulation should be made privately, not within the hearing of the jury, unless the offeror knows or has reason to believe the opposing lawyer will accept it.
 83. In opening statements and in arguments to the jury, counsel shall not express personal knowledge or opinion concerning any matter in issue.
 84. Counsel shall admonish all persons at counsel table that gestures, facial expressions, audible comments, or the like, as manifestations of approval or disapproval during the testimony of witnesses, or at any other time, are absolutely prohibited.
 85. During trials and evidentiary hearings the lawyers should mutually agree to disclose the identities, and duration of witnesses anticipated to be called that day and the following day, including depositions to be read, and should cooperate in sharing with opposing counsel all visual-aid equipment.
 86. A lawyer should not mark on or alter exhibits, charts, graphs, and diagrams without opposing counsel's permission or leave of court.
 87. A lawyer should abstain from conduct calculated to detract or divert the fact-finder's attention from the relevant facts or otherwise cause it to reach a decision on an impermissible basis.
 88. A lawyer's word should be his or her bond. The lawyer should not knowingly misstate, distort, or improperly exaggerate any fact or opinion and should not improperly permit the lawyer's silence or inaction to mislead anyone.
 89. A charge of impropriety by one lawyer against another in the course of litigation should never be made except when relevant to the issues of the case.
 90. A lawyer should not pay, offer to pay, or acquiesce in the payment of compensation to a witness contingent upon the content of his testimony or the outcome of the case. A lawyer, however, may advance, guarantee or acquiesce in the payment of:
 - a. expenses reasonably incurred by a witness in attending or testifying;
 - b. reasonable compensation to a witness for his lost time in attending or testifying;
 - c. a reasonable fee for the professional services of an expert witness.
 91. In appearing in his or her professional capacity before a tribunal, a lawyer should not:
 - a. state or allude to any matter that he or she has no reasonable basis to believe is relevant to the case or that will not be supported by admissible evidence;
 - b. ask any question that he or she has no reasonable basis to believe is relevant to the case and that is intended to degrade a witness or other person;

- c. assert one's personal knowledge of the facts in issue, except when testifying as a witness;
 - d. assert one's personal opinion as to the justness of a cause, as to the credibility of a witness, as to the culpability of a civil litigant, or as to the guilt or innocence of an accused; but may argue, on the lawyer's analysis of the evidence, for any position or conclusion with respect to the matters stated herein.
92. A question should not be interrupted by an objection unless the question is patently objectionable or there is reasonable ground to believe that matter is being included which cannot properly be disclosed to the jury.
 93. A lawyer should address objections, requests and observations to the court and not engage in undignified or discourteous conduct which is degrading to court procedure.
 94. Where a judge has already made a ruling in regard to the inadmissibility of certain evidence, a lawyer should not seek to circumvent the effect of that ruling and get the evidence before the jury by repeated questions relating to the evidence in question, although he is at liberty to make a record for later proceedings of his ground for urging the admissibility of the evidence in question. This does not preclude the evidence being properly admitted through other means.
 95. A lawyer should not attempt to get before the jury evidence which is improper.
 96. A lawyer should scrupulously abstain from all acts, comments and attitudes calculated to curry favor with any juror, by fawning, flattery, actual or pretended solicitude for the juror's comfort or convenience or the like.
 97. A lawyer should never attempt to place before a tribunal, or jury, evidence known to be clearly inadmissible, nor make any remarks or statements which are intended to improperly influence the outcome of any case.
 98. A lawyer should accede to reasonable requests for waivers of procedural formalities when the client's legitimate interests are not adversely affected.
 99. Attorneys should not knowingly misstate, misrepresent or distort any fact or legal authority to the court or to opposing counsel and shall not mislead by inaction or silence.

Further, if this occurs unintentionally and is later discovered, it should immediately be disclosed or otherwise corrected.

[Updated: 07-27-2006]

**Courtroom Guidelines, Procedures
and Expectations for Civil Cases
Assigned to Judge Elizabeth A. Metzger
Courtroom A3-1**

HEARINGS

1. Special set hearing time: Special set hearing time may be obtained by contacting the court's Judicial Assistant, Janet Cason, at (772-463-3281) or by e-mail to casonj@circuit19.org.
2. Setting of hearings: Hearings must be cleared with opposing counsel or *pro se* parties. Good faith cooperation is expected from counsel, their support staff, and *pro se* litigants. Should counsel, their staff, or *pro se* litigants fail to respond within 3 business days, or refuse to cooperate in obtaining or in setting a hearing, the difficulty should be specifically set forth either in the motion or in the notice of hearing. After filing any motions or notices with the Clerk, a copy of any and all motions and notices of hearing must be immediately forwarded to the Judicial Assistant by U.S. Mail. Should a notice of hearing not immediately be forwarded to the Judicial Assistant after special set hearing time is obtained, such hearing time is subject to forfeiture.

Hearings may not be specially set until the motion is actually filed with the Clerk and a copy has been provided to the Court.

Additional motions may not be "piggy-backed" by cross-notice unless counsel first confirms with opposing counsel, and the Judge's Judicial Assistant, that sufficient additional time can be reserved to hear them.

3. Cooperation of counsel: If counsel does not cooperate, the requesting party may unilaterally set a hearing giving at least two weeks' notice to the opposing counsel who failed to cooperate.
4. Emergency hearings: If an emergency situation arises, counsel may request that a hearing be set on short notice. The body of the motion must contain a detailed explanation of the circumstances constituting the emergency as well as the substance of the motion. The motion must be faxed to the Court before a hearing will be set. The Court will review the motion and, if it is determined an emergency exists, the Judicial Assistant will contact counsel to set the hearing. In light of the short setting, opposing counsel may attend the hearing via telephone, (court call) if their schedule will not allow them to appear in person.
5. Appearance by telephone: Telephone hearings are permitted as long as there is not testimony or evidence. No motion or order is necessary. All telephone appearances must be made through CourtCall, a company which provides connection between the parties and the courtroom for a flat fee. When you know the date and time of your hearing you must call CourtCall directly at 1-888-882-6878 to arrange for your appearance by

phone. **You must schedule your CourtCall appearance at least five (5) working days prior to the hearing.**

6. **Uniform Motion Calendar** – A Uniform Motion Calendar will normally be held Tuesday through Friday from 8:30 a.m. to 9:15 a.m. All hearings must be scheduled for 8:30 a.m. Please refer to Judge Metzger’s calendar posted on our web site (www.circuit19.org) to confirm available dates. Counsel shall not schedule motions on the UMC Calendar with the Judge’s Judicial Assistant.

Hearings at UMC are limited to 10 minutes per case (**not per motion**). When you attend UMC you must sign up on the sign-in sheet inside the courtroom. Normally UMC will be heard on a “first come, first served” basis. After proper notice, failure of any party to appear at the hearing shall not prevent a party from proceeding with the matter when the case is called. If the party noticing the matter for hearing chooses to wait for the absent party, the matter may be passed over until the end of the calendar. If the judge runs out of time on UMC, any remaining hearings will need to be rescheduled.

Counsel who filed the motion must bring a proposed order to the hearing (generic orders granting/denying with at least five lines for additional provisions may be used) along with sufficient copies and self addressed, stamped envelopes for all parties. If you want the court file at the hearing you must call the Clerk at least five business days prior to the hearing and request that the file be brought to the hearing.

Copies of all hearing notices and relevant motions must be sent by mail, no fax, to the court’s Judicial Assistant five (5) working days prior to the hearing. Any case law or statutes to be relied upon shall be submitted to the Court with the motion with relevant portions highlighted. You must give the opposing party notice of the hearing at least five working days prior to the hearing unless otherwise agreed to by the parties.

The Court will not hear evidentiary motions at UMC. The types of motions suitable for hearing on the Uniform Motion Calendar include simple motions to strike affirmative defenses, to amend pleadings, discovery motions, protective orders, objections to CME, etc.

UMC is available to pursue a summary final judgment for liquidated damages, including attorney’s fees and costs after a default based upon a proper motion with supporting documentation unless a party appears to contest it. If that occurs, the Court will set an evidentiary hearing /trial on such matters as may be necessary. You must request the file be brought to Court for the scheduled hearing by contacting the Clerk’s office.

All Notices of Hearing for UMC shall contain a certification signed by the lawyer who set the hearing in substantially the following form:

I HEREBY CERTIFY that I have personally contacted opposing counsel in an effort to resolve the issue(s), however, the matter cannot be resolved and a hearing is necessary.

Please note that certifications containing language to the effect that an effort will be made to resolve the issue in the future is NOT sufficient. If personal communication is attempted but unsuccessful, written communication to opposing counsel will suffice. Failure to comply with this requirement may result in cancellation of the hearing by the Court. If it is determined that the certification is not true, other sanctions may be imposed, including a referral to the Florida Bar.

The Judicial Assistant does not track UMC hearings. As a result, we ask that you please not call the Judge's office to check if your case has been set on a UMC docket.

7. Motion to Dismiss and/or Motion for More Definite Statement: The Court will initially consider all Motions to Dismiss filed pursuant to Rule 1.140(b) and Motions for More Definite Statement filed pursuant to Rule 1.140(e), **without** a hearing. Motions to Dismiss must strictly comply with the requirements of the Rule in that the grounds on which they are based and the substantial matters of law intended to be argued shall be stated specifically and with particularity. Motions for More Definite Statement must strictly comply with the requirements of the Rule in that the motion must point out the defects complained of and the details desired.

The moving party shall furnish a copy of the Motion to the Court's Judicial Assistant by U.S. mail. The copy shall be accompanied by a generic order granting/denying the motion with at least five lines for additional provision to be added by the Court; stamped, self addressed envelopes for all counsel of record and *pro se* parties; and a cover letter showing copies to all counsel of record and *pro se* parties. If the moving party fails to comply, any party may furnish a copy of the motion along with the required documents to the Court. The Court will hold the motion for ten (10) days to give the opposing side the opportunity to reply. If the Court determines that a hearing is necessary, the movant will be advised to schedule a hearing and file the appropriate notice. If a hearing is not required an appropriate order will be entered. No case dispositive ruling will be made without a hearing. **Please do not call the Judge's assistant for a hearing on these motions.**

8. Discovery Motions and Motions to Compel: The mere filing of a Motion is insufficient. The motions must be set for hearing to bring the matter to the Court's attention. Motions to Compel, as well as all discovery motions must comply with the Florida Rules of Civil Procedure, including, but not limited to, a **certification that the movant, in good faith, has conferred or attempted to confer with the person or party failing to make discovery in an effort to secure the information without court action.** *See*, Fla.R.Civ.P. 1.380(a)(2).

When a motion to compel discovery alleges a complete failure to respond or object to discovery, and the time for complying with the discovery request has lapsed and

there has been no request for an extension of time, an Ex Parte order may be entered requiring compliance with the original discovery demand within ten (10) days of the signing of the order. The movant shall submit the proposed order to the Court with sufficient copies and self addressed stamped envelopes for all parties and shall also certify that notice of the requested relief was provided to all parties.

9. Motions for Protective Orders: The filing of a Motion for Protective Order, without presenting it before the Court, is insufficient. The Court will make itself available for immediate hearings on said motions where the motion could not have been filed and heard in the due course of discovery.
10. Legal Memorandum and Citations: Any legal memorandums or briefs for special set hearings, along with hard copies of significant cited authorities (highlighting the pertinent sections is appreciated by the Court), should be provided to the Court at least **fourteen business days before the hearing**. The Court will attempt to review the motion and memorandum, and read the cases cited therein, prior to the hearing so that an immediate ruling may be rendered. Highlighting pertinent sections is appreciated. Brevity is appreciated and memorandums should be kept to no more than five (5) pages in length. Case law and Memorandums provided to the Court during the hearing may not be considered. **The Court, on occasion, may rule on motions without a hearing. Therefore, both counsel filing the motion and opposing parties are encouraged to timely file written argument with the Court.**
11. Orders and Rulings of the Court: The Court will strive to issue orders and rulings in a timely manner. If counsel is asked to prepare an order, the order shall be drafted and circulated to counsel within 2 working days of the hearing and must be submitted to the Court with a cover letter to all counsel and *Pro Se* parties within 7 days of the hearing. Opposing counsel must advise the Court of any objection to the form of the proposed order within 3 days thereafter. The Court would appreciate a copy of any proposed order on either a removable storage device or via e-mail, in addition to the hard copy. All Orders must describe, in the caption, the subject and ruling of the court, *i.e.* "Order Granting Plaintiff Motion for Partial Summary Judgment on Liability" See Fla.R.Civ.P. 1.100(c)(1).

Please submit proposed orders, agreed orders, or stipulations with sufficient copies for all parties and a stamped, self-addressed envelope for each. Do not put "cc: all counsel of record" at the bottom of the order. Each party shall be individually named.

The Court will not execute proposed orders, agreed orders, or stipulations without a cover letter stating the action requested, that a copy was provided to all counsel of record and *Pro Se* parties, and if there is a stipulation or an agreed order, that there are no objections to the entry of the order. Do not state in a cover letter words to the effect: "By copy of this cover letter to opposing counsel, opposing counsel is requested to advise the court if there is an objection to the proposed order." Instead, advise the court if there is an objection to the proposed order. If opposing counsel objects to the proposed order, such counsel will have 10 days from the date the proposed order is submitted to the Court, to

deliver (not send) to the court an alternate proposed order. If the alternate proposed order is not received by the judge's office within 10 days after receipt of the initial proposed order, the initial proposed order may be signed by the Court.

12. Motions for Rehearing, Reconsideration, or New Trial: Upon filing said motion the moving party shall send a copy to the Judge for review. The copy of the motion sent to the Judge shall be accompanied by generic order granting/denying the motion, with at least five lines for additional provisions, a transmittal letter showing copies to all counsel and *Pro Se* parties, and stamped, self addressed envelopes for all counsel and *Pro Se* parties. If the moving party fails to comply, any party may furnish a copy of the motion and the required documents to the Court. If the Court determines that a hearing is necessary, the movant will be advised to schedule and hearing and file appropriate notices. **Please do not set a Motion for Rehearing or Motion for Reconsideration for hearing without first receiving permission from the Court.**
 13. Requirements for court reporters: All evidentiary matters (both trials and hearings) must be reported by a court reporter. It is the moving party's responsibility to arrange to have a court reporter present.
 14. Withdrawal or Substitution of Counsel: You must follow the provision of Fla.R.Jud.Ad.2.505. You must obtain the client's consent in writing which shall be filed with the Court, or a hearing must be held after proper notice to the client.
 15. Notice for Trial, Orders Setting Trial and Dockets: When filing a notice for trial, you must send a copy of the notice and please submit return envelopes for each counsel/pro se party. Due to the length of the trial order, please be sure that each envelope has enough postage for two (2) ounces. If you do not provide the required envelopes with sufficient postage, your case will **not** be placed on the trial docket.
- The Court will schedule the order of trials at the docket call. It will be the responsibility of the lawyers and *pro se* litigants to keep track of their position on the trial docket following docket call. Please note that cases set for trial will remain on the trial docket until the case is concluded.
16. Facsimile Transmissions: **DO NOT** send materials by facsimile if they can be sent by U.S. Mail, courier, overnight express, etc. The only things to be sent by facsimile are emergency matters and materials requested by the Court.
 17. Settlement of Cases: If your case settles after you have received an order setting a case for trial please first immediately notify the Court's Judicial Assistant by telephone and follow up with a letter advising of settlement. This also applies to cases that are subsequently placed on the trial docket.
 18. Docket Call and Trial Calendars: Please see Judge Metzger's web page on www.circuit19.org for dates of docket call and trial settings. The foregoing will be updated as time permits. Copies of the cases to be set on the Court's docket will be

available in the courtroom on the day of docket call. Telephonic appearance is **NOT** permitted at docket call. The lawyers must appear in person at docket call. The trial dockets will be posted on Judge Metzger's webpage at www.circuit19.org as quickly as possible after docket call. It will be the attorney's and/or pro se party's responsibility to track the case progression on the trial docket.

19. **Trial Preparation:** Judge Metzger requires compliance with the Pre-Trial Order setting your case for trial, which includes, without limitation, timely submission of joint pre-trial statements. Your case will be subject to removal from the trial docket if a pre-trial statement is not filed prior to docket call. **Motions in limine and other motions concerning how the trial is to be conducted will not be entertained during trial or on the day of jury selection, unless the Court is satisfied that with due diligence, the matter could not have been heard pretrial.**

20. **Mortgage Foreclosures/Summary Judgment:**

- a. **If you wish schedule your Motion for Summary Judgment for hearing and to attend by telephone please call CourtCall directly at 1-888-882-6878 to schedule the hearing and to arrange for your appearance by phone.** Do not schedule a hearing for Summary Judgment until you have filed your motion. Hearing time is at a premium. **IF IT IS DETERMINED THAT YOU HAVE SCHEDULED YOUR MOTION FOR SUMMARY JUDGMENT AND HAVE NOT FILED YOUR MOTION YOUR HEARING WILL BE CANCELLED BY THE COURT AND YOU WILL NEED TO RESCHEDULE ONCE YOU HAVE FILED YOUR MOTION. Mortgage Foreclosure Summary Judgments are handled by Judge Metzger only on Monday's and Friday's, 8:30 am until 9:30 am.** Please check Judge Metzger's webpage to ensure yourself that the Monday or Friday you select for a foreclosure hearing is available.
- b. If you wish to schedule your Motion for Summary Judgment and to appear in person please call my Judicial Assistant.
- c. At the time you filed your Motion for Summary Judgment please file the ORIGINAL PROMISSORY NOTE AND MORTGAGE with the Clerk. **DO NOT** send the originals to the Judge's office.
- d. Pursuant to Administrative order 2007-06, **YOU MUST** use the Nineteenth Circuit's approved form for Final Judgment of Mortgage Foreclosure. You may find a copy of this form on Judge Metzger's web site located at www.circuit19.org.
- e. The final judgment package including your proposed final judgment, notice of sale, etc., must be sent to the **Sr. Judge, 250 NW Country Club Drive, Ste. 217, Pt. St. Lucie, Fl. 34986** at least 10 business days prior to the scheduled hearing. Send four (4) sets of addressed, stamped envelopes with your package so that that the Court can send out the final judgment, notice of sale, certificate of sale, and certificate of title and

disbursements. **DO NOT** send the original note and mortgage with the package. The proposed final judgment shall contain the location and address where the sale is to take place. When sending out this package you must include a cover memo stating the date of the hearing. **IF WE DO NOT HAVE YOUR FINAL JUDGMENT PACKAGE 10 DAYS PRIOR TO THE SCHEDULED HEARING, YOUR SUMMARY JUDGMENT HEARING WILL NOT BE HELD AND YOU WILL BE REQUIRED TO RESCHEDULE.**

f. Administrative Order 2009-01 and 2009-15 regarding residential mediation, must be complied with. Please refer to the www.circuit19.org home page for additional, specific information regarding the requirements of such Administrative Order.

21. Judge Metzger has specifically adopted the Guidelines for Professional Conduct. Such Guidelines are posted on Judge Metzger's web site located at www.circuit19.org. Failure to abide by the Guidelines may result in sanctions.

SETTING OF TRIALS

The court will issue an Order Directing Pré-Trial Procedure and Setting Trial in every case upon receipt of a copy of Notice for Trial pursuant to Fla.R.Civ.P 1.440 and requisite envelopes. Please remember that the fact that a case is still in the discovery stage does not prevent the filing of a Notice for Trial or prevent the court from setting the case for trial. If a Notice for Trial is filed, or if the Court issues an order setting a matter for trial pursuant to a Notice for Trial, and the opposing party believes that the trial date will not allow sufficient time to complete discovery, counsel should immediately motion the Court for a status hearing and/or a case management conference. Delays in advising the Court that there is not sufficient time to complete discovery may be considered a waiver of any objection to the setting of a trial date.

The Judicial Assistant can advise counsel, upon inquiry, as to future trial dockets. Counsel should request in their Notice for Trial, after consultation with opposing counsel, a trial period that will allow sufficient time to complete discovery and facilitate out of court resolution.

CASE MANAGEMENT CONFERENCE

The Court will schedule certain cases for a formal Case Management Conference (CMC) and issue and order setting forth the matters to be covered at the conference. Cases such as some medical malpractice cases, complex commercial litigation, multiple party litigation, cases with voluminous records or exhibits, as well as other types of cases will be set by the Court, without request, for a CMC.

However any case can be submitted for a CMC by simply filing a written motion. Once submitted, the action will be controlled, not only by the Order Setting Trial, but also by the CMC order.

TRIALS

Trials will take place in Courtroom A3-1, unless otherwise indicated. Counsel and their clients are to be in the courtroom and ready for trial no later than 9:30 A.M. on the date of trial. Depending on other emergency matters the Court will start as soon after 9:30 A.M. as possible.

Courtroom Etiquette and Decorum: Counsel shall stand when addressing the Court or the jury. Counsel should seek permission of the Court to approach the bench, the clerk, the witness, or the jury. All parties and attorneys shall avoid contact with the venire and jury and counsel shall so instruct their clients and witnesses. Counsel shall address all arguments to the Court and not opposing counsel. Counsel shall admonish their clients that gestures, facial expressions or any manifestations of approval or disapproval of anything occurring in the courtroom is absolutely prohibited.

Trial Briefs: If a trial brief is to be filed with the Court it should be submitted to the Judge's Chambers no later than three (3) working days before the trial is to commence. The Court appreciates hard copies of cases cited in the trial brief with appropriate highlighting of the pertinent sections.

Jury Selection Process: After voir dire, the Court will first ask each side for any cause challenges. Upon completion of challenges for cause, the Court will move to pre-emptory challenges. The Court will start with the first juror and move sequentially as they are seated in the venire, alternating between counsel until a panel is chosen. Back striking during jury selection is always permitted. The number of alternates will be determined by the type and length of the trial. Each party will have one additional strike as to each alternate.

Opening and Closing: Only demonstrative aids or exhibits marked by the Clerk, agreed to by all counsel, or approved by the Court may be used in either opening or closing. The Court will discuss with counsel the time requirement of both opening and closing and will expect that a reasonable estimate be provided by counsel.

Exhibits: All exhibits are to be marked for identification by the clerk **prior** to the start of trial. Exhibits which will be stipulated into evidence may be marked in evidence. Once exhibits are marked, either for identification or in evidence, they become the property of the Clerk of Court and may not be altered or removed from the courtroom without order of the Court. No exhibits are to be published or exhibited to the jury until admitted into evidence and authorized by the Court.

Demonstrative Aids: Any demonstrative aide that is to be used at trial must be marked by the clerk and exhibited to opposing counsel and the Court prior to the start of trial. The Court will hear argument of any counsel opposing the use of the demonstrative aids prior to the start of trial. No aids are to be shown to the jury without prior approval of the Court.

Experts: The Court will not accept or qualify a witness as an expert in front of the jury. Challenges to an expert's qualifications will be handled outside the presence of the jury. Experts are to be cautioned by the attorney who calls the expert of "in limine" rulings, and the effect of the invocation of the Rule of Sequestration.

Use of Depositions: If depositions are to be used at trial in any manner (impeachment, as video testimony, etc.) make certain a hard copy is available for both the Court and for the witness being questioned.

Objections: The Court will not allow speaking objections in front of the jury. When counsel rises to object, the legal basis for the objection only should be stated. If elaboration is necessary the Court will call counsel to the bench for a bench conference out of the presence of the jury. Counsel shall not interrupt opposing counsel or witness's questions or answers with an objection unless the answer or question is patently objectionable. Once the Court has ruled, no further argument shall be permitted.

Jurors: The Court generally will allow jurors to take notes and to ask questions where necessary. Section 40.50, Florida Statutes. If any counsel objects to these procedures such objection should be addressed to the Court prior to the day of trial.

Jury Instructions: Jury instructions are to be prepared by both sides and exchanged at least 14 days prior to trial. **A hard copy shall be provided to the Court as well as a copy on a removable storage device or by e-mail at least 7 days prior to trial.** The Court intends to provide the jury with a written copy of all jury instructions when the jury retires to deliberate. Therefore, there should be enough copies of the final instructions for each juror and the Court, counsel and the court reporter. In addition, the final instructions should not contain any citations, jury instruction titles, or information as to who requested the instruction. In certain cases, and with the agreement of all counsel, the Court may provide some substantive law instructions to the jury during preliminary instructions and/or before closing arguments.

INFORMATION NOT COVERED

If any matters concerning the conduct of the pre-trial or trial procedures are not covered herein, counsel is free to contact the Court. A status hearing can be set at which time the Court will attempt to answer any inquiries. The Court appreciates counsels' efforts to understand and comply with this Court's procedures.

Revised: August 23, 2010



Honorable Judge Paul B. Kanarek

Assignment 2010

Indian River: All Civil Cases.

Assignment 2011

Indian River: All Family; All Domestic Violence and Repeat Violence cases; DOR Cases.

Procedures:

Courtroom Guidelines, Procedures and Expectations for Civil Cases

Indian River County Residential Mortgage Foreclosure Procedures

Monthly Calendars:

November — December

Docket Call:

November 2 (Jury)

November 2 (Non-Jury)

December 7 (Jury)

December 7 (Non-Jury)

Administrative Order:

2007-06

Summary Jury Trial:

Results

Final Judgment of Mortgage Foreclosure:

pdf—doc

Courtroom Guidelines, Procedures and Expectations for Civil Cases
Assigned to Judge Paul B. Kanarek
(Amended September 14, 2010)

HEARINGS

Hearing time may be obtained by contacting the court's Judicial Assistant at (772-770-5052) or by e-mail to ShepkeG@circuit19.org.

1. Setting of hearings: Hearings must be cleared with opposing counsel or *pro se* parties. Good faith cooperation is expected from counsel, their support staff, and *pro se* litigants. Should counsel, their staff, or *pro se* litigants fail to respond within 3 business days, or refuse to cooperate in obtaining or in setting a hearing, the difficulty should be specifically set forth either in the motion or in the notice of hearing. After filing any motions or notices with the Clerk, a copy of any and all motions and notices of hearing must be immediately forwarded to the Judicial Assistant by U.S. Mail.

Additional motions should not be "piggy-backed" by cross-notice unless counsel first confirms with opposing counsel, and the Judge's Judicial Assistant, that sufficient additional time can be reserved to hear them.

2. Cooperation of counsel: If counsel does not cooperate, the requesting party may unilaterally set a hearing giving at least two weeks notice to the opposing counsel who failed to cooperate.
3. Emergency hearings: If an emergency situation arises, counsel may request that a hearing be set on short notice. The body of the motion must contain a detailed explanation of the circumstances constituting the emergency as well as the substance of the motion. The motion must be faxed to the Court before a hearing will be set. The Court will review the motion and, if it is determined an emergency exists, the Judicial Assistant will contact counsel to set the hearing. In light of the short setting, opposing counsel may attend the hearing via telephone if their schedule will not allow them to appear in person.
4. Appearance by telephone: Telephone hearings are permitted as long as there is not testimony or evidence. No motion or order is necessary. All telephone appearances must be made through CourtCall, a company which provides connection between the parties and the courtroom for a flat fee. When you know the date and time of your hearing you must call CourtCall directly at **1-888-882-6878** to arrange for your appearance by phone. **You must schedule your CourtCall appearance at least five (5) working days prior to the hearing.**
5. Uniform Motion Calendar – A Uniform Motion Calendar will normally be held Tuesday through Thursday from 8:30 a.m. to 9:00 a.m. All hearings must be scheduled for 8:30 a.m. Please refer to the Judge Kanarek's calendar posted on our web site (www.circuit19.org) to confirm available dates. **You must give the opposing party**

notice of the hearing at least five (5) working days prior to the hearing unless otherwise agreed by the parties.

Hearings at UMC are limited to 10 minutes per case (**not per motion**). When you attend UMC you must sign up on the sign-in sheet inside the courtroom. Normally UMC will be heard on a "first come, first served" basis. After proper notice, failure of any party to appear at the hearing shall not prevent a party from proceeding with the matter when the case is called. If the party noticing the matter for hearing chooses to wait for the absent party, the matter may be passed over until the end of the calendar. If the judge runs out of time on UMC, any remaining hearings will need to be rescheduled.

Counsel who filed the motion must bring a proposed order to the hearing (generic orders granting/denying with at least five lines for additional provisions may be used) along with sufficient copies and self addressed, stamped envelopes for all parties. Failure to bring same will result in using a Court provided order which will be executed by the Judge and filed with the Clerk. Counsel who filed the motion will be required to obtain copies for all parties from the Clerk (at a fee determined by the Clerk) and mail them to the parties. If you want the court file at the hearing you must call the Clerk at least five business days prior to the hearing and request that the file be brought to the hearing.

Copies of all hearing notices and relevant motions must be sent to the court's Judicial Assistant five (5) working days prior to the hearing. Any case law or statutes to be relied upon shall be submitted to the Court with the motion with relevant portions highlighted.

The court will not hear motions for summary judgment in mortgage foreclosure cases and will not hear evidentiary motions at UMC. The types of motions suitable for hearing on the Uniform Motion Calendar include simple motions to strike affirmative defenses, to amend pleadings, discovery motions, protective orders, objections to CME, etc.

UMC is available to pursue a summary final judgment for liquidated damages, including attorney's fees and costs after a default based upon a proper motion with supporting documentation unless a party appears to contest it. If that occurs the Court will set an evidentiary hearing/trial on such matters as may be necessary. You must request the file be brought to Court for the scheduled hearing by contacting the Clerk's office.

All Notices of Hearing for UMC shall contain a certification signed by the lawyer who set the hearing in substantially the following form:

I HEREBY CERTIFY that I have personally contacted opposing counsel in an effort to resolve the issue(s), however, the matter cannot be resolved and a hearing is necessary.

Please note that certifications containing language to the effect that an effort will be made to resolve the issue in the future is NOT sufficient. If personal communication is

attempted but unsuccessful, written communication to opposing counsel will suffice. Failure to comply with this requirement may result in cancellation of the hearing by the Court. If it is determined that the certification is not true, other sanctions may be imposed, including a referral to the Florida Bar.

6. Motion to Dismiss and/or Motion for More Definite Statement: The court will initially consider all Motions to Dismiss filed pursuant to Rule 1.140(b) and Motions for More Definite Statement filed pursuant to Rule 1.140(e), **without** a hearing. Motions to Dismiss must strictly comply with the requirements of the Rule in that the grounds on which they are based and the substantial matters of law intended to be argued shall be stated specifically and with particularity. Motions for More Definite Statement must strictly comply with the requirements of the Rule in that the motion must point out the defects complained of and the details desired.

The moving party shall furnish a copy of the Motion to the Court's Judicial Assistant by U.S. mail. The copy shall be accompanied by a generic order granting/denying the motion with at least five lines for additional provision to be added by the Court; stamped, self addressed envelopes for all counsel of record and *pro se* parties; and a cover letter showing copies to all counsel of record and *pro se* parties. If the moving party fails to comply, any party may furnish a copy of the motion along with the required documents to the Court. The Court will hold the motion for ten (10) days to give the opposing side the opportunity to reply. If the Court determines that a hearing is necessary, the movant will be advised to schedule a hearing and file the appropriate notice. If a hearing is not required an appropriate order will be entered. No case dispositive ruling will be made without a hearing.

6. Discovery Motions and Motions to Compel: The mere filing of a Motion is insufficient. The motions must be set for hearing to bring the matter to the Court's attention. Motions to Compel, as well as all discovery motions must comply with the Florida Rules of Civil Procedure, including, but not limited to, a **certification that the movant, in good faith, has conferred or attempted to confer with the person or party failing to make discovery in an effort to secure the information without court action.** *See* Fla.R.Civ.P. 1.380(a)(2).

When a motion to compel discovery alleges a complete failure to respond or object to discovery, and the time for complying with the discovery request has lapsed and there has been no request for an extension of time, an Ex Parte order may be entered requiring compliance with the original discovery demand within ten (10) days of the signing of the order. The movant shall submit the proposed order to the Court with sufficient copies and self addressed stamped envelopes for all parties and shall also certify that notice of the requested relief was provided to all parties.

7. Motions for Protective Orders: The filing of a Motion for Protective Order, without presenting it before the Court, is insufficient. The Court will make itself available for immediate hearings on said motions where the motion could not have been filed and heard in the due course of discovery. Where necessary, and when possible, the Court will

hear, and if possible, rule by telephone on motions that occur during depositions where a failure to do so would require the stopping of a deposition and the resetting of same depending on the Court's ruling.

8. Legal Memorandum and Citations: Any legal memorandums or briefs, along with hard copies of significant cited authorities (highlighting the pertinent sections is appreciated by the Court), should be provided to the Court at least three (3) business days before the hearing. The Court will attempt to review the motion and memorandum, and read the cases cited therein, prior to the hearing so that an immediate ruling may be rendered. Highlighting pertinent sections is appreciated. Brevity is appreciated and memorandums should be kept to no more than five (5) pages in length. Case law and Memorandums provided to the Court during the hearing may not be considered. **The Court, on occasion, may rule on motions without a hearing. Therefore, both counsel filing the motion and opposing parties are encouraged to timely file written argument with the Court.**

9. Orders and Rulings of the Court: The Court will strive to issue orders and rulings in a timely manner. Every effort will be made to rule the day of the hearing. If it is necessary to take an issue under advisement, the Court will attempt to set a date by which the Court will issue its ruling. If counsel is asked to prepare an order, the order shall be drafted and circulated to counsel within 2 working days of the hearing and must be submitted to the Court with a cover letter to all counsel and *Pro Se* parties within 7 days of the hearing. Opposing counsel must advise the Court of any objection to the form of the proposed order within 3 days thereafter. The Court would appreciate a copy of any proposed order on either a removable storage device or via e-mail, in addition to the hard copy. All Orders must describe, in the caption, the subject and ruling of the court, *i.e.* "Order Granting Plaintiff Motion for Partial Summary Judgment on Liability" See Fla.R.Civ.P. 1.100(c)(1)

Please submit proposed orders, agreed orders, or stipulations with sufficient copies for all parties and a stamped, self-addressed envelope for each. Do not put "cc: all counsel of record" at the bottom of the order. Each party shall be individually named.

The court will not execute proposed orders, agreed orders, or stipulations without a cover letter stating the action requested, that a copy was provided to all counsel of record and *Pro Se* parties; and if there is a stipulation or an agreed order that there are no objections to the entry of the order.

10. Motions for Rehearing, Reconsideration, or New Trial: Upon filing said motion the moving party shall send a copy to the Judge for review. The copy of the motion sent to the Judge shall be accompanied by generic order granting/denying the motion, with at least five lines for additional provisions, a transmittal letter showing copies to all counsel and *Pro Se* parties, and stamped, self addressed envelopes for all counsel and *Pro Se* parties. If the moving party fails to comply, any party may furnish a copy of the motion and the required documents to the Court. If the Court determines that a hearing is

necessary, the movant will be advised to schedule and hearing and file appropriate notices.

11. Requirements for court reporters: All evidentiary matters (both trials and hearings) must be reported by a court reporter. It is the moving party's responsibility to arrange to have a court reporter present.
12. Withdrawal or Substitution of Counsel: You must follow the provision of Fla.R.Jud.Ad.2.505. You must obtain the client's consent in writing which shall be filed with the Court, or a hearing must be held after proper notice to the client.
13. Notice for Trial, Orders Setting Trial and Dockets: When you send a Notice for Trial please submit two complete sets of return envelopes. Due to the length of the trial order, please be sure that each envelope has enough postage for two (2) ounces or the Order Scheduling Trial will be returned.

The court will schedule the order of trials at the docket call. It will be the responsibility of the lawyers and *pro se* litigants to keep track of their position on the trial docket following docket call. Please note that cases set for trial will remain on the trial docket until the case is concluded. Cases will retain their priority.

14. Facsimile Transmissions: **DO NOT** send materials by facsimile if they can be sent by U.S. Mail, courier, overnight express, etc. The only things to be sent by facsimile are emergency matters and materials requested by the Court.
15. Settlement of Cases: If your case settles after you have received an order setting a case for trial please first immediately notify the Court's Judicial Assistant by telephone and follow up with a letter advising of settlement. This also applies to cases that are subsequently placed on the trial docket.
16. Mortgage Foreclosures/Summary Judgment:
 - a. **If you wish schedule your Motion for Summary Judgment for hearing and to attend by telephone please call CourtCall directly at 1-888-882-6878 to schedule the hearing and to arrange for your appearance by phone. Do not schedule a hearing for Summary Judgment until you have filed your motion. Hearing time is at a premium. IF IT IS DETERMINED THAT YOU HAVE SCHEDULED YOUR MOTION FOR SUMMARY JUDGMENT AND HAVE NOT FILED YOUR MOTION YOUR HEARING WILL BE CANCELLED BY THE COURT AND YOU WILL NEED TO RESCHEDULE ONCE YOU HAVE FILED YOUR MOTION.**
 - b. If you wish to schedule your Motion for Summary Judgment and to appear in person please call my Judicial Assistant.

c. At the time you file your Motion for Summary Judgment please file the ORIGINAL PROMISSORY NOTE AND MORTGAGE with the Clerk. **DO NOT** send the originals to the Judge's office.

d. Pursuant to Administrative order 2007-06, **YOU MUST** use the Nineteenth Circuit's approved form for Final Judgment of Mortgage Foreclosure. You may find a copy of this form on Judge Kanarek's web site located at www.circuit19.org.

e. If you are representing the plaintiff and are APPEARING BY TELEPHONE (Courtcall) at a Summary Judgment hearing on a residential mortgage foreclosure you must send your summary judgment packet to:

Senior Judge
250 NW Country Club Dr., Ste 217
Port St. Lucie, FL 34986

Your summary judgment packet must be received at that address no later than 10 calendar days prior to the scheduled hearing. **IF THE COMPLETE PACKET IS NOT RECEIVED AT LEAST 10 CALENDAR DAYS BEFORE THE HEARING THE MOTION FOR SUMMARY JUDGMENT WILL NOT BE HEARD AND MUST BE RESET.**

f. If you are representing the plaintiff and are APPEARING IN PERSON at the Summary Judgment hearing on a residential mortgage foreclosure your final judgment packet including your proposed final judgment, notice of sale, etc., must be sent to:

Honorable Paul B. Kanarek
2000 16th Avenue, Suite 375
Vero Beach, FL 32960

Your summary judgment packet must be received at that address at least 10 calendar days prior to the scheduled hearing. Send four (4) sets of addressed, stamped envelopes with your package so that the Court can send out the final judgment, notice of sale, certificate of sale, and certificate of title and disbursements. **DO NOT** send the original note and mortgage with the package. The proposed final judgment shall contain the location and address where the sale is to take place. When sending out this package you must include a cover memo stating the date of the hearing. **IF THE COMPLETE PACKET IS NOT RECEIVED AT LEAST 10 CALENDAR DAYS BEFORE THE HEARING THE MOTION FOR SUMMARY JUDGMENT WILL NOT BE HEARD AND MUST BE RESET.**

SETTING OF TRIALS

The court will issue an Order Directing Pre-Trial Procedure and Setting Trial in every case upon receipt of a Notice for Trial pursuant to Fla.R.Civ.P 1.440. Please remember that the

fact that a case is still in the discovery stage does not prevent the filing of a Notice for Trial or prevent the court from setting the case for trial. If a Notice for Trial is filed, or if the Court issues an order setting a matter for trial pursuant to a Notice for Trial, and the opposing party believes that the trial date will not allow sufficient time to complete discovery, counsel should immediately motion the Court for a status hearing and/or a case management conference. Delays in advising the Court that there is not sufficient time to complete discovery may be considered a waiver of any objection to the setting of a trial date.

The Judicial Assistant can advise counsel, upon inquiry, as to future trial dockets. Counsel should request in their Notice for Trial, after consultation with opposing counsel, a trial period that will allow sufficient time to complete discovery and facilitate out of court resolution.

CASE MANAGEMENT CONFERENCE

The Court will schedule certain cases for a formal Case Management Conference (CMC) and issue and order setting forth the matters to be covered at the conference. Cases such as some medical malpractice cases, complex commercial litigation, multiple party litigation, cases with voluminous records or exhibits, as well as other types of cases will be set by the Court, without request, for a CMC.

However any case can be submitted for a CMC by simply filing a written motion. Once submitted, the action will be controlled, not only by the Order Setting Trial, but also by the CMC order.

TRIALS

Trials will take place in Courtroom 5, unless otherwise indicated. Counsel and their clients are to be in the courtroom and ready for trial no later than 9:00 A.M. on the date of trial. Depending on other emergency matters the Court will start as soon after 9:00 A.M. as possible.

Courtroom Etiquette and Decorum: Counsel shall stand when addressing the Court or the jury. Counsel should seek permission of the Court to approach the bench, the clerk, the witness, or the jury. All parties and attorneys shall avoid contact with the venire and jury and counsel shall so instruct their clients and witnesses. Counsel shall address all arguments to the Court and not opposing counsel. Counsel shall admonish their clients that gestures, facial expressions or any manifestations of approval or disapproval of anything occurring in the courtroom is absolutely prohibited.

Trial Briefs: If a trial brief is to be filed with the Court it should be submitted to the Judge's Chambers no later than three (3) working days before the trial is to commence. The Court appreciates hard copies of cases cited in the trial brief with appropriate highlighting of the pertinent sections.

Voir Dire: The Court will conduct a preliminary voir dire of the jury. Counsel are welcome to request that the Court explore certain areas of inquiry that may be important to the trial but sensitive in nature. Counsel are reminded to be considerate of the jurors' personal lives during their inquiries as well as the jurors' time constraints. While the Court will afford counsel significant latitude in questioning, the Court will limit repetitive questions. Counsel shall not attempt to either explore the facts of their case or explain the law that may apply in the case.

Jury Selection Process: After voir dire, the Court will first ask each side for any cause challenges. Upon completion of challenges for cause, the Court will move to pre-emptory challenges. The Court will start with the first juror and move sequentially as they are seated in the venire, alternating between counsel until a panel is chosen. Back striking during jury selection is always permitted. The number of alternates will be determined by the type and length of the trial. Each party will have one additional strike as to each alternate.

Opening and Closing: Only demonstrative aids or exhibits marked by the Clerk, agreed to by all counsel, or approved by the Court may be used in either opening or closing. The Court will discuss with counsel the time requirement of both opening and closing and will expect that a reasonable estimate be provided by counsel.

Exhibits: All exhibits are to be marked for identification by the clerk prior to the start of trial. Exhibits which will be stipulated into evidence may be marked in evidence. Once exhibits are marked, either for identification or in evidence, they become the property of the Clerk of Court and may not be altered or removed from the courtroom without order of the Court. No exhibits are to be published or exhibited to the jury until admitted into evidence and authorized by the Court.

Demonstrative Aids: Any demonstrative aide that is to be used at trial must be marked by the clerk and exhibited to opposing counsel and the Court prior to the start of trial. The Court will hear argument of any counsel opposing the use of the demonstrative aids prior to the start of trial. No aids are to be shown to the jury without prior approval of the Court.

Experts: The Court will not accept or qualify a witness as an expert in front of the jury. Challenges to an expert's qualifications will be handled outside the presence of the jury. Experts are to be cautioned by the attorney who calls the expert of "in limine" rulings, and the effect of the invocation of the Rule of Sequestration.

Use of Depositions: If depositions are to be used at trial in any manner (impeachment, as video testimony, etc.) make certain a hard copy is available for both the Court and for the witness being questioned.

Objections: The Court will not allow speaking objections in front of the jury. When counsel rises to object, the legal basis for the objection only should be stated. If elaboration is necessary the Court will call counsel to the bench for a bench conference out of the presence of the jury. Counsel shall not interrupt opposing counsel or witness's questions or answers with an objection unless the answer or question is patently objectionable. Once the Court has ruled, no further argument shall be permitted.

Jurors: The Court generally will allow jurors to take notes and to ask questions where necessary. Section 40.50, Florida Statutes. If any counsel objects to these procedures such objection should be addressed to the Court prior to the day of trial.

Jury Instructions: A complete set of proposed jury instructions are to be prepared by both sides and exchanged prior to the beginning of jury selection. A hard copy should be provided to the Court prior to the beginning of jury selection as well as a copy on a removable storage device or by e-mail in Word 2007 format or lower. The proposed jury instructions should contain a jury instruction title for each proposed instruction, any citations, and information as to who requested the instruction. The Court intends to instruct the jury immediately prior to opening statements. The Court will instruct the jury immediately prior to closing arguments and will provide the jury with a written copy of all final jury instructions at that time.

INFORMATION NOT COVERED

If any matters concerning the conduct of the pre-trial or trial procedures are not covered herein, counsel is free to contact the Court. A status hearing can be set at which time the Court will attempt to answer any inquiries. The Court appreciates counsels' efforts to understand and comply with this Court's procedures.

Indian River County Residential Mortgage Foreclosure Procedures

Effective immediately all judicial sales in Indian River County will be held electronically. The website address for online sales is:

www.indian-river.realforeclose.com

All sales are to be scheduled at **10:00 AM**.

PLEASE SEE ADMINISTRATIVE ORDER 10-08 FOR THE NEW FORM OF FINAL JUDGMENT REQUIRED IN THE 19TH CIRCUIT. THIS FORM IS AVAILABLE ONLINE AT www.circuit19.org

Procedures

1. All residential mortgage foreclosure summary judgment packets for Indian River, Martin, and Saint Lucie County cases **MUST** be sent to:

Senior Judge
250 NW Country Club Dr., Ste. 217
Port St. Lucie, FL 34986

The complete packets must be received at least 10 days in advance of the summary judgment hearing. If the packets are not received in time the summary judgment hearing will not go forward.

2. All summary judgment hearings will be held at:

Indian River County Courthouse
2000 16th Avenue
Vero Beach, FL 32960

3. All summary judgment hearings in which counsel for the plaintiff wishes to appear by phone must be scheduled by calling CourtCall at **888-882-6878**. Generally there will be summary judgment hearings on Friday of each week and if that docket is full, additional hearings will be scheduled on Monday. For Friday hearings CourtCall will set 12 cases every ½ hour starting at 9:00 am, and

the last 12 cases in the morning will be set at 11:30 am. In the afternoon hearings will start at 1:30 pm, and the last 12 hearings will be scheduled at 3:30 pm.

4. All other foreclosure matters should be sent to:

Honorable Paul B. Kanarek
2000 16th Avenue, Suite 375
Vero Beach, FL 32960

Refer to Judge Kanarek's webpage at www.circuit19.org for information on scheduling all hearings **EXCEPT** summary judgment motions. Cases in which plaintiff's counsel wishes to schedule a summary judgment hearing and appear in person may be scheduled by contacting Judge Kanarek's office (772-770-5052) and once scheduled plaintiff's counsel may not appear by phone at the hearing.

5. **Uniform Motion Calendar** – A Uniform Motion Calendar will normally be held Tuesday through Thursday from 8:30 a.m. to 9:00 a.m. All hearings must be scheduled for 8:30 a.m. Please refer to the Judge Kanarek's calendar posted on our web site (www.circuit19.org) to confirm available dates. **You must give the opposing party notice of the hearing at least five (5) working days prior to the hearing unless otherwise agreed by the parties.**

Appearance by telephone: Telephone hearings are permitted as long as there is not testimony or evidence. No motion or order is necessary. All telephone appearances must be made through CourtCall. When you know the date and time of your hearing you must call CourtCall directly at **1-888-882-6878** to arrange for your appearance by phone. **You must schedule your CourtCall appearance at least five (5) working days prior to the hearing**

Hearings at UMC are limited to 10 minutes per case (**not per motion**). When you attend UMC you must sign up on the sign-in sheet inside the courtroom. Normally UMC will be heard on a "first come, first served" basis. After proper notice, failure of any party to appear at the hearing shall not prevent a party from proceeding with the matter when the case is called. If the party noticing the matter for hearing chooses to wait for the absent party, the matter may be passed over until the end of the calendar. If the judge runs out of time on UMC, any remaining hearings will need to be rescheduled.

Counsel who filed the motion must bring a proposed order to the hearing (generic orders granting/denying with at least five lines for additional provisions may be used) along with sufficient copies and self addressed, stamped envelopes for all parties. If your are appearing by phone you must send your proposed order to Judge Kanarek's office with your Notice of Hearing. If you want the court file at the hearing you must call the Clerk at least five business days prior to the hearing and request that the file be brought to the hearing.

Copies of all hearing notices and relevant motions must be sent to the court's Judicial Assistant five (5) working days prior to the hearing. Any case law or statutes to be relied upon shall be submitted to the Court with the motion with relevant portions highlighted.

The court will not hear motions for summary judgment in mortgage foreclosure cases and will not hear evidentiary motions at UMC. The types of motions suitable for hearing on the Uniform Motion Calendar include simple motions to strike affirmative defenses, to amend pleadings, discovery motions, protective orders, objections to CME, etc.

UMC is available to pursue a summary final judgment for liquidated damages, including attorney's fees and costs after a default based upon a proper motion with supporting documentation unless a party appears to contest it. If that occurs the Court will set an evidentiary hearing/trial on such matters as may be necessary. You must request the file be brought to Court for the scheduled hearing by contacting the Clerk's office.

All Notices of Hearing for UMC shall contain a certification signed by the lawyer who set the hearing in substantially the following form:

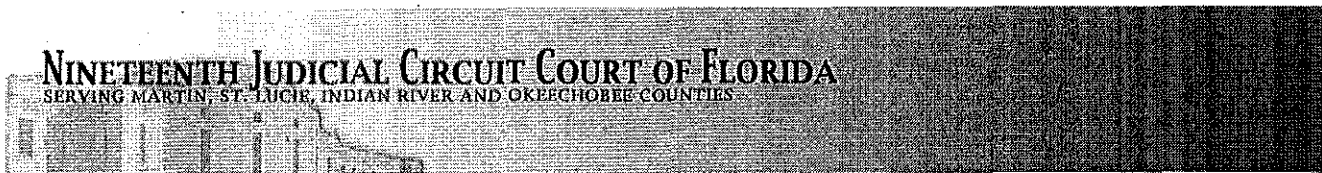
I HEREBY CERTIFY that I have personally contacted opposing counsel in an effort to resolve the issue(s), however, the matter cannot be resolved and a hearing is necessary.

Please note that certifications containing language to the effect that an effort will be made to resolve the issue in the future is NOT sufficient. If personal communication is attempted but unsuccessful, written communication to opposing counsel will suffice. Failure to comply with this requirement may result in cancellation of the hearing by the Court. If it is determined that the certification is not true, other sanctions may be imposed, including a referral to the Florida Bar.

6. Motion to Dismiss and/or Motion for More Definite Statement:

The court will initially consider all Motions to Dismiss filed pursuant to Rule 1.140(b) and Motions for More Definite Statement filed pursuant to Rule 1.140(e), **without** a hearing. Motions to Dismiss must strictly comply with the requirements of the Rule in that the grounds on which they are based and the substantial matters of law intended to be argued shall be stated specifically and with particularity. Motions for More Definite Statement must strictly comply with the requirements of the Rule in that the motion must point out the defects complained of and the details desired.

The moving party shall furnish a copy of the Motion to the Court's Judicial Assistant by U.S. mail. The copy shall be accompanied by a generic order granting/denying the motion with at least five lines for additional provision to be added by the Court; stamped, self addressed envelopes for all counsel of record and *pro se* parties; and a cover letter showing copies to all counsel of record and *pro se* parties. If the moving party fails to comply, any party may furnish a copy of the motion along with the required documents to the Court. The Court will hold the motion for ten (10) days to give the opposing side the opportunity to reply. If the Court determines that a hearing is necessary, the movant will be advised to schedule a hearing and file the appropriate notice. If a hearing is not required an appropriate order will be entered. No case dispositive ruling will be made without a hearing.



Honorable Judge Larry Schack

Assignment

Okeechobee: All Civil Cases; All Family Cases; Probate and Guardianship Cases; Juvenile Dependence; Shelter Hearings; DOR Cases.

St. Lucie: Adult Drug Court.

Important Information for St. Lucie County Residential Foreclosures:

Effective July 1, 2010, due to funding made available to the 19th Circuit, residential foreclosures in St. Lucie County will be handled by senior judges. Please check this [circuit's web page](#) for further information.

Important Information regarding foreclosure final Judgments:

On June 3, 2010, the Florida Supreme Court issued rule changes impacting foreclosures. The 19th Circuit is now using a uniform final judgment for all foreclosures.

- Click [HERE](#) for the administrative order.
- Click [HERE](#) for the form final judgment in MS Word format.

Effective immediately, be certain that your final judgments are in compliance with the administrative order. In addition, please note that all sales will go forward even in the absence of the plaintiff's representative, a sale cannot be unilaterally cancelled, nor cancelled *ex parte*. I do NOT entertain motions to cancel sales or reset sales dates.
[Amended 9-21-2010]

Signatures: All pleadings, including notices, motions and stipulations, must comply with the requirements of Rule of Judicial Administration 2.515, including the name, address, Bar number, and telephone number of the attorney who signs the pleading. This rule doesn't contemplate a laundry list of names and Bar numbers with the reader having to guess which attorney has signed it. You may, however, sign over a listing of names and Bar numbers IF that list has a check box designating who is actually signing the pleading. The

mechanism I have for enforcement is to decline to hear any matter where the rule is not complied with. October 1, 2010, that is the enforcement mechanism I will utilize. [Posted 9-7-10]

Monthly Calendars:

2010

Weekly Calendars:

Procedures:

Civil, Family, Dependency, Probate & Guardianship Procedures - Amended September 8, 2010

Family Law Checklist - Required Filings

Felony Procedures Memo

Plea Form

Work in progress

JUDGE LARRY SCHACK'S
CIVIL, FAMILY, DEPENDENCY,
PROBATE & GUARDIANSHIP
DIVISION PROCEDURES
(9-8-2010)

(Amended: Note that changes to the version dated 7-1-2010 are a change in font size, as well as changes marked with ** and appear in sections 10, 15, 15(m) and 15(o).)

1. ORIGINAL PLEADINGS.

All original pleadings and notices must be filed with the Clerk of Court. Be sure all court filings, including motions and stipulations, comply with the requirements of Florida Rule of Judicial Administration 2.515, including the name, address, Bar number, and telephone number for each attorney who signs the pleading.

2. CORRESPONDANCE WITH THE COURT.

I will not entertain any correspondence unless the letter clearly reflects that a copy has been sent to all counsel of record and all pro se parties.. You must list the names of all recipients and not as "all counsel of record." Please keep in mind that judges cannot possibly recall all rulings made in all cases. If your letter transmits an order for a ruling made in open court, please specify that fact. All correspondence will be filed in the court file.

Do NOT send letters in which a secretary or another attorney signs *your name* for you or stamps your signature on the letter. If someone wishes to sign and transmit a letter on your behalf, have them list their name under their own signature rather than yours.

3. UNIFORM MOTION CALENDAR.

I will conduct a Uniform Motion Calendar (UMC) to hear non-evidentiary motions which can be heard and ruled on in 10 minutes or less per case. Check my webpage at <http://www.circuit19.org/judges/schackl/schackl.html> for the dates available for UMC.

Telephone hearings can be conducted during UMC. I regret that I cannot utilize more than one method for telephone appearances during UMC. As a result, if you wish to attend by telephone, it will be necessary for you to arrange that appearance through Courtcall (888-882-6878).

Moving Party Appearing In Person:

When you attend UMC you must sign up on the sign-in sheet. You will be required to provide the bailiff with a copy of the notice of hearing, motion, proposed order, appellate authority, and any other supporting documentation. No hearing will be held *unless these materials are provided to the bailiff*. Cases will be heard on a "first-come, first-served" basis.

Appearing By Telephone:

If you attend by telephone, you must deliver the following at least five business days prior to the hearing:

1. a copy of the notice of hearing,
2. the motion,
3. proposed order,
4. appellate authority,
5. and any other supporting documentation.

In fairness to those who make the drive to the courthouse, those cases will be called first. Cases where all parties appear by telephone will be called thereafter, time permitting.

After proper notice, the failure of any party to appear at the hearing will not prevent a party from proceeding with the hearing. If the party noticing the matter for hearing chooses to wait for the absent party, the matter may be passed over. However if I run out of time on UMC, the hearing may have to be rescheduled.

4. EX PARTE COMMUNICATIONS

Ex parte matters will not be entertained unless specifically authorized by Florida Statute, Florida Rule of Civil Procedure, and Canon 3 B(7) of the Code of Judicial Conduct. Do not submit anything for an *ex parte ruling* unless you can demonstrate how I can act on the matter pursuant to Canon 3 B(7) and Due Process.

5. FACSIMILE TRANSMISSIONS

Do not send materials by facsimile if they can be sent by U.S. Mail, courier, overnight delivery, etc. The only things that should be sent by facsimile are emergency matters and materials I request. Do not send any item longer than five pages by fax without authorization by my judicial assistant.

6. MOTIONS

(a) **Copies of Pleadings.** Copies (not originals) of all hearing notices and the relevant motions must be received by my judicial assistant no less than 10 business

days prior to the hearing date. DO NOT send copies of pleadings on matters that are not set for hearing, or that are set for UMC (unless you are appearing at UMC by telephone).

(b) Certification Of Settlement Efforts And Time Required. All notices of hearing must contain a certification signed by the attorney who set the hearing as follows:

I HEREBY CERTIFY that I have personally contacted opposing counsel in an effort to resolve the issue(s). However the matter has not settled. A hearing is necessary. A good faith estimate of time agreed upon by the parties to have the matter heard is ____ minutes/hours.

Please note that a certification stating that an effort will be made to resolve the issue in the future is not sufficient. The contact between counsel attempting to resolve the issues must be done personally, and not through office or paralegal staff. If personal communication is attempted but unsuccessful, written communication to opposing counsel will suffice. Failure to comply with this requirement, may result in cancellation of the hearing. If it is determined that the certification is not true, other sanctions may be imposed, including a referral to the Florida Bar.

This certification is not necessary in foreclosure cases in notices that set hearings for final summary judgment, sale dates, motions to amend, or substitution of party plaintiffs.

(c) Rule 1.140 Motions. Please set these for a hearing. I no longer rule on these in chambers.

(d) Motions for Rehearing. Please furnish a copy of the motion to my judicial assistant. If I determine that a hearing is necessary, the movant will be advised to schedule one. Do not file the motion unless you can meet the legal standard for rehearing. Do not file the motion if all you are doing is asking me to reconsider what has already been presented and argued.

(e) Motions to Compel. I do not sign *ex parte* motions to compel since I do not believe they comply with Due Process and Canon 3B(7) of the Code of Judicial Conduct.

(f) Withdrawal or Substitution of Counsel. Motions to withdraw or for substitution of counsel must comply with Florida Rule of Judicial Administration 2.505 (e)(2) and (f). The signed consent of the client must be obtained and filed with the court, or a hearing must be held with notice to the client. The order must include the client's last known address.

If a hearing is scheduled on another motion, a calendar call or a trial, the order granting the motion to withdraw must include language that advises the client of the date, time and location of the hearing, docket call, or trial, and directs the client to appear for the scheduled matter.

If counsel seeks to withdraw from representing an entity (e.g. a corporation, partnership or trust), the order must contain language warning that party that under Florida law the party can only be heard, and may only file pleadings, through a member of the Florida Bar.

(g) Motions for Summary Judgment After Default. These matters may be scheduled for UMC to obtain a final judgment for liquidated damages, attorney's fees and costs after default. However if a party appears at the hearing to contest the unliquidated damages, I will set an evidentiary hearing or trial on unliquidated damages.

(h) Emergency Motions. Copies of emergency motions must be provided to my judicial assistant for my review to determine if a hearing will be granted on an expedited basis. Make sure to obtain my judicial assistant's approval to send a fax if that is how you wish to send the request. The movant will be notified by my judicial assistant whether the motion will be handled on an expedited basis. Requests for emergency hearing time should be limited to true emergencies. Please see section 7 below on notifying us of the total time needed for the hearing. If you do not include the total time needed, your request will not be acted on.

(i) Memoranda of Law. If counsel wishes to submit a memorandum of law, a copy must be delivered to my judicial assistant not later than 10 business days prior to the hearing date, with a transmittal letter copied to opposing counsel and pro se parties, stating the date and subject of the hearing. Memoranda should be brief and to the point. Relevant parts of any appellate authority or statutes submitted should be highlighted please.

7. SPECIALLY SET HEARINGS

When requesting a hearing for more than 10 minutes, be certain to *include the total amount of time needed by all parties for the hearing*. If there are one or more opposing attorneys, you must call and ask each how much time they need to permit you to give my judicial assistant an accurate time request (this is required in your certification – see paragraph 6(b)). Please do not make a request for a hearing without including the total time needed. If you do not include the total time needed by all parties, the request will not be acted on.

Absent a compelling reason, if a hearing cannot be finished in the time reserved, the parties will be required to reset the hearing *from its inception*. It is therefore in the

clients' financial interests for their attorneys to coordinate the amount of time **all** parties will need to fully conclude their hearing before setting it. If a hearing is rescheduled the materials submitted may need to be resubmitted for the next hearing date.

Hearings should be coordinated with opposing counsel. Once hearing time is scheduled with my judicial assistant, counsel may not add motions to the hearing time without the agreement of opposing counsel. Whatever time is scheduled for the case on my calendar is all the time that will be allotted for the case, regardless of the number of motions scheduled.

(a) Cancellation of Hearings. If a specially set hearing is no longer needed (and the motion has not been cross-noticed by another party), the hearing must be cancelled with my judicial assistant and the opposing parties notified in a timely fashion.

(b) Motions Requiring One Hour Or More. Hearings set for one hour or more may not be cancelled by the setting party unless they first provide a letter to me stating: (1) that they are waiving the matter; or (2) that the relief is no longer needed; or (3) that a stipulation on the matter has been reached (along with a copy of the stipulation); or (4) that the case is closed (along with a stipulated final judgment to sign, or a copy of a voluntary dismissal). These materials must be sent and received with enough time for me to review them before the scheduled hearing.

(c) After proper notice, failure of any party to appear at the hearing will not prevent a party from proceeding with the hearing. If the party noticing the matter for hearing chooses to wait for the absent party, the matter may be passed. However if I run out of time, the hearing may have to be rescheduled.

8. PROPOSED ORDERS

All proposed orders must be submitted with sufficient copies for all parties and a stamped, self-addressed envelope for each recipient. The return address on the envelopes you provide *should list my office address and not counsel's address*. Return envelopes should not be stapled to the copies of the orders. Our mailing address is as follows:

Judge Larry Schack
Okeechobee Courthouse
312 NW 3rd Street
Okeechobee, Florida, 34972

(a) Submission. Orders should **NOT** be submitted in advance of a hearing (except for UMC hearings where all parties will be appearing by telephone). At every hearing the moving party must provide a generic order granting/denying the motion, with at least five lines for additional provisions. One of the

parties may be directed to provide a more specific order which memorializes my ruling. That order must be submitted with a transmittal letter stating whether opposing counsel has agreed to the language of the proposed order.

If a proposed order is submitted for me to consider a matter without a hearing, the transmittal letter must explain the legal ability to consider the matter ex parte.

Failure to provide sufficient copies of orders for conforming, stamped envelopes for distribution, or a transmittal letter will result in the proposed order being returned to the sender unsigned.

Proposed orders sent to the clerk will not be acted on. The original order, in full compliance with these procedures, must be sent to my judicial assistant.

(b) Content. Orders should not be styled as "Order". See Florida Rule Of Civil Procedure 1.100(c)(1). Do not put "cc: all counsel of record" at the bottom of the order; each party is to be individually named. The proposed order should state the date of the hearing if there was one.

Use plain English in orders and judgments. There is no reason why lawyers can't write using easily understood words and sentences. Please do not use "legalese," arcane or archaic language.

(c) Objections to Content. I will not sign orders, or adopt stipulations without a brief transmittal letter reflecting that a copy was provided to all counsel and all pro se parties, and that there are no objections. If there is an objection to a proposed order, the matter will have to be set for further hearing unless otherwise resolved by the court.

(d) Agreed To Or Stipulated Orders or Judgments. Agreed orders or judgments should state in the title of the order or judgment that it is "agreed." If an "agreed" or "stipulated" order or judgment is submitted to me to resolve a scheduled hearing (other than UMC), be certain that the cover letter advises my judicial assistant that the hearing should be cancelled.

I will not sign agreed orders or judgments without a brief transmittal letter reflecting either: (a) that a copy was provided to all counsel/parties and that they specifically confirmed agreement, or (b) submission of a signed stipulation, or (c) the presence of initials by all attorneys/parties on the order itself. Remember: *a lack of objection is not equivalent to an agreed order.* In that circumstance the order should not designate it as "agreed" but instead in the body should specify that opposing counsel and pro se parties do not object to the entry of the order.

(e) **Timing.** When submitting orders or judgments for signature allow a **minimum** of one week after receipt for the matter to be signed. I receive a significant volume of mail and it would not be reasonable to expect your submission to be processed in a shorter time frame.

9. DEFAULT FINAL JUDGMENTS

After obtaining a copy of the default entered by the Clerk, counsel may submit a default final judgment to my office, with:

- a. self-addressed, stamped envelopes,
- b. sufficient copies for conforming,
- c. a copy of the Clerk's default,
- d. a copy of the motion and affidavits in support.

Counsel must NOT submit the material to the Clerk asking that the Clerk enter a default and then send the material to my office.

Original motions and affidavits should never be sent to my office. ***No action will be taken on material that does not comply with this procedure.***

10. TELEPHONE HEARINGS

****Except UMC. UMC is addressed in paragraph 3, above.)**

I conduct telephone hearings in conformity with the provisions of Florida Rule of Judicial Administration 2.530. (I will take evidence by telephone at trials and hearings, however it must be in conformity with Rule 2.530.) It is the responsibility of the attorney/party requesting a telephone hearing to coordinate the appearance of all opposing counsel/parties who decide to attend by telephone. Telephone hearings should be arranged through any reliable conferencing system. My judicial assistant must be notified of the telephone appearance at least three business days prior. The number to call, and any needed code, must be listed in the notice of hearing.

Foreclosure hearings:

****If you wish to attend by telephone, it will be necessary for you to arrange that appearance through Courtcall (888-882-6878), after you obtain a hearing date from my judicial assistant.**

11. CONFLICTS

Please note that there is no provision in the rules of the Florida Supreme Court for filing a "notice of unavailability." The filing of the notice does not relieve counsel of any court-imposed obligations.

If you have conflicting court obligations you must comply with Florida Rule of Judicial Administration 2.550. You must file a timely notice of conflict, and provide a copy directly to my office, so that I may resolve the conflict for you. Include each case number, the names and telephone numbers of each judge involved, the nature of each case, and the names and telephone numbers of all attorneys in each case. You must serve the notice on all parties. If you timely file the notice and provide it to me in a timely fashion, the stress becomes mine and not yours. I will resolve the conflict. If you do not comply with this, I am afraid that the stress remains your stress.

12. TRIAL ORDERS AND TRIAL CALENDARS

(a) **Notice for Trial.** When sending a notice for trial, counsel must submit two complete sets of stamped return envelopes. If the case is closed after filing a notice for trial, counsel must notify my judicial assistant immediately. Due to the length of the trial order, please be sure that each stamped envelope has enough postage for two ounces or the trial notice will be returned.

(b) **Docket Call.** You may appear at docket call by Courtcall **IF AND ONLY IF** someone brings a fully executed pretrial statement to the docket call, or you have filed the original with the clerk and I have received a fully executed copy in the office no less than five days before the docket call. (Do not fax it.)

Do not call my judicial assistant the business day prior to, and on the day of docket call with questions concerning your case unless it is a true emergency. The last minute settlement of the case is NOT an emergency. If you settle your case prior to docket call, one of the attorneys must still appear and announce that the case has settled, unless prior to the docket call, you confirm with the clerk of court that their records show that your case is closed in its entirety (including counterclaims, cross-claims, third-party claims, etc.). If you wish settlement paperwork signed prior to the docket call do not wait until just prior to the docket call to submit it. You may not fax settlement paperwork, or letters concerning settlement of the case to my office. Due to the volume of paperwork received, if you do not plan for my office to receive the settlement paperwork at least 10 business days prior to docket call, it may not be processed in time.

(c) **Trial Calendar.** I specially set as many cases as possible. Some cases are set as backup trials. I post my calendars on the internet on my section of the circuit's website. It is the responsibility of counsel and pro se litigants in the cases set as backup trials to determine the status of the cases ahead of their case. Do not call my judicial assistant to find out the status of cases on the trial calendar. Instead call the attorneys handling the cases ahead of yours. Please note that cases set for trial will remain on the trial calendar until the case is concluded.

(d) **Vacations and Conflicts.** Counsel should advise me of vacations,

conflicts and seminar plans at calendar call. I will attempt to honor all reasonable requests.

(e) Pretrial Motions. Due to jury management constraints, motions in limine, motions for summary judgment, motions for judgment on the pleadings, and motions to suppress (in forfeiture cases) will **NOT** be heard on the day of trial, absent extraordinary circumstances. Those motions must be filed and heard sufficiently in advance of trial to permit a ruling. Failure to follow this requirement constitutes a waiver of the motion, absent extraordinary circumstances.

(f) Settlement. If the case settles after an order has been entered setting the case for trial, counsel for the plaintiff must promptly notify my judicial assistant by telephone, and send a letter to her advising of settlement.

Cases will not be removed from a trial docket until all aspects of the case are completely settled, and all paperwork necessary to completely close the case has been signed and filed with the clerk.

When you submit settlement paperwork for signature be certain that the cover letter advises me that the case is on a trial docket, is set for docket call, or has a notice for trial pending.

13. FAMILY LAW CASES - REQUIRED FILINGS

No case will be set for trial, and no uncontested final hearing will be conducted, unless the parties confirm that they have reviewed the file and each party has filed all documents and certificates required by both Florida Statutes and the Family Law Rules (except in cases in which there has been a default by the opposing party, or where there is some other legally recognized reason for non-compliance). (Please see Family Law Rules 12.285(c)(1), (d)(1) [financial affidavits], and 12.285(j) [child support guidelines worksheets]; Florida Statute Sections 61.052(7) and 742.031 [social security disclosure forms]; 61.522 [UCCJEA]; 61.21(4), (5) and (6) [parenting class]. (Please file original certificates from parenting courses.) If an opposing party has a filing obligation that has not been met, you may set a motion for Uniform Motion Calendar seeking a court order to compel the filing.

A checklist is attached to assist you in meeting this requirement. ***WHEN YOU APPEAR FOR AN UNCONTESTED FINAL HEARING, OR SUBMIT REQUESTS TO APPROVE MEDIATION OR SETTLEMENT AGREEMENTS, PLEASE BE CERTAIN TO SUBMIT THE ATTACHED LIST COMPLETED.***

14. COURT REPORTERS

All evidentiary matters (trials and hearings) must be recorded by a court reporter.

It is the moving party's responsibility to supply the court reporter.

15. FORECLOSURES

Effective July 1, 2010, due to funding made available to the 19th Circuit, foreclosures in St. Lucie County are handled by senior judges. Further information is posted on the Circuit's Web Page. Please do not call my office regarding foreclosure hearings for St. Lucie County. (I continue to handle the foreclosures in Okeechobee County.)

During the years assigned to the civil division, I experienced many problems in foreclosure cases. The problems fell into two categories: difficulties in telephone hearings, and lack of adequate preparation by the attorney assigned to the case. With an eye toward preventing those problems, please comply with the following requirements. My goal is to handle as many foreclosure cases as possible in the limited amount of time available in my assignment.

**Foreclosure Final Judgments

You must use the new final judgment enacted by the Florida Supreme Court for Okeechobee County foreclosure cases. The only deviations from the Supreme Court form may be by adding language to the approved form. Any additions must only be contained in numbered paragraphs beginning after the Supreme Court's form language.

The Clerk will not postpone or cancel a sale without a court order. The sale date will not be cancelled without a court order issued after a timely filed motion is heard and ruled on prior to the day of the sale. All orders canceling the sale must be filed with the clerk of court no later than 5:00 p.m. two business days before the sale date.

The public sale will proceed regardless of whether the plaintiff, plaintiff's counsel, or any other representative is present.

Counsel for the plaintiff must confirm that the clerk has the original proof of publication of the notice of sale on file no less than three business days before the sale date. Failure to file the original proof of publication will not stop the sale, however the certificate of sale will not issue until the original proof of publication is filed.

The failure of counsel for the plaintiff to properly and timely publish the notice of sale may result in sanctions against the plaintiff, plaintiff's attorney individually, and the law firm representing the plaintiff.

If the original proof of publication of the notice of sale is not filed with the clerk within ten calendar days after the sale, an order will be entered directing the plaintiff to show cause why the sale should not be vacated, and the case dismissed with or without prejudice. The fact that an attorney has a high volume practice will not be a showing of good cause.

Administrative orders 2009-1, 2009-15 and 2010-3 govern mediation in certain residential foreclosures. You must be in compliance with those orders. (2009-1 applies to residential foreclosures filed from March 13, 2009 through November 15, 2009; 2009-15 applies to residential foreclosures filed from November 16, 2009 through March 28, 2010; 2010-3 applies to residential foreclosures filed on or after March 29, 2010.)

Noticing Hearings

Foreclosure hearings on cases filed in Okeechobee County should reflect that the hearing will be held:

“before Judge Larry Schack in Courtroom B of the Okeechobee Courthouse, 312 NW 3rd Street, Okeechobee, Florida, 34972 at [time].”

**The hearings may be set on UMC.

Lack of Preparation and Attention to the Preparation of Cases:

Please avoid these problems:

- (a) Materials sent by overnight delivery in close proximity to the hearing. My Judicial Assistant cannot drop all other matters to search all incoming mail for items sent at the last minute, nor will she do so. **MATERIAL NOT RECEIVED AT LEAST 10 BUSINESS DAYS BEFORE THE HEARING MAY CAUSE THE HEARING TO BE STRICKEN.**
- (b) Materials sent to the wrong judge, wrong address, wrong courthouse, wrong circuit, etc.
- (c) Attorneys switching files between themselves and not being conversant with the case.
- (d) Using form affidavits and orders that are not tailored to the individual case. In the legal profession one size does not fit all, and close enough is not good enough.
- (e) Attorneys who don't read what they file. E.g. photocopies of affidavits are filed rather than originals; affidavits are not signed; affidavits are not dated;

affidavits are not notarized; or affidavits that contain claims for sums that the attorneys can't explain.

(f) Failure to file original affidavits or the original note. When they are filed, originals should never be filed with my office. Originals must be filed with the Clerk of the Court. MATERIAL NOT RECEIVED BY THE CLERK AT LEAST 10 BUSINESS DAYS BEFORE THE HEARING MAY NOT GIVE THEM ENOUGH TIME FOR FILING IN THE COURT FILE AND MAY CAUSE THE HEARING TO BE STRICKEN.

(g) Orders written in indecipherable and archaic legalese. I will not sign these. *There is absolutely no reason why lawyers cannot write in plain English.*

(h) Attorneys sending me materials in chambers for rulings ex parte for which there is no authority to act in that fashion either under Due Process or Canon 3(B)7 of the Code of Judicial Conduct. (If you send these they will not be acted on.)

(i) Attorneys submitting affidavits or amended affidavits in support of summary judgment less than twenty (20) days prior to the hearing in violation of Rule 1.510. Even if there is a default, the defaulted party is still entitled to notice of all aspects of a request for unliquidated damages.

(j) Attorneys signing pleadings for each other where the attorney who signs does not comply with the requirements of Florida Rule of Judicial Administration 2.515(a) (i.e. they do not include their own typed name and Bar number).

(k) Notices of hearings containing the wrong date, the wrong time, the wrong courthouse, the wrong judge or the wrong circuit. If it is noticed incorrectly, the hearing will be stricken.

(l) Attorneys who fail to return calls and written inquires from the mortgagor. Failure to make a good faith effort to resolve before the hearing may cause the hearing to be cancelled.

(m) You must give timely notice to all opposing parties. Send your notices within 15 days of scheduling your hearing to give adequate notice to all. Common sense dictates if you are not ready, don't set the hearing.

(n) Attorneys who no longer need their hearing must remember to cancel it. Once you set a hearing *do not simply fail to attend*. If you need to cancel a hearing please do so with enough notice to enable me to give that time to someone else. You MUST also notify everyone you served of the cancellation. If you fail to attend a scheduled hearing on a repeat basis, or if you cancel

hearings on a repeat basis, your telephone hearing privileges for you *and your firm* will end. Further, simply failing to attend is unprofessional and rude.

(o) Due to the enormous volume of foreclosure cases and the limited time I have to devote to those hearings, I have limited any one attorney or firm to 2 summary judgment hearings per day on UMC. This will prevent a small number of attorneys or firms from consuming all the hearing time.

Please follow these requirements to avoid a waste of time for all involved, and the resultant cost to the court system. Each time that hearing time is wasted, some litigant has to wait that much longer to have their case heard. Wasted court time is expensive for litigants and for the public who must fund the court system. Repeat problems will cause your telephone hearing privileges for you *and your firm* to end.

THE MAJORITY OF PAPERWORK RECEIVED ON FORECLOSURE CASES DOES NOT COMPLY WITH THE REQUIREMENTS OF THIS MEMORANDUM AND CAN'T BE ACTED ON *EX PARTE*. DEALING WITH IT CONSUMES SIGNIFICANT TIME FOR MY JUDICIAL ASSISTANT AND I. PAPERWORK THAT DOES NOT COMPLY WITH THESE PROCEDURES WILL NOT BE ACTED ON, HELD OR RETURNED. ORIGINAL MATERIALS (INCLUDING CHECKS FOR FEES) WILL BE FILED WITH THE CLERK AND THE OTHER MATERIALS WILL BE PLACED IN RECYCLING.

Thank you for your cooperation and understanding.

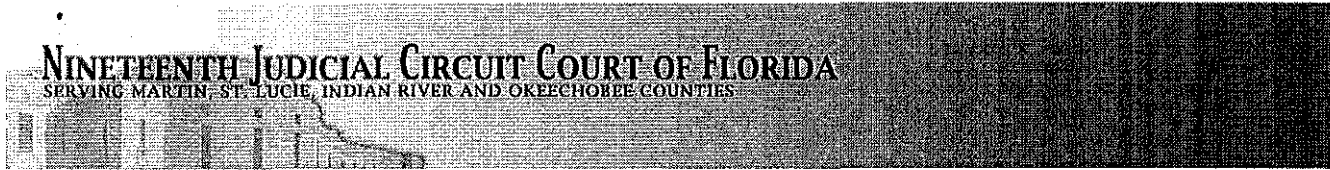
Civil Family Etc Procedure Memo 9-8-10

Case Name _____
 Case Number _____
 Date file examined _____

CHECKLIST

	<u>HUSBAND / FATHER</u>	<u>WIFE / MOTHER</u>
Financial Affidavit 12.285 (c)(1) & (d)(1) (dissolution and paternity)		
CSGW 12.285 (j) (dissolution and paternity)		
UCCJEA Form 61.522 (dissolution and paternity)		
Social Security form 61.052 (7) & 742.031 (dissolution and paternity)		
Parenting Certificate 61.21 (4), (5), (6)		
Parenting Plan 61.046 (14)(a), (23), & 61.13 (2)(b), (c), (3)		
Answer		
Counter petition		
Answer to Counter petition		
Settlement or Mediation Agreement		
Does Child Support deviate more than 5% ?		

Domestic Checklist – required filings v2-24-10



Honorable Judge William L. Roby

Assignment

All Felony Violation of Probation Cases; All Felony Arraignments; All Felony 3.850 motions; All Fast-of Pleas; Weekday First Appearance Hearings (in rotation with County Court Judges); Domestic Violence Hearings one time per month for each family judge; Non-Jury Civil Cases excluding Resident Foreclosures but including trials of Residential Mortgage Foreclosures Cases; Assist with Civil Jury motions each month

FAX #: To be used only upon approval by Judicial Assistant and to fax notices of settlement/dismissal from trial dockets

Procedures:

Civil Procedures

Uniform Foreclosure Order

Monthly Calendars:

November — December

Nonjury Trials:

August - October

Docket Calls:

September 24

September 18 (results)

December 4 (results)

March 12 (results)

June 30 (results)

CONTINUANCES DOCKET Call:

September 18 (results)

December 4 (results)

IN THE CIRCUIT COURT OF THE
NINETEENTH JUDICIAL CIRCUIT IN
AND FOR _____ COUNTY
FLORIDA.

CIVIL DIVISION

CASE NO. _____

Plaintiff(s)

vs

Defendant(s).

FINAL JUDGMENT OF FORECLOSURE

THIS ACTION was heard before the Court on plaintiff's Motion for Summary Final Judgment on _____, 20____. On the evidence presented, it is

ADJUDGED that:

1. The plaintiff's Motion for Summary Judgment is GRANTED. Service of process has been duly and regularly obtained over _____, defendants.
(List all defendants.)

2. There is due and owing to the plaintiff the following:

Principal due on the note secured by the mortgage foreclosed:	\$ _____
Interest on the note and mortgage from _____ to _____	\$ _____
Per diem interest at _____ % from _____ to _____	\$ _____
Title search expenses	\$ _____
Taxes for the year of _____	\$ _____
Insurance premiums	\$ _____

Court Costs:

Filing fee	\$ _____
Service of Process at \$ _____ per defendant	\$ _____
Publication for _____	\$ _____

SUBTOTAL \$ _____

Additional Costs:

_____	\$ _____
_____	\$ _____

SUBTOTAL \$ _____

Exhibit "A"

Attorney fees based upon _____ hours at \$ _____ per hour \$ _____
 Less: Undisbursed escrow funds \$ _____
 Less: Unearned insurance premiums \$ _____

GRAND TOTAL \$ _____

3. The grand total amount referenced in Paragraph 2 shall bear interest from this date forward at the prevailing legal rate of interest.

4. Plaintiff, whose address is _____, holds a lien for the grand total sum specified in Paragraph 2 herein. The lien of the plaintiff is superior in dignity to any right, title, interest or claim of the defendants and all persons, corporations, or other entities claiming by, through, or under the defendants or any of them and the property will be sold free and clear of all claims of the defendants, with the exception of any assessments that are superior pursuant to Florida Statutes, Section 718.116. The plaintiff's lien encumbers the subject property located in _____ County, Florida and described as:

(LEGAL DESCRIPTION)

Property address: _____

5. If the grand total amount with interest at the rate described in Paragraph 3 and all costs accrued subsequent to this judgment are not paid, the Clerk of the Court shall sell the subject property at public sale on _____, 20____, at 11:00 A.M., to the highest bidder for cash, except as prescribed in Paragraph 6, at the ___ [(1) Insert correct county information per attachment] _____, after having first given notice as required by Section 45.031, Florida Statutes. The Clerk shall not conduct the sale in the absence of the plaintiff or its representative.

6. Plaintiff shall advance all subsequent costs of this action and shall be reimbursed for them by the Clerk if plaintiff is not the purchaser of the property for sale. If plaintiff is the purchaser, the Clerk shall credit plaintiff's bid with the total sum with interest and costs accruing subsequent to this judgment, or such part of it, as is necessary to pay the bid in full. The Clerk shall receive the service charge imposed in Section 45.031, Florida Statutes, for services in making, recording, and certifying the sale and title that shall be assessed as costs.

7. On filing of the Certificate of Sale, defendant's right of redemption as proscribed by Florida Statutes, Section 45.0315 shall be terminated.

8. On filing the Certificate of Title, the Clerk shall distribute the proceeds of the sale, so far as they are sufficient, by paying: first, all of the plaintiff's costs; second, documentary stamps affixed to the Certificate; third, plaintiff's attorneys' fees; fourth, the total sum due to the plaintiff, less the items paid, plus interest at the rate prescribed in paragraph 2 from this date to the date of the sale. During the sixty (60) days after the Clerk issues the certificate of disbursements, the Clerk shall hold the surplus pending further Order of this Court.

9. Upon filing of the Certificate of Title, defendant and all persons claiming under or against defendant since the filing of the Notice of Lis Pendens shall be foreclosed of all estate or claim in the property and the purchaser at sale shall be let into possession of the property.

10. The Court finds, based upon the affidavits presented and upon inquiry of counsel for the plaintiff, that _____ hours were reasonably expended by plaintiff's counsel and that an hourly rate of \$ _____ is appropriate. PLAINTIFF'S COUNSEL REPRESENTS THAT THE ATTORNEY FEE AWARDED DOES NOT EXCEED ITS CONTRACT FEE WITH THE PLAINTIFF. The Court finds that there are no reduction or enhancement factors for consideration by the Court pursuant to Florida Patient's Compensation Fund v. Rowe, 472 S.2d 1145 (Fla. 1985).

11. NOTICE PURSUANT TO AMENDMENT TO SECTION 45.031, FLA. ST. (2006).

IF THIS PROPERTY IS SOLD AT PUBLIC AUCTION, THERE MAY BE ADDITIONAL MONEY FROM THE SALE AFTER PAYMENT OF PERSONS WHO ARE ENTITLED TO BE PAID FROM THE SALE PROCEEDS PURSUANT TO THE FINAL JUDGMENT.

IF YOU ARE A SUBORDINATE LIENHOLDER CLAIMING A RIGHT TO FUNDS REMAINING AFTER THE SALE, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN SIXTY (60) DAYS AFTER THE SALE. IF YOU FAIL TO FILE A CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING FUNDS.

IF YOU ARE THE PROPERTY OWNER, YOU MAY CLAIM THESE FUNDS YOURSELF. YOU ARE NOT REQUIRED TO HAVE A LAWYER OR ANY OTHER REPRESENTATION AND YOU DO NOT HAVE TO ASSIGN YOUR RIGHTS TO ANYONE ELSE IN ORDER FOR YOU TO CLAIM ANY MONEY TO WHICH YOU ARE ENTITLED. PLEASE CHECK WITH THE CLERK OF THE COURT, _____, [(2) Insert correct county information per attachment] _____, WITHIN TEN (10) DAYS AFTER THE SALE TO SEE IF THERE IS ADDITIONAL MONEY FROM THE FORECLOSURE SALE THAT THE CLERK HAS IN THE REGISTRY OF THE COURT.

IF YOU DECIDE TO SELL YOUR HOME OR HIRE SOMEONE TO HELP YOU CLAIM THE ADDITIONAL MONEY, YOU SHOULD READ VERY CAREFULLY ALL PAPERS YOU ARE REQUIRED TO SIGN, ASK SOMEONE ELSE, PREFERABLY AN ATTORNEY WHO IS NOT RELATED TO THE PERSON OFFERING TO HELP YOU, TO MAKE SURE THAT YOU UNDERSTAND WHAT YOU ARE SIGNING AND THAT YOU ARE NOT TRANSFERRING YOUR PROPERTY OR THE EQUITY IN YOUR PROPERTY WITHOUT THE PROPER INFORMATION. IF YOU CANNOT AFFORD TO PAY AN ATTORNEY, YOU MAY CONTACT FLORIDA RURAL LEGAL SERVICES, 200 S. INDIAN RIVER DRIVE, SUITE 101, FORT PIERCE, FLORIDA 34950 (TELEPHONE: _____ [(3) Insert correct county information per attachment] _____), TO SEE IF YOU QUALIFY FINANCIALLY FOR THEIR SERVICES. IF THEY CANNOT ASSIST YOU, THEY MAY BE ABLE TO REFER YOU TO A LOCAL BAR REFERRAL AGENCY OR SUGGEST OTHER OPTIONS. IF YOU CHOOSE TO CONTACT FLORIDA RURAL

LEGAL SERVICES, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

ANY ADDITIONS, MODIFICATIONS OR CHANGES TO THE PROVISIONS ABOVE SHOULD BE SET FORTH IN BOLD TYPE AND CONSECUTIVELY NUMBERED PARAGRAPHS.

____. The Court retains jurisdiction of this action to enter further orders that are proper, including, without limitation, writs of possession and deficiency judgments.

ORDERED at _____ County, Florida on _____, 20____.

Circuit Judge

Copies furnished to all parties:

County Information Attachment

ST. LUCIE COUNTY:

1. Jury Assembly Room, St. Lucie County Courthouse, 218 South 2nd Street, Fort Pierce, Florida
2. 218 South 2nd Street, Fort Pierce, Florida 34950 (Telephone: 772-462-6938)
3. 772-466-4766

INDIAN RIVER COUNTY:

1. Jury Assembly Room, Indian River County Courthouse, 2000 16th Avenue, Vero Beach, Florida 32960
2. 2000 16th Avenue, Vero Beach Florida 32960 (Telephone: 772-770-5185, Circuit Civil Division)
3. 1-888-582-3410

MARTIN COUNTY:

1. Steps of the Martin County Courthouse, 100 East Ocean Boulevard, Stuart, Florida 34994
2. 100 East Ocean Boulevard, Stuart, Florida 34994 (Telephone: 772-288-5535)
3. 1-888-582-3410

OKEECHOBEE COUNTY:

1. Jury Assembly Room, 2nd Floor, Okeechobee County Judicial Center, 312 NW 3rd Street, Okeechobee, Florida 34972
2. 312 NW 3rd Street, Okeechobee, Florida 34972 (Telephone: 863-763-2131)
3. 1-888-582-3410

19th JUDICIAL CIRCUIT'S CIVIL DIVISION PROCEDURES

(02/06/02)

(www.circuit19.org)

SENDING COPIES OF HEARING NOTICES AND MOTIONS

Copies of all hearing notices and the relevant motions must be sent to the Court's Judicial Assistant in advance of the hearing date. THIS INCLUDES UNIFORM MOTION HEARINGS. Please do not send copies of pleadings on matters that are not set for hearing.

CERTIFICATION OF SETTLEMENT EFFORTS AND TIME REQUIRED

All notices of hearing must contain a certification signed by the attorney who set the hearing in substantially the following format:

I HEREBY CERTIFY that I have personally contacted opposing counsel in an effort to resolve the issue(s). However the matter has not settled. A hearing is necessary. A good faith estimate of time agreed upon by the parties to have the matter heard is ____ minutes/hours.

Please note that certifications containing language to the effect that an effort will be made to resolve the issue in the future are NOT sufficient. THE CONTACT BETWEEN COUNSEL MUST BE PERFORMED PERSONALLY IN AN EFFORT TO RESOLVE DIFFERENCES. If personal communication is attempted but unsuccessful, written communication to opposing counsel will suffice. Failure to comply with this requirement, may result in cancellation of the hearing by the Court. If it is determined that the certification is not true, other sanctions may be imposed, including a referral to the Florida Bar. Any hearing not concluded within the allocated time may be continued. The Court

will take into consideration attorneys dealing with pro se litigants and defaults.

MOTIONS

Due to jury management constraints, motions in limine, and motions for summary judgment will NOT be heard by the Court on the day of trial, absent extraordinary circumstances.

All rule 1.140 motions, including motions to dismiss for (1) lack of jurisdiction over the subject matter, (2) lack of jurisdiction over the person, (3) improper venue, (4) insufficiency of process, (5) insufficiency of service of process, (6) failure to state a cause of action, and (7) failure to join indispensable parties, shall strictly comply with the requirements of Rule 1.140(b) in that the grounds on which they are based and the substantial points of law intended to be argued shall be stated specifically and with particularity. Motions for more definite statement and to strike shall be filed in compliance with the provisions of Rule 1.140. Copies of motions shall be served upon all other known parties. Originals shall be filed with the Clerk. The moving party shall furnish a copy of the motion to the Court's Judicial Assistant and certify compliance. The motion shall be accompanied by stamped, addressed envelopes for all counsel of record or other parties entering an appearance. A generic order granting/denying the motion, with at least five lines for additional provisions and a transmittal letter showing copies to all counsel of record and unrepresented parties, shall be included. If the moving party fails to comply, any party may furnish a copy of the motion and required documents to the Court. The motion is subject to being ruled upon without hearing. If the Court determines that a

hearing is necessary, the movant will be advised to schedule a hearing and file the appropriate notice. No case dispositive ruling will be made without hearing.

UNIFORM MOTION CALENDAR

Pursuant to Administrative Order 94-10 (see attachment), the Court will conduct a Uniform Motion Calendar (UMC). Except for holidays, emergencies, vacations, and other necessary matters, As of January 2, 2002, UMC will be held Tuesday, Wednesday and Thursday from 8:45 A.M. to 9:30 A.M.. All UMC matters should be noticed for 8:45 A.M.. For cases assigned in Okeechobee County, you should contact the Court's Judicial Assistant for the UMC schedule or look on the 19th Judicial Circuit web site at www.circuit19.org. The Court will strictly follow the limitations and conditions contained in the Administrative Order. COPIES OF ALL HEARING NOTICES AND RELEVANT MOTIONS MUST BE SENT TO THE COURT'S JUDICIAL ASSISTANT IN ADVANCE OF THE HEARING DATE. When you attend UMC you must sign up on the sign-in sheet which will be posted outside the courtroom each day. Normally, UMC will be heard on a "first-come, first-served" basis. HEARINGS ON UMC ARE STRICTLY LIMITED TO 10 MINUTES PER CASE! Any case law or statutes to be relied upon at UMC shall be submitted to the Court no later than 3:00 p.m. on the day preceding the hearing with relevant portions highlighted.

After proper notice, failure of any party to appear at the hearing shall not prevent a party from proceeding with a hearing when the case is called. If the party noticing the matter for hearing chooses to wait for the absent party, the matter may be passed over

until the end of the calendar. However, if the Judge runs out of time on UMC, the hearing may have to be rescheduled. Counsel who filed the motion shall bring a proposed order to the hearing (generic orders granting/denying with at least five lines for additional provisions may be used) and sufficient copies with self addressed and stamped envelopes for all parties. Failure to bring same to the hearing will result in using a Court provided order which will be executed by the Court and filed with the Clerk. Counsel who filed the motion will be required to go to the clerk's office to obtain copies for all the parties at a charge to be set by the Clerk's office. If you want the court file at the hearing you must request it from the Clerk's office.

TELEPHONE HEARINGS

The Court will conduct telephone hearings. These must be non-evidentiary unless prior court approval has been obtained. Telephone hearings will be conducted during UMC without prior court approval. All telephone hearings must be arranged through Court Call, either by the party setting the hearing who wishes to appear by telephone, or by any adverse party wishing to appear at a hearing by telephone. Court Call requires 5 business days notice of telephone hearings. To make arrangements to attend by telephone, you must call the Program Administrator for Court Call at the following Toll-free number: 1-888-882-6878. The Court will not be responsible for conferencing the telephone appearances by anyone and you shall not call the Court's Judicial Assistant to arrange a telephone appearance. Court Call will provide the Court with a schedule of telephone appearances for hearings properly scheduled. If you decide to attend the hearing by telephone and you

are the movant, you must assure the required proposed orders and documents are furnished to the Court no later than the time of hearing.

EMERGENCY MOTIONS

Copies of any "emergency" motions must be sent to the Court for review to determine if a hearing will be granted on an expedited basis, unless clearly mandated under the procedural rules or statutory law. You will be notified whether the motion will be handled on an expedited basis or on the Court's normal hearing calendar. Please limit requests for emergency hearing time to bona fide emergencies.

REQUIREMENTS FOR COURT REPORTERS

All evidentiary matters (both trials and hearings) must be recorded by a court reporter. It is the moving party's responsibility to supply the court reporter.

INITIAL DISCOVERY VIOLATIONS

Pursuant to Administrative Order 94-10, the Court will issue ex parte enforcement orders for initial discovery violations.

WITHDRAWAL OR SUBSTITUTION OF COUNSEL

You must follow the provisions of Florida Rule Of Judicial Administration 2.060. You must obtain the client's consent in writing which shall be filed with the Court, or a hearing must be held after proper notice to the client.

CANCELLATION OF HEARINGS

If you no longer need a scheduled hearing for a motion and it has not been cross noticed by any other party, please cancel it with the Court's Judicial Assistant and notify the opposing party or parties in a timely fashion.

DEFAULT SUMMARY JUDGMENTS

UMC is available to pursue a summary final judgment for liquidated damages including attorney's fees and costs after default based upon a proper motion with supporting documentation unless a party appears at UMC to contest it. If that occurs, the Court will set an evidentiary hearing/trial on such matters as may be necessary and proper. Please note Administrative Order 94-10 regarding having the file present at any hearing of this type.

MEMORANDUM OF LAW

Counsel shall file memorandum of law and send a copy to the Court's Judicial Assistant not later than 3:00 p.m. on the Friday preceding the hearing date. There is no need to file , fax, or deliver memoranda later than that Friday. Memoranda should be brief and to the point. Relevant parts of any case law or statutes submitted should be highlighted.

SUBMITTED PAPERWORK TO COURT

Please submit proposed orders, agreed orders, or stipulations with sufficient copies for all parties and a stamped, self-addressed envelope for each (if postage is insufficient they will be returned). Do not put "cc: all counsel of record" at the bottom of the order; each party is to be individually named. Do not staple the return envelopes to the copies of the orders.

The Court will not execute proposed orders, agreed orders, or stipulations without a cover letter stating the action requested, that a copy was provided to all counsel of record and unrepresented parties, and stating that there are no objections. If there is an objection to a proposed order, the matter will have to be set for hearing unless otherwise resolved by the Court. If the proposed order was a result of a prior hearing on a motion and an objection is raised, the Court may impose sanctions on the party not in compliance with the original Court ruling. The Court will not sign any pleading styled as "Order" only. See Florida Rule Of Civil Procedure 1.100(c)(1).

When you send a notice for trial, please submit two complete sets of return envelopes. If the case is dismissed after filing a Notice for Trial, notify the Court's Judicial Assistant. DUE TO THE LENGTH OF THE TRIAL ORDER, PLEASE BE SURE THAT EACH ENVELOPE HAS ENOUGH POSTAGE FOR TWO OUNCES OR THE TRIAL NOTICE WILL BE RETURNED.

CORRESPONDENCE WILL NOT BE CONSIDERED UNLESS THE LETTER CLEARLY REFLECTS THAT A COPY HAS BEEN SENT TO ALL COUNSEL OF RECORD AND ANY PARTY WHO IS UNREPRESENTED.

Proposed orders sent to the clerk will not be acted upon. If you desire action by the

Court, you must send the original to the Court's Judicial Assistant in full compliance with these procedures.

Ex Parte motions will not be heard unless specifically authorized by Florida Statute, Florida Rules of Civil Procedure, Canon (3)(B)(7) of the Code of Judicial Conduct, and/or 19th Judicial Circuit Administrative Orders.

TRIAL ORDERS AND DOCKETS

The Court will provide attorneys and pro se litigants with a trial docket at scheduled docket calls. It will be the responsibility of the attorneys and pro se litigants to determine their position on the trial docket following docket call. Please note that cases set for trial will remain on the trial docket until the case is concluded. The cases will retain their priority.

FACSIMILE TRANSMISSIONS

Do not send materials by facsimile if they can be sent by U.S. Mail, courier, overnight express, etc. The only things to be sent by facsimile are emergency matters and materials requested by the Court.

VACATIONS AND SEMINARS

You should advise of your conflicts or vacation and seminar plans at docket call. The Court will attempt to honor reasonable requests that are timely and of which the client have notice.

SETTLEMENT OF CASES

If, after you have received an order setting a case for trial, the case should settle, please notify the Court's Judicial Assistant by telephone followed by a letter advising of the settlement. This also applies to cases which are subsequently placed on the trial docket.

MORTGAGE FORECLOSURES

Make sure you provide the Court with the CORRECT case number. Go back to one of the original summons issued by the Clerk. Don't rely on subsequent pleadings which often transpose or drop numbers.

Provide the Court with the full name of the ORIGINAL plaintiff, as well as the CURRENT plaintiff. DO NOT use initials or your office "shorthand." Problems have arisen when the note and mortgage get reassigned during the case and a new plaintiff is substituted and when you designate the Plaintiff by initials or the "shorthand" used in your office.

DO NOT give the Court the name of your forwarder, mortgage servicing agent or similar entity as the plaintiff. This is a frequent problem and has caused confusion, especially when the Court is given the wrong case number or there has been a substitution of plaintiff.

Make sure you give the Court the full and correct name of the first defendant listed in the original complaint, even if that person has been dismissed, dropped or changed. Spell any unusual names to the Judicial Assistant.

Tell the Judicial Assistant if the hearing reschedules, cancels or amends another

hearing in the case. The Court has frequently experienced the problem of having the same type of hearing in the same case scheduled one or two weeks apart.

Call the Judicial Assistant immediately to advise if a scheduled hearing is canceled for any reason. Hearing time is at a premium.

AFTER SUMMARY JUDGMENT HEARING IS SCHEDULED

Follow the Rules of Civil Procedure! File your motion, with supporting affidavits, notice of hearing and ORIGINAL PROMISSORY NOTE AND MORTGAGE with the Clerk at least TWENTY (20) DAYS prior to the hearing. DO NOT send them to the Judge's office or send them at the same time as your proposed final judgment. DO NOT send the proposed final judgment, notice of sale, etc., with your motion.

At foreclosure hearings, please provide a fully completed proposed final judgment of foreclosure, filling in all amounts other than attorney fees and costs.

If you intend to have the proposed final judgment, notice of sale, etc., available at the time of the summary judgment hearing, send them under separate cover at least TEN (10) DAYS prior to the hearing. DO NOT send the original note and mortgage with the proposed final judgment. Those should be filed with your motion. The proposed final judgment shall contain the location where the sale is to take place and shall be sent to the Clerk's office, attention foreclosure clerk, with a cover memo stating the date of the hearing, requesting that it be held on the inside cover of the court file until the hearing. DO NOT send them to the Judge's office. DO NOT send them a day or two prior to the hearing, even if by Federal Express or similar methods.

Please review the hearing procedures above for instructions on arranging for telephone hearings through Court Call. The Court does not coordinate or conference

telephone hearings.

Send enough addressed, stamped envelopes. One set shall be sent for mailing the final judgment. Three separate sets shall be sent for the notice of sale, certificate of sale, and certificates of title and disbursements.

IN THE CIRCUIT COURT OF THE NINETEENTH
JUDICIAL CIRCUIT IN AND FOR
MARTIN, ST. LUCIE, INDIAN RIVER AND OKEECHOBEE COUNTIES

IN RE:

Uniform Motion Calendars and Ex Parte

Discovery Enforcement in the General

Circuit Civil Division

ADMINISTRATIVE ORDER NO. 94-10

It has been determined by the Judges within this Circuit that certain motions filed in the General Circuit Civil Division may be considered in a more expeditious manner and that there would be a substantial benefit to the Judges, attorneys and parties if uniform procedures were adopted so as to expedite these matters. It is therefore, pursuant to Rule 2.050, Florida Rules of Judicial Administration;

ORDERED AND ADJUDGED as follows:

1. Every Judge assigned to the General Circuit Civil Division has the authority to establish, maintain, and enforce a Uniform Motion Calendar, and to enter Ex Parte orders enforcing discovery pursuant to the terms of this Order.
2. If a Judge decides to establish a Uniform Motion Calendar, the following requirements shall be followed.

A. Prior to setting a matter on the Uniform Motion Calendar, the party or attorney noticing the motion shall attempt to resolve the matter and shall certify the good faith attempt to resolve in the notice of hearing.

B. Hearings are strictly limited to ten (10) minutes per case. If two parties, each side is allowed five (5) minutes; if more than two (2) parties, time will be allocated by the Judge. The time limitation shall include the time necessary for the Judge to review documents, memorandums and cases.

C. Except for default and final judgments matters, the court file will not be available at the Uniform Motion Calendar. The moving party shall furnish to the Judge, at the hearing (unless the presiding Judge orders the copies be delivered at an earlier date), a copy of the motion to be heard and the notice of hearing. All parties shall also furnish to the Judge copies of all documents, pleadings or citations which they desire the Judge to consider.

D. Counsel shall not schedule motions on the Uniform Motion Calendar with the Judge's Judicial Assistant, but shall send written notice and a copy of the motion to opposing counsel (or parties if under represented) in accordance with the applicable rules of procedure in default and final judgment matters ONLY a copy of the notice of hearing and a copy of the motion to be heard shall be DELIVERED to the Clerk, marked "ATTENTION UNIFORM MOTION CALENDAR", at least four (4) business days before the hearing. The Clerk shall bring to the file to the hearing. However, this requirement should not be construed as otherwise deviating from proper notice requirements set forth in procedural or statutory mandates.

E. Any party requesting relief shall bring to the hearing and furnish the court with a prepared, proposed form of order and sufficient copies with stamped addressed envelopes for all parties.

F. A sign-up sheet shall be provided in the courtroom and the sequence of hearings will be set by the Judge, in consultation with the bailiff and Clerk, in the order of appearance of the first party. Failure of any party to appear shall not prevent a party from proceeding with a hearing when the case is called. If a party called for hearing chooses to wait for the absent party, the matter may be passed over until the end of the motion calendar. However, if the Judge is out of time, the issue may be continued.

G. No testimony shall be allowed at Uniform Motion Calendars.

H. The presiding Judge has absolute discretion in the administration of the Uniform Motion Calendar.

I. Failure to comply with procedure designated in this Order may result in the hearing being stricken from the docket.

3. When a motion to compel alleges a complete failure to respond or object to discovery, and there has been no request for extension, an Ex Parte order may be entered requiring compliance with the original discovery demand within ten (10) days of the signing of the order. The movant shall submit the proposed order with sufficient copies and self addressed stamped envelopes for all parties and shall also certify that notice of the requested relief was provided to the opposing counsel.

4. This Order shall remain in effect until further Order of this Court.

5. Each of the respective Clerks within this Circuit shall appropriately file and record

this Order and implement procedures to comply with it.

DONE AND ORDERED in Chambers at Stuart, Martin County, Florida this 9th day
of December, 1994.

/s/ Paul B. Kanarek

Paul B. Kanarek

Acting Chief Judge

Copies To: All Circuits and County Judges

All Court Clerks

All Local Bar Associations within this Circuit

Court Administrator



Residential Mortgage Foreclosure Mediation Program (RM Program)

- Administrative Order 2010-03 (Model Administrative Order)
- Administrative Order 2010-08 (Foreclosure Final Judgments)
-
- Administrative Order 2010-09 (Electronic Judicial Sales Procedures)
-

Previous Administrative Orders

- 2009-01 (cases filed between March 13, 2009 – November 15, 2009)
- 2009-15 (cases filed between November 16, 2009 – March 26, 2010)

RMFM PROGRAM FORMS

- Form A
- Borrower's Financial Disclosure for Mediation
- Certification of Compliance With Administrative Order 2010-03
- For more information on the Foreclosure Program, please call 877-352-2004 or visit the link below
 - Collins Center

- Channel 12 news brief on the new program.



Please check this page frequently for updated information

**IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR INDIAN RIVER, MARTIN, OKEECHOBEE AND ST. LUCIE
COUNTIES, STATE OF FLORIDA**

ADMINISTRATIVE ORDER NUMBER 2009 -01

**RE: ADMINISTRATIVE ORDER FOR CASE MANAGEMENT OF
RESIDENTIAL FORECLOSURE CASES AND MANDATORY
REFERRAL OF MORTGAGE FORECLOSURE CASES
INVOLVING OWNER-OCCUPIED RESIDENCES TO MEDIATION**

Whereas, pursuant to Article V, Section 2(d) of the Florida Constitution and Section 43.26, Florida Statutes, the chief judge of each judicial circuit is charged with the authority and power to do everything necessary to promote the prompt and efficient administration of justice, and Rule 2.215(b)(3), Fla. R. Jud. Admin., mandates the chief judge to “develop an administrative plan for the efficient and proper administration of all courts within [the] circuit;” and

Whereas, Rule 2.545 of the Rules of Judicial Administration requires that the trial courts “...take charge of all cases at an early stage in the litigation and...control the progress of the case thereafter until the case is determined...”, which includes “...identifying cases subject to alternative dispute resolution processes;” and

Whereas, Chapter 44, Florida Statutes, and Rules 1.700-1.750, Florida Rules of Civil Procedure, provide a framework for court-ordered mediation of contested civil actions, except those matters expressly excluded by Rule 1.710(b), which does not exclude residential mortgage foreclosure actions; and

Whereas, residential mortgage foreclosure case filings have increased substantially in the Nineteenth Judicial Circuit, and state and county budget constraints have limited the ability of the courts in the Nineteenth Judicial Circuit to manage these cases in a timely manner; and

Whereas, high residential mortgage foreclosure rates are damaging the economies of the counties in the Nineteenth Judicial Circuit; and

Whereas, high residential mortgage foreclosure rates place an increased strain on the citizens and families in the Nineteenth Judicial Circuit who have lost

jobs or who are otherwise suffering from the current downturn in the nation's economy. "A family who loses its home to foreclosure not only loses a stable place to live, but risks permanently ruining its credit and faces substantial barriers to buying a home in the future." See, Report of the Joint Economic Committee of Congress, "Sheltering Neighborhoods From The Subprime Foreclosure Storm," June 22, 2007; and

Whereas, the Joint Economic Committee of Congress' report estimates that the total average cost of a foreclosure to the homeowner (\$7,000), lender (\$50,000), local government (\$19,000), and neighboring home values (\$75,000) is \$151,000.00. By contrast, the report states that preventing the foreclosure would cost \$3,300.00 per home, on average; and

Whereas, residential foreclosure actions filed in Florida's courts are equitable in nature and should provide all parties full, fair and equitable opportunities for self determination of the outcome, and to be heard on all issues rather than to have them dealt with in an adjudicatory and summary manner in a court proceeding when the parties generally are not in an equal bargaining position; and

Whereas, judges in the Nineteenth Judicial Circuit have determined that mandatory mediation of residential mortgage foreclosure actions prior to the matter being set for final hearing will facilitate the laudable goals of communication, facilitation, problem-solving between the parties with the emphasis on self-determination, the parties' needs and interests, procedural flexibility, full disclosure, fairness, and confidentiality. Referring the cases to mediation will also facilitate and provide a more efficient use of limited judicial and clerk resources in a court system that is already overburdened; and

Whereas, the Collins Center for Public Policy is an independent, nonpartisan, nonprofit organization serving the people of the State of Florida and has demonstrable ability including resources and expertise to assist the courts with managing the huge influx of residential mortgage foreclosure actions that recently have been filed in the Nineteenth Judicial Circuit.

NOW, THEREFORE, IT IS ORDERED:

Scope

1. Upon the effective date of this Administrative Order, all newly filed mortgage foreclosure actions in the Nineteenth Judicial Circuit involving residential property shall comply with the certification requirement of paragraph 4 below as to whether the property is an owner-occupied residence as defined in this paragraph. All newly filed mortgage foreclosure actions involving an owner-occupied residence shall be referred for mediation in the program managed by the Collins Center.

An "owner-occupied residence" means a residential property owned by one of the defendant(s) (hereafter referred to as "owner defendant") and occupied by one of the owner defendant(s) or an immediate family member of an owner defendant. An "immediate family member" means a spouse, child, parent, grandparent or sibling.

Compliance with this administrative order may also be required for residential mortgage foreclosure cases filed prior to the effective date of this order at the discretion of the presiding judge if there are sufficient resources provided by the Collins Center to manage such cases.

2. This Order constitutes a formal referral to mediation pursuant to the Florida Rules of Civil Procedure in cases involving a mortgage foreclosure of an owner-occupied residence. Unless a stipulation between the plaintiff and the owner defendant(s) is filed within 5 days of service of the complaint on the owner defendant(s), the parties are deemed to have stipulated to referral of the mediation to the Collins Center pursuant to rule 1.720(f), Fla. R. Civ. P. Referral to the Collins Center is for administration and management of the mediation process and assignment of a Florida Supreme Court certified circuit civil mediator who has been trained in mediating residential mortgage foreclosure actions and who has agreed to be on the panel of available certified circuit civil mediators.
3. The parties must comply with this administrative order and the mediation process must be completed before a default or summary final judgment is entered or a final hearing set in an action to foreclose a mortgage on an owner-occupied residence.

Procedure

4. At the time a complaint for foreclosure on a residential property is filed, counsel for the plaintiff must also file a completed Form A (see attached) with the Clerk of Court. If the property is an owner-occupied residence, both certifications in Form A must be filled out completely. Within one business day after the complaint is filed with the Clerk of Court, counsel for plaintiff shall also electronically transmit a copy of Form A to the Collins Center. (The Collins Center website is <http://www.CollinsMediation.org>.) If the residential property is an owner-occupied residence as defined above, the plaintiff must also file with the complaint a copy of the promissory note and mortgage and any pooling or servicing agreements (PSA) with investors in the property that may affect the plaintiff's ability to settle and to resolve the foreclosure suit. In addition, a copy of the note, mortgage and PSA must be brought to the mediation session by the plaintiff or plaintiff's counsel.

In Form A Plaintiff's counsel must affirmatively certify whether the property is an owner-occupied residence as defined above. Plaintiff's counsel is not permitted to respond to the certification with "unknown," "unsure," "not applicable," or similar nonresponsive statements. If the property is an owner-occupied residence, plaintiff's counsel shall further certify the identity of the plaintiff or plaintiff's representative that has full and complete authority to settle and to resolve the foreclosure suit and that plaintiff's counsel has personally spoken to the representative and confirmed that the representative has full and complete settlement authority.

If the plaintiff certifies that the property is NOT an owner-occupied residence, after the defendant(s) have been lawfully served with a copy of the complaint and the time for filing a responsive pleading has passed, the matter may proceed to a final hearing, summary judgment, or default final judgment in accordance with the rules of civil procedure without any further requirement to attend mediation.

If the plaintiff certifies that the property is an owner-occupied residence, the Clerk shall electronically transmit Form A to the Collins Center no later than 10 days after the complaint is filed and the matter shall be processed for mediation in accordance with this Order. If there are any changes to the information provided initially in Form A, the plaintiff, if *pro se*, or counsel for the plaintiff, must file an amended Form A with the Clerk and transmit a

copy of the amended Form A to the Collins Center before commencement of the mediation.

If the plaintiff certifies that the property is an owner-occupied residence, the clerk shall attach to the summons for the defendant(s) information advising the defendant(s) of the existence of the mediation program.

At the time of filing a foreclosure action involving an owner-occupied residence, the plaintiff, in addition to paying the Clerk's filing fee, must pay to the Clerk the managed mediation fee as provided in paragraph 9 of this Order. The managed mediation fee and the filing fee for the foreclosure action **shall not** be combined in one check payable to the Clerk. The check for the mediation fee shall be payable to the Clerk of Court and not the Collins Center. The Clerk shall electronically transfer to the Collins Center the managed mediation fees due to the Collins Center, less the Clerk's portion of the fee, on a monthly basis, no later than the 20th day of each month. The Clerk's portion of the mediation fee for collecting and transmitting the mediation fee and for transmitting Form A to the Collins Center is \$10.00.

5. Within 10 days after the date the Clerk electronically transmits a copy of Form A to the Collins Center, the Collins Center shall schedule a mediation session. The mediation shall be conducted within a reasonable period of time thereafter with primary attention given to scheduling the mediation at a time and place convenient to the defendant(s) and using a mediator from the panel of Florida Supreme Court certified circuit civil mediators who have been specially trained to mediate residential mortgage foreclosure disputes. Mediation sessions will be held at suitable location(s) within the circuit obtained by the Collins Center for mediation.
6. All parties named in the foreclosure action shall attend the scheduled mediation in person or by a representative with full and complete authority to settle on behalf of themselves or their principals.

Unless stipulated in writing and signed by the parties or changed by order of the presiding judge, a party is deemed to appear at a mediation proceeding if the following persons are physically present:

- (A) any individual party;
- (B) the party's counsel of record, if any;

- (C) a representative(s) of the plaintiff who has been certified as having full and complete authority to settle.

The representative with full and complete settlement authority attending mediation may consult on the telephone during the mediation with other representatives of the plaintiff if needed to reach a settlement.

7. At the time the mediation is scheduled, the Collins Center shall send to the owner defendant(s) a list of US Department of Housing and Urban Development (HUD) and/or National Foreclosure Mitigation Counseling Program (NFMC) agencies experienced in mortgage delinquency and default resolution counseling, with contact information, that can assist the owner defendant(s) to prepare for the mediation session.

- (A) The counseling agency the owner defendant(s) uses may request the owner defendant(s) to meet in person with a representative to assist in the preparation of the financial affidavit provided by the court or the Collins Center and to gather and prepare any other documents the Collins Center requests or deems necessary to advance the mediation process. The owner defendant(s) shall certify in the financial affidavit that the owner defendant(s) or an immediate family member of the owner defendant(s), including a spouse, child, parent, grandparent or sibling is residing at the property. In addition, a representative of the counseling service may accompany the owner defendant(s) to the mediation session to serve as a resource for the owner defendant(s) during the mediation process.

- (B) The owner defendant(s), if not represented by an attorney, may apply for a volunteer *pro bono* attorney in programs run by lawyer referral, legal services and legal aid programs as may exist within the circuit. If the owner defendant(s) applies to one of the agencies and is coupled with a legal services attorney or a volunteer *pro bono* attorney, the attorney shall file a notice of appearance with the Clerk of the Court and provide a copy to the attorney for the plaintiff and the Collins Center. The appearance may be limited to representation only through to the conclusion of the mediation process.

8. If either the plaintiff, representative with full and complete settlement authority designated in Form A or amended Form A, or any of the owner

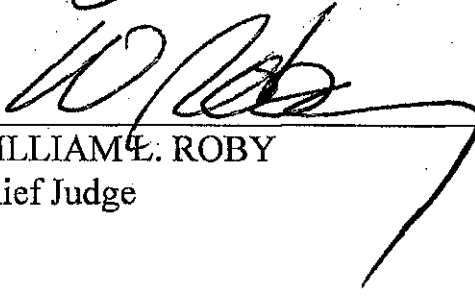
defendant(s) fails to appear at a properly noticed mediation, and the mediation results in an impasse, the report of the mediator shall notify the presiding judge of who appeared at mediation without making further comment as to the reasons for an impasse. If one of the owner defendant(s) fails to appear, or if the mediation results in an impasse with all required parties present, and if the owner defendant(s) have been lawfully served with a copy of the complaint, and if the time for filing a responsive pleading has passed, the matter may proceed to a final hearing, summary judgment, or default final judgment in accordance with the rules of civil procedure without any further requirement to attend mediation. If the plaintiff or representative with full and complete settlement authority fails to appear, the court may dismiss the action without prejudice, order the plaintiff to appear at mediation, or impose such other sanctions as the court deems appropriate including, but not limited to, attorneys fees and costs if the owner defendant is represented by an attorney.

9. Pursuant to Rule 1.720(g), Fla. R. Civ. P., the reasonable fee for the managed mediation is \$750.00, which shall be paid by the plaintiff at the time the complaint is filed and is nonrefundable. The fee includes the mediator's fees and costs; a portion of the cost for the owner defendant(s) to attend a consumer credit counseling session with an approved consumer credit counseling agency representative, if they choose to do so; and, the cost to the Collins Center for administration of the managed mediation program, which includes but is not limited to, providing neutral meeting and caucus space, scheduling, telephone lines and instruments and other related expenses incurred in managing the foreclosure mediation program. If the case is not resolved through the mediation process, the presiding judge may tax the mediation fee as a cost or apply it as a set off in the final judgment of foreclosure.
10. Pursuant to Rule 1.730, within 10 days after completion of the mediation, the mediator or the Collins Center on behalf of the mediator, shall file a report to the court of the result of the mediation. The court shall be advised whether the parties have reached a mediated settlement agreement or the mediation resulted in an impasse. In the case of an impasse, the report shall advise the court who attended the mediation, and a copy of Form A or any amended Form A shall be attached to the report for the court to determine if the plaintiff representative named in Form A appeared for mediation.

11. In the event of a breach or failure to perform under an agreement reached by the parties at the mediation, the court may impose sanctions pursuant to Rule 1.730, Fla. R. Civ. P.
12. In all residential foreclosure actions to which this administrative order applies, if a notice for trial, motion for default final judgment or motion for summary judgment is filed with the Clerk, no action will be taken by the court to set a final hearing or enter a summary or default final judgment until the requirements of this administrative order have been met. The presiding judge may require that copies of the Form A. (including any amendments) and the report of the mediator be sent to the presiding judge by the plaintiff or plaintiff's counsel prior to setting a final hearing or delivered with the packet requesting a summary or default final judgment.
13. All mediation communications occurring as a result of this administrative order shall be confidential and inadmissible in any subsequent legal proceeding pursuant to Chapter 44, Florida Statutes, the Florida Rules of Civil Procedure, and the Florida Rules for Certified and Court-Appointed Mediators, unless otherwise provided for by law or by order of a court of competent jurisdiction.
14. Mortgage lenders, whether private individuals, commercial institutions, or mortgage servicing companies, are encouraged to use any form of alternative dispute resolution, including mediation, before filing a mortgage foreclosure lawsuit with the Clerk of the Court. Lenders are encouraged to enter into the mediation process with their borrowers prior to filing foreclosure actions in the Nineteenth Judicial Circuit to reduce the costs to the parties for maintaining the litigation and to reduce to the greatest extent possible the stress on the limited resources of the courts caused by the large numbers of such cases being filed across the state and, in particular, in the Nineteenth Judicial Circuit.
15. The failure of a party to fully comply with the provisions of this order may result in the imposition of any sanctions available to the court, including dismissal of the cause of action without further notice.

This Administrative Order shall be recorded by the Clerk of the Court in each county of the Nineteenth Judicial Circuit, and takes effect on March 13, 2009, and will remain in full force and effect unless and until otherwise ordered.

DONE AND ORDERED on February 20, 2009.

A handwritten signature in black ink, appearing to read 'W. Roby', is written over a horizontal line. The signature is stylized and cursive.

WILLIAM L. ROBY
Chief Judge



**ADMINISTRATIVE OFFICE OF THE COURTS
INTER-OFFICE
MEMORANDUM**

2009-41

TO: Honorable Jeffrey K. Barton
Honorable Marsha Ewing
Honorable Sharon Robertson
Honorable Joe E. Smith

FROM: Thomas A. Genung, Trial Court Administrator

DATE: November 18, 2009

RE: **Administrative Order 2009-15**
[Amending A.O. 2009-01] – For Case Management of Residential Foreclosure
Cases and Mandatory Referral of Mortgage Foreclosure Cases Involving Owner-
Occupied Residences to Mediation.

Attached please find an original **Administrative Order 2009-15**, signed by Chief Judge Levin, for filing with the Court. This Administrative Order amends Administrative Order 2009-01

If you have any questions regarding the above, please do not hesitate to contact me.

TAG/mt
Attachment

cc w/attach: All Judges in the Nineteenth Judicial Circuit
All Magistrates and Hearing Officers in the Nineteenth Judicial Circuit
All Staff Attorneys in the Nineteenth Judicial Circuit
Myra Zilahy, General Counsel, IRC Clerk of Court
Honorable Bruce Colton, State Attorney's Office
Honorable Diamond Litty, Public Defender's Office
All County Attorneys in the Nineteenth Judicial Circuit
All Local Law Libraries
All Local Bar Presidents
IT Department

**IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR INDIAN RIVER, MARTIN, OKEECHOBEE AND ST. LUCIE
COUNTIES, STATE OF FLORIDA**

ADMINISTRATIVE ORDER NUMBER 2009 -15

(Amending Administrative Order 2009-01)

**RE: ADMINISTRATIVE ORDER FOR CASE MANAGEMENT OF
RESIDENTIAL FORECLOSURE CASES AND MANDATORY
REFERRAL OF MORTGAGE FORECLOSURE CASES
INVOLVING OWNER-OCCUPIED RESIDENCES TO MEDIATION**

Whereas, pursuant to Article V, Section 2(d) of the Florida Constitution and Section 43.26, Florida Statutes, the chief judge of each judicial circuit is charged with the authority and power to do everything necessary to promote the prompt and efficient administration of justice, and Rule 2.215(b)(3), Fla. R. Jud. Admin., mandates the chief judge to “develop an administrative plan for the efficient and proper administration of all courts within [the] circuit;” and

Whereas, Rule 2.545 of the Rules of Judicial Administration requires that the trial courts “...take charge of all cases at an early stage in the litigation and...control the progress of the case thereafter until the case is determined...”, which includes “...identifying cases subject to alternative dispute resolution processes;” and

Whereas, Chapter 44, Florida Statutes, and Rules 1.700-1.750, Florida Rules of Civil Procedure, provide a framework for court-ordered mediation of contested civil actions, except those matters expressly excluded by Rule 1.710(b), which does not exclude residential mortgage foreclosure actions; and

Whereas, residential mortgage foreclosure case filings have increased substantially in the Nineteenth Judicial Circuit, and state and county budget constraints have limited the ability of the courts in the Nineteenth Judicial Circuit to manage these cases in a timely manner; and

Whereas, high residential mortgage foreclosure rates are damaging the economies of the counties in the Nineteenth Judicial Circuit; and

Whereas, high residential mortgage foreclosure rates place an increased strain on the citizens and families in the Nineteenth Judicial Circuit who have lost jobs or who are otherwise suffering from the current downturn in the nation's economy. "A family who loses its home to foreclosure not only loses a stable place to live, but risks permanently ruining its credit and faces substantial barriers to buying a home in the future." See, Report of the Joint Economic Committee of Congress, "Sheltering Neighborhoods From The Subprime Foreclosure Storm," June 22, 2007; and

Whereas, the Joint Economic Committee of Congress' report estimates that the total average cost of a foreclosure to the homeowner (\$7,000), lender (\$50,000), local government (\$19,000), and neighboring home values (\$75,000) is \$151,000.00. By contrast, the report states that preventing the foreclosure would cost \$3,300.00 per home, on average; and

Whereas, residential foreclosure actions filed in Florida's courts are equitable in nature and should provide all parties full, fair and equitable opportunities for self determination of the outcome, and to be heard on all issues rather than to have them dealt with in an adjudicatory and summary manner in a court proceeding when the parties generally are not in an equal bargaining position; and

Whereas, judges in the Nineteenth Judicial Circuit have determined that mandatory mediation of residential mortgage foreclosure actions prior to the matter being set for final hearing will facilitate the laudable goals of communication, facilitation, problem-solving between the parties with the emphasis on self-determination, the parties' needs and interests, procedural flexibility, full disclosure, fairness, and confidentiality. Referring the cases to mediation will also facilitate and provide a more efficient use of limited judicial and clerk resources in a court system that is already overburdened; and

Whereas, the Collins Center for Public Policy is an independent, nonpartisan, nonprofit organization serving the people of the State of Florida and has demonstrable ability including resources and expertise to assist the courts with managing the huge influx of residential mortgage foreclosure actions that recently have been filed in the Nineteenth Judicial Circuit.

NOW, THEREFORE, IT IS ORDERED:

Definitions

As used in this Administrative Order, the following terms mean:

“RMFM Program” (Residential Mortgage Foreclosure Mediation Program) means the mediation program managed by the Collins Center to implement and carry out the intent of this Administrative Order.

“The Program Manager” means the Collins Center for Public Policy.

“Plaintiff” means the individual or entity filing to obtain a mortgage foreclosure on residential property.

“Plaintiff’s representative” means the person who will appear at mediation who has full authority to settle without further consultation and resolve the foreclosure suit.

“Borrower” means an individual named as a party in the foreclosure action who is a primary obligor on the promissory note which is secured by the mortgage being foreclosed.

“Homestead residence” means a residential property for which a homestead real estate tax exemption was granted according to the certified rolls of the last assessment by the county property appraiser prior to the filing of the suit to foreclose the mortgage.

“Form A” means the certifications required herein in the format of Exhibit 1 attached.

“Borrower’s Financial Disclosure For Mediation” means those documents described in Exhibit 4 attached.

“Foreclosure counselor” means a counselor trained in advising persons of options available when facing a mortgage foreclosure, who has no criminal history of committing a felony or a crime of dishonesty, and who is certified by US Department of Housing and Urban Development (HUD) or National Foreclosure Mitigation Counseling Program (NFMC) as an agency experienced in mortgage delinquency and default resolution counseling.

“Communication equipment” means a conference telephone or other electronic device that permits all those appearing or participating to hear and speak to each other, provided that all conversation of the participants is audible to all persons present.

Scope

1. ***Residential Mortgage Foreclosures.*** Upon the effective date of this Administrative Order, all newly filed mortgage foreclosure actions in the Nineteenth Judicial Circuit involving residential property shall comply with the certification requirement of paragraph 4 below as to whether the property is a homestead residence as defined in this paragraph. All newly filed mortgage foreclosure actions involving a homestead residence shall be referred the RMFM Program.

Compliance with this administrative order may also be required for residential mortgage foreclosure cases filed prior to the effective date of this order at the discretion of the presiding judge if there are sufficient resources provided by the Program Manager to manage such cases.

2. ***Referral to Mediation.*** This Order constitutes a formal referral to mediation pursuant to the Florida Rules of Civil Procedure in cases involving a mortgage foreclosure of a homestead residence. Unless a stipulation between the plaintiff and the borrower(s) is filed within 5 days of service of the complaint on the borrower(s), the parties are deemed to have stipulated to referral of the mediation to the Program Manager pursuant to rule 1.720(f), Fla. R. Civ. P. Referral to the Program Manager is for administration and management of the mediation process and assignment of a Florida Supreme Court certified circuit civil mediator who has been trained in mediating residential mortgage foreclosure actions and who has agreed to be on the panel of available certified circuit civil mediators.
3. ***Compliance Prior to Judgment.*** The parties must comply with this administrative order and the mediation process must be completed before a default or summary final judgment is entered or a final hearing set in an action to foreclose a mortgage on a homestead residence.
4. ***Delivery of Notice of RMFM Program With Summons.*** After the effective date of this Administrative Order, in all actions to foreclose a mortgage on residential property, the Clerk of Court shall attach to the summons to be

served on each defendant a notice regarding managed mediation for homestead residences in the format of Exhibit 2 attached.

Procedure

4. ***Responsibilities of Plaintiff's Counsel; Form A.*** At the time a complaint for foreclosure on a residential property is filed, counsel for the plaintiff must also file a completed Form A (see attached) with the Clerk of Court. If the property is a homestead residence, both certifications in Form A must be filled out completely. Within one business day after the complaint is filed with the Clerk of Court, counsel for plaintiff shall also electronically transmit a copy of Form A to the Program Manager (the Program Manager website is <http://www.CollinsMediation.org>), along with the case number of the action and contact information for all of the parties. The contact information must include at a minimum the last known mailing address and phone number for each party.

In Form A Plaintiff's counsel must affirmatively certify whether the property is a homestead residence as defined above. Plaintiff's counsel is not permitted to respond to the certification with "unknown," "unsure," "not applicable," or similar nonresponsive statements. If the property is a homestead residence, plaintiff's counsel shall further certify the identity of the plaintiff or plaintiff's representative that has full and complete authority to settle and to resolve the foreclosure suit and that plaintiff's counsel has personally spoken to the representative and confirmed that the representative has full and complete settlement authority.

If the plaintiff certifies that the property is NOT a homestead residence, after the defendant(s) have been lawfully served with a copy of the complaint and the time for filing a responsive pleading has passed, the matter may proceed to a final hearing, summary judgment, or default final judgment in accordance with the rules of civil procedure without any further requirement to attend mediation.

If there are any changes to the information provided initially in Form A, the plaintiff, if *pro se*, or counsel for the plaintiff, must file an amended Form A with the Clerk and transmit a copy of the amended Form A to the Program Manager before commencement of the mediation.

If the plaintiff certifies that the property is a homestead residence, the clerk shall attach to the summons for the defendant(s) information advising the defendant(s) of the existence of the mediation program in the format of Exhibit 2 attached.

At the time of filing a foreclosure action involving a homestead residence, the plaintiff, in addition to paying the Clerk's filing fee, must pay to the Program Manager the managed mediation fee as provided in paragraph 11 of this Order.

5. ***Responsibilities of Borrower.*** Upon the Program Manager receiving a copy of Form A, the Program Manager shall begin efforts to contact the borrower to explain the RMFM Program to the borrower and the requirements that the borrower must comply with to obtain a mediation. The Program Manager shall also ascertain whether the borrower wants to participate in the RMFM Program.

The borrower must do the following prior to mediation being scheduled: meet with an approved mortgage foreclosure counselor, and provide to the Program Manager the information required by the Borrower's Financial Disclosure For Mediation. The borrower must meet with an approved mortgage foreclosure counselor no later than 30 days after the borrower is initially in contact with the Program Manager. If the borrower fails to timely schedule a meeting with a foreclosure counselor, such failure shall be grounds for the Program Manager to file a notice of nonparticipation as provided in paragraph 6 below. The Borrower's Financial Disclosure For Mediation will depend on what option the borrower wants to pursue in trying to settle the action.

It shall be the responsibility of the Program Manager to electronically transmit the Borrower's Financial Disclosure For Mediation to the plaintiff or plaintiff's counsel, however, the Program Manager is not responsible or liable for the accuracy of the information uploaded.

6. ***Nonparticipation by Borrower.*** If the borrower does not want participate in the RMFM Program, or if the borrower fails or refuses to cooperate with the Program Manager, or if the Program Manager is unable to contact the borrower, the Program Manager shall file a notice of nonparticipation in the format of Exhibit 3 attached. The notice of nonparticipation shall be filed no

later than 120 days after the initial copy of Form A is filed with the court. A copy on the notice of nonparticipation shall be served on the parties by the Program Manager.

7. ***Referral to Foreclosure Counseling.*** The Program Manager shall be responsible for referring the borrower to a foreclosure counselor prior to scheduling mediation. The borrower's failure to participate in foreclosure counseling shall be cause for terminating the case from the RMFM Program.
8. ***Scheduling Mediation.*** The plaintiff's representative, plaintiff's counsel, and the borrower are all required to timely comply with the time limitations imposed by this Administrative Order and attend a mediation session as scheduled by the Program Manager. No earlier than 60 days and no later than 120 days after suit is filed, the Program Manager shall schedule a mediation session. The mediation session shall be scheduled for a date and time convenient to the plaintiff's representative, the borrower and counsel for the plaintiff and the borrower, using a mediator from the panel of Florida Supreme Court certified circuit civil mediators who have been specially trained to mediate residential mortgage foreclosure disputes. Mediation sessions will be held at suitable location(s) within the circuit obtained by the Program Manager for mediation. Mediation shall be completed within the time requirements established by Rule 1.710(a), Florida Rules of Civil Procedure.

Mediation shall not be scheduled until the borrower has had an opportunity to meet with an approved foreclosure counselor. Mediation shall not be scheduled earlier than 30 days after the Borrower's Financial Disclosure For Mediation has been electronically transmitted to plaintiff or plaintiff's counsel.

Once the date, time and place of the mediation session have been scheduled by the Program Manager, the Program Manager shall promptly file with the Clerk of Court and serve on all parties a notice of the mediation session.

9. ***Attendance at Mediation.*** The following persons are required to be physically present at the mediation session: a plaintiff's representative designated in the most recently filed Form A; plaintiff's counsel; and the borrower. Provided, however, that the plaintiff's representative may appear at mediation through the use of communication equipment, if plaintiff files and serves at least 5 days prior to the mediation a notice in the format of

Exhibit 5 attached advising that the plaintiff's representative will be attending through the use of communication equipment and designating the person who has full authority to sign any settlement agreement reached. Plaintiff's counsel may be designated as the person with full authority to sign the settlement agreement.

If the plaintiff's representative attends mediation through the use of communication equipment, the person authorized by the plaintiff to sign a settlement agreement must be physically present at mediation. If the plaintiff's representative attends mediation through the use of communication equipment, the plaintiff's representative must remain on the communication equipment at all times during the entire mediation session. If the plaintiff's representative attends through the use of communication equipment, and if the mediation results in an impasse, within 5 days after the mediation session, the plaintiff's representative shall file in the court file a certification in the format of Exhibit 6 attached as to whether the plaintiff's representative attended mediation. If the mediation results in an impasse after the appearance of the plaintiff's representative through the use of communication equipment, the failure to timely file the certification regarding attendance through the use of communication equipment shall be grounds to impose sanctions against the plaintiff, including requiring the physical appearance of the plaintiff's representative at a second mediation, taxation of the costs of a second mediation to the plaintiff, or dismissal of the action.

Junior lienholders may appear at mediation by a representative with full settlement authority. If a junior lienholder is a governmental entity comprised of an elected body, such junior lienholder may appear at mediation by a representative who has authority to recommend settlement to the governing body. Counsel for any junior lienholder may also attend the mediation.

The participants physically attending mediation may consult on the telephone during the mediation with other persons as long as such consultation does not violate the provisions of Sections 44.401-406, Florida Statutes.

10. ***Failure to Appear at Mediation.*** If either the plaintiff, representative with full and complete settlement authority designated in Form A or amended Form A, or any of borrower fails to appear at a properly noticed mediation,

and the mediation results in an impasse, the report of the mediator shall notify the presiding judge of who appeared at mediation without making further comment as to the reasons for an impasse. If a borrower fails to appear, or if the mediation results in an impasse with all required parties present, and if a borrower has been lawfully served with a copy of the complaint, and if the time for filing a responsive pleading has passed, the matter may proceed to a final hearing, summary judgment, or default final judgment in accordance with the rules of civil procedure without any further requirement to attend mediation. If the plaintiff or representative with full and complete settlement authority fails to appear, the court may dismiss the action without prejudice, order the plaintiff to appear at mediation, or impose such other sanctions as the court deems appropriate including, but not limited to, attorneys fees and costs if the borrower is represented by an attorney.

11. ***RMFM Program Fees.*** The fee structure for the RMFM Program is based on the assumption that a successful mediation can be accomplished with one mediation session. Accordingly, pursuant to Rule 1.720(g), Fla. R. Civ. P., the reasonable program fees for the managed mediation is a total of \$750.00. Unless otherwise ordered by the presiding judge, the program fees shall be paid as follows:

\$400.00	paid by plaintiff at the time suit is filed;
\$350.00	paid by plaintiff within 10 days after notice of the mediation conference is filed.

If more than one mediation session is needed, the total program fee stated above will also cover a second mediation session. However, if an additional mediation session is needed after the second session, the plaintiff shall be responsible for the payment of the program fees for such additional mediation sessions, unless the parties agree otherwise. The program fees for the third and each subsequent mediation sessions shall be \$350.00 per session.

All program fees shall be paid directly to the Program Manager. If the case is not resolved through the mediation process, the presiding judge may tax the program fees as a cost or apply it as a set off in the final judgment of foreclosure.

If the borrower cannot be located, chooses not to participate in the RMFM Program, or if the borrower does not make any contact with the foreclosure counselor, the plaintiff shall be entitled to a refund of the portion of the Program fees attributable to foreclosure counseling. If mediation is scheduled and the borrower announces an intention not to participate further in the RMFM Program prior to the mediation session, or if the case settles and the Program Manager has notice of the settlement at least 5 days prior to the mediation session, the plaintiff shall be entitled to a refund of the Program fees allocated for the mediation session. If notice of settlement is not received by the Program Manager at least 5 days prior to the scheduled mediation session, the plaintiff shall not be entitled to any refund of mediation fees.

The total fees includes the mediator's fees and costs; the cost for the borrower to attend a foreclosure counseling session with an approved mortgage foreclosure counselor; and, the cost to the Program Manager for administration of the managed mediation program, which includes but is not limited to, providing neutral meeting and caucus space, scheduling, telephone lines and instruments, infrastructure to support the web-enabled information platform, and other related expenses incurred in managing the foreclosure mediation program.

12. ***Written Settlement Agreement; Mediation Report.*** Pursuant to Rule 1.730, within 10 days after completion of the mediation, the mediator or the Program Manager on behalf of the mediator, shall file a report to the court of the result of the mediation in the format of Exhibit 7 attached. The court shall be advised whether the parties have reached a mediated settlement agreement or the mediation resulted in an impasse. In the case of an impasse, the report shall advise the court who attended the mediation, and a copy of Form A or any amended Form A shall be attached to the report for the court to determine if the plaintiff representative named in Form A appeared for mediation.
13. ***Failure to Comply With Administrative Order.*** In all residential foreclosure actions to which this administrative order applies, if a notice for trial, motion for default final judgment or motion for summary judgment is filed with the Clerk, no action will be taken by the court to set a final hearing or enter a summary or default final judgment until the requirements of this administrative order have been met. The presiding judge shall require that copies of either 1) the most recently filed Form A and the report


of the mediator, or 2) the most recently filed Form A and the notice of the borrower's nonparticipation be sent to the presiding judge by the plaintiff or plaintiff's counsel prior to setting a final hearing or delivered with the packet requesting a summary or default final judgment. Unless otherwise ordered by the court, a certificate of compliance in the format of Exhibit 8 attached shall be filed with a motion for default final judgment, a motion for summary judgment, or a notice for trial. A copy of the certificate of compliance must accompany the submission of any proposed order for a default final judgment, summary judgment, or final judgment of foreclosure.

The failure of a party to fully comply with the provisions of this Administrative Order may result in the imposition of any sanctions available to the court, including dismissal of the cause of action without further notice.

14. ***Mediation Communications.*** All mediation communications occurring as a result of this administrative order shall be confidential and inadmissible in any subsequent legal proceeding pursuant to Chapter 44, Florida Statutes, the Florida Rules of Civil Procedure, and the Florida Rules for Certified and Court-Appointed Mediators, unless otherwise provided for by law or by order of a court of competent jurisdiction.
15. ***Pre-Suit Mediation Encouraged.*** Mortgage lenders, whether private individuals, commercial institutions, or mortgage servicing companies, are encouraged to use any form of alternative dispute resolution, including mediation, before filing a mortgage foreclosure lawsuit with the Clerk of the Court. Lenders are encouraged to enter into the mediation process with their borrowers prior to filing foreclosure actions in the Nineteenth Judicial Circuit to reduce the costs to the parties for maintaining the litigation and to reduce to the greatest extent possible the stress on the limited resources of the courts caused by the large numbers of such cases being filed across the state and, in particular, in the Nineteenth Judicial Circuit.

This Administrative Order shall be recorded by the Clerk of the Court in each county of the Nineteenth Judicial Circuit, and takes effect immediately, and will remain in full force and effect unless and until otherwise ordered.

DONE AND ORDERED on November 16th, 2009.



Steven J. Levin
Chief Judge

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INDEX OF EXHIBITS

1. FORM A
2. NOTICE OF RMFM PROGRAM TO BE SERVED WITH SUMMONS
3. NOTICE OF BORROWER'S NONPARTICIPATION
4. BORROWER'S FINANCIAL DISCLOSURE FOR MEDIATION
5. PLAINTIFF'S NOTICE OF ATTENDING MEDIATION BY TELEPHONE
6. PLAINTIFF'S CERTIFICATION REGARDING ATTENDING MEDIATION BY TELEPHONE
7. MEDIATOR'S REPORT
8. CERTIFICATE OF COMPLIANCE WITH ADMINISTRATIVE ORDER 2009-15

EXHIBIT 1

FORM A

Please complete online at <http://www.CollinsMediation.org> and file original with the Clerk of Court

IN THE CIRCUIT COURT IN AND FOR _____ COUNTY,
FLORIDA

[Name of Plaintiff]

Case No.:

Plaintiff,

vs.

[Names of Defendant(s)]

Defendant(s)

Form "A"

(Certifications Pursuant to Nineteenth Judicial Circuit Administrative Order 2009-15)

Certificate of Plaintiff's Counsel Regarding Status of Residential Property

THE UNDERSIGNED, as counsel of record for plaintiff and as an officer of the court, certifies the property which is the subject matter of this lawsuit ___ IS or ___ IS NOT a homestead residence. A "homestead residence" means a residential property for which a homestead real estate tax exemption was granted according to the certified rolls of the last assessment by the county property appraiser prior to the filing of the suit to foreclose the mortgage.

If the residential property is a homestead residence, complete the following:

Certificate of Plaintiff's Counsel Regarding Plaintiff's Representative at Mediation

THE UNDERSIGNED, as counsel of record for plaintiff and as an officer of the court, certifies the following is a list of the persons, one of whom will represent the plaintiff in mediation with full authority to modify the existing loan and mortgage and to settle the foreclosure case, and with authority to sign a settlement agreement on behalf of the plaintiff (*list name, address, phone number, facsimile number, and email address*):

Plaintiff's counsel understands the mediator or the RMFM Program Manager may report to the court who appears at mediation and if at least one of plaintiff's representatives named above does not appear at mediation, sanctions may be imposed by the court for failure to appear.

As required by the Administrative Order, Plaintiff's counsel will transmit electronically to the RMFM Program Manager the case number of this action, the contact information regarding the parties, and a copy of this Form A, using the approved web-enable information platform.

Date:

(Signature of Plaintiff's Counsel)

[Printed name, address, phone number and
Fla. Bar No.]

EXHIBIT 2

NOTICE OF RMFM PROGRAM TO BE SERVED WITH
SUMMONS

IN THE CIRCUIT COURT FOR THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR [COUNTY], FLORIDA

**A NOTICE FROM THE COURT REGARDING LAWSUITS TO FORECLOSE
MORTGAGES ON HOMES**

If you are being sued to foreclose the mortgage on your primary home and your home has a homestead exemption and if you are the person who borrowed the money for the mortgage, you have a right to go to "mediation." At "mediation," you will meet with a Florida Supreme Court certified mediator appointed by the court and also a representative of the company asking to foreclose your mortgage to see if you and the company suing you can work out an agreement to stop the foreclosure. **The mediator will not be allowed to give you legal advice or to give you an opinion about the lawsuit.** The mediator's job is to remain neutral and not take sides, but to give both sides a chance to talk to each other to see if an agreement can be reached to stop the foreclosure. If you and the company suing you come to an agreement, a settlement agreement will be written up and signed by you and the company suing you. With some limited exceptions, what each side says at the mediation is confidential and the judge will not know what was said at mediation.

You will not have to pay anything before you go to mediation. You may be required to pay part or all of the program fees if you fail to participate in the program or if you agree at mediation to pay part or all of the fee. To participate in mediation, **as soon as practical**, you must contact the Collins Center by calling 772-345-5122 between 9:00 a.m. and 5:00 p.m., Monday through Friday.

To participate in mediation, you must also provide financial information to the mediator and meet with an approved foreclosure counselor prior to mediation. You will not be charged any additional amount for meeting with a foreclosure counselor. You may also request certain information from the company suing you before going to mediation.

The Collins Center will explain more about the mediation program to you when you call.

AS STATED IN THE SUMMONS SERVED ON YOU, YOU OR YOUR LAWYER MUST FILE WITH THE COURT A WRITTEN RESPONSE TO THE COMPLAINT TO FORECLOSE THE MORTGAGE WITHIN 20 DAYS AFTER YOU WERE SERVED. YOU OR YOUR LAWYER MUST ALSO SEND A COPY OF YOUR WRITTEN RESPONSE TO THE PLAINTIFF'S ATTORNEY. YOU MUST TIMELY FILE A WRITTEN RESPONSE TO THE COMPLAINT EVEN IF YOU DECIDE TO PARTICIPATE WITH MEDIATION.

[Signature of Chief Judge]
CHIEF JUDGE, [number] Judicial Circuit

EXHIBIT 3

NOTICE OF BORROWER'S NONPARTICIPATION

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

Case No(s):

Plaintiff(s),

vs.

Defendant(s).

**NOTICE OF BORROWER NONPARTICIPATION
WITH RMFM PROGRAM**

The Collins Center for Public Policy, as RMFM Program Manager hereby gives notice to the court that _____, (Borrower) will not be participating in the RMFM Program because:

- Borrower has advised that [he/she] does not wish to participate in mediation for this case;
- Borrower has failed or refuses to meet with a foreclosure counselor in a timely manner;
- Borrower has failed or refuses to comply with the Borrower's Financial Disclosure For Mediation;
- the RMFM Program has been unable to contact Borrower.

Signed on _____, 20__.

POLICY

THE COLLINS CENTER FOR PUBLIC

Program Manager for RMFM Program

BY: _____

(Signature)

(Printed name)

[Certificate of Service on the parties]

EXHIBIT 4

BORROWER'S FINANCIAL DISCLOSURE FOR MEDIATION

EXHIBIT 4A: LOAN MODIFICATION

EXHIBIT 4B: SHORT SALE

EXHIBIT 4C: DEED IN LIEU OF FORECLOSURE

EXHIBIT 4A

BORROWER'S FINANCIAL DISCLOSURE FOR MEDIATION (LOAN MODIFICATION)

FORECLOSURE MEDIATION FINANCIAL WORKSHEET

Case No.:

v.

Plaintiff's Name _____

First Defendant's Name _____

PERSONAL INFORMATION

Borrower's Name		Co-Borrower's Name	
Social Security Number	Date of Birth (mm/dd/yyyy)	Social Security Number	Date of Birth (mm/dd/yyyy)
<input type="checkbox"/> Married	<input type="checkbox"/> Civil Union/ Domestic Partner	<input type="checkbox"/> Married	<input type="checkbox"/> Civil Union/ Domestic Partner
<input type="checkbox"/> Separated	<input type="checkbox"/> Unmarried (single, divorced, widowed)	<input type="checkbox"/> Separated	<input type="checkbox"/> Unmarried (single, divorced, widowed)
Dependents (Not listed by Co-Borrower)		Dependents (Not listed by Borrower)	
Present Address (Street, City, State, Zip)		Present Address (Street, City, State, Zip)	

EMPLOYMENT INFORMATION

Employer	<input type="checkbox"/> Self Employed	Employer	<input type="checkbox"/> Self Employed
Position/Title	Date of Employment	Position/Title	Date of Employment
Second Employer		Second Employer	
Position/Title	Date of Employment	Position/Title	Date of Employment
	Borrower	Co-Borrower	Total
Gross Salary/Wages			
Net Salary/Wages			
Unemployment Income			
Child Support/Alimony			
Disability Income			
Rental Income			
Other Income			
Total (do not include Gross income)			

EXPENSE AND LIABILITIES

	Monthly Payments	Balance Due
First Mortgage		
Second Mortgage		
Other Liens/Rents		
Homeowners' Association Dues		
Hazard Insurance		
Real Estate Taxes		
Child Care		
Health Insurance		
Medical Charges		
Credit Card/Installment Loan		
Credit Card/Installment Loan		
Credit Card/Installment Loan		
Automobile Loan 1		
Automobile Loan 2		
Auto/Gasoline/Insurance		
Food/Spending Money		
Water/Sewer/Utilities		
Phone/Cell Phone		
Other		
Total		

ASSETS	
	Estimated Value
Personal Residence	
Real Property	
Personal Property	
Automobile 1	
Automobile 2	
Checking Accounts	
Saving Accounts	
IRA/401K/Keogh Accounts	
Stock/Bonds/CDs	
Cash Value of Life Insurance	
Other	
Total	

Reason for Delinquency/Inability to Satisfy Mortgage Obligation:

<input type="checkbox"/> Reduction in income	<input type="checkbox"/> Medical issues	<input type="checkbox"/> Death of family member
<input type="checkbox"/> Poor budget management skills	<input type="checkbox"/> Increase in expenses	<input type="checkbox"/> Business venture failed
<input type="checkbox"/> Loss of income	<input type="checkbox"/> Divorce/separation	<input type="checkbox"/> Increase in loan payment
<input type="checkbox"/> Other: _____		

Further Explanation:

I / We obtained a mortgage loan(s) secured by the above-described property.
I / We have described my/our present financial condition and reason for default and have attached required documentation.
I / We consent to the release of this financial worksheet and attachments to the mediator and the plaintiff or plaintiff's servicing company by way of the plaintiff's attorney.
By signing below, I / we certify the information provided is true and correct to the best of my / our knowledge.

Signature of Borrower	SSN	Date
Signature of Co-Borrower	SSN	Date

Please attach the following:

- ✓ Last federal tax return filed
- ✓ Proof of income (e.g. one or two current pay stubs)
- ✓ Past two (2) bank statements
- ✓ If self-employed, attach a copy of the past six month's profit and loss statement

This is an attempt to collect a debt and any information obtained will be used for that purpose.