

From: Charles Francis
To: Wolfson, David
Date: 8/12/2010 9:15 AM
Subject: Report
Attachments: Report 2010.08.11.doc

Have you seen the attached.

From: Arlene Johnson <johnsona@flcourts.org>
To: Trial Court Chief Judges <TrialCourtChiefJudges@flcourts.org>, "TrialCou...
CC: 'Burton Conner' <ConnerB@circuit19.org>, Kristine Slayden <slaydenk@flco...
Date: 11/9/2010 6:46 AM
Subject: Residential Mortgage Foreclosure Mediation Program - Key Determinant Report

Good morning. As you are aware, on December 28, 2009, then Chief Justice Peggy Quince entered Administrative Order AOSC09-54 which approved various recommendations by the Mortgage Foreclosure Task Force. That administrative order directed the creation of a Residential Mortgage Foreclosure Mediation (RMFM) Programs in all 20 judicial circuits.

The Chief Justice's administrative order also directed the Supreme Court's Committee on Alternative Dispute Resolution Rules and Policy (ADR R&P Committee) to implement a reporting system to collect data and develop additional recommendations for the collection of data to assess the performance of RMFM Programs across the state. The Administrative Order identified certain key determinants which would be used to evaluate the success of the program.

In September 2010, each Program Manager was provided with the initial data report format (Key Determinant Report) developed by the ADR R&P Committee to capture the initial information identified by the supreme court as the ADR R&P Committee was developing a more comprehensive data reporting system. The program managers were instructed to provide you with monthly reports for new referrals received beginning September 1 (Note: If a program was in existence for more than six months, the ADR R&P Committee requested the program go back and capture data on a monthly basis for referrals received after March 1, 2010). The first report Key Determinant Report was due to you on October 10, 2010.

The OSCA has been tasked with compiling and analyzing the Key Determinant Report statistics to report to the supreme court by December 28, 2010. In order to complete our analysis, we request that you please forward the reports that were provided to you by your Program Manager to me at johnsona@flcourts.org<mailto:johnsona@flcourts.org> by Friday, November 12. If you have not received a report, please contact your Program Manager as soon as possible.

Arlene Johnson
OSCA, Research and Data
Telephone 850.922.5103
Facsimile 850.414.1342

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

Plaintiff(s),

vs.

Case No.

Defendant(s).

ORDER REFERRING CASE TO RMFM PROGRAM

(Case Filed Prior to June 1, 2010)

It appearing to the court that the residence which is the subject of this action to foreclose a mortgage is a “homestead residence” to which Administrative Order 2010-05 applies and that Defendant _____ (Borrower) has requested that the case be referred to mediation, it is ORDERED:

1. The case is referred to the RMFM Program (Residential Mortgage Foreclosure Mediation Program) for mediation, and the plaintiff and borrower shall comply with Administrative Order 2010-05.
2. Within 10 days from the date of this order, the plaintiff shall pay that portion of the RMFM Program fees payable at the time suit is filed (\$675.00), file a properly filled out Form A in the manner required by the administrative order, and electronically transmit Form A to the Program Manager using the approved web-based information platform.
3. The plaintiff and borrower are to cooperate with the Program Manager and must attend any mediation scheduled by the Program Manager.
4. The plaintiff is advised and cautioned that failure to comply in a timely manner with the requirements of this order will result in dismissal of the cause of action without further order of the court.

Dated this _____ day of _____, 2010.

Circuit Judge

Supreme Court of Florida

No. SC09-1460

**IN RE: AMENDMENTS TO THE FLORIDA RULES OF CIVIL
PROCEDURE.**

No. SC09-1579

**IN RE: AMENDMENTS TO THE FLORIDA RULES OF CIVIL
PROCEDURE - FORM 1.996 (FINAL JUDGMENT OF FORECLOSURE).**

[February 11, 2010]
REVISED ON REHEARING

PER CURIAM.

In case number SC09-1460, the Task Force on Residential Mortgage Foreclosure Cases has proposed an amendment to Florida Rule of Civil Procedure 1.110 (General Rules of Pleading) and two new Forms for Use with Rules of Civil Procedure. In case number SC09-1579, the Civil Procedure Rules Committee has proposed amendments to form 1.996 (Final Judgment of Foreclosure) of the Forms for Use with Rules of Civil Procedure. We have consolidated these cases for the purposes of this opinion. We have jurisdiction. See art. V, § 2(a), Fla. Const.

Case No. SC09-1460

By administrative order on March 27, 2009, the Task Force on Residential Mortgage Foreclosure Cases (Task Force) was “established to recommend to the Supreme Court policies, procedures, strategies, and methods for easing the backlog of pending residential mortgage foreclosure cases while protecting the rights of parties.” In re Task Force on Residential Mortgage Foreclosure Cases, Fla. Admin. Order No. AOSC09-8, at 2 (March 27, 2009) (on file with Clerk of the Florida Supreme Court). The recommendations could “include mediation and other alternate dispute resolution strategies, case management techniques, and approaches to providing pro bono or low-cost legal assistance to homeowners.” Id. The Task Force was also specifically asked to “examine existing court rules and propose new rules or rule changes that will facilitate early, equitable resolution of residential mortgage foreclosure cases.” Id.

In response to this charge, the Task Force has filed a petition proposing amendments to the civil procedure rules and forms.¹ After submission to the

1. The Task Force also submitted a companion report entitled “Final Report and Recommendations on Residential Mortgage Foreclosure Cases.” The report urges the adoption of the proposed rule amendments and also contains administrative recommendations. The main recommendation in the report is the approval of a Model Administrative Order for a managed mediation program for residential mortgage foreclosure actions for use by the chief judges. The report was address separately as an administrative matter. The Task Force’s petition also

Court, the proposals were published for comment on an expedited basis.

Comments were received from Legal Services of Greater Miami, the Florida Justice Institute and Florida Legal Services, Inc; the Housing and Consumer Umbrella Groups of Florida Legal Services; Legal Services of North Florida, Inc., and North Florida Center for Equal Justice, Inc.; the Florida Bankers Association; Florida Default Law Group; Ben-Ezra & Katz, P.A.; Thomas H. Bateman III and Janet E. Ferris; Henry P. Trawick, Jr.; and Lisa Epstein. Oral argument was heard in this matter on November 4, 2009. Upon consideration of the Task Force's petition, the comments filed and responses thereto, and the presentations of the parties at oral argument, we adopt the Task Force's proposals with minor modifications as discussed below.

First, rule 1.110(b) is amended to require verification of mortgage foreclosure complaints involving residential real property. The primary purposes of this amendment are (1) to provide incentive for the plaintiff to appropriately investigate and verify its ownership of the note or right to enforce the note and

recommended amendments to form 1.997 (Civil Coversheet). However, the Civil Coversheet was the subject of another case, case number SC08-1141, and the Task Force's proposals with regard to the Civil Coversheet were addressed in that case. See In re Amendments to Florida Rules of Civil Procedure—Management of Cases Involving Complex Litigation, 34 Fla. L. Weekly S576 (Fla. Oct. 15, 2009).

ensure that the allegations in the complaint are accurate; (2) to conserve judicial resources that are currently being wasted on inappropriately pleaded “lost note” counts and inconsistent allegations; (3) to prevent the wasting of judicial resources and harm to defendants resulting from suits brought by plaintiffs not entitled to enforce the note; and (4) to give trial courts greater authority to sanction plaintiffs who make false allegations.

Next, the Task Force proposed a new form Affidavit of Diligent Search and Inquiry. In its petition, the Task Force explained that many foreclosure cases are served by publication. The new form is meant to help standardize affidavits of diligent search and inquiry and provide information to the court regarding the methods used to attempt to locate and serve the defendant. We adopt this form as new form 1.924, with several modifications.

The form, as proposed by the Task Force, provides spaces for the affiant to check off, from a list, the various actions taken to discover the current residence of the defendant and provides a “catch-all” section where the affiant can “List all additional efforts made to locate defendant.” Additionally, it provides a section where the affiant can describe “Attempts to Serve Process and Results.” One comment to this form, voiced by several interested parties, was that the form should be signed by the person actually performing the diligent search and inquiry, likely a process server, and not the plaintiff as the form, as originally proposed,

provided. The Task Force agreed with this comment. Thus, we modify the form to incorporate this change.

Next, although the Task Force stated in its petition that a significant provision of the new form was the “additional criteria [sic] that if the process server serves an occupant in the property, he inquires of that occupant whether he knows the location of the borrower-defendant,” the proposed form does not include this provision. The Honorable Thomas McGrady, Chief Judge of the Sixth Judicial Circuit, raised this point in his comment and suggested the following provision be added to the form: “I inquired of the occupant of the premises whether the occupant knows the location of the borrower-defendant, with the following results: _____.” Again, the Task Force agreed with this suggestion, and we modify the form to incorporate it.

Finally, section 49.041, Florida Statutes (2009), sets forth the minimum requirements for an affidavit of diligent search and inquiry and states as follows:

The sworn statement of the plaintiff, his or her agent or attorney, for service of process by publication against a natural person, shall show:

(1) That diligent search and inquiry have been made to discover the name and residence of such person, and that the same is set forth in said sworn statement as particularly as is known to the affiant; and

(2) Whether such person is over or under the age of 18 years, if his or her age is known, or that the person's age is unknown; and

(3) In addition to the above, that the residence of such person is, either:

(a) Unknown to the affiant; or

(b) In some state or country other than this state, stating said residence if known; or

(c) In the state, but that he or she has been absent from the state for more than 60 days next preceding the making of the sworn statement, or conceals himself or herself so that process cannot be personally served, and that affiant believes that there is no person in the state upon whom service of process would bind said absent or concealed defendant.

§ 49.041, Fla. Stat. (2009). The form as proposed by the Task Force contains the required information, except for a statement whether the person is over or under the age of eighteen or that the person's age is unknown. Thus, we modify the affidavit form to include this information.

Finally, we adopt the Task Force's proposed Motion to Cancel and Reschedule Foreclosure Sale as new form 1.996(b). The Task Force recommended adoption of this new form in which the plaintiff would provide the court with an explanation of why the foreclosure sale needs to be cancelled and request that the court reschedule the sale. As the reason for this proposal, the Task Force stated in its petition:

Currently, many foreclosure sales set by the final judgment and handled by the clerks of court are the subject of vague last-minute motions to reset sales without giving any specific information as to why the sale is being reset. It is important to know why sales are being reset so as to determine when they can properly be reset, or whether the sales process is being abused. . . . Again, this is designed at promoting effective case management and keeping properties out of extended limbo between final judgment and sale.

We adopt this form with minor stylistic and grammatical modifications as suggested in the comments and agreed to by the Task Force.

Case No. SC09-1579

In this case, the Civil Procedure Rules Committee has filed an out-of-cycle report under Florida Rule of Judicial Administration 2.140(e), proposing amendments to Florida Rule of Civil Procedure Form 1.996 (Final Judgment of Foreclosure). The Committee proposes amendments to this form in order to bring it into conformity with current statutory provisions and requirements. The Committee's proposal also includes several changes suggested by The Florida Bar's Real Property, Probate, and Trust Law Section to improve the form's clarity and readability and better conform to prevailing practices in the courts.² Upon consideration, we adopt the proposed amendments to form 1.996, with one exception, as further explained below.

2. Prior to submitting this proposal to the Court, the committee published it for comment. One comment was received suggesting that, in addition to the other amendments proposed by the committee, provisions for specific findings as to the reasonable number of hours and the reasonable hourly rate for an award of attorneys' fees be added to paragraph one of the form. The committee initially took the position that the comment suggested a change unrelated to its proposed amendments and that the committee would consider it in its 2013 regular-cycle report. Subsequently, however, the committee filed an additional response in which it agreed with the comment and recommended that the suggested change be made in this case. We agree with the committee that this additional change is appropriate and, accordingly, we include it in the amendments adopted in this case.

First, to conform to current statutory requirements, a notice to lienholders and directions to property owners as to how to claim a right to funds remaining after public auction is added to the form. See § 45.031(1), Fla. Stat. (2009).

Additionally, to conform to current statutory provisions allowing the clerk of court to conduct judicial sales via electronic means, the form is amended to accommodate this option. See § 45.031(10), Fla. Stat. (2009).

Other amendments are as follows: (1) in order to provide greater clarity and prevent errors, paragraph one of the form is amended to set out amounts due in a column format; (2) paragraph two is amended to allow for the possibility that there may be more than one defendant, and out of concern for privacy interests, the lines for an address and social security number are deleted; (3) paragraph four is amended to conform to existing practice and require a successful purchaser to pay the documentary stamps on the certificate of title; (4) paragraph six is amended to accommodate the possibility that there may be multiple defendants, to adapt to the requirements of section 45.0315, Florida Statutes (2009), stating that the right of redemption expires upon the filing of the certificate of sale, unless otherwise specified in the judgment, to recognize the potential survival of certain liens after foreclosure as provided in chapter 718 (the Condominium Act) and chapter 720 (Homeowners' Association), Florida Statutes (2009), and to allow a purchaser to obtain a writ of possession from the clerk of court without further order of the

court.³ As noted, these amendments were suggested to the committee by The Florida Bar's Real Property, Probate, and Trust Law Section to improve the form's clarity and readability and better conform to prevailing practices in the courts.

However, one of the changes suggested by the Real Property, Probate, and Trust Law Section and incorporated by the committee into its proposal was the addition of a new paragraph stating that a foreclosure sale shall not begin until a representative of the plaintiff is present and that the plaintiff has the right to cancel the sale upon notice to the clerk. Obviously, including such a provision, as standard, in the final judgment of foreclosure form would be at odds with our adoption of new form 1.996(b) (Motion to Cancel and Reschedule Foreclosure Sale). Accordingly, we decline to adopt this particular amendment. Also, in light of our adoption of the Motion to Cancel and Reschedule Foreclosure Sale as new form 1.996(b), we renumber the Final Judgment of Foreclosure Form as form 1.996(a).

Conclusion

Accordingly, the Florida Rules of Civil Procedure and the Forms for Use with Rules of Civil Procedure are hereby amended as set forth in the appendix to this opinion. New language is underscored; deleted language is struck through.

3. An explanatory committee note is also added.

Committee notes are offered for explanation only and are not adopted as an official part of the rules. The amendments shall become effective immediately upon the release of this opinion. Because the amendments to form 1.996(a) (Final Judgment of Foreclosure) were not published by the Court for comment prior to their adoption, interested persons shall have sixty days from the date of this opinion in which to file comments, on those amendments only, with the Court.⁴

It is so ordered.

QUINCE, C.J., and PARIENTE, LEWIS, LABARGA, and PERRY, JJ., concur. CANADY, J., concurs in part and dissents in part with an opinion, in which POLSTON, J., concurs.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION, AND IF FILED, DETERMINED.

CANADY, J., concurring in part and dissenting in part.

Because I am concerned that requiring prior judicial approval for the cancellation of foreclosure sales may produce untoward results, I dissent from the

4. An original and nine paper copies of all comments must be filed with the Court on or before April 12, 2010, with a certificate of service verifying that a copy has been served on the Committee Chair, Mark A. Romance, 201 S. Biscayne Blvd, Suite 1000, Miami, FL 33131-4327, as well as separate request for oral argument if the person filing the comment wishes to participate in oral argument, which may be scheduled in this case. The Committee Chair has until May 3, 2010, to file a response to any comments filed with the Court. Electronic copies of all comments and responses also must be filed in accordance with the Court's administrative order in In re Mandatory Submission of Electronic Copies of Documents, Fla. Admin. Order No. AOSC04-84 (Sept. 13, 2004).

adoption of form 1.996(b). I would have instead adopted the proposal suggested by the Real Property, Probate, and Trust Law Section for the addition of a paragraph to the form final judgment of foreclosure stating that a foreclosure sale shall not begin until a representative of the plaintiff is present and that the plaintiff has the right to cancel the sale upon notice to the clerk.

POLSTON, J., concurs.

Two Cases:

Original Proceeding – Florida Rules of Civil Procedure

Mark A. Romance, Chair, Civil Procedure Rules Committee, Miami, Florida; Jennifer D. Bailey, Chair, Task Force on Residential Mortgage Foreclosure Cases, Eleventh Judicial Circuit, Miami, Florida and Alan B. Bookman, Task Force on Residential Mortgage Foreclosures, Pensacola, Florida; John F. Harkness, Jr., Executive Director, and Madelon Horwich, Bar Staff Liaison, The Florida Bar, Tallahassee, Florida,

for Petitioners

Henry P. Trawick, Jr., Sarasota, Florida; Virginia Townes of Akerman, Senterfitt, Orlando, Florida on behalf of The Florida Bankers Association; Marc A. Ben-Ezra of Ben-Ezra and Katz, P.A., Fort Lauderdale, Florida; Carolina A. Lombardi, Marcia K. Cypen, and John W. McLuskey, Legal Services of Greater Miami, Inc., Miami, Florida, Kendall Coffey and Jeffrey B. Crockett of Coffey Burlington, LLP, Miami, Florida, Randall C. Berg, Jr. and Joshua A. Glickman, Florida Justice Institute, Inc., Miami, Florida, and Kent R. Spuhler, Florida Legal Services, Inc., Tallahassee, Florida; B. Elaine New, Court Counsel, on behalf of J. Thomas McGrady, Chief Judge, Sixth Judicial Circuit, St. Petersburg, Florida; Alice M. Vickers, Florida Legal Services, Inc., Tallahassee, Florida, Lynn Drysdale, Jacksonville Area Legal Aid, Inc., Jacksonville, Florida, Jeffrey Hearne, Legal Services of Greater Miami, Inc., Miami, Florida, and James R. Carr, Florida Rural

Legal Services, Inc., Lakeland, Florida, on behalf of the Housing Umbrella Group and the Consumer Umbrella Group of Florida Legal Services, Inc.; Scott Manion, Tallahassee, Florida, on behalf of Legal Services of North Florida, Inc.; Edward J. Grunewald, Tallahassee, Florida, on behalf of The North Florida Center for Equal Justice, Inc.; Thomas H. Bateman, III of Messer, Caparello, and Self, P.A., Tallahassee, Florida, and Janet E. Ferris, Tallahassee, Florida; Ronald R. Wolfe, Tampa, Florida, Suzanne Barto Hill of Rumberger, Kirk and Caldwell, Orlando, Florida, and Roy A. Diaz of Smith, Hiatt and Diaz, P.A., Fort Lauderdale, Florida, on behalf of Florida Default Law Group, P.L.; Judge William D. Palmer, Chair, Committee on ADR Rules and Policy, Fifth District Court of Appeal, Daytona Beach, Florida, on behalf of the Supreme Court Committee on Alternative Dispute Resolution Rules and Policy; Lisa Epstein, West Palm Beach, Florida, and Terry Resk of Haile, Shaw and Pfaffenberger, P.A., North Palm Beach, Florida,

Responding with comments

APPENDIX

RULE 1.110. GENERAL RULES OF PLEADING

(a) [no change]

(b) **Claims for Relief.** A pleading which sets forth a claim for relief, whether an original claim, counterclaim, crossclaim, or third-party claim, must state a cause of action and shall contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends, unless the court already has jurisdiction and the claim needs no new grounds of jurisdiction to support it, (2) a short and plain statement of the ultimate facts showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief to which the pleader deems himself or herself entitled. Relief in the alternative or of several different types may be demanded. Every complaint shall be considered to demand general relief.

When filing an action for foreclosure of a mortgage on residential real property the complaint shall be verified. When verification of a document is required, the document filed shall include an oath, affirmation, or the following statement:

“Under penalty of perjury, I declare that I have read the foregoing, and the facts alleged therein are true and correct to the best of my knowledge and belief.”

(c) - (h) [no change]

Committee Notes
[no change]

FORM 1.924. AFFIDAVIT OF DILIGENT SEARCH AND INQUIRY

I, (full legal name) (individually or an Employee of _____), being sworn, certify that the following information is true:

1. I have made diligent search and inquiry to discover the current residence of _____, who is [over 18 years old] [under 18 years old] [age is unknown] (circle one). **Refer to checklist below and identify all actions taken (any additional information included such as the date the action was taken and the person with whom you spoke is helpful) (attach additional sheet if necessary):**

[check **all** that apply]

_____ Inquiry of Social Security Information

_____ Telephone listings in the last known locations of defendant's residence

_____ Statewide directory assistance search

_____ Internet people finder search {specify sites searched}

_____ Voter Registration in the area where defendant was last known to reside.

_____ Nationwide Masterfile Death Search

_____ Tax Collector's records in area where defendant was last known to reside.

_____ Tax Assessor's records in area where defendant was last known to reside

_____ Department of Motor vehicle records in the state of defendant's last known address

_____ Driver's License records search in the state of defendant's last known address.

_____ Department of Corrections records in the state of defendant's last known address.

_____ Federal Prison records search.

_____ Regulatory agencies for professional or occupational licensing.

_____ Inquiry to determine if defendant is in military service.

_____ Last known employment of defendant.

{List all additional efforts made to locate defendant}

Attempts to Serve Process and Results

_____ I inquired of the occupant of the premises whether the occupant knows the location of the borrower-defendant, with the following results:

2. _____ **current residence**

[check **one** only]

a. _____ 's current residence is unknown to me

b. _____ 's current residence is in some state or country
other than Florida and _____ 's last known address is:

c. The _____, having residence in Florida, has been absent from Florida for more than 60 days prior to the date of this affidavit, or conceals him (her) self so that process cannot be served personally upon him or her, and I believe there is no person in the state upon whom service of process would bind this absent or concealed _____.

I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this affidavit and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

Dated: _____

Signature of Affiant
Printed Name: _____
Address: _____
City, State, Zip: _____
Phone: _____
Telefacsimile: _____

STATE OF _____
COUNTY OF _____

Sworn to or affirmed and signed before me on this _____ day of _____, 20____ by _____.

NOTARY PUBLIC, STATE OF _____

(Print, Type or Stamp Commissioned Name of Notary Public)

Personally known

Produced identification

Type of identification produced: _____

NOTE: This form is used to obtain constructive service on the defendant.

FORM 1.996(a). FINAL JUDGMENT OF FORECLOSURE

FINAL JUDGMENT

This action was tried before the court. On the evidence presented

IT IS ADJUDGED that:

1. Plaintiff,(name and address)....., is due as principal, \$..... as interest to date of this judgment, \$..... for title search expense, \$..... for taxes, \$..... for insurance premiums, \$..... for attorneys' fees, with \$..... for court costs now taxed, less \$..... for undisbursed escrow funds and less \$..... for unearned insurance premiums, under the note and mortgage sued on in this action, making a total sum of \$....., that shall bear interest at the rate of% a year.

<u>Principal</u>	\$.....
<u>Interest to date of this judgment</u>	.....
<u>Title search expense</u>	.....
<u>Taxes</u>	.....
<u>Attorneys' fees</u>	
Finding as to reasonable number of hours:	.....
Finding as to reasonable hourly rate:	.....
<u>Attorneys' fees total</u>	.....
<u>Court costs, now taxed</u>	.....
<u>Other: .....</u>	.....
Subtotal	\$.....
<u>LESS: Escrow balance</u>	.....
<u>LESS: Other .....</u>	.....
TOTAL	\$.....

that shall bear interest at the rate of% a year.

2. Plaintiff holds a lien for the total sum superior to ~~any~~all claims or estates of defendant(s),(name and address, and social security number if known)....., on the following described property in County, Florida:

(describe property)

3. If the total sum with interest at the rate described in paragraph 1 and all costs accrued subsequent to this judgment are not paid, the clerk of this court shall sell the property at public sale on(date)....., ~~between 11:00 a.m. and 2:00 p.m.~~ to the highest bidder for cash, except as prescribed in paragraph 4, at the ~~.... door of the courthouse~~ in located at(street address of courthouse)..... in County in(name of city)....., Florida, in accordance with section 45.031, Florida Statutes, using the following method (CHECK ONE):

At(location of sale at courthouse; e.g., north door)....., beginning at(time of sale)..... on the prescribed date.

By electronic sale beginning at(time of sale)..... on the prescribed date at(website).....

4. 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, provided, however, that the purchaser of the property for sale shall be responsible for the documentary stamps payable on the certificate of title. 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.

5. 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 plaintiff's costs; second, documentary stamps affixed to the certificate; third, plaintiff's attorneys' fees; fourth, the total sum due to plaintiff, less the items paid, plus interest at the rate prescribed in paragraph 1 from this date to the date of the sale; and by retaining any remaining amount pending the further order of this court.

6. On filing the certificate of ~~title sale,~~ title sale, defendant(s) and all persons claiming under or against defendant(s) since the filing of the notice of lis pendens shall be foreclosed of all estate or claim in the property ~~and the purchaser at the sale,~~ except as to claims or rights under chapter 718 or chapter 720, Florida Statutes, if any. Upon the filing of the certificate of title, the person named on the certificate of title shall be let into possession of the property. If any defendant remains in possession of the property, the clerk shall without further order of the court issue forthwith a writ of possession upon request of the person named on the certificate of title.

7. Jurisdiction of this action is retained to enter further orders that are proper including, without limitation, ~~writs of possession and a~~ deficiency judgment.

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 60 DAYS AFTER THE SALE. IF YOU FAIL TO FILE A CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING FUNDS.

[If the property being foreclosed on has qualified for the homestead tax exemption in the most recent approved tax roll, the final judgment shall additionally contain the following statement in conspicuous type:]

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, (INSERT INFORMATION FOR APPLICABLE COURT) WITHIN 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 (INSERT LOCAL OR NEAREST LEGAL AID OFFICE AND TELEPHONE NUMBER) 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 (NAME OF LOCAL OR NEAREST LEGAL AID OFFICE AND TELEPHONE NUMBER) FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

ORDERED at, Florida, on(date).....

Judge _____

NOTE: Paragraph 1 must be varied in accordance with the items unpaid, claimed, and proven. The form does not provide for an adjudication of junior lienors' claims nor for redemption by the United States of America if it is a defendant. The address of the person who claims a lien as a result of the judgment must be included in the judgment in order for the judgment to become a lien on real estate when a certified copy of the judgment is recorded. Alternatively, an affidavit with this information may be simultaneously recorded. For the specific requirements, see section 55.10(1), Florida Statutes; *Hott Interiors, Inc. v. Fostock*, 721 So. 2d 1236 (Fla. 4th DCA 1998). ~~The address and social security number (if known) of each person against whom the judgment is rendered must be included in the judgment, pursuant to section 55.01(2), Florida Statutes.~~

Committee Notes

1980 Amendment. The reference to writs of assistance in paragraph 7 is changed to writs of possession to comply with the consolidation of the 2 writs.

2010 Amendment. Mandatory statements of the mortgagee/property owner's rights are included as required by the 2006 amendment to section 45.031, Florida Statutes. Changes are also made based on 2008 amendments to section 45.031, Florida Statutes, permitting courts to order sale by electronic means.

Additional changes were made to bring the form into compliance with chapters 718 and 720 and section 45.0315, Florida Statutes, and to better align the form with existing practices of clerks and practitioners. The breakdown of the amounts due is now set out in column format to simplify calculations. The requirement that the form include the address and social security number of all defendants was eliminated to protect the privacy interests of those defendants and in recognition of the fact that this form of judgment does not create a personal final money judgment against the defendant borrower, but rather an in rem judgment against the property. The address and social security number of the defendant borrower should be included in any deficiency judgment later obtained against the defendant borrower.

FORM 1.996(b). MOTION TO CANCEL AND RESCHEDULE FORECLOSURE SALE

Plaintiff moves to cancel and reschedule the mortgage foreclosure sale because:

1. On _____ this Court entered a Final Judgment of Foreclosure pursuant to which a foreclosure sale was scheduled for _____, 20__.

2. The sale needs to be canceled for the following reason(s):

a. _____ Plaintiff and Defendant are continuing to be involved in loss mitigation;

b. _____ Defendant is negotiating for the sale of the property that is the subject of this matter and Plaintiff wants to allow the Defendant an opportunity to sell the property and pay off the debt that is due and owing to Plaintiff.

c. _____ Defendant has entered into a contract to sell the property that is the subject of this matter and Plaintiff wants to give the Defendant an opportunity to consummate the sale and pay off the debt that is due and owing to Plaintiff.

d. _____ Defendant has filed a Chapter _____ Petition under the Federal Bankruptcy Code;

e. _____ Plaintiff has ordered but has not received a statement of value/appraisal for the property;

f. _____ Plaintiff and Defendant have entered into a Forbearance Agreement;

g. _____ Other

3. If this Court cancels the foreclosure sale, Plaintiff moves that it be rescheduled.

I hereby certify that a copy of the foregoing Motion has been furnished by U.S. mail postage prepaid, facsimile or hand delivery to _____ this _____ day of _____, 20__.

NOTE. This form is used to move the court to cancel and reschedule a foreclosure sale.

From: Charles Francis
To: Monk, Tonya
Date: 6/7/2010 9:36 AM
Subject: Senior Judges - Foreclosures
Attachments: SC09-1460-CIVRules-RhgOp.doc

Please pass the following along to all of our senior judges. It took effect immediately and made substantial changes to foreclosure requirements.

FEDERAL HOUSING FINANCE AGENCY



STATEMENT

For Immediate Release
October 13, 2010

Contact: Corinne Russell (202) 414-6921
Stefanie Mullin (202) 414-6376

Statement By FHFA Acting Director Edward J. DeMarco On Servicer Financial Affidavit Issues

“On October 1, FHFA announced that Fannie Mae and Freddie Mac are working with their respective servicers to identify foreclosure process deficiencies and that where deficiencies are identified, will work together with FHFA to develop a consistent approach to address the problems. Since then, additional mortgage servicers have disclosed shortcomings in their processes and public concern has increased.

Today, I am directing the Enterprises to implement a four-point policy framework detailing FHFA’s plan, including guidance for consistent remediation of identified foreclosure process deficiencies. This framework envisions an orderly and expeditious resolution of foreclosure process issues that will provide greater certainty to homeowners, lenders, investors, and communities alike.

In developing this framework, FHFA has benefitted from close consultation with the Administration and other federal financial regulators.

The country’s housing finance system remains fragile and I intend to maintain our focus on addressing this issue in a manner that is fair to delinquent households, but also fair to servicers, mortgage investors, neighborhoods and most of all, is in the best interest of taxpayers and housing markets.”

(Attachment follows)

###

The Federal Housing Finance Agency regulates Fannie Mae, Freddie Mac and the 12 Federal Home Loan Banks. These government-sponsored enterprises provide more than \$5.9 trillion in funding for the U.S. mortgage markets and financial institutions.

FEDERAL HOUSING FINANCE AGENCY



Four-Point Policy Framework For Dealing with Possible Foreclosure Process Deficiencies

1. **Verify Process** -- Mortgage servicers must review their processes and procedures and verify that all documents, including affidavits and verifications, are completed in compliance with legal requirements. Requests for such reviews have already been made by FHFA, the Enterprises, the Federal Housing Administration, and the Office of the Comptroller of the Currency, among others. In the event a servicer's review reveals deficiencies, the servicer must take immediate corrective action as described below.

2. **Remediate Actual Problems** -- When a servicer identifies a foreclosure process deficiency, it must be remediated in an appropriate and timely way and be sustainable. In particular, when a servicer identifies shortcomings with foreclosure affidavits, whether due to affidavits signed without appropriate knowledge and review of the documents, or improperly notarized, the following steps should be taken, as appropriate to the particular mortgage:
 - a. **Pre-judgment foreclosure actions:** Servicers must review any filed affidavits to ensure that the information contained in the affidavits was correct and that the affidavits were completed in compliance with applicable law. If the servicer's review indicates either (a) that the information in a previously filed affidavit was not correct or (b) that the affidavit was not completed in compliance with applicable law, the servicer must work with foreclosure counsel to take appropriate remedial actions, which may include preparing and filing a properly prepared and executed replacement affidavit before proceeding to judgment.

 - b. **Post-judgment foreclosure actions (prior to foreclosure sale):** Before a foreclosure sale can proceed, servicers must review any affidavits relied upon in the proceedings to ensure that the information contained in the affidavits was correct and that the affidavits were completed in compliance with applicable law. If the servicer's review indicates either (a) that the information in a previously filed affidavit was not correct or (b) that the affidavit was not completed in compliance with applicable law, the servicer must work with foreclosure counsel to address the issue consistent with local procedures. Potential remedial measures could include filing an appropriate motion to substitute a properly completed replacement affidavit with the court and to ratify or amend the foreclosure judgment.

c. **Post-foreclosure sale (Enterprise owns the property):**

- **Eviction actions:** Before an eviction can proceed, servicers with deficiencies must confirm that the information contained in any affidavits relied upon in the foreclosure proceeding was correct and that the affidavits were completed in compliance with applicable law. If the servicer's review indicates either (a) that the information in a previously filed affidavit was not correct or (b) that the affidavit was not completed in compliance with applicable law, the servicer must work with foreclosure counsel to address the issue consistent with local procedures before the eviction proceeds. Potential remedial measures could include seeking an order to substitute a properly prepared affidavit and to ratify the foreclosure judgment and/or confirm the foreclosure sale.
- **Real Estate Owned (REO):** With respect to the clearing of title for REO properties, servicers must confirm that the information contained in any affidavits relied upon in the foreclosure proceeding was correct and that the affidavits were completed in compliance with applicable law. If the servicer's review indicates either (a) that the information in a previously filed affidavit was not correct or (b) that the affidavit was not completed in compliance with applicable law, the servicer must work with foreclosure counsel to address the issue consistent with local procedures and take actions as may be required to ensure that title insurance is available to the purchaser for the subject property in light of the facts surrounding the foreclosure actions.

d. **Bankruptcy Cases:** Servicers must review any filed affidavits in pending cases to ensure that the information contained in the affidavits was correct and that the affidavits were completed in compliance with applicable law. If the servicer's review indicates either (a) that the information in a previously filed affidavit was not correct or (b) that the affidavit was not completed in compliance with applicable law, the servicer must work with bankruptcy counsel to take appropriate remedial actions.

3. ***Refer Suspicion of Fraudulent Activity*** -- Servicers are reminded that in any foreclosure processing situation involving possible fraudulent activity, they should meet applicable legal reporting obligations.

4. ***Avoid Delay*** -- In the absence of identified process problems, foreclosures on mortgages for which the borrower has stopped payment, and for which foreclosure alternatives have been unsuccessful, should proceed without delay. Delays in foreclosures add cost and other burdens for communities, investors, and taxpayers. For Enterprise loans, delay means that taxpayers must continue to support the Enterprises' financing of mortgages without the benefit of payment and neighborhoods are left with more vacant properties. Therefore, a servicer that has identified no deficiencies in its foreclosure processes should not postpone its foreclosure activities.

FHFA will provide additional guidance should it become necessary.

From: David Wolfson
To: Cooper, John; Francis, Charles
Date: 6/2/2010 1:27 PM
Subject: Sorry forgot to attach
Attachments: RMFM Order of Referral.doc

Chief Judge Lee Haworth, Chair of the Judicial Administration Committee, asked us to let you know that a conference call has been scheduled for 12:00 noon on Monday, November 15, 2010. Discussion items will include mortgage foreclosure issues and other matters. To participate in the call, please dial 1-888-808-6959 and, when prompted, enter conference code 9425056 followed by the # key. An agenda and additional information will be provided prior to the call.

Sincerely,

Debbie Howells
Office of the State Courts Administrator
500 S. Duval Street
Tallahassee, FL 32399-1900
Phone 850-922-4370
Fax 850-488-0156
Email howellsd@flcourts.org

From: David Wolfson
To: Mortgage Foreclosure Group
CC: Francis, Charles; Slayden, Grant
Date: 10/27/2010 3:53 PM
Subject: The foreclosure mission

I would like to congratulate and thank those of you who are participating in the docket sheet reviews; we got through 2009 today. Our next session will be Friday and I would like to start at 9:30 am and work through the day. If you can spare any time then, that would be great. I am reasonably certain we can finish the review because the dockets on the 2010 cases are short. Once we finish that, we will start setting final hearings and closing files. There is a light (however small) at the end of the tunnel, and I appreciate you and that.

**IN THE SECOND JUDICIAL CIRCUIT OF
FLORIDA**

OFFICE OF THE CHIEF JUDGE

ADMINISTRATIVE ORDER 2010 -09

**IN RE: SUMMARY JUDGMENT PROCEDURES FOR CASE MANAGEMENT OF
RESIDENTIAL MORTGAGE FORECLOSURE CASES**

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), Florida Rules of Judicial Administration, 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 ...”assuming early and continuous control of the court calendar; ...”identifying priority cases;” “...implement such docket control policies as may be necessary to advance priority cases to ensure prompt resolution;” “...develop rational and effective trial setting policies, and advancing the trial setting of priority cases, older cases...”, and

WHEREAS, the Supreme Court of Florida has determined that effective case management is one of the best methods the courts can employ to facilitate and provide a more efficient use of limited judicial and clerk resources in a court system that is already overburdened; and

WHEREAS, the volume of mortgage foreclosure case filings have significantly increased in the Second Judicial Circuit of Florida, and state and county budget restraints have limited the ability of the courts in the Second Judicial Circuit to manage these cases in a timely manner, requires a uniform procedure for case management,

IT IS THEREFORE

ORDERED:

1. Any Motion for Summary Judgment filed in the Second Judicial Circuit of Florida, except as provided herein, shall be governed by the following Uniform Summary Judgment Procedures:

- a. Hearings for Summary Judgments shall be scheduled by contacting the Second Judicial Circuit Case Scheduler (hereinafter Scheduler).
 - i. The contact information for the current Scheduler may be found on the Second Judicial Circuit's website which is located at: (<http://www.leoncountyfl.gov/2ndCircuit/ForeclosureProcedure.php>.)
 - ii. The Scheduler at the time of the execution of this order is Ina Hawkins, whose email address is HawkinsIn@leoncountfl.gov.
 - iii. The primary means of contact shall be by email.
 - iv. Only if necessary, contact may be made by telephone by calling (850) 577-8067.
- b. A maximum of ten (10) cases may be set on each calendar by a single law firm.
- c. Each case may be set for a maximum of thirty (30) minutes.
- d. No hearing may be scheduled or the time reserved for summary judgment hearings in foreclosure cases until such time as the motion for summary judgment and required supporting documentation are filed with the clerk. Supporting documentation shall be transmitted to the Scheduler not less than ten (10) days prior to the scheduled hearing. In the event the package is not received within such ten (10) day period, in addition to any sanction hereinafter set forth, the hearing shall be removed from the calendar.
- e. Supporting documentation shall include, but not be limited to:
 - i. The Motion for Summary Judgment
 - ii. The proposed Notice of Hearing
 - iii. The Original Note and Mortgage (copies will not be accepted, and Counts to re-establish lost documents shall not be entertained by the Court by Motions for Summary Judgment) or in lieu thereof, a bond in the amount of 1 ½ times the amount in controversy posted by an approved surety
 - iv. Affidavit in Support of Summary Judgment
 - v. Affidavit in Support of Attorney's Fees
 - vi. Supreme Court approved Summary Final Judgment, Affidavit of Diligent Search. No additional language shall be added.
 - vii. An original Notice of Sale
 - viii. An original Final Disposition Form

- ix. Envelopes with sufficient postage attached, to all necessary individuals to serve copies of original orders, when entered.
 - x. Any other documentation necessary to support the Motion.
- f. All attorneys must appear in person. Telephonic appearances shall not be permitted.
- g. All summary judgment hearings shall be held in the locations in each respective county in the Second Judicial Circuit as follows:
- i. Franklin County: Franklin County Courthouse, 22 Market St., Hearing Room Third Floor, Apalachicola, FL 32320
 - ii. Gadsden County: Guy A. Race Judicial Complex; West Entrance; 13 N. Monroe St.; Quincy, FL 32351
 - iii. Jefferson County: Jefferson County Courthouse, Room 22, 1 Courthouse Circle, Monticello, FL 32344
 - iv. Leon County: Leon County Courthouse, 301 S. Monroe St., Room 301-B, Tallahassee, FL 32301
 - v. Liberty County: Liberty County Courthouse, 10818 N.W. State Road 20, Bristol, FL 32321.
- h. All cases where the residence is owner-occupied, and a response has been filed by the Defendant which seeks relief shall comply with the provisions of Administrative Order of the Second Judicial Circuit of Florida, 10-05, which requires completion of the requisites for the Residential Mortgage Foreclosure Mediation Program prior to a Motion for Summary Judgment being set for hearing.
- i. Upon confirmation of the hearing date, all notices for hearing must be filed with the court at the location hereinafter set forth within seven (7) days of setting. In the event this provision is violated, in addition to any sanction hereinafter set forth, the case shall be removed from the calendar on which it is scheduled. The location of the courts are:
- i. Franklin County Clerk: Franklin County Courthouse, 22 Market St., Apalachicola, FL 32320
 - ii. Gadsden County Clerk: Guy A. Race Judicial Complex; West Entrance; 13 N. Monroe St.; Quincy, FL 32351
 - iii. Jefferson County Clerk: Jefferson County Courthouse, 1 Courthouse Circle, Monticello, FL 32344
 - iv. Leon County Clerk: Leon County Courthouse, 301 S. Monroe St., Room 301-B, Tallahassee, FL 32301

- v. Liberty County Clerk: Liberty County Courthouse, 10818 N.W. State Road 20, Bristol, FL 32321.
 - vi. A courtesy copy of the notice shall be sent to the Scheduler at 301 S. Monroe St., Room 301-B, Tallahassee, Florida 32301.
- j. Once a hearing is set, it can only be canceled by order of this Court upon the Motion to Cancel being filed by any party.
- i. The Motion and proposed Order shall be transmitted to the presiding judge in the case.
 - ii. The Motion shall not be sent to the Scheduler.
 - iii. The Motion shall be filed a minimum of five (5) days prior to the scheduled hearing, except in the event of a bona fide emergency.
 - iv. Only the Florida Supreme Court approved Motion for Cancellation shall be utilized.
2. Any Motion for Summary Judgment filed in the Wakulla County, Florida, shall be governed by the following Uniform Summary Judgment Procedures:
- a. All foreclosure hearings, including but not limited to summary judgment hearings, shall be scheduled by contacting Judge Sauls' judicial assistant, Deanna Gravius, at The Wakulla County Community Center, Shadeville Road and Trice Land, Crawfordville, Florida 32327. This location may be changed from time to time, and the new location will be found on the Second Judicial Circuit of Florida Website as previously set forth herein.
 - b. Hearings will be conducted by the Court at The Wakulla County Community Center, Shadeville Road and Trice Land, Crawfordville, Florida 32327. This location may be changed from time to time, and the new location will be found on the Second Judicial Circuit of Florida Website as previously set forth herein.
 - c. All parties shall strictly comply with all dates and time provisions provided at the time of the scheduling.
3. All parties shall timely cooperate with the Scheduler at all times, including but not limited to supplying all requested information in a timely manner.
4. In the event the Plaintiff fails to comply with any provision of this order, the case will be dismissed without prejudice without the necessity of further notice or hearing. This order shall be sufficient notice of this provision.

DONE AND ORDERED, in chambers at Tallahassee, Leon County, Florida, this ____
day of _____, 2010.

CHARLES A. FRANCIS,
Chief Judge

Copies Furnished:

All Circuit and County Judges, Second Judicial Circuit
All Clerks of the Circuit Court, Second Judicial Circuit
State Attorney, Second Judicial Circuit
Public Defender, Second Judicial Circuit

2010 BIWEEKLY (OPS) PAYROLL SCHEDULE

<u>PAY PERIOD</u>	<u>DEADLINE</u>	<u>PAY DATE</u>
01/08/10 – 01/21/10	01/21/10	01/29/10
01/22/10 – 02/04/10	02/04/10	02/12/10
02/05/10 – 02/18/10	02/18/10	02/26/10
02/19/10 – 03/04/10	03/04/10	03/12/10
03/05/10 – 03/18/10	03/18/10	03/26/10
03/19/10 – 04/01/10	04/01/10	04/09/10
04/02/10 – 04/15/10	04/15/10	04/23/10
04/16/10 – 04/29/10	04/29/10	05/07/10
04/30/10 – 05/13/10	05/13/10	05/21/10
05/14/10 – 05/27/10	05/26/10 Early Submission Date	06/04/10
05/28/10 – 06/10/10	06/10/10	06/18/10
06/11/10 – 06/24/10	06/24/10	07/02/10
06/25/10 – 07/08/10	07/08/10	07/16/10
07/09/10 – 07/22/10	07/22/10	07/30/10
07/23/10 – 08/05/10	08/05/10	08/13/10
08/06/10 – 08/19/10	08/19/10	08/27/10
08/20/10 – 09/02/10	09/01/10 Early Submission Date	09/10/10
09/03/10 – 09/16/10	09/16/10	09/24/10
09/17/10 – 09/30/10	09/30/10	10/08/10
10/01/10 – 10/14/10	10/14/10	10/22/10
10/15/10 – 10/28/10	10/28/10	11/05/10
10/29/10 – 11/11/10	11/10/10 Early Submission Date	11/19/10
11/12/10 – 11/25/10	11/23/10 Early Submission Date	12/03/10
11/26/10 – 12/09/10	12/09/10	12/17/10
12/10/10 – 12/23/10	12/21/10 Early Submission Date	12/30/10
12/24/10 – 01/06/11	01/06/11	01/14/11

Target Backlog Reduction
Foreclosure and Economic Recovery Funding
Backlog Cases
FY 2006/07 through Estimated FY 2010/11

Circuit	Estimated Real Property/ Mortgage Foreclosure Backlog Cases	62% of Estimated Real Property/ Mortgage Foreclosure Backlog Cases
1	12,960	8,035
2	4,385	2,719
3	1,325	822
4	21,523	13,344
5	19,931	12,357
6	39,394	24,424
7	21,585	13,383
8	2,575	1,597
9	50,600	31,372
10	12,979	8,047
11	87,955	54,532
12	25,557	15,845
13	38,180	23,672
14	4,634	2,873
15	63,402	39,309
16	2,671	1,656
17	57,514	35,659
18	31,052	19,252
19	20,717	12,844
20	41,005	25,423
Total	559,945	347,165

From: Paula Watkins
To: Moayad, Patricia
CC: Pelletier, Dennis; Slayden, Grant; Wilson, Susan
Date: 6/9/2010 3:10 PM
Subject: Administrative Assistant II for Mortgage Foreclose Mediation Program

Hi. The annual minimum salary for an Admin Assistant II position is \$30,320.04.

ECONOMIC RECOVERY/FORECLOSURE BACKLOG OPS RESOURCES				
CIRCUIT	FTE	CLASS CODE	CLASS TITLE	POS NUM
2				
	1	2105 -(6331)	Administrative Assistant I	22092103
	0.5	7152	Court Program Specialist I (P/T)	22092104
	0.5	7152	Court Program Specialist I (P/T)	22092105
	0.5	7152	Court Program Specialist I (P/T)	22092106
Total	2.5			

ECONOMIC RECOVERY/FORECLOSURE BACKLOG OPS RESOURCES			
CIRCUIT	FTE	CLASS CODE	CLASS TITLE

From: Gary Phillips <phillipsg@flcourts.org>
To: Circuit Personnel Reps <CircuitPersonnelReps@flcourts.org>
CC: Trial Court Administrators <TrialCourtAdministrators@flcourts.org>, Delc...
Date: 5/25/2010 8:59 AM
Subject: Foreclosure and Economic Recovery - OPS Information
Attachments: 2010 Biweekly Schedule.doc

Good Morning All:

This is to address issues concerning the use of OPS resources for the foreclosure backlog.

Rapid Deployment of Resources and Advertising on People First

A new version of People First will be released in July. Therefore, the system will be taken off line on July 1 for about 3 weeks. Due to this transition, any advertisement you run on People First in June will have a closing date of no later than June 30th. Even if you advertise on June 29th, the system will force a June 30 closing date. Therefore, you need to advertise by mid June in order to have a two week advertising window. Advertisements will not be able to be started back up until at least the last week of July.

General Information Concerning Employing OPS Staff for the Foreclosure Backlog Project

- * Each Circuit will have an approved plan and allotment.
- * Each circuit utilizing OPS will engage in recruitment and selection activities.
- * As candidates are selected, submit OPS Employment Authorization Forms (OSCA Intranet Site, Personnel, Forms Section), and all of the additional forms listed on the bottom of the Authorization Form except Direct Deposit forms, to the Office of Personnel Services. Direct Deposit forms are to be handled just like FTE new hires. Agreement Periods will be six months or the end of the fiscal year, whichever is sooner.
- * Since there is a specific appropriation for this project, extensions beyond 1040 hours in a calendar year will be automatic and will not need to be requested.
- * All OPS employees are paid biweekly. Attached is a biweekly pay schedule.
- * Payroll processing each biweekly pay period for OPS employees will be complete only upon receipt of the OPS employee's timesheet, also on our Intranet site, signed by the employee and approved by the manager/supervisor and submitted to our office in a timely manner.
- * Overtime is not permitted. Should overtime inadvertently occur, the employees in included classes will have to be paid time-and-a-half.
- * Listed below are the job classes and hourly rates for OPS positions that were used in the original proposal for the Foreclosure and Economic Recovery Funding. You may use discretion and flexibility in classification and pay as long as pay is within guidelines and you stay within your allotment. If you have any questions concerning classification and pay, please call me to discuss.

Element	Position	Hourly Rate
Magistrates:	Magistrate	\$35.48 hourly
Case Management:	Court Program Specialist II	\$17.36 hourly

	Court Program Specialist I	\$14.58 hourly
Hillsborough and Pinellas	Court Program Specialist I	\$15.40 hourly w/ CAD -
Broward, Dade, Monroe, Palm Beach	Court Program Specialist I	\$15.40 hourly w/ CAD -

Admin. Support:	Senior Secretary	\$11.89 hourly
Hillsborough and Pinellas	Senior Secretary	\$12.10 hourly w/ CAD -
Broward, Dade, Monroe, Palm Beach	Senior Secretary	\$12.48 hourly w/ CAD -

This amount does not include the 7.65% FICA that needs to be added to the hourly rate. You will need to add this amount when tracking your budget.

Best of luck with this project. I am available if I can be of any assistance.

Gary

Gary R. Phillips, SPHR
 Chief of Personnel Services
 Office of the State Courts Administrator
 500 S. Duval Street
 Tallahassee, Florida 32399-1900
 phone: 850-617-4028
 fax: 850-488-3744
 email: phillipsg@flcourts.org

From: Kristine Slayden <slaydenk@flcourts.org>
To: Trial Court Chief Judges <TrialCourtChiefJudges@flcourts.org>, "TrialCou...
CC: Trial Court Budget Commission <TrialCourtBudgetCommission@flcourts.org>,...
Date: 5/21/2010 2:42 PM
Subject: Foreclosure and Economic Recovery Non-recurring Funding FY 2010/11
Attachments: ForeclosureandEconomicRecovery_FundingPlans_Updated05212010.pdf; Foreclosur
e and Economic RecoveryResponses from Circuits_May 2010_v2.pdf; 62% Estimat
ed RPFM Backlog.pdf

Chief Judges/Trial Court Administrators - The Trial Court Budget Commission met yesterday and approved the following 5 issues for the implementation of the Foreclosure and Economic Recovery Funding for FY 2010/11. Any adjustments to your circuit's plan based on these decisions need to be emailed to Dorothy Wilson at burked@flcourts.org<mailto:burked@flcourts.org> by COB Tuesday, May 25th. Please refer to the bottom of this email for further submission instructions.

Please note that the allocations will be provided to the Chief Justice and the Legislature for final approval.

Issue 1: FY 2010/11 Funding Allocations Approved

- 1) Approved the FY 2010/11 circuit allocations for the Foreclosure and Economic Recovery Funding, with an adjustment to the contracted services category for case management and administrative support for the 10th, 12th, and 15th circuits (due to restrictions with using contractual dollars). The revised allocation chart is attached.
- 2) Approved effective date for the implementation of the circuits' plans so resources can be deployed on July 1, 2010, using existing FY 2009/10 funds for advertising if necessary.

Issue 2: Types of Cases and Disposition Goals Approved

- 1) Approved real property/mortgage foreclosure cases as the focus of this initiative. If a circuit has cleared all real property/mortgage foreclosure cases from backlog, the circuit may request in writing to the TCBC Chair, with a copy to the TCBC Budget Management Committee Chair, and to the State Courts Administrator, asking to use the funds to handle contracts and indebtedness cases, and county civil cases valued from \$5,001 to \$15,000.
- 2) Approved a targeted goal for the disposition of backlog cases of 62%, which corresponds to the reduction in funding (\$9.6 million proposal reduced down to \$6.0 million appropriation is a 38% reduction).

The attached chart indicates the targeted backlog reduction for the estimated Real Property/Mortgage Foreclosure backlog cases for each circuit. The actual number of backlog cases will need to be produced at the beginning of the initiative for tracking purposes.

Issue 3: Budget Policy Considerations Approved

- a) In order to comply with legislative intent, any expenditure of any type utilizing this funding is strictly limited to direct support of the backlog reduction of the approved case types listed in Issue 2.
- b) In order to ensure that senior judges who are assigned to the Foreclosure and Economic Recovery initiative are paid with the appropriate funds, the current senior judge application will be modified to allow circuits to specify from which funding source the senior judge should be paid. The Trial Court Administrators are responsible for ensuring that the information is reported properly.
- c) Expenditures from the Expense category are limited to intra-circuit travel for staff, intra- and inter-circuit travel for Senior Judges, consumable office supplies, postage, copying, printing and reproduction. To maximize the Expense allotment, circuits are encouraged to use existing resources or surplus furnishings for any office furniture needs for OPS staff and/or Senior Judges. Subscriptions and the like are not allowable expenditures for this funding, neither are computers or other communication devices

as those items are a county funding responsibility.

d) A contingency for the Expense category was approved in the original proposal and factored into the appropriated amount. In order to access these contingency funds, a circuit must have exhausted its Foreclosure and Economic Recovery Expense allotment. Requests for additional Expense are to be made in writing to the TCBC Chair, with a copy to the TCBC Budget Management Committee Chair, and to the State Courts Administrator. The request must provide a complete, detailed explanation of how Expense funding came to be exhausted, what steps were taken to alleviate the impending shortfall, the amount requested and how that amount was calculated.

Issue 4: Funding/Plan Monitoring Approved

1. The Budget Management Committee (BMC) will monitor expenditures on a monthly basis to ensure that resources are only being used for the purpose of backlog reduction for the approved case types. In addition, the BMC will monitor case event data to ensure that expenditures correlate with the TCBC approved activities.
2. The Supreme Court Inspector General will also be reviewing the Foreclosure and Economic Recovery initiative for potential inclusion in the branch's FY 2010/11 audit plan.

Issue 5: Clerk Assistance Approved

Information on in-courtroom resources (general magistrates and senior judges) that will be assigned in each county and the maximum number of courtrooms that will be scheduled at any one time in each county will be shared with clerks once it has been finalized (see attached chart - please update this information, if needed). The chief judge in each circuit should work with their clerks to ensure the clerks appropriately support their plan. These plans need to be shared with the Office of the State Courts Administrator so that the legislature can be informed of the collaborative work on this issue. In addition, the TCBC approved the requirement that the clerks of court provide data support for this initiative.

Two other issues on performance measurement and FY 2011/12 Legislative Budget Request were postponed until the June 4th TCBC meeting.

Directions:

If the decisions above require you to modify your plan allocations, please make the adjustments and notify Dorothy Wilson of the specific changes to the allocation categories by email at burked@flcourts.org by COB, Tuesday, May 25, 2010. If no changes are needed, please indicate that in an email to Dorothy. In addition, if any changes in your allocations require a revision to the in courtroom resources, please provide that information also.

Listed below are the job classes and hourly rates for OPS positions that were used in the original proposal for the Foreclosure and Economic Recovery Funding. The TCBC approved the circuit allocations with direction to the circuits that they hire within these guidelines.

Element	Position	Maximum rate
Magistrates:	Magistrate	\$35.48 hourly
Case Management:	Court Program Specialist II	\$17.36 hourly
	Court Program Specialist I	\$14.58 hourly
	Court Program Specialist I	\$15.40 hourly w/ CAD -
Hillsborough and Pinellas		
	Court Program Specialist I	\$15.40 hourly w/ CAD -
Broward, Dade, Monroe, Palm Beach		
Admin. Support:	Senior Secretary	\$11.89 hourly

Hillsborough and Pinellas	Senior Secretary	\$12.10 hourly w/ CAD -
Broward, Dade, Monroe, Palm Beach	Senior Secretary	\$12.48 hourly w/ CAD -

This amount does not include the 7.65% FICA that needs to be added to the hourly rate.

Lastly, some circuits have already developed plans and position descriptions for the implementation of this initiative. You may want to check with our colleagues if you need some assistance in developing your own plan.

Please let me know if you have any questions. Kris

Kris Slayden
Research and Data
Office of the State Courts Administrator
Florida Supreme Court
500 S. Duval Street
Tallahassee, Florida 32399
850-922-5106 (wk)
850-556-2335 (cell)
850-414-1342 (fax)

Foreclosure and Economic Recovery Funding Proposal In-Courtroom Resources Only

Circuit	County	Target Backlog Reduction	General Magistrate OPS	General Magistrate Contracted Services	Senior Judge Days	Estimated General Magistrate FTE	Senior Judge		Maximum Courtrooms
							Estimated FTE	Estimated Days	
1	Escambia						0.09	24	1
	Okaloosa						0.12	32	1
	Santa Rosa						0.05	12	1
	Walton						0.09	24	1
	Total	8,035	\$0	\$0	\$32,200	0.00	0.35	92	4
2	Franklin						0.04	10	1
	Gadsden						0.04	10	1
	Jefferson						0.04	10	1
	Leon						0.04	10	1
	Liberty						0.04	10	1
	Wakulla						0.04	10	1
	Total	2,719	\$0	\$0	\$21,180	0.00	0.24	60	6
3	Columbia								
	Dixie								
	Hamilton								
	Lafayette								
	Madison								
	Suwannee								
	Taylor								
	Total	822	\$0	\$0	\$0	0.00	0.00	0	0
4	Clay						0.63	165	1
	Duval						0.84	218	2
	Nassau						0.42	110	1
	Total	13,344	\$0	\$0	\$172,729	0.00	1.89	493	4

Foreclosure and Economic Recovery Funding Proposal In-Courtroom Resources Only

Circuit	County	Target Backlog Reduction	General Magistrate OPS	General Magistrate Contracted Services	Senior Judge Days	Estimated General Magistrate FTE	Senior Judge		Maximum Courtrooms
							Estimated FTE	Estimated Days	
5	Citrus						0.10	25	1
	Hernando						0.10	25	1
	Lake						0.19	51	1
	Marion						0.10	25	1
	Sumter						0.00	0	0
	Total		12,357	\$0	\$0	\$44,100	0.00	0.49	126	4
6	Pasco						0.46	118	2
	Pinellas						0.46	119	2
	Total		24,424	\$0	\$0	\$82,950	0.92	237	4
7	Flagler						0.25	65	1
	Putnam						0.25	65	1
	St. Johns						0.25	65	1
	Volusia						0.25	65	1
	Total		13,383	\$0	\$0	\$91,000	0.00	1.00	260	4
8	Alachua					0.00	0.19	50	1
	Baker					0.10	0.00	0	1
	Bradford					0.10	0.00	0	1
	Gilchrist					0.10	0.00	0	1
	Levy					0.10	0.00	0	1
	Union					0.10	0.00	0	1
	Total		1,597	\$0	\$37,035	\$17,500	0.50	0.19	50	6
9	Orange						2.00	470	2
	Osceola						1.00	235	1
	Total		31,372	\$0	\$0	\$246,750	3.00	705	3

Foreclosure and Economic Recovery Funding Proposal In-Courtroom Resources Only

Circuit	County	Target Backlog Reduction	General Magistrate OPS	General Magistrate Contracted Services	Senior Judge Days	Estimated General Magistrate FTE	Senior Judge		Maximum Courtrooms
							Estimated FTE	Estimated Days	
10	Hardee						0.00	0	0
	Highlands						0.00	0	0
	Polk						0.20	52	1
	Total	8,047	\$0	\$0	\$18,200	0.00	0.20	52	1
11	Dade	54,532	\$82,481	\$0	\$171,500	1.00	2.00	490	3.5
12	Desoto						0.00	0	0
	Manatee						0.52	135	2
	Sarasota						0.52	135	2
	Total	15,845	\$0	\$0	\$94,500	0.00	1.04	270	4
13	Hillsborough	23,672	\$0	\$0	\$195,000	0.00	2.14	557	2
14	Bay						0.36	92	1
	Calhoun						0.00	0	0
	Gulf						0.00	0	0
	Holmes						0.00	0	0
	Jackson						0.00	0	0
	Washington						0.00	0	0
	Total	2,873	\$0	\$0	\$32,430	0.00	0.36	92	1
15	Palm Beach	39,309	\$0	\$0	\$140,000	0.00	1.54	400	2
16	Monroe	1,656	\$0	\$14,400	\$49,700	0.18	0.55	142	3
17	Broward	35,659	\$0	\$0	\$87,500	0.00	0.96	250	2
18	Brevard						1.91	496	2
	Seminole						0.95	248	1
	Total	19,252	\$0	\$0	\$260,643	0.00	2.86	744	3

Foreclosure and Economic Recovery Funding Proposal In-Courtroom Resources Only

Circuit	County	Target Backlog Reduction	General Magistrate OPS	General Magistrate Contracted Services	Senior Judge Days	Estimated General Magistrate FTE	Senior Judge		Maximum Courtrooms
							Estimated FTE	Estimated Days	
19	Indian River						0.18	48	1
	Martin						0.18	48	1
	Okeechobee						0.00	0	0
	St. Lucie						0.55	144	1
	Total	12,844	\$0	\$0	\$84,000	0.00	0.91	240	3
20	Charlotte					0.00	0.15	40	1
	Collier					0.20	0.62	162	1
	Glades					0.00	0.15	38	1
	Hendry					0.00	0.07	18	1
	Lee					1.50	0.69	180	2
	Total	25,423	\$135,470	\$0	\$153,300	1.70	1.68	438	6
State Total		347,165	\$217,951	\$51,435	\$1,995,182	3.38	22.33	5,698	66

Note: Information provided for Maximum Courtrooms in circuits 13 and 14 represent Hearing Rooms. All totals may not be exact due to rounding.

From: "Sondra M. Lanier" <lanier.sondra@jud3.flcourts.org>
To: Trial Court Administrators <TrialCourtAdministrators@flcourts.org>
Date: 6/9/2010 9:49 AM
Subject: Foreclosure Case Management

Good morning. I'm sure that my esteemed colleagues are ahead of me on this, so would someone please share your plan? We have a conference call with our clerks this afternoon and I am working on my proposal.

Sondra Lanier

Trial Court Administrator

Third Judicial Circuit

(386)758-2163 Lake City

(386)362-1017 Live Oak

(386)362-2658 Fax

Foreclosure and Economic Recovery Funding Proposal FY 2010/11 Circuit Allocations

Circuit	General Magistrate/Senior Judge				Case Management			General Magistrate/Senior Judge Administrative Support			Mediation Administrative Support			Total
	GM OPS	GM Contracted Services	GM/Senior Judge Expense	Senior Judge Days	OPS	Contracted Services	Expenses	OPS	Contracted Services	Expenses	OPS	Contracted Services	Expenses	
1			\$5,200	\$32,200	\$63,179		\$5,786							\$106,365
2			\$2,426	\$21,180	\$40,142		\$4,800	\$34,217		\$3,600				\$106,365
3					\$38,171			\$26,090						\$64,261
4				\$172,729				\$40,000						\$212,729
5				\$44,100				\$140,430		\$113	\$28,086			\$212,729
6			\$6,514	\$82,950	\$117,378		\$3,000	\$104,360		\$3,550				\$317,752
7			\$3,351	\$91,000	\$117,378		\$1,000							\$212,729
8		\$37,035	\$2,500	\$17,500	\$39,126		\$5,204		\$5,000					\$106,365
9				\$246,750	\$178,707									\$425,457
10				\$18,200	\$42,119		\$8,980	\$28,086		\$8,980				\$106,365
11	\$82,481		\$2,597	\$171,500	\$457,782		\$20,925	\$120,568		\$6,200				\$862,053
12			\$1,411	\$94,500	\$114,000		\$2,818							\$212,729
13			\$2,500	\$195,000	\$168,477		\$5,355	\$56,172						\$427,504
14			\$5,000	\$32,430	\$36,115		\$2,500	\$27,820		\$2,500				\$106,365
15			\$10,000	\$140,000	\$313,008		\$17,000	\$161,475		\$5,057				\$646,540
16		\$14,400	\$12,725	\$49,700				\$27,989		\$1,551				\$106,365
17				\$87,500	\$547,549		\$11,491							\$646,540
18				\$260,643				\$58,451						\$319,094
19			\$12,000	\$84,000	\$84,238		\$4,405	\$28,086						\$212,729
20	\$135,470			\$153,300	\$39,126			\$71,472			\$26,090			\$425,458
Sub Total	\$217,951	\$51,435	\$66,224	\$1,995,182	\$2,396,495	\$0	\$93,264	\$925,216	\$5,000	\$31,551	\$54,176	\$0	\$0	\$5,836,494
											2% Expense Contingency		\$119,112	
											Executive Direction		\$44,394	
											Grand Total		\$6,000,000	

From: Dorothy Wilson <burked@flcourts.org>
To: Grant Slayden <slaydeng@leoncountyfl.gov>, Sondra Lanier <lanier.sondra@...>
Date: 5/26/2010 3:55 PM
Subject: FW: Foreclosure and Economic Recovery Non-recurring Funding FY 2010/11
Attachments: ForeclosureandEconomicRecovery_FundingPlans_Updated05212010.pdf; Foreclosure and Economic RecoveryResponses from Circuits_May 2010_v2.pdf; 62% Estimated RPFM Backlog.pdf

Good Afternoon,
Just checking on the status of the exercise below? Thanks

From: Kristine Slayden
Sent: Friday, May 21, 2010 2:42 PM
To: Trial Court Chief Judges; Trial Court Administrators
Cc: Trial Court Budget Commission; Lisa Goodner; Charlotte Jerrett; Dorothy Wilson; Gary Phillips; Theresa Westerfield; Heather Thuotte-Pierson; Kristine Slayden; Sharon Bosley; Sharon Buckingham
Subject: Foreclosure and Economic Recovery Non-recurring Funding FY 2010/11

Chief Judges/Trial Court Administrators - The Trial Court Budget Commission met yesterday and approved the following 5 issues for the implementation of the Foreclosure and Economic Recovery Funding for FY 2010/11. Any adjustments to your circuit's plan based on these decisions need to be emailed to Dorothy Wilson at burked@flcourts.org<mailto:burked@flcourts.org> by COB Tuesday, May 25th. Please refer to the bottom of this email for further submission instructions.

Please note that the allocations will be provided to the Chief Justice and the Legislature for final approval.

Issue 1: FY 2010/11 Funding Allocations Approved

- 1) Approved the FY 2010/11 circuit allocations for the Foreclosure and Economic Recovery Funding, with an adjustment to the contracted services category for case management and administrative support for the 10th, 12th, and 15th circuits (due to restrictions with using contractual dollars). The revised allocation chart is attached.
- 2) Approved effective date for the implementation of the circuits' plans so resources can be deployed on July 1, 2010, using existing FY 2009/10 funds for advertising if necessary.

Issue 2: Types of Cases and Disposition Goals Approved

- 1) Approved real property/mortgage foreclosure cases as the focus of this initiative. If a circuit has cleared all real property/mortgage foreclosure cases from backlog, the circuit may request in writing to the TCBC Chair, with a copy to the TCBC Budget Management Committee Chair, and to the State Courts Administrator, asking to use the funds to handle contracts and indebtedness cases, and county civil cases valued from \$5,001 to \$15,000.
- 2) Approved a targeted goal for the disposition of backlog cases of 62%, which corresponds to the reduction in funding (\$9.6 million proposal reduced down to \$6.0 million appropriation is a 38% reduction).

The attached chart indicates the targeted backlog reduction for the estimated Real Property/Mortgage Foreclosure backlog cases for each circuit. The actual number of backlog cases will need to be produced at the beginning of the initiative for tracking purposes.

Issue 3: Budget Policy Considerations Approved

- a) In order to comply with legislative intent, any expenditure of any type utilizing this funding is strictly limited to direct support of the backlog reduction of the approved case types listed in Issue 2.
- b) In order to ensure that senior judges who are assigned to the Foreclosure and Economic Recovery

initiative are paid with the appropriate funds, the current senior judge application will be modified to allow circuits to specify from which funding source the senior judge should be paid. The Trial Court Administrators are responsible for ensuring that the information is reported properly.

c) Expenditures from the Expense category are limited to intra-circuit travel for staff, intra- and inter-circuit travel for Senior Judges, consumable office supplies, postage, copying, printing and reproduction. To maximize the Expense allotment, circuits are encouraged to use existing resources or surplus furnishings for any office furniture needs for OPS staff and/or Senior Judges. Subscriptions and the like are not allowable expenditures for this funding, neither are computers or other communication devices as those items are a county funding responsibility.

d) A contingency for the Expense category was approved in the original proposal and factored into the appropriated amount. In order to access these contingency funds, a circuit must have exhausted its Foreclosure and Economic Recovery Expense allotment. Requests for additional Expense are to be made in writing to the TCBC Chair, with a copy to the TCBC Budget Management Committee Chair, and to the State Courts Administrator. The request must provide a complete, detailed explanation of how Expense funding came to be exhausted, what steps were taken to alleviate the impending shortfall, the amount requested and how that amount was calculated.

Issue 4: Funding/Plan Monitoring Approved

1. The Budget Management Committee (BMC) will monitor expenditures on a monthly basis to ensure that resources are only being used for the purpose of backlog reduction for the approved case types. In addition, the BMC will monitor case event data to ensure that expenditures correlate with the TCBC approved activities.

2. The Supreme Court Inspector General will also be reviewing the Foreclosure and Economic Recovery initiative for potential inclusion in the branch's FY 2010/11 audit plan.

Issue 5: Clerk Assistance Approved

Information on in-courtroom resources (general magistrates and senior judges) that will be assigned in each county and the maximum number of courtrooms that will be scheduled at any one time in each county will be shared with clerks once it has been finalized (see attached chart - please update this information, if needed). The chief judge in each circuit should work with their clerks to ensure the clerks appropriately support their plan. These plans need to be shared with the Office of the State Courts Administrator so that the legislature can be informed of the collaborative work on this issue. In addition, the TCBC approved the requirement that the clerks of court provide data support for this initiative.

Two other issues on performance measurement and FY 2011/12 Legislative Budget Request were postponed until the June 4th TCBC meeting.

Directions:

If the decisions above require you to modify your plan allocations, please make the adjustments and notify Dorothy Wilson of the specific changes to the allocation categories by email at burked@flcourts.org by COB, Tuesday, May 25, 2010. If no changes are needed, please indicate that in an email to Dorothy. In addition, if any changes in your allocations require a revision to the in courtroom resources, please provide that information also.

Listed below are the job classes and hourly rates for OPS positions that were used in the original proposal for the Foreclosure and Economic Recovery Funding. The TCBC approved the circuit allocations with direction to the circuits that they hire within these guidelines.

Element	Position	Maximum rate
Magistrates:	Magistrate	\$35.48 hourly

Case Management:	Court Program Specialist II	\$17.36 hourly
	Court Program Specialist I	\$14.58 hourly
	Court Program Specialist I	\$15.40 hourly w/ CAD -
Hillsborough and Pinellas		
	Court Program Specialist I	\$15.40 hourly w/ CAD -
Broward, Dade, Monroe, Palm Beach		
Admin. Support:	Senior Secretary	\$11.89 hourly
	Senior Secretary	\$12.10 hourly w/ CAD -
Hillsborough and Pinellas		
	Senior Secretary	\$12.48 hourly w/ CAD -
Broward, Dade, Monroe, Palm Beach		

This amount does not include the 7.65% FICA that needs to be added to the hourly rate.

Lastly, some circuits have already developed plans and position descriptions for the implementation of this initiative. You may want to check with our colleagues if you need some assistance in developing your own plan.

Please let me know if you have any questions. Kris

Kris Slayden
 Research and Data
 Office of the State Courts Administrator
 Florida Supreme Court
 500 S. Duval Street
 Tallahassee, Florida 32399
 850-922-5106 (wk)
 850-556-2335 (cell)
 850-414-1342 (fax)

From: Grant Slayden
To: Dennis Pelletier
Date: 5/25/2010 8:59 AM
Subject: Fwd: Foreclosure and Economic Recovery - OPS Information
Attachments: Foreclosure and Economic Recovery - OPS Information

From: Charles Francis
To: Pelletier, Dennis; Slayden, Grant
Date: 5/26/2010 9:46 AM
Subject: Fwd: Foreclosure and Economic Recovery Non-recurring Funding FY 2010/11
Attachments: Foreclosure and Economic Recovery Non-recurring Funding FY 2010/11

Let me know if we need to do anything.

From: Grant Slayden
To: Dennis Pelletier
Date: 6/9/2010 9:49 AM
Subject: Fwd: Foreclosure Case Management
Attachments: Foreclosure Case Management

From: Grant Slayden
To: Dennis Pelletier
Date: 5/26/2010 3:55 PM
Subject: Fwd: FW: Foreclosure and Economic Recovery Non-recurring Funding FY 2010/11
Attachments: FW: Foreclosure and Economic Recovery Non-recurring Funding FY 2010/11

From: Paula Watkins
To: Pelletier, Dennis; Slayden, Grant
Date: 6/8/2010 2:09 PM
Subject: Fwd: OPS Positions for Foreclosure Backlog/Economic Recovery
Attachments: Econ.foreclosure.positions.xls

Grant/Dennis, OSCA would like to give out the position numbers in sequence. They do have the 1st Circuit (1.5 positions) and the 3rd Circuit (2 positions), so they are looking for how many we (2nd Circuit) have. Just wanted you to know.

>>> Gary Phillips <phillipsg@flcourts.org> 6/7/2010 11:05 AM >>>

Good morning all,

As you know, each circuit submitted a plan for how you will use temporary funding to tackle the backlog of foreclosure of real property cases. You might be using Senior Judges, contracting, using OPS magistrates, case managers and secretaries; or some combination of resources for this purpose.

This message pertains to OPS resources only (magistrates, case managers and secretaries). Attached is a spreadsheet that I need for you to fill out and return to my office as soon as possible by listing the OPS resources you intend to use for this project. This information is necessary so we can assign position numbers to OPS resources that you intend to use, and so we can get the resources set up in People First. The sooner you supply our office with this information, the sooner we can provide position numbers for your upcoming OPS hires.

If you have any questions, feel free to give me a call or e-mail.

Thanks,
Gary

Gary R. Phillips, SPHR
Chief of Personnel Services
Office of the State Courts Administrator
500 S. Duval Street
Tallahassee, Florida 32399-1900
phone: 850-617-4028
fax: 850-488-3744
email: phillipsg@flcourts.org

From: Grant Slayden
To: Dennis Pelletier
Date: 5/27/2010 3:56 PM
Subject: Fwd: RE: Economic Recovery Act Mortgage Foreclosure Funding
Attachments: RE: Economic Recovery Act Mortgage Foreclosure Funding

From: Grant Slayden
To: Dennis Pelletier
Date: 6/9/2010 9:58 AM
Subject: Fwd: RE: Foreclosure Case Management
Attachments: RE: Foreclosure Case Management



2nd Cir 0414

PENDING MORTGAGE FORECLOSURE CASES

as of March 26, 2010

Judicial Circuit

County	Current Number of Pending Cases	Estimated Senior Judge FTEs	Estimated Senior Judge Days
FRANKLIN	400	0.02	5
GADSDEN	483	0.02	5
JEFFERSON	77	0	0
LEON	2560	0.18	45
LIBERTY	44	0	0
WAKULLA	454	0.02	5
CIRCUIT	4018	0.24	60

From: Terri Williams <Williamst@fcourts.org>
To: Paula Watkins <watkinsp@leoncountyfl.gov>, Dennis Pelletier <pelletierd@...>
CC: Gary Phillips <phillipsg@fcourts.org>, David Pepper <pepperd@fcourts.o...>
Date: 6/16/2010 1:45 PM
Subject: OPS Position Numbers - Foreclosure
Attachments: Econ foreclosure positionsC02.xls

Hi Paula,
Attached are position numbers for the Foreclosure/Backlog Economic Recovery OPS positions.

Thanks,

=====
Terri J. Williams, HRM CPM
Personnel Management Analyst
850-488-3695

I Will Lift Up Mine Eyes Unto The Hills...

From: Gary Phillips <phillipsg@flcourts.org>
To: Personnel Reps <PersonnelReps@flcourts.org>
CC: Trial Court Administrators <TrialCourtAdministrators@flcourts.org>, "Ter...
Date: 6/7/2010 11:06 AM
Subject: OPS Positions for Foreclosure Backlog/Economic Recovery
Attachments: Econ.foreclosure.positions.xls

Good morning all,

As you know, each circuit submitted a plan for how you will use temporary funding to tackle the backlog of foreclosure of real property cases. You might be using Senior Judges, contracting, using OPS magistrates, case managers and secretaries; or some combination of resources for this purpose.

This message pertains to OPS resources only (magistrates, case managers and secretaries). Attached is a spreadsheet that I need for you to fill out and return to my office as soon as possible by listing the OPS resources you intend to use for this project. This information is necessary so we can assign position numbers to OPS resources that you intend to use, and so we can get the resources set up in People First. The sooner you supply our office with this information, the sooner we can provide position numbers for your upcoming OPS hires.

If you have any questions, feel free to give me a call or e-mail.

Thanks,
Gary

Gary R. Phillips, SPHR
Chief of Personnel Services
Office of the State Courts Administrator
500 S. Duval Street
Tallahassee, Florida 32399-1900
phone: 850-617-4028
fax: 850-488-3744
email: phillipsg@flcourts.org

From: "Mark VanBever" <Mark.VanBever@flcourts18.org>
To: "Dennis Pelletier" <PelletierD@leoncountyfl.gov>
Date: 6/10/2010 10:51 AM
Subject: Out of Office AutoReply: OPS Positions for Foreclosure Backlog/Economic Recovery

Hello. I'm out of the office June 1-16. Some of that time I will be unable to answer email. Please contact Court Administration at 321-633-2171 extension 2 if you have urgent business.

From: Terri Williams <Williamst@flcourts.org>
To: Dennis Pelletier <pelletierd@leoncountyfl.gov>
Date: 6/18/2010 6:52 AM
Subject: Out of Office: OPS Position Numbers - Foreclosure

I will be out of the office Wednesday, June 9, 2010 returning on Friday, June 11, 2010. I will respond to your email upon my return. If you need immediate assistance, please contact the Office of Personnel Services' main line at 850-487-0778. Thank you.

From: Theresa Westerfield <westerfieldt@flcourts.org>
To: Grant Slayden <slaydeng@leoncountyfl.gov>
CC: Kristine Slayden <slaydenk@flcourts.org>
Date: 5/27/2010 3:56 PM
Subject: RE: Economic Recovery Act Mortgage Foreclosure Funding

Bless you!

Theresa

From: Grant Slayden [mailto:SlaydenG@leoncountyfl.gov]
Sent: Thursday, May 27, 2010 3:55 PM
To: Theresa Westerfield
Cc: Kristine Slayden
Subject: Economic Recovery Act Mortgage Foreclosure Funding

Theresa:

Our Economic Recovery Act Mortgage Foreclosure Funding will stay the same as previous (i.e., allocations between Senior Judge - 60 days, case management, support staff, and expense).

Thank you,
Grant Slayden

Trial Court Administrator
2d Judicial Circuit of Florida
Leon County Courthouse, Rm. 225L
301 South Monroe Street
Tallahassee, Florida 32301-1861
W: 850.577.4420
F: 850.487.7947

From: Kristine Slayden <slaydenk@flcourts.org>
To: Grant Slayden <slaydeng@leoncountyfl.gov>
CC: Sharon Buckingham <buckings@flcourts.org>, Heather Thuotte-Pierson <pier...>
Date: 5/26/2010 2:00 PM
Subject: RE: Foreclosure and Economic Recovery Non-recurring Funding FY 2010/11

Thank you Mr. Slayden. Did you have any change to your budget allocation by elements/categories (Sr. Judge, Case Managers/OPS, expense, contractual) listed in the Circuit Allocation spreadsheet? Kris

Kris Slayden
Research and Data
Office of the State Courts Administrator
Florida Supreme Court
500 S. Duval Street
Tallahassee, Florida 32399
850-922-5106 (wk)
850-556-2335 (cell)
850-414-1342 (fax)

From: Grant Slayden [mailto:SlaydenG@leoncountyfl.gov]
Sent: Wednesday, May 26, 2010 1:53 PM
To: Kristine Slayden
Cc: Sharon Buckingham; Heather Thuotte-Pierson; Dennis Pelletier; Paula Watkins
Subject: Re: Foreclosure and Economic Recovery Non-recurring Funding FY 2010/11

Kris:
Here are our revised (and correct) allocations.
Thank you,
Grant

Trial Court Administrator
2d Judicial Circuit of Florida
Leon County Courthouse, Rm. 225L
301 South Monroe Street
Tallahassee, Florida 32301-1861
W: 850.577.4420
F: 850.487.7947

>>> Kristine Slayden <slaydenk@flcourts.org> 21.5.10 2:41 PM >>>
Chief Judges/Trial Court Administrators – The Trial Court Budget Commission met yesterday and approved the following 5 issues for the implementation of the Foreclosure and Economic Recovery Funding for FY 2010/11. Any adjustments to your circuit's plan based on these decisions need to be emailed to Dorothy Wilson at burked@flcourts.org<mailto:burked@flcourts.org> by COB Tuesday, May 25th. Please refer to the bottom of this email for further submission instructions.

Please note that the allocations will be provided to the Chief Justice and the Legislature for final approval.

Issue 1: FY 2010/11 Funding Allocations Approved

- 1) Approved the FY 2010/11 circuit allocations for the Foreclosure and Economic Recovery Funding, with an adjustment to the contracted services category for case management and administrative support for the 10th, 12th, and 15th circuits (due to restrictions with using contractual dollars). The revised allocation chart is attached.
- 2) Approved effective date for the implementation of the circuits' plans so resources can be deployed on July 1, 2010, using existing FY 2009/10 funds for advertising if necessary.

Issue 2: Types of Cases and Disposition Goals Approved

- 1) Approved real property/mortgage foreclosure cases as the focus of this initiative. If a circuit has cleared all real property/mortgage foreclosure cases from backlog, the circuit may request in writing to the TCBC Chair, with a copy to the TCBC Budget Management Committee Chair, and to the State Courts Administrator, asking to use the funds to handle contracts and indebtedness cases, and county civil cases valued from \$5,001 to \$15,000.
- 2) Approved a targeted goal for the disposition of backlog cases of 62%, which corresponds to the reduction in funding (\$9.6 million proposal reduced down to \$6.0 million appropriation is a 38% reduction).

The attached chart indicates the targeted backlog reduction for the estimated Real Property/Mortgage Foreclosure backlog cases for each circuit. The actual number of backlog cases will need to be produced at the beginning of the initiative for tracking purposes.

Issue 3: Budget Policy Considerations Approved

- a) In order to comply with legislative intent, any expenditure of any type utilizing this funding is strictly limited to direct support of the backlog reduction of the approved case types listed in Issue 2.
- b) In order to ensure that senior judges who are assigned to the Foreclosure and Economic Recovery initiative are paid with the appropriate funds, the current senior judge application will be modified to allow circuits to specify from which funding source the senior judge should be paid. The Trial Court Administrators are responsible for ensuring that the information is reported properly.
- c) Expenditures from the Expense category are limited to intra-circuit travel for staff, intra- and inter-circuit travel for Senior Judges, consumable office supplies, postage, copying, printing and reproduction. To maximize the Expense allotment, circuits are encouraged to use existing resources or surplus furnishings for any office furniture needs for OPS staff and/or Senior Judges. Subscriptions and the like are not allowable expenditures for this funding, neither are computers or other communication devices as those items are a county funding responsibility.
- d) A contingency for the Expense category was approved in the original proposal and factored into the appropriated amount. In order to access these contingency funds, a circuit must have exhausted its Foreclosure and Economic Recovery Expense allotment. Requests for additional Expense are to be made in writing to the TCBC Chair, with a copy to the TCBC Budget Management Committee Chair, and to the State Courts Administrator. The request must provide a complete, detailed explanation of how Expense funding came to be exhausted, what steps were taken to alleviate the impending shortfall, the amount requested and how that amount was calculated.

Issue 4: Funding/Plan Monitoring Approved

1. The Budget Management Committee (BMC) will monitor expenditures on a monthly basis to ensure that resources are only being used for the purpose of backlog reduction for the approved case types. In addition, the BMC will monitor case event data to ensure that expenditures correlate with the TCBC approved activities.
2. The Supreme Court Inspector General will also be reviewing the Foreclosure and Economic Recovery initiative for potential inclusion in the branch's FY 2010/11 audit plan.

Issue 5: Clerk Assistance Approved

Information on in-courtroom resources (general magistrates and senior judges) that will be assigned in each county and the maximum number of courtrooms that will be scheduled at any one time in each county will be shared with clerks once it has been finalized (see attached chart – please update this information, if

needed). The chief judge in each circuit should work with their clerks to ensure the clerks appropriately support their plan. These plans need to be shared with the Office of the State Courts Administrator so that the legislature can be informed of the collaborative work on this issue. In addition, the TCBC approved the requirement that the clerks of court provide data support for this initiative.

Two other issues on performance measurement and FY 2011/12 Legislative Budget Request were postponed until the June 4th TCBC meeting.

Directions:

If the decisions above require you to modify your plan allocations, please make the adjustments and notify Dorothy Wilson of the specific changes to the allocation categories by email at burked@flcourts.org by COB, Tuesday, May 25, 2010. If no changes are needed, please indicate that in an email to Dorothy. In addition, if any changes in your allocations require a revision to the in courtroom resources, please provide that information also.

Listed below are the job classes and hourly rates for OPS positions that were used in the original proposal for the Foreclosure and Economic Recovery Funding. The TCBC approved the circuit allocations with direction to the circuits that they hire within these guidelines.

Element	Position	Maximum rate
Magistrates:	Magistrate	\$35.48 hourly
Case Management:	Court Program Specialist II	\$17.36 hourly
	Court Program Specialist I	\$14.58 hourly
	Court Program Specialist I	\$15.40 hourly w/ CAD –
Hillsborough and Pinellas		
	Court Program Specialist I	\$15.40 hourly w/ CAD –
Broward, Dade, Monroe, Palm Beach		
Admin. Support:	Senior Secretary	\$11.89 hourly
	Senior Secretary	\$12.10 hourly w/ CAD –
Hillsborough and Pinellas		
	Senior Secretary	\$12.48 hourly w/ CAD –
Broward, Dade, Monroe, Palm Beach		

This amount does not include the 7.65% FICA that needs to be added to the hourly rate.

Lastly, some circuits have already developed plans and position descriptions for the implementation of this initiative. You may want to check with our colleagues if you need some assistance in developing your own plan.

Please let me know if you have any questions. Kris

Kris Slayden
 Research and Data
 Office of the State Courts Administrator
 Florida Supreme Court
 500 S. Duval Street
 Tallahassee, Florida 32399
 850-922-5106 (wk)
 850-556-2335 (cell)
 850-414-1342 (fax)

From: Grant Slayden
To: Kristine Slayden
CC: Dennis Pelletier; Heather Thuotte-Pierson; Paula Watkins; SharonBucki...
Date: 5/26/2010 1:53 PM
Subject: Re: Foreclosure and Economic Recovery Non-recurring Funding FY 2010/11
Attachments: mortgage foreclosure senior judge allocation, 26 May 10.xls

Kris:
Here are our revised (and correct) allocations.
Thank you,
Grant

Trial Court Administrator
2d Judicial Circuit of Florida
Leon County Courthouse, Rm. 225L
301 South Monroe Street
Tallahassee, Florida 32301-1861
W: 850.577.4420
F: 850.487.7947

>>> Kristine Slayden <slaydenk@flcourts.org> 21.5.10 2:41 PM >>>

Chief Judges/Trial Court Administrators – The Trial Court Budget Commission met yesterday and approved the following 5 issues for the implementation of the Foreclosure and Economic Recovery Funding for FY 2010/11. Any adjustments to your circuit's plan based on these decisions need to be emailed to Dorothy Wilson at burked@flcourts.org by COB Tuesday, May 25th. Please refer to the bottom of this email for further submission instructions.

Please note that the allocations will be provided to the Chief Justice and the Legislature for final approval.

Issue 1: FY 2010/11 Funding Allocations Approved

- 1) Approved the FY 2010/11 circuit allocations for the Foreclosure and Economic Recovery Funding, with an adjustment to the contracted services category for case management and administrative support for the 10th, 12th, and 15th circuits (due to restrictions with using contractual dollars). The revised allocation chart is attached.
- 2) Approved effective date for the implementation of the circuits' plans so resources can be deployed on July 1, 2010, using existing FY 2009/10 funds for advertising if necessary.

Issue 2: Types of Cases and Disposition Goals Approved

- 1) Approved real property/mortgage foreclosure cases as the focus of this initiative. If a circuit has cleared all real property/mortgage foreclosure cases from backlog, the circuit may request in writing to the TCBC Chair, with a copy to the TCBC Budget Management Committee Chair, and to the State Courts Administrator, asking to use the funds to handle contracts and indebtedness cases, and county civil cases valued from \$5,001 to \$15,000.
- 2) Approved a targeted goal for the disposition of backlog cases of 62%, which corresponds to the reduction in funding (\$9.6 million proposal reduced down to \$6.0 million appropriation is a 38% reduction).

The attached chart indicates the targeted backlog reduction for the **estimated** Real Property/Mortgage Foreclosure backlog cases for each circuit. The actual number of backlog

cases will need to be produced at the beginning of the initiative for tracking purposes.

Issue 3: Budget Policy Considerations Approved

- a) In order to comply with legislative intent, any expenditure of any type utilizing this funding is strictly limited to direct support of the backlog reduction of the approved case types listed in Issue 2.
- b) In order to ensure that senior judges who are assigned to the Foreclosure and Economic Recovery initiative are paid with the appropriate funds, the current senior judge application will be modified to allow circuits to specify from which funding source the senior judge should be paid. The Trial Court Administrators are responsible for ensuring that the information is reported properly.
- c) Expenditures from the Expense category are limited to intra-circuit travel for staff, intra- and inter-circuit travel for Senior Judges, consumable office supplies, postage, copying, printing and reproduction. To maximize the Expense allotment, circuits are encouraged to use existing resources or surplus furnishings for any office furniture needs for OPS staff and/or Senior Judges. Subscriptions and the like are not allowable expenditures for this funding, neither are computers or other communication devices as those items are a county funding responsibility.
- d) A contingency for the Expense category was approved in the original proposal and factored into the appropriated amount. In order to access these contingency funds, a circuit must have exhausted its Foreclosure and Economic Recovery Expense allotment. Requests for additional Expense are to be made in writing to the TCBC Chair, with a copy to the TCBC Budget Management Committee Chair, and to the State Courts Administrator. The request must provide a complete, detailed explanation of how Expense funding came to be exhausted, what steps were taken to alleviate the impending shortfall, the amount requested and how that amount was calculated.

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The Budget Management Committee (BMC) will monitor expenditures on a monthly basis to ensure that resources are only being used for the purpose of backlog reduction for the approved case types. In addition, the BMC will monitor case event data to ensure that expenditures correlate with the TCBC approved activities. The Supreme Court Inspector General will also be reviewing the Foreclosure and Economic Recovery initiative for potential inclusion in the branch's FY 2010/11 audit plan.

Issue 5: Clerk Assistance Approved

Information on in-courtroom resources (general magistrates and senior judges) that will be assigned in each county and the maximum number of courtrooms that will be scheduled at any one time in each county will be shared with clerks once it has been finalized (see attached chart – please update this information, if needed). The chief judge in each circuit should work with their clerks to ensure the clerks appropriately support their plan. These plans need to be shared with the Office of the State Courts Administrator so that the legislature can be informed of the collaborative work on this issue. In addition, the TCBC approved the requirement that the clerks of court provide data support for this initiative.

Two other issues on performance measurement and FY 2011/12 Legislative Budget Request were postponed until the June 4th TCBC meeting.

Directions:

If the decisions above require you to modify your plan allocations, please make the adjustments and notify Dorothy Wilson of the specific changes to the allocation categories by email at burked@flcourts.org by COB, Tuesday, May 25, 2010. If no changes are needed, please indicate that in an email to Dorothy. In addition, if any changes in your allocations require a revision to the in courtroom resources, please provide that information also.

Listed below are the job classes and hourly rates for OPS positions that were used in the original proposal for the Foreclosure and Economic Recovery Funding. The TCBC approved the circuit allocations with direction to the circuits that they hire within these guidelines.

<u>Element</u>	<u>Position</u>	<u>Maximum rate</u>
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	Court Program Specialist I	\$15.40 hourly w/
CAD – Hillsborough and Pinellas		
	Court Program Specialist I	\$15.40 hourly w/
CAD – Broward, Dade, Monroe, Palm Beach		
Admin. Support:	Senior Secretary	\$11.89 hourly
	Senior Secretary	\$12.10 hourly
w/ CAD – Hillsborough and Pinellas		
	Senior Secretary	\$12.48 hourly
w/ CAD – Broward, Dade, Monroe, Palm Beach		

This amount does not include the 7.65% FICA that needs to be added to the hourly rate.

Lastly, some circuits have already developed plans and position descriptions for the implementation of this initiative. You may want to check with our colleagues if you need some assistance in developing your own plan.

Please let me know if you have any questions. Kris

Kris Slayden
Research and Data
Office of the State Courts Administrator
Florida Supreme Court
500 S. Duval Street
Tallahassee, Florida 32399
850-922-5106 (wk)
850-556-2335 (cell)
850-414-1342 (fax)

From: Heather Thuotte-Pierson <piersonh@flcourts.org>
To: Dennis Pelletier <pelletierd@leoncountyfl.gov>
Date: 5/12/2010 9:56 AM
Subject: RE: Foreclosure and Economic Recovery Program Allocations

Dennis-
The chart was not attached.
Thanks.

From: Dennis Pelletier [mailto:PelletierD@leoncountyfl.gov]
Sent: Wednesday, May 12, 2010 9:39 AM
To: Heather Thuotte-Pierson
Cc: Grant Slayden
Subject: Re: Foreclosure and Economic Recovery Program Allocations

Heather,
Please find attached the category allocations for the Second Circuit, based on the newly released allocation of funds. In addition, you requested information regarding the number of senior judge FTE's that would be assigned in each county as well as the number of courtrooms that will be scheduled in each county at any given time. The answer is simple, one senior judge and one courtroom at any given time in each county, on a rotating basis according to the number of cases to be heard, as identified by the Case Manager(s). If you need additional information, please let me know. Thanks.

>>> Heather Thuotte-Pierson <piersonh@flcourts.org> 5/7/2010 11:27 AM >>>
Good morning,

The Legislature appropriated funding for the Foreclosure and Economic Recovery Program in the amount of \$5,955,606 for FY 2010/11 to the trial courts. These non-recurring funds will be used to provide temporary resources in the trial courts to eliminate backlog in the civil areas. We will be sending information on target backlog reduction goals as well as parameters for implementation and clerk involvement in this program after the May 20, 2010 Trial Court Budget Commission meeting.

The amount of funding authority appropriated for this program is less than the amount originally requested, thus the estimated allotment for each circuit also has been adjusted. You will find the estimated allocation by circuit along with estimated backlog cases in the attached PDF file - Foreclosure and Economic Recovery Program. Considering your adjusted allocation, please indicate, using the attached ForeclosureandEconomicRecovery _ Distribution spreadsheet, how you would like the funds for your circuit distributed - by category and element. For every element (General Magistrates and/or Senior Judges, Case Managers, General Magistrate/Senior Judge Admin Support and Mediation Admin Support) specify the dollar amount and category in which the funds should be allocated - OPS, contracted services and/or expenses dollars. To allow for maximum flexibility, funds may be expended in one or all of the elements.

As a reminder, the funding methodology developed for this proposal is based on the number of backlogged cases (in the civil areas) in each circuit. A ratio of one General Magistrate, one Case Manager and two Administrative Support positions for every 15,000 backlogged cases was applied to estimate need. One Administrative Support position is dedicated to mediation for the coordination of civil cases covered under this program with the exclusion of residential homestead mortgage foreclosure cases handled through the managed mediation program. The annual salaries used to calculate the allocation amounts were approximately: \$79,688 for General Magistrates, \$39,126 for Case Managers, and \$26,090 for Admin Support.

Additional information is also needed again from the circuits as to how economic recovery resources will be deployed circuit-wide. Court leadership would like to be able to share this information with the clerks so they can plan accordingly, since they were appropriated \$3.6 million to support our initiative. Please

provide:

-The amount of magistrate/senior judge FTE's that will be assigned in each county based on the expected workload from the backlogged cases. Note: Single county circuits can ignore this question.

-If you have multiple magistrate/senior judge FTE's in the proposal, what is the maximum number of courtrooms that will be scheduled at any one time in each county?

As usual we are under a tight timeframe. Please respond by Wednesday, May 12th C.O.B.

Please let me know if you have any questions or concerns.

Thanks,
Heather

Heather Thuotte-Pierson
Office of the State Courts Administrator
Court Statistics Consultant
(850) 410-3376
piersonh@flcourts.org

From: "Sudzina, Nick" <NSudzina@Jud10.FLCourts.org>
To: "Sondra M. Lanier" <lanier.sondra@jud3.flcourts.org>, "Trial CourtAdmini...
Date: 6/9/2010 9:58 AM
Subject: RE: Foreclosure Case Management

Sondra,

All of our Clerk's resources are going to the Polk Clerk. We can handle the workload in our two lower counties with the system we have in place.

Nick

From: Sondra M. Lanier [mailto:lanier.sondra@jud3.flcourts.org]
Sent: Wednesday, June 09, 2010 9:47 AM
To: Trial Court Administrators
Subject: Foreclosure Case Management

Good morning. I'm sure that my esteemed colleagues are ahead of me on this, so would someone please share your plan? We have a conference call with our clerks this afternoon and I am working on my proposal.

Sondra Lanier
Trial Court Administrator
Third Judicial Circuit
(386)758-2163 Lake City
(386)362-1017 Live Oak
(386)362-2658 Fax

From: Michelle Ogletree <ogletrem@flcourts.org>
To: Dennis Pelletier <pelletierd@leoncountyfl.gov>
Date: 7/2/2010 9:34 AM
Subject: RE: FW: Foreclosure Program

Thank you!!! You too!!!

From: Dennis Pelletier [mailto:PelletierD@leoncountyfl.gov]
Sent: Friday, July 02, 2010 9:34 AM
To: Michelle Ogletree
Subject: RE: FW: Foreclosure Program

Thanks so much Michelle. Have a happy, healthy Fourth!

>>> Michelle Ogletree <ogletrem@flcourts.org> 7/2/2010 9:01 AM >>>
Bi-weekly.

From: Dennis Pelletier [mailto:PelletierD@leoncountyfl.gov]
Sent: Friday, July 02, 2010 8:52 AM
To: Michelle Ogletree
Subject: Re: FW: Foreclosure Program

Thanks Michelle, one more question, will the payroll be bi-weekly or monthly?

>>> Michelle Ogletree <ogletrem@flcourts.org> 7/2/2010 8:40 AM >>>

Good morning Dennis,
The OPS employees are not on-line, so you will need to develop your own method in tracking the OPS timesheets for the Foreclosure money.
Hope you have a wonderful holiday.
Michelle B. Ogletree
Office of Personnel Services
State Courts System
500 South Duval Street
Tallahassee, Florida 32399
(850) 414-1219 (phone)
(850) 488-3744 (fax)

From: Theresa Westerfield
Sent: Friday, July 02, 2010 8:37 AM
To: Dennis Pelletier
Cc: Michelle Ogletree
Subject: RE: Foreclosure Program

Hey Dennis, I don't know but am copying Michelle in Personnel on this email as she may be able to assist in this regard.

Theresa

From: Dennis Pelletier [mailto:PelletierD@leoncountyfl.gov]
Sent: Friday, July 02, 2010 8:34 AM
To: Theresa Westerfield
Subject: Foreclosure Program

Theresa,

What is the scheme for keeping attendance with our OPS workers, will they have access to the online attendance? Perhaps you are not the one to talk to, so please direct me to the right person. Thanks.

From: Grant Slayden
To: Charles Francis
CC: Dennis Pelletier
Date: 5/26/2010 10:00 AM
Subject: Re: Fwd: Foreclosure and Economic Recovery Non-recurring Funding FY 2010/11
Attachments: mortgage foreclosure senior judge allocation, 26 May 10.xls

Chief Judge Francis:

Yes Sir, we have to make changes. Attached is our new proposed allocation for your review.

V/r,

Grant Slayden

Trial Court Administrator
2d Judicial Circuit of Florida
Leon County Courthouse, Rm. 225L
301 South Monroe Street
Tallahassee, Florida 32301-1861
W: 850.577.4420
F: 850.487.7947

>>> Charles Francis 26.5.10 9:46 AM >>>
Let me know if we need to do anything.

From: Paula Watkins
To: Pelletier, Dennis
Date: 6/9/2010 4:27 PM
Subject: Re: Fwd: OPS Positions for Foreclosure Backlog/Economic Recovery

Dennis, would you like to answer them or would you like me to?

>>> Dennis Pelletier 6/8/2010 2:10 PM >>>
Thanks, we'll take care of it tomorrow.

>>> Paula Watkins 6/8/2010 2:09 PM >>>
Grant/Dennis, OSCA would like to give out the position numbers in sequence. They do have the 1st Circuit (1.5 positions) and the 3rd Circuit (2 positions), so they are looking for how many we (2nd Circuit) have. Just wanted you to know.

>>> Gary Phillips <phillipsg@flcourts.org> 6/7/2010 11:05 AM >>>

Good morning all,

As you know, each circuit submitted a plan for how you will use temporary funding to tackle the backlog of foreclosure of real property cases. You might be using Senior Judges, contracting, using OPS magistrates, case managers and secretaries; or some combination of resources for this purpose.

This message pertains to OPS resources only (magistrates, case managers and secretaries). Attached is a spreadsheet that I need for you to fill out and return to my office as soon as possible by listing the OPS resources you intend to use for this project. This information is necessary so we can assign position numbers to OPS resources that you intend to use, and so we can get the resources set up in People First. The sooner you supply our office with this information, the sooner we can provide position numbers for your upcoming OPS hires.

If you have any questions, feel free to give me a call or e-mail.

Thanks,
Gary

Gary R. Phillips, SPHR
Chief of Personnel Services
Office of the State Courts Administrator
500 S. Duval Street
Tallahassee, Florida 32399-1900
phone: 850-617-4028
fax: 850-488-3744
email: phillipsg@flcourts.org

From: Grant Slayden
To: Marianne Bryant
CC: Danny Davis; David Wolfson; Dennis Pelletier; Paula Watkins; Tonya M...
Date: 6/7/2010 7:54 AM
Subject: RE: Update on the TBA's Mortgage Foreclosure Mediation Spaces

Marianne:
Yes, we have free WiFi throughout the courthouse building.
Grant

Trial Court Administrator
2d Judicial Circuit of Florida
Leon County Courthouse, Rm. 225L
301 South Monroe Street
Tallahassee, Florida 32301-1861
W: 850.577.4420
F: 850.487.7947

>>> "Marianne Bryant" <bryantm@tallahasseebar.org> 4.6.10 6:23 PM >>>

Hey Grant! I'm getting ready for a q&a session on Tuesday afternoon @ 5 in Courtroom 1C with the mediators. Will we have internet access for those who bring laptops at either/both locations.

From: Grant Slayden [<mailto:SlaydenG@leoncountyfl.gov>]
Sent: Thursday, June 03, 2010 5:41 PM
To: Marianne Bryant
Cc: Bill Wills; Danny Davis; Tonya Monk; Dennis Pelletier; Paula Watkins; David Wolfson; Kathy Arrant; Joann Capece
Subject: Update on the TBA's Mortgage Foreclosure Mediation Spaces

Marianne:

All of these rooms are on the third floor of the Leon County Courthouse and reserved for your use through COB Monday, 2 August 2010. Operations will begin in the Leon County Courthouse Annex (on Thomasville Road) effective Tuesday, 3 August 2010.

Main mediation room - Rm. 336, speaker phone 850.577.8068, polycom for outgoing calls, tables, 13 chairs.

Medium caucus room - Rm. 310, speaker phone 890.577.4350, tables, 9 chairs.

Small caucus room - Rm. 313-B (Anteroom B in Courtroom 3H), table, 4 chairs.

You should receive a key to these rooms by the end of next week. As we discussed, please ask the plaintiffs (banks and their law firms) to call us or give the mediator a toll free number for telephonic mediations.

Thank you,

Grant Slayden

Trial Court Administrator
2d Judicial Circuit of Florida
Leon County Courthouse, Rm. 225L
301 South Monroe Street
Tallahassee, Florida 32301-1861
W: 850.577.4420
F: 850.487.7947

No virus found in this incoming message.

Checked by AVG - www.avg.com

Version: 9.0.829 / Virus Database: 271.1.1/2914 - Release Date: 06/03/10 02:25:00

Sondra,

All of our Clerk's resources are going to the Polk Clerk. We can handle the workload in our two lower counties with the system we have in place.

Nick

From: Sondra M. Lanier [mailto:lanier.sondra@jud3.flcourts.org]
Sent: Wednesday, June 09, 2010 9:47 AM
To: Trial Court Administrators
Subject: Foreclosure Case Management

Good morning. I'm sure that my esteemed colleagues are ahead of me on this, so would someone please share your plan? We have a conference call with our clerks this afternoon and I am working on my proposal.

Sondra Lanier

Trial Court Administrator
Third Judicial Circuit
(386)758-2163 Lake City
(386)362-1017 Live Oak
(386)362-2658 Fax

From: Grant Slayden
To: Marianne Bryant
CC: Bill Wills; Danny Davis; David Wolfson; Dennis Pelletier; Joann Cape...
Date: 6/3/2010 5:40 PM
Subject: Update on the TBA's Mortgage Foreclosure Mediation Spaces

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Thank you,
Grant Slayden

Trial Court Administrator
2d Judicial Circuit of Florida
Leon County Courthouse, Rm. 225L
301 South Monroe Street
Tallahassee, Florida 32301-1861
W: 850.577.4420
F: 850.487.7947

From: Paula Watkins
To: Court Adm Staff; Court Reporters; Detention Review/Court Mental Health...
Date: 11.8.10 1:45 PM
Subject: Mortgage Foreclosure Program Contact Person for Questions

Please see e-mail below. Thank you!

Chief Judge Francis asked me to let you know that all questions, inquiries or any problems encountered with the new foreclosure program should be directed to or brought to the attention of Staff Attorney Cheri-ann Granston at 577-4411 or GranstonC@leoncountyfl.gov.

Thank you,

Susan Wilson
Director of Research and Data
Second Judicial Circuit, Rm 225
301 S Monroe St
Tallahassee, FL 32301
Phone: 850-577-4430
Fax: 850-487-7947

**IN THE THIRTEENTH JUDICIAL CIRCUIT
HILLSBOROUGH COUNTY, FLORIDA**

ADMINISTRATIVE ORDER S-2009-025

FORECLOSURE PROCEDURES

The state of the economy has resulted in a more than 100% increase in the number of mortgage foreclosure cases filed over each of the last two years. In light of the court's finite resources, it is necessary to establish procedures for more efficient handling of mortgage foreclosure cases.

By the power vested in the chief judge under Florida Rule of Judicial Administration 2.215(b)(2), it is therefore **ORDERED**:

1. Certificate Filed Prior to Requesting Summary Judgment Hearing Dates

Prior to requesting a mortgage foreclosure summary judgment hearing from the court or selecting a hearing date on JCalendar, attorneys of record for plaintiffs must file with the clerk a uniform certificate titled "Certificate of Compliance with Foreclosure Procedures." The uniform certificate form may be found at www.fljud13.org/formspage.asp. The certificate certifies that certain requisite actions have been completed and the dates on which they have occurred.

2. Foreclosure Judgment Packet

Unless the presiding judge provides otherwise, a foreclosure judgment packet must be received by the presiding judge's office at least 5 business days prior to a scheduled telephonic hearing date for motions for summary judgment. For all other hearings, the foreclosure judgment packet may be submitted at the hearing unless the presiding judge provides otherwise. The foreclosure judgment packet consists of the following documents:

- Proposed Final Judgment (sale date will be inserted by the court at the time of the hearing) with sufficient copies for conforming and stamped, addressed envelopes;
- Original Promissory Note and Mortgage (unless previously filed);
- Notice of Sale;
- Certificates of Sale, Disbursements and Title; and
- Copy of Certificate of Compliance with Foreclosure Procedures.

3. Uniform Final Judgment

Uniform final judgment forms must be used in mortgage foreclosure cases. Uniform final judgment forms may be found at www.fljud13.org/formspage.asp.

4. Non-Enforceable Final Judgment Provisions

If either one of the following two provisions appear in a final judgment of foreclosure, the mortgage foreclosure department of the Clerk of the Circuit Court will not enforce the provision(s):

- (a) That a duly scheduled foreclosure sale will be automatically

cancelled if the plaintiff or plaintiff's representative fails to appear at the sale; or

- (b) If the successful bidder at the sale is someone other than the plaintiff, the full bid amount must be paid immediately rather than paid according to the clerk's routine procedure.

If either one or both of these provisions appear in any final judgment of foreclosure, the clerk is directed not to enforce them because the judges assigned to the General Civil Division have expressed that such provisions would only appear in a final judgment of foreclosure through inadvertence.

5. Cancellation of Foreclosure Sale

A. Upon Plaintiff's Notice of Cancellation

The clerk will cancel any scheduled foreclosure sale upon receipt, no later than 2:00 p.m. on the date of the scheduled foreclosure sale, of a Notice of Cancellation of Foreclosure Sale submitted by plaintiff's counsel. The clerk will accept a facsimile of the Notice of Cancellation of Foreclosure Sale at the number designated on the clerk's website at www.hillsclerk.com (Foreclosure Sales) and the Thirteenth Judicial Circuit website at www.fljud13.org (General Civil Division). The original Notice of Cancellation of Foreclosure Sale must be filed with the clerk. The uniform Notice of Cancellation of Foreclosure Sale form may be found at www.fljud13.org/formspage.asp.

B. Upon Suggestion of Bankruptcy

Unless otherwise directed by the presiding judge or a United States Bankruptcy Judge, the clerk will cancel any scheduled foreclosure sale if any deputy clerk assigned to the foreclosure department of the General Civil Division receives, no later than 2:00 p.m. on the date of the scheduled foreclosure sale, a suggestion of bankruptcy on behalf of a named defendant in a pending foreclosure action.

6. Additional Procedures

Individualized procedures for each judge's mortgage foreclosure cases may be found on the respective judge's web page located at www.fljud13.org/directoriespage.asp.

7. Effective Date

This administrative order is effective April 6, 2009.

It is ORDERED in Tampa, Hillsborough County, Florida, on this 6th day of March, 2009.

 /s\ Manuel Menendez, Jr.
Manuel Menendez, Jr., Chief Judge

Original to: Pat Frank, Clerk of the Court
Copies to: All General Civil Division Judges
 Hillsborough County Bar Association

**IN THE TWELFTH JUDICIAL CIRCUIT COURT FOR
DESOTO, MANATEE AND SARASOTA COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER 2010-12.1

**ADMINISTRATIVE ORDER ESTABLISHING STANDARD PROCEDURES
FOR ATTORNEYS PROSECUTING AND DEFENDING RESIDENTIAL AND
COMMERCIAL MORTGAGE FORECLOSURE ACTIONS**

(Vacating AO 2008-14.1 and AO 2008-15.1)

WHEREAS, the Twelfth Judicial Circuit is experiencing an unprecedented number of mortgage foreclosures and the influx of these cases is straining the capacity of the courts to manage them efficiently; and

WHEREAS, reductions in judicial branch funding in the State of Florida have resulted in the elimination of support and administrative staff in the circuit, making the review of documentation submitted in connection with foreclosure summary judgments problematic; and

WHEREAS, standardized procedures are required to facilitate efficient processing of foreclosure cases and verification that cases are ripe for final disposition; and

WHEREAS, the court no longer has the personnel to undertake foreclosure file reviews or to confirm the accuracy of summary judgment hearing packets submitted by the parties; and

WHEREAS, judges in the Twelfth Circuit have had persistent difficulties communicating with parties filing foreclosure actions or their attorneys regarding logistical and efficiency issues, and this frustrates the orderly disposition of cases resulting in unnecessary delay and docket congestion; and

WHEREAS, standard procedures for the electronic filing of papers, pleadings and uniform checklists are necessary to assist the Court and Clerk in the processing of large numbers of documents submitted in connection with actions to foreclose mortgages; and the supreme court has mandated statewide managed mediation in AOSC09-54 and the retirement of the circuit's homestead conciliation program;

NOW, THEREFORE, it is **ORDERED** that the following procedures shall be in force in the Twelfth Judicial Circuit on or after June 21, 2010:

This Administrative Order regulates local procedures governing the filing of actions by attorneys to foreclose residential and commercial mortgages on real property located within the boundaries of the Twelfth Judicial Circuit. Consequently, this Order does not apply to independent actions to foreclose other interests in real property such as homeowner association liens, condominium or cooperative association liens, mechanic liens, governmental entity, tax or equitable liens. An independent action is one that does

not include as a party a person or entity foreclosing a commercial or residential mortgage in the same case.

However, when their clients are parties to a commercial or residential foreclosure, attorneys defending a commercial or residential foreclosure and attorneys representing homeowner associations, condominium or cooperative associations, and government entities with liens are required to E-File all defensive motions and pleadings in accordance with procedures set forth herein.

This Order does not regulate the filing of motions or pleadings in foreclosure cases by *pro se* litigants who are required to comply with all applicable Florida Rules of Civil Procedure.

I. Procedures Applicable to Foreclosure Actions in All Counties On or After June 21, 2010

The following procedures are applicable to all parties represented by counsel filing or defending residential or commercial mortgage foreclosure actions in Manatee, Sarasota, and Desoto Counties regardless of the date the complaint was filed, and to attorneys who set for hearing foreclosure summary judgments or motions relating to such foreclosure cases on or after June 21, 2010,

A. Standard Form Final Judgment Required

Based on supreme court Form 1.996(a), the circuit has adopted a standard foreclosure Final Judgment. This form shall be used in all cases by represented parties seeking to foreclose mortgages. A copy of this form and all forms referenced in this Administrative Order are available on the circuit's website: www.jud12.flcourts.org/

B. Use of JACS to Schedule Hearings in Foreclosure Cases

The Twelfth Circuit employs a **Judicial Automated Calendaring System (JACS)**. Information concerning the use of JACS can be found through a link on the circuit's internet home page: www.jud12.flcourts.org. JACS may only be accessed by members of The Florida Bar using their bar number. Each judge serving in the Civil Division of circuit court reserves time in JACS for the setting of hearings, including motions for summary judgment in foreclosure actions.

Attorneys are required to have an email address as part of the JACS registration process. Hearing dates reserved and cancelled through JACS will be confirmed through email generated by the calendaring system. Instructions for updating JACS registration are available on the circuit's web site.

Civil Division judges have published their individual policies governing the setting of hearings on the JACS home page. Because these policies differ from judge to judge, they should be consulted by counsel and regularly reviewed for updates and modifications.

This is especially true when new judges rotate into the Civil Division. Blocks of time have been set aside specifically for foreclosures.

C. Procedures for Scheduling and Canceling Summary Judgment Hearings

Several law firms engaged in volume foreclosure filings have developed the practice of reserving hearing time for summary judgment before the motion is filed and have consistently failed to comply with judges' cut-off dates for filing summary judgment packets. This has resulted in the waste of valuable hearing time for other litigants when the motion is not forthcoming and the hearing is not canceled by the party. The following procedures are necessary to facilitate the efficient disposition of large numbers of foreclosure filings:

1. No Summary Judgment Hearings to be Scheduled Without a Motion and Supporting Documents Ready for Filing

Hearing time for motions for summary judgments in foreclosure cases shall not be reserved on JACS until the motion, with complete supporting documentation, is prepared and ready for filing with the Clerk. Motions and summary judgment packets shall be transmitted electronically to the Clerk immediately after the hearing time is obtained. Judges will monitor compliance with this requirement and may cancel hearings that have been set without the contemporaneous filing of a motion. Sanctions also may be imposed for chronic disregard of this requirement.

Contested summary judgments filed by plaintiff or defense should be set for hearing on the judges' regular civil docket. Depending on the budget allocated to the circuit by the legislature, special dockets may be established to address foreclosure backlogs. In this event, senior judges, judges serving in other divisions, or magistrates may be assigned to preside over contested or uncontested foreclosures.

2. Updating Costs and Affidavits After Summary Judgment Hearing is Scheduled

A complete foreclosure packet with such information as is currently available to plaintiff is required to be E-filed contemporaneous with the obtaining of hearing time. However, if circumstances change or additional costs are incurred after the acquisition of the hearing date, an amended cost affidavit and proposed final judgment should be E-filed with the Clerk accompanied by a Notice of Filing. Updated or amended documents are required to be in the Clerk's possession at least **three (3)** business days prior to the hearing.

3. Summary Judgment Pleadings and Related Documents to be Sent to Clerks; Checklist Required

On or after the effective date of this order, parties seeking summary judgment in foreclosure actions shall transmit the documentation supporting the motion, including the

original proposed Final Judgment, note and mortgage, to the Clerks. **They are not to be sent to the judges' chambers, nor are copies of these papers to be sent to chambers.** As noted above, no summary judgment hearing time shall be obtained on JACS until the motion for summary judgment and complete package of supporting documentation is in final form and ready for immediate filing with the Clerk.

The summary judgment documentation submitted to the Clerks shall include the Twelfth Circuit's *Mortgage Foreclosure Summary Judgment Checklist*, a form approved by the chief judge and available on the circuit's website, www.jud12.flcourts.org. The checklist requires counsel's confirmation that appropriate steps have been taken to prepare the case for disposition by summary judgment, and that all documents supporting the motion have been timely filed or submitted.

The *Mortgage Foreclosure Summary Judgment Checklist* requires counsel to accurately set forth the status of the case and to inform the court of any deficiencies. The *Checklist* shall be signed by the attorney of record. Plaintiffs' submissions will be spot checked to verify that required documents have been filed and that all certifications required by this order and by AO 2010-11.1 (Administrative Order For Case Management of Residential Foreclosure Cases and Mandatory Referral of Mortgage Foreclosure Cases Involving Homestead Residences to Mediation), have been complied with. It remains the responsibility of the filing attorney to accurately complete the *Checklist* as the judge will rely upon the attorney's representation as an officer of the court as to its accuracy.

Hearings on motions for summary judgment may be canceled if the forms required by this Administrative Order (e.g., circuit-approved Final Judgment, *Mortgage Foreclosure Summary Judgment Checklist*, Certificate of Compliance with the Residential Mortgage Foreclosure Mediation Program, a copy of the most recently filed Form A) do not accompany the summary judgment motion or are not used, or if the documents required by the checklist are not timely filed, are missing and their absence is not adequately explained.

For good cause shown, upon the request of a party the assigned judge may waive the requirements of this Administrative Order or the production of any item or document required by the checklist. Such requests shall be made before the checklist is filed and the hearing on the motion for summary judgment is scheduled.

4. Procedures Applicable to Cases Filed On or After June 21, 2010 - Prerequisite Relating to Homestead Properties - Compliance with Residential Mortgage Foreclosure Mediation Program - Attorney's Certificate;

By separate Administrative Order, AO 2010-11.1, effective June 21, 2010, the circuit has adopted a Residential Mortgage Foreclosure Mediation Program (RMFM Program). Before a summary judgment hearing is scheduled to foreclose a lien on **homestead property** in the Twelfth Circuit, the requirements of the program must be met.

On or after June 21, 2010, when a foreclosure complaint is filed against homestead property the RMFM Program requires plaintiff's counsel to include with the summons a ***Notice to Homeowners Facing Foreclosure***, which explains the program and invites eligible homeowners to participate in the Program. The RMFM Program is being facilitated by a Program Manager, who acts as an independent contractor charged with the primary responsibility of administering homestead mediations.

In addition, the RMFM Program requires plaintiffs' counsel to file a copy of the most recently filed Form A (see Paragraph 17, AO2010-11.1), and an ***Attorney's Certificate of Compliance*** at the same time the motion for summary judgment is filed and the hearing date is booked on JACS. This is a prerequisite to scheduling a hearing on the motion for summary judgment and is part of the ***Mortgage Foreclosure Summary Judgment Checklist*** and documentation required to schedule a summary judgment hearing. [Forms available on circuit website, www.jud12.flcourts.org.]

5. Cancellation of Summary Judgment Hearings

JACS should be used to cancel summary judgment hearings whenever possible. However, JACS will not authorize a cancellation when it would result in short notice to the parties. When JACS does not permit cancellation, the party who has noticed the hearing may cancel it telephonically or via email by contacting the judge's judicial assistant. The cancellation communication should be followed promptly by a Notice of Cancellation filed with the Clerk. When the cancellation occurs shortly before the hearing, persons who are required to receive notice should be advised of the cancellation by the most expeditious means.

6. Cancellation of Foreclosure Sales

In the event it becomes necessary to cancel a foreclosure sale on short notice, the original motion to cancel and a proposed order shall be filed with the Clerk with copies FAXED to the judge's chambers. These motions will be reviewed expeditiously, and a copy of the signed order will be faxed or emailed to the attorney. Assigned judges may require a new motion setting foreclosure sales. Upon request of counsel, Clerks may set new sale dates upon receiving written notification from judges that a sale has been cancelled. **NOTE: Supreme Court Form 1.996(b) should be used to cancel and reschedule foreclosure sales.**

D. Legal Standards for Summary Judgment to Be Followed

Parties seeking to foreclose a mortgage by summary judgment are required to establish, through admissible evidence, that they hold the note and mortgage that is the subject of the action. This is a crucial element of standing. Documentation submitted with the motion must support the assertion of ownership. Mere allegations of ownership do not suffice. *BAC Funding Consortium Inc. v. Jean-Jacques*, 28 So.3d 936 (Fla. 2d DCA 2010).

Moreover, in the typical case, to prevail on summary judgment there must be shown a clear chain of note ownership linking the originator of the loan to the party claiming ownership. *Verizzo v. Bank of New York*, 28 So.3d 976 (Fla. 2d DCA 2010). This linkage is frequently missing and is a major cause of denials of motions for summary judgment.

E. Complaints to Foreclose Residential Mortgages To Be Verified

On February 11, 2010, the supreme court amended Rule of Civil Procedure 1.110(b) requiring verification of mortgage foreclosure complaints involving residential property. The court gave the following reasons for the new rule:

The primary purposes of this amendment are (1) to provide incentive for the plaintiff to appropriately investigate and verify its ownership of the note or right to enforce the note and ensure that the allegations in the complaint are accurate; (2) to conserve judicial resources that are currently being wasted on inappropriately pleaded “lost note” counts and inconsistent allegations; (3) to prevent the wasting of judicial resources and harm to defendants resulting from suits brought by plaintiffs not entitled to enforce the note; and (4) to give trial courts greater authority to sanction plaintiffs who make false allegations. *In Re: Amendments to the Florida Rules of Civil Procedure, No. SC09-1490, pp. 3-4.*

Complaints filed in violation of this requirement before or after the effective date of this order may be subject to dismissal *sua sponte* without prejudice to file a new action, and assigned division judges may require a new complaint, case number, and clerk’s fee as a sanction for non-compliance.

F. Appointment of Circuit Foreclosure Liaison

Any plaintiff who has filed five (5) or more foreclosure actions in the Twelfth Judicial Circuit while this Administrative Order is in effect shall appoint two circuit liaisons, one of whom shall be a lawyer and the other a representative of the entity servicing the plaintiff’s mortgages, if any, and, if none, a representative of the plaintiff. Plaintiff’s counsel shall provide written notice of the name, phone number (including extension), email, and mailing address of both liaisons to the chief judge within 30 days after the effective date of this Administrative Order, and on the first Monday of each July thereafter while this Administrative Order is in effect.

The liaisons shall be informed of the requirements of this Administrative Order and shall be capable of answering questions concerning the administrative status of pending cases and the party’s internal procedures relating to the processing of foreclosure cases, and be readily accessible to discuss administrative and logistical issues affecting the progress of the plaintiff’s cases through courts of the Twelfth Circuit. Plaintiff’s counsel shall promptly inform the chief judge of any changes in designation of the liaisons and the contact information of the liaisons. The liaisons shall act as the court’s point of contact

in the event the plaintiff fails to comply with this Administrative Order on multiple occasions and there is a need to communicate with the plaintiff concerning administrative matters of mutual interest.

II. Attorneys Required to Electronically File Affirmative and Defensive Pleadings and Motions in Manatee and Sarasota County Residential and Commercial Foreclosures,

The Clerks of Manatee and Sarasota Counties are part of a Supreme Court sanctioned project to establish procedures for the electronic filing of pleadings. Known as E-Filing, this innovative system saves litigants money and reduces processing and document review time for the Clerks. Except for a limited number of original documents or exhibits, such as notes and mortgages, E-Filing eliminates the necessity of providing hardcopies of documents or pleadings to the Clerk. The electronic version replaces them. Judges and attorneys of record will be able to view the electronically filed documents on line.

Since December 1, 2008, parties with attorneys have been required to use the E-Filing system when filing foreclosure pleadings, motions and litigation-related documents in Manatee and Sarasota Counties, and in connection with summary or final judgment hearings scheduled on or after that date. The requirement for E-Filing of foreclosure actions continues under this Administrative Order and is mandatory for attorneys representing clients seeking to foreclose or defend commercial or residential mortgages.

It is the intent of this Order that all papers filed by plaintiff or defense attorneys in foreclosure cases on or after June 21, 2010, except for original notes, mortgages, negotiable instruments or items of evidentiary value, be accomplished by use of the E-Filing procedures approved by this court; and that copies of original notes, mortgages, negotiable instruments, and items of evidentiary value be E-Filed at the same time the originals are submitted to the Clerk. For documents, motions or pleadings submitted by counsel on or after June 21, 2010, regardless of the filing date of the complaint, after once warning non-compliant attorneys, Clerks are authorized to return original pleadings or motions submitted by members of The Florida Bar who are non-compliant with the E-Filing rules set forth in this Order.

E-Filing procedures are similar in both counties but are not identical. Parties shall use the E-Filing word processing formats prescribed by the Clerks. Litigants and their counsel should consult each Clerk's website for detailed instructions: www.sarasotaclerk.com/ or www.manateclerk.com.

A. Requests for Exemption: Requests for exemption from E-Filing requirements may be directed to the Clerk, and if denied, referred by written request for consideration and final decision to the Chief Judge.

B. Rules for E-Filers: The following rules apply to parties E-Filing in Sarasota and Manatee County who submit pleadings or motions, or who set final or summary

judgment hearings on or after the effective date of this Order regardless of the date the complaint was filed:

1. **Original Documents:** Original documents of evidentiary value such as promissory notes and mortgages shall be delivered to the Clerk and accompanied by a Notice of Filing. Copies of original documents also shall be included in the parties' E-Filing submission. Only one copy of original documents needs to be E-Filed.

2. **Plaintiffs to Provide Copies of Final Summary Judgments to Parties:** The Twelfth Circuit requires the personal appearance in court of attorneys requesting mortgage foreclosure summary judgments. When the judge approves a summary judgment, the clerk will provide sale dates. If so directed by the Clerk, it shall be the responsibility of plaintiffs' counsel to enter the sale dates into judgment copies and to mail conformed copies to interested parties. To facilitate preparation of these documents, the court will provide a conforming stamp for counsel's use at the hearing.

3. **Plaintiffs to Provide Envelopes to Clerks for Foreclosure Documents and Certificates of Sale and Title:** At the time of any hearing scheduled on or after June 21, 2010, parties obtaining foreclosure summary judgments shall provide the clerks with sufficient pre-addressed and stamped envelopes for service of all required legal documents, including certificates of sale and certificates of title. Clerks are authorized to adopt standard procedures to facilitate the transmission of foreclosure documents to and from attorneys and the parties that are not inconsistent with this Order.

4. **Notices of Sale, Proof of Publication, and Notices of Re-scheduled Sales:** It shall be plaintiffs' responsibility to complete and submit Notices of Sale directly to the newspaper. On or before the close of the business day preceding the sale, the original Notices of Sale shall be filed with the Clerk together with affidavits in proof of publication prior. Clerks are authorized to cancel sales if the Notice of Sale and affidavit in proof of publication have not been timely filed. Upon entry of a court order re-scheduling sales, plaintiffs shall submit Notices of Sale and affidavits in proof of publication to the Clerk in the same manner.

5. **Other Orders Submitted by Counsel:** In the course of litigation, it may be necessary for E-Filers to submit proposed or stipulated orders for the judge's consideration. These shall be E-Filed; however, in addition hard copies shall be sent directly to the assigned judge. The copies sent to the judge shall be accompanied by self-addressed, stamped envelopes for each party entitled to service of conformed copies.

III. Sanctions for Non-Compliance

Failure to comply with the provisions of this Administrative Order may result in the cancellation of hearings, termination of the privilege of telephone hearings, or other sanctions. Chronic offenders may be denied access to JACS and required to request hearing time by email, which may result in substantial delays in the processing of cases.

IV. Effective Date

Except as otherwise provided, the procedures set forth in this Administrative Order shall be effective June 21, 2010 as to cases filed on or after that date. Administrative Order 2008-14.1 (Establishing Standard Procedures for Foreclosures) and Administrative Order 2008-15.1 (Establishing Homestead Conciliation Program) are vacated and no longer effective as of June 21, 2010.

DONE AND ORDERED in Sarasota, Sarasota County this 20th day of MAY, 2010.


Lee E. Haworth, Chief Judge

cc: All Judges in the Twelfth Circuit
Gulf Coast Legal Services
Legal Aid of Manasota
Florida Rural Legal Services
Florida Legal Services
Clerks of Court, Twelfth Circuit
Manatee County Bar Association
Sarasota County Bar Association
Plaintiffs' Foreclosure Liaisons: Dr. Greg Firestone, USF, & Collins Center for Public Policy

**IN THE SECOND JUDICIAL CIRCUIT OF
FLORIDA**

OFFICE OF THE CHIEF JUDGE

ADMINISTRATIVE ORDER 2010 -05

**IN RE: CASE MANAGEMENT OF RESIDENTIAL FORECLOSURE CASES AND
MANDATORY REFERRAL OF MORTGAGE FORECLOSURE CASES INVOLVING
HOMESTEAD 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), Florida Rules of Judicial Administration, 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 civil actions, except those matters expressly excluded by rule 1.710(b), which does not exclude residential mortgage foreclosure actions; and

WHEREAS, the Supreme Court of Florida has determined that mandatory mediation of homestead residential mortgage foreclosure actions prior to the matter being set for final hearing will facilitate the laudable goals of meaningful participation in the process, 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 these 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 Tallahassee Bar Association, Inc. is an independent, nonpartisan, nonprofit organization that has demonstrable ability to assist the courts with managing the residential mortgage foreclosure actions that recently have been filed in the Second Judicial Circuit.

IT IS THEREFORE

ORDERED:

Page 1 of 59



A. **Definitions:** As used in this Administrative Order, the following terms mean:

1. **“RMFM Program”** (stands for Residential Mortgage Foreclosure Mediation Program) means the mediation program managed by The Tallahassee Bar Association, Inc. to implement and carry out the intent of this Administrative Order.
2. **“The Program Manager”** means The Tallahassee Bar Association, Inc., qualified in accordance with parameters attached as Exhibit 13 hereto. “The Program Manager” is also referred to as the “Mediation Manager.”
3. **“Plaintiff”** means the individual or entity filing to obtain a mortgage foreclosure on residential property.
4. **“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.
5. **“Borrower(s)”** means an individual(s) named as a party in the foreclosure action who is/are a primary obligor on the promissory note which is secured by the mortgage being foreclosed.
6. **“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.
7. **“Forms”** means the forms contained in Exhibits 1, 2, 3, 4, 5(a)(b) and (c), 6, 7, 8, 9, and 10 all of which are attached hereto.
8. **“Form “A”** means the certifications required herein in the format of Exhibit 1 which is attached hereto.
9. **“Plaintiff’s Disclosure for Mediation”** means those documents requested by the borrower pursuant to paragraph 7 below.
10. **“Borrower’s Financial Disclosure for Mediation”** means those documents described in Exhibit 5 attached hereto.
11. **“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 the United States 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. Approved foreclosure counselors include but are not limited to Legal Services of North Florida and The Tallahassee Lender’s Consortium.



12. **“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.

B. Scope

1. **Residential Mortgage Foreclosures [Origination Subject to Truth in Lending Act (TILA)].**

This administrative order shall apply to all residential mortgage foreclosure actions filed in the Second Judicial Circuit in which the origination of the note and mortgage sued upon was subject to the provisions of the federal Truth in Lending Act, Regulation Z. However, compliance with this administrative order varies depending on whether the property secured by the mortgage is a homestead residence.

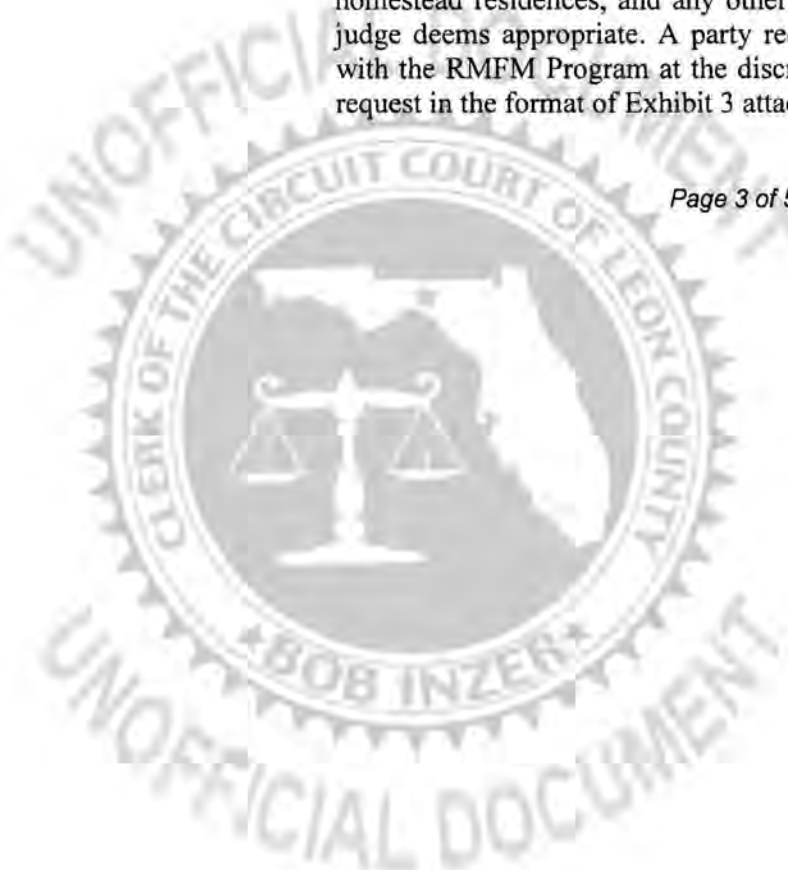
Upon the effective date of this administrative order, all newly filed mortgage foreclosure actions filed against a homestead residence shall be referred to the RMFM Program unless the plaintiff and borrower knowingly agree in writing otherwise or unless pre-suit mediation was conducted in accordance to paragraph F(1). The parties to the foreclosure action shall comply with the conditions and requirements imposed by this administrative order.

In actions to foreclose a mortgage on a homestead residence, the plaintiff and borrower shall attend at least one mediation session, unless the plaintiff and borrower knowingly agree in writing not to participate in the RMFM Program or the Program Manager files a notice of borrower nonparticipation.

The borrower must elect whether to participate in the RMFM program within ten (10) days after being contacted by the Program Manager. In the event this election is not filed within that ten (10) day period, it shall be presumed that the borrower does not wish to participate in the program.

Subsequent to June 1, 2010, all newly filed residential mortgage foreclosure actions involving property that are not a homestead residence shall comply with the requirements of filing a Form “A” as required by paragraph C1 below and the requirements of paragraph C13 below (plaintiff’s certification as to settlement authority).

At the discretion of the presiding judge, compliance with this administrative order may also be required for homestead residential mortgage foreclosure actions filed prior to the effective date of this administrative order, to residences that are not homestead residences, and any other residential foreclosure action the presiding judge deems appropriate. A party requesting that the case be sent to mediation with the RMFM Program at the discretion of the presiding judge shall make the request in the format of Exhibit 3 attached hereto.



2. Referral to Mediation.

This administrative order constitutes a formal referral to mediation pursuant to the Florida Rules of Civil Procedure in actions involving a mortgage foreclosure of a homestead residence. Additional orders of referral are not necessary; however, the presiding judge may execute additional orders of referral, in his or her discretion.

The plaintiff and borrower are deemed to have stipulated to mediation by a mediator assigned by the Program Manager unless pursuant to rule 1.720(f), Florida Rules of Civil Procedure, the plaintiff and borrower file a written stipulation, based upon a reasonable understanding of the impact of waiving mediation, choosing not to participate in the RMFM Program.

Referral to the RMFM Program is for administration and management of the mediation process and assignment of a Supreme Court of Florida certified circuit civil mediator who is a member in good standing of The Florida Bar, with extensive real estate experience in either litigation or mediation, who has been trained in mediating residential mortgage foreclosure actions, whose residence or the primary location of business is the Second Judicial Circuit of Florida, and who has agreed to be on the panel of available certified circuit civil mediators. Mediators used in the RMFM Program shall be trained in accordance with the standards stated in Exhibit 12 attached to AOSC09-54. Mediation through the RMFM Program shall be conducted in accordance with Florida Rules of Civil Procedure and Florida Rules for Certified and Court-Appointed Mediators.

3. Compliance Prior to Judgment.

The parties must comply with this Administrative Order and the mediation process must be completed before the plaintiff applies for default judgment, a summary judgment hearing, or a final hearing in an action to foreclose a mortgage on a homestead residence unless a notice of nonparticipation is filed by the Program Manager.

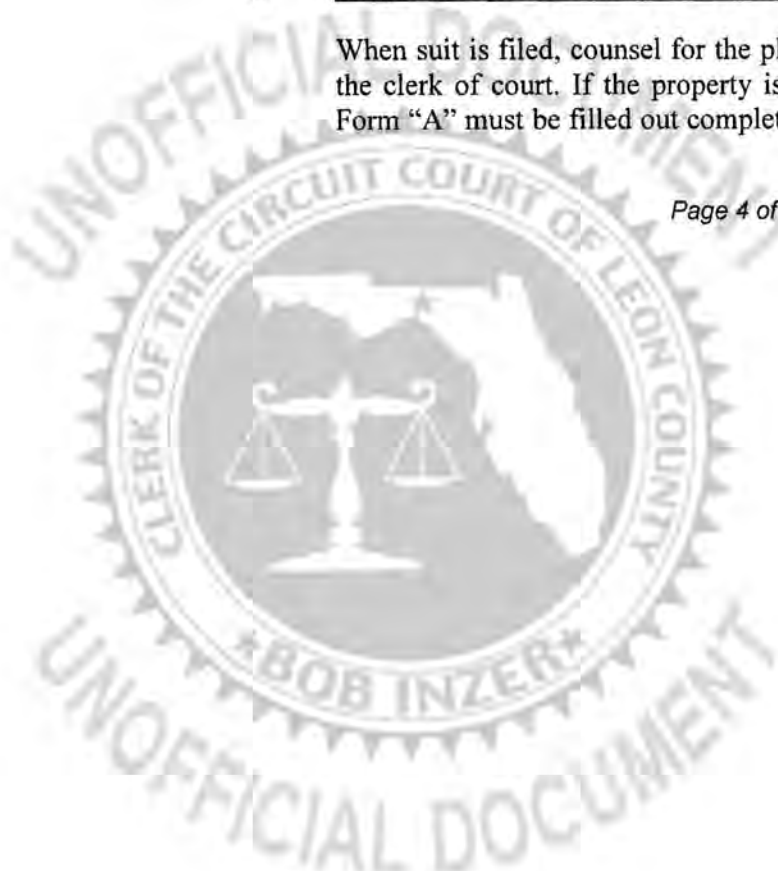
4. Delivery of Notice of RMFM Program with Summons.

After June 1, 2010, 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 hereto.

C. Procedure

1. Responsibilities of Plaintiff's Counsel; Form "A".

When suit is filed, counsel for the plaintiff must file a completed Form "A" with the clerk of court. If the property is a homestead residence, all certifications in Form "A" must be filled out completely. Within one business day after Form "A"



is filed with the clerk of court, counsel for plaintiff shall also electronically transmit or otherwise deliver a copy of Form "A" to the Program Manager along with:

- a) the case number of the action;
- b) the 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);
- c) a check in the amount of \$675.00.
- d) a statement whether the property that is the subject matter of the foreclosure action is occupied by the borrower.

The clerks shall provide the Program Manager with access to the clerk's file in each residential mortgage foreclosure action which is the subject matter of this order.

In Form "A", plaintiff's counsel must affirmatively certify whether the origination of the note and mortgage sued upon was subject to the provisions of the federal Truth in Lending Act, Regulation Z. In Form "A", plaintiff's counsel must also affirmatively certify whether the property is a homestead residence, and whether it is occupied by the borrower at the time the foreclosure action is filed. 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 and if the case is not exempted from participation in the RMFM Program because of pre-suit mediation conducted in accordance with H1 below, plaintiff's counsel shall further certify in Form "A" the identity of the plaintiff's representative who will appear at mediation. Plaintiff's counsel may designate more than one plaintiff's representative. At least one of the plaintiff's representatives designated in Form "A" must attend any mediation session scheduled pursuant to this administrative order with full authority to sign any settlement agreement arising therefrom.

Form "A" may be amended to change the designated plaintiff's representative, and the amended Form "A" must be filed with the court no later than five (5) days prior to the mediation session. All amended Form "A's" must be electronically transmitted to the Program Manager via a secure dedicated e-mail address or on the web-enabled information platform described in paragraph 8 no later than one business day after being filed with the clerk of court.

2. Responsibilities of Borrower.

Within ten (10) days of 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 within thirty (30) days, and provide to the Program Manager the information required by the Borrower's Financial Disclosure for Mediation. 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 transmit the Borrower's Financial Disclosure for Mediation via a secure dedicated e-mail address or to upload same to the web-enabled information platform described in paragraph C4 or to make actual delivery upon the parties; however, the Program Manager is not responsible or liable for the accuracy of the borrower's financial information.

3. Plaintiff's Disclosure for Mediation.

Within the time limit stated below, prior to attending mediation the borrower may request any of the following information and documents from the plaintiff:

- a) Documentary evidence the plaintiff is the owner and holder in due course of the note and mortgage sued upon.
- b) A history showing the application of all payments by the borrower during the life of the loan.
- c) A statement of the plaintiff's position on the present net value of the mortgage loan.
- d) The most current appraisal of the property available to the plaintiff.

The borrower must deliver a written request for such information to the Program Manager in the format of Exhibit 6 attached hereto. Not later than fifteen (15) days prior to the mediation session. The Program Manager shall promptly electronically or otherwise transmit the request for information to plaintiff's counsel.

Plaintiff's counsel is responsible for ensuring that the Plaintiff's Disclosure for Mediation is electronically transmitted via a secure dedicated e-mail address or to the web-enabled information platform described in paragraph C4 below or otherwise transmitted no later than five (5) business days before the mediation session. The Program Manager shall immediately deliver a copy of Plaintiff's Disclosure for Mediation to the borrower.

4. Information to Be Provided on Web-Enabled Information Platform or otherwise.



All information to be provided to the Program Manager to advance the mediation process, such as Form "A", Borrower's Financial Disclosure for Mediation, Plaintiff's Disclosure for Mediation, as well as the case number of the action and contact information for the parties, shall be submitted via a secure dedicated e-mail address or in a web-enabled information platform with XML data elements, or by actual delivery upon the parties.

5. **Nonparticipation by Borrower.**

If the borrower has meaningfully decided that he or she 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 4 attached. The notice of nonparticipation shall be filed no later than sixty (60) days after the initial copy of Form "A" is filed with the court. A copy of the notice of nonparticipation shall be served on the parties by the Program Manager.

6. **Referral to Foreclosure Counseling.**

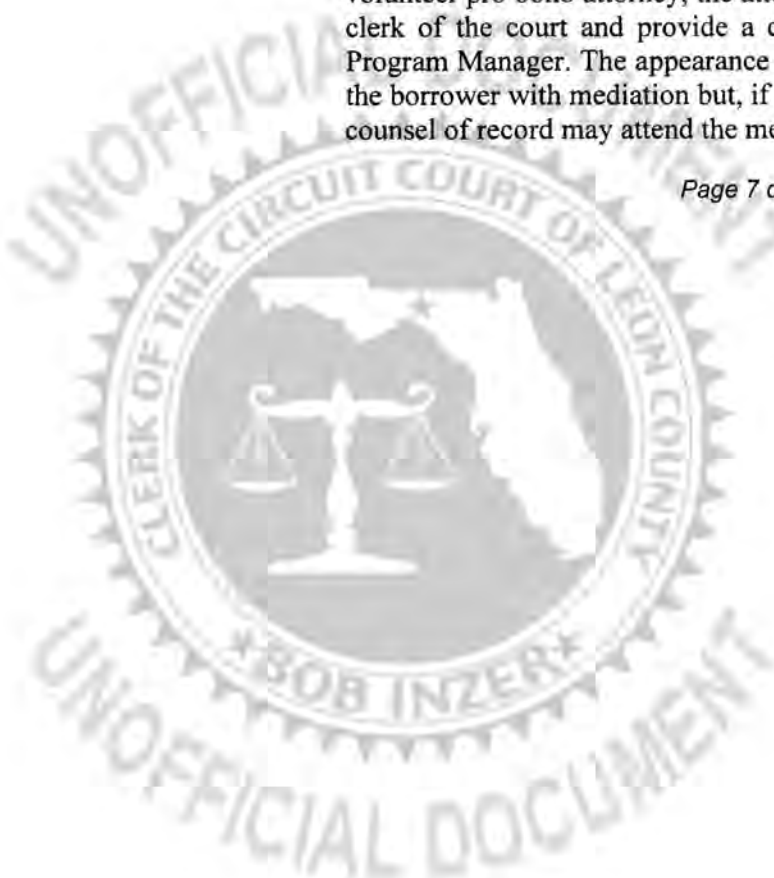
The Program Manager shall be responsible for referring the borrower to a foreclosure counselor prior to scheduling mediation. Selection from a list of foreclosure counselors certified by the United States Department of Housing and Urban Development shall be by rotation or by such other procedures as may be adopted by the Program Manager. The borrower's failure to participate in foreclosure counseling shall be cause for terminating the case from the RMFM Program.

Legal Aid of North Florida and the Tallahassee Lender's Consortium shall be qualified foreclosure counselors under the terms of this order. Nothing herein precludes the Program Manager from utilizing other qualified foreclosure counselors.

7. **Referrals for Legal Representation.**

In actions referred to the RMFM Program, the Program Manager shall advise any borrower who is not represented by an attorney that the borrower has a right to consult with an attorney at any time during the mediation process and the right to bring an attorney to the mediation session.

The Program Manager shall also advise the borrower that the borrower 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 borrower applies to one of those 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 Program Manager. The appearance may be limited to representation only to assist the borrower with mediation but, if a borrower secures the services of an attorney, counsel of record may attend the mediation.



At the discretion of the mediator and with the agreement of the parties, mediation may proceed in the absence of counsel unless otherwise ordered by the court.

8. Scheduling Mediation.

The plaintiff's representative, plaintiff's counsel, and the borrower are all required to comply with the time limitations imposed by this administrative order and attend a mediation session as scheduled by the Program Manager. No earlier than thirty (30) days and no later than sixty (60) 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 comprised of mediators with the qualifications set forth in Paragraph B2 above. Mediation sessions will be held at a suitable location(s) within the circuit. It shall be the responsibility of the Program Manager to provide facilities for the 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 ten (10) days after the Borrower's Financial Disclosure for Mediation has been transmitted to the plaintiff via a secure dedicated e-mail address or uploaded to the web-enabled information platform described in paragraph C4, or otherwise delivered.

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.

Except as provided herein, the following persons are required to be physically present at the mediation session:

- a) a plaintiff's representative designated in the most recently filed Form "A";
- b) plaintiff's counsel;
- c) the borrower(s);
- d) and the borrower's counsel of record, if any.

At the time that the mediation is scheduled to physically commence, the Program Manager shall enter the mediation room prior to the commencement of the mediation conference and, prior to any discussion of the case in the presence of



the mediator, take a written roll. That written roll will consist of a determination of the presence of the borrower; the borrower's counsel of record, if any; the plaintiff's lawyer; and the plaintiff's representative with full authority to settle.

If the Program Manager determines that anyone is not present, that party shall be reported by the Program Manager as a non-appearance by that party on the written roll. If the Program Manager determines that the plaintiff's representative present does not have full authority to settle, the Program Manager shall report that the plaintiff's representative did not appear on the written roll as a representative with full settlement authority as required by this administrative order. The written roll and communication of authority to the Program Manager is not a mediation communication. The mediator may not report lack of full settlement authority if that information is obtained by a mediation communication.

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. Attendance at Mediation through the use of Communication Equipment:

- a) The plaintiff's representative may appear at mediation through the use of communication equipment, if plaintiff files and serves at least five (5) days prior to the mediation a notice in the format of Exhibit 7 attached hereto, 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.
- b) Plaintiff's counsel may be designated as the person with full authority to sign the settlement agreement, however this does not satisfy the requirement that plaintiff's representative be present as previously provided herein, nor shall it excuse the personal attendance of plaintiff's counsel at all mediations, even if they are not designated as the person with full authority to sign the settlement agreement.
- c) The authorization by this administrative order for the plaintiff's representative to appear through the use of communication equipment is pursuant to rule 1.720(b), Florida Rules of Civil



Procedure (court order may alter physical appearance requirement), and in recognition of the emergency situation created by the number of residential foreclosure cases being filed in this circuit and the impracticality of requiring physical attendance of a plaintiff's representative at every mediation. Additional reasons for authorizing appearance through the use of communication equipment for mortgage foreclosure mediation include a number of protective factors that do not exist in other civil cases, namely the administration of the program by a Program Manager, pre-mediation counseling for the borrower, and required disclosure of information prior to mediation. The implementation of this administrative order shall not create any expectation that appearance through the use of communication equipment will be authorized in other civil cases.

- d) If the plaintiff's representative attends mediation through the use of communication equipment:
- i. The person authorized by the plaintiff to sign a settlement agreement must be physically present at mediation.
 - ii. 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.
 - iii. If the plaintiff's representative attends through the use of communication equipment, and if the mediation results in an impasse, within five (5) days after the mediation session, the plaintiff's representative shall file in the court file a certification in the format of Exhibit 8 attached hereto as to whether the plaintiff's representative attended mediation.
 - iv. 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.

11. Failure to Appear at Mediation.

If either the plaintiff's representative designated in the most recently filed Form "A" or the borrower fails to appear at a properly noticed mediation and the mediation does not occur, or when a mediation results in an impasse, and the



determination that a party has not appeared was not learned through a mediation communication, the report of the mediator shall notify the presiding judge regarding who appeared at mediation without making further comment as to the reasons for an impasse.

If the borrower fails to appear, or if the mediation results in an impasse with all required parties present, and if the 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 borrower or borrower's counsel of record fails to appear, the court may impose such other sanctions as the court deems appropriate, including, but not limited to, attorney's fees and costs.

If plaintiff's counsel or the plaintiff's representative fails to appear, the court may dismiss the action without prejudice, order plaintiff's counsel or the plaintiff's representative's to appear at mediation, or impose such other sanctions as the court deems appropriate including, but not limited to, attorney's fees and costs if the borrower is represented by an attorney.

12. Written Settlement Agreement; Mediation Report.

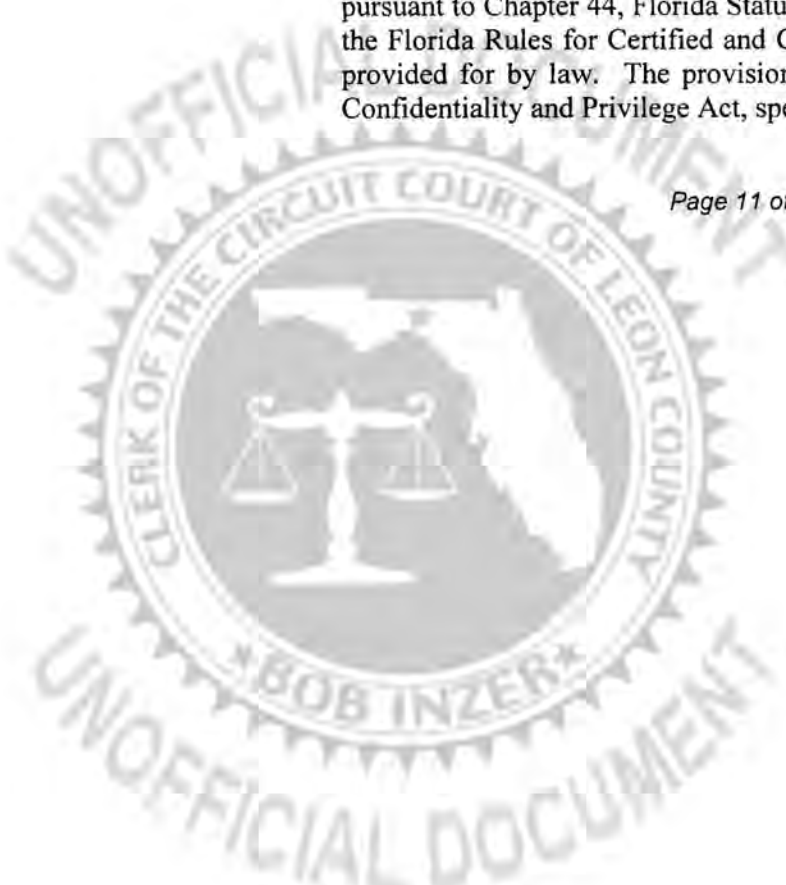
If a partial or final agreement is reached, it shall be reduced to writing and signed by the parties and their counsel, if any. Pursuant to rule 1.730(b), Florida Rules of Civil Procedure, if a partial or full settlement agreement is reached, the mediator shall report the existence of the signed or transcribed agreement to the court without comment within ten (10) days after completion of the mediation.

If the parties do not reach an agreement as to any matter as a result of mediation, the mediator shall report the lack of an agreement to the court without comment or recommendation.

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 at least one of the plaintiff's representative named in Form "A" appeared for mediation. The mediator's report to the court shall be in the format of Exhibit 9 attached hereto.

12. Mediation Communications.

All mediation communications occurring as a result of this administrative order, including information provided to the Program Manager that is not filed with the court, 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. The provisions of chapter 44.401-44.406, The Mediation Confidentiality and Privilege Act, specifically apply to the Program Manager.



13. Failure to Comply with Administrative Order.

In all residential foreclosure actions, if a notice for trial, motion for default final judgment, or motion for summary judgment is filed with the clerk of court, 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.

In cases involving a homestead residence, 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 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.

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 Not Required If Residence Is Not Homestead.

If the plaintiff certifies in Form "A" that the property is **NOT** a homestead residence when suit is filed, plaintiff's counsel must file and serve with the complaint a certification identifying the agent of plaintiff who has full authority to settle the case without further consultation. The certification shall be in the form of Exhibit 10 attached hereto.

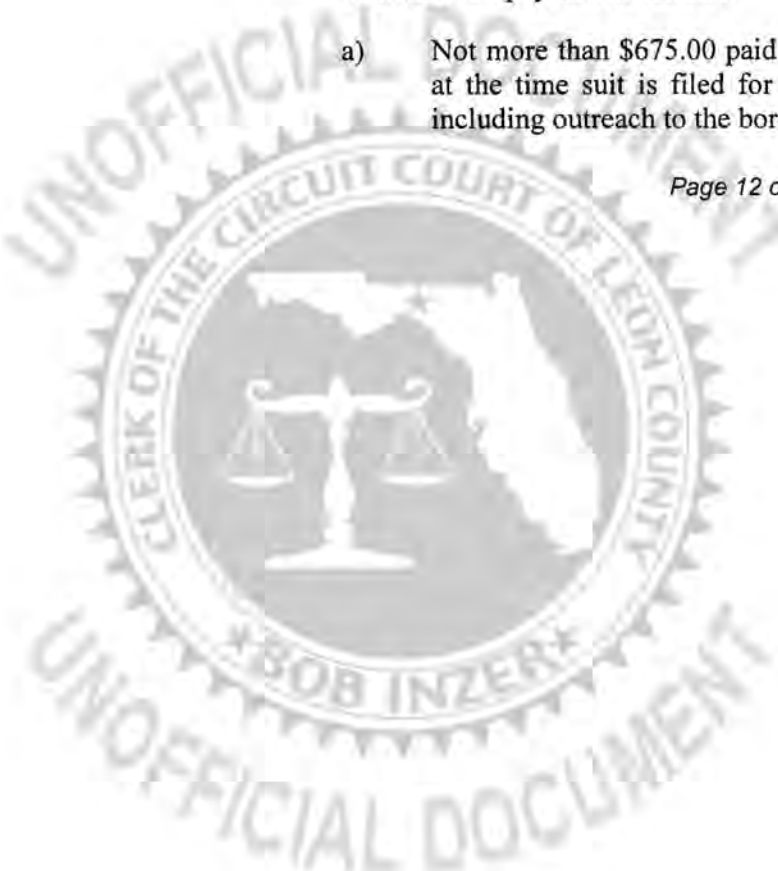
If the plaintiff certifies in Form "A" that the property is **NOT** a homestead residence, the matter may proceed to a final hearing, summary judgment, or default final judgment in accordance with the rules of civil procedure without any further requirement to attend mediation, unless otherwise ordered by the presiding judge.

D. RMFM Program Fees

1. Fee Structure:

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), Florida Rules of Civil Procedure, the reasonable program fees for the managed mediation, including foreclosure counseling, costs for facilities in which to conduct the mediations, the mediator's fee, and administration of the managed mediation program, is a total of no more than \$675.00 payable as follows:

- a) Not more than \$675.00 paid by plaintiff directly to the Program Manager at the time suit is filed for administrative fees of the RMFM Program, including outreach to the borrower and foreclosure counseling fees.



2. **Additional Mediation Sessions.**

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 session shall be no more than \$250.00 per session.

3. **Payments.** 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.

4. **Refunds.**

a) 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, to wit \$75.00, and the mediators fee, to wit: \$250.00, for a total of \$325.00.

b) 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 five (5) days prior to the mediation session, the plaintiff shall be entitled to a refund of the program fees allocated for the mediation session, to wit \$250.00.

c) If notice of settlement is not received by the Program Manager at least five (5) days prior to the scheduled mediation session, the plaintiff shall not be entitled to any refund of mediation fees.

5. **Costs included in Fees.** The total fees include:

a) The mediator's fees and costs;

b) The cost for the borrower to attend a foreclosure counseling session with an approved mortgage foreclosure counselor;

c) The costs of an interpreter, if any; and,

d) The cost to the Program Manager for administration of the managed mediation program which includes but is not limited to, scheduling, telephone lines and instruments, infrastructure to support a web-enabled information platform, a secure dedicated email address or other secure system for information transmittal, the cost of facilities in which the



mediations shall be conducted, and other related expenses incurred in managing the foreclosure mediation program.

E. Program Manager to Monitor Compliance and Satisfaction

1. Monitoring Compliance Concerning Certain Provisions of this Administrative Order.

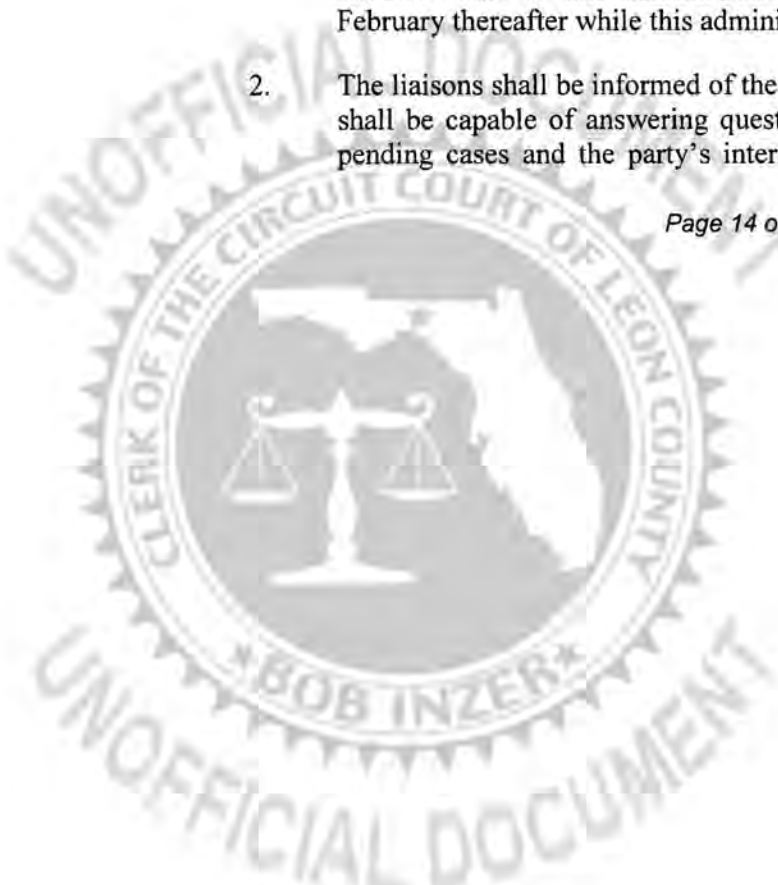
- a) The Program Manager shall be responsible for monitoring whether Form “A” has been filed in all residential foreclosure actions that commence after June 1, 2010 and whether the RMFM Program fees have been paid if the residence is a homestead residence.
- b) The Program Manager shall send compliance reports to the chief judge or the chief judge’s designee in the format and with the frequency required by the chief judge.
- c) The Program Manager may assist with enforcing compliance with this administrative order upon filing a written motion pursuant to rule 1.100(b), Florida Rules of Civil Procedure, stating with particularity the grounds therefor and the relief or order sought. Example orders are attached as Exhibit 11 attached hereto.

2. Satisfaction with RMFM Program and Program Operation Reports.

The Program Manager shall also provide the chief judge with periodic reports as to whether plaintiffs and borrowers are satisfied with the RMFM Program. This information shall be obtained by a procedure within the discretion of the Program Manager. The Program Manager shall also provide the chief judge with reports with statistical information about the status of cases in the RMFM Program and RMFM Program finances in the format and with the frequency required by the chief judge.

F. Designation of Plaintiff Liaisons with RMFM Program.

- 1. Any plaintiff who has filed five (5) or more foreclosure actions in the Second Judicial Circuit while this Administrative Order is in effect shall appoint two RMFM Program liaisons, one of whom shall be a lawyer and the other a representative of the entity servicing the plaintiff’s mortgages, if any, and, if none, a representative of the plaintiff. Plaintiff’s counsel shall provide written notice of the name, phone number (including extension), email, and mailing address of both liaisons to the chief judge and the Program Manager within 30 days after the effective date of this administrative order, and on the first Monday of each February thereafter while this administrative order is in effect.
- 2. The liaisons shall be informed of the requirements of this administrative order and shall be capable of answering questions concerning the administrative status of pending cases and the party’s internal procedures relating to the processing of



foreclosure cases, and be readily accessible to discuss administrative and logistical issues affecting the progress of the plaintiff's cases through the RMFM Program. Plaintiff's counsel shall promptly inform the chief judge and Program Manager of any changes in designation of the liaisons and the contact information of the liaisons. The liaisons shall act as the court's point of contact in the event the plaintiff fails to comply with this administrative order on multiple occasions and there is a need to communicate with the plaintiff concerning administrative matters of mutual interest.

G. List of Participating Mediators and Rotation of Mediators.

1. The Program Manager shall post on its website the list of Supreme Court of Florida certified mediators it will use to implement the RMFM Program. The mediators to be utilized may either be individuals or law firms. In the event a law firm is appointed, it shall select a mediator who is qualified under the terms of this order to be the mediator of the cases that firm receives in the rotation. The criteria to be used in selecting mediators shall be those criteria set forth in Paragraph C2, along with experience, education, training, merit, availability, and diversity. The selections shall be at the discretion of the Program Manager.
2. The Program Manager shall also state in writing the procedure, subject to the approval by the chief judge, the program will use to rotate the appointment of mediators. If a law firm is appointed, it shall be construed to satisfy the rotation requirement for all members of the firm. The RMFM Program shall encourage the use of Supreme Court civil circuit certified mediators who have been specially trained in the manner set forth in Exhibit 12 attached to AOSC09-54 and is incorporated by reference herein, and made a part hereof.
3. The list presenters of training programs specifically qualified to conduct such trainings in the Second Judicial Circuit of Florida, include, but are not limited to: Christopher Shulman, Esq., Gregory Firestone, PhD, and David A. Wolfson, Esq. Other training providers who desire that their programs qualify under Exhibit 12 attached to AOSC09-54 and are incorporated by reference herein and made a part hereof shall submit an application to the Program Manager along with their program materials for determination as to whether the program qualifies under the provisions of Exhibit 12.
4. Individuals qualified to mediate mortgage foreclosure cases, shall be members in good standing of The Florida Bar, whose residence or principle place of business, is the Second Judicial Circuit of Florida, who have extensive real estate experience in litigation or mediation, and who reflect the diversity of the community in which it operates. Assignment of mediators shall be on a rotation basis that fairly spreads work throughout the pool of mediators working in the RMFM Program, unless the parties mutually agree on a specific mediator or the case requires a particular skill on the part of the mediator.



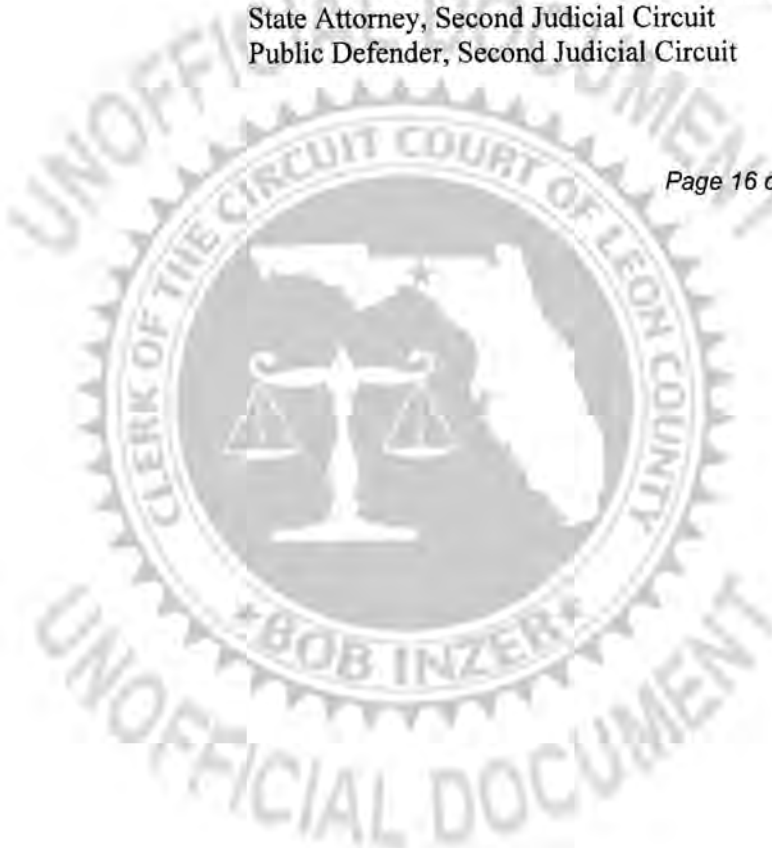
H. Pre-Suit Mediation Encouraged

1. 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 Second 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 actions being filed across the state and, in particular, in the Second Judicial Circuit.
2. If the parties participated in pre-suit mediation using the RMFM Program or participated in any other pre-suit mediation program having procedures substantially complying with the requirements of this administrative order, including provisions authorizing the exchange of information, foreclosure counseling, and requiring use of Supreme Court of Florida certified circuit civil mediators specially trained to mediate residential mortgage foreclosure actions, the plaintiff shall so certify in Form "A", in which case the plaintiff and borrower shall not be required to participate in mediation again unless ordered to do so by the presiding judge. A borrower may file a motion contesting whether pre-suit mediation occurred in substantial compliance with the RMFM Program.
3. Nothing in this paragraph precludes the presiding judge from sending the case to mediation after suit is filed, even if pre-suit mediation resulted in an impasse or there was a breach of the pre-suit mediation agreement. This administrative order shall be recorded by the clerk of the court in each county of the Second Judicial Circuit, takes effect on June 1, 2010, and will remain in full force and effect unless and until otherwise ordered.

DONE and ORDERED this 19th day of May, 2010.


CHARLES A. FRANCIS
Chief Judge

cc: All Circuit and County Judges, Second Judicial Circuit
All Clerks of the Circuit Court, Second Judicial Circuit
State Attorney, Second Judicial Circuit
Public Defender, Second Judicial Circuit



SECOND JUDICIAL CIRCUIT
EXHIBIT 1
FORM "A"

Page 17 of 59



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

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

[Name of Plaintiff]

Plaintiff(s),
Vs.

Civil Case No.: _____

[Names of Defendant(s)]

Defendant(s)

Form "A"

(Certifications Pursuant to Second Judicial Circuit Administrative Order 2010-05.)

Certificate of Plaintiff's Counsel Regarding Origination of Note and Mortgage

THE UNDERSIGNED, as counsel of record for plaintiff and as an officer of the court, certifies the origination of the note and mortgage sued upon in this action

___ WAS or
___ WAS NOT

subject to the provisions of the federal Truth in Lending Act, Regulation Z.

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 that 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 both of the following:

Certificate of Plaintiff's Counsel Regarding Pre-Suit Mediation

The following certification

 DOES or
 DOES NOT

apply to this case:

THE UNDERSIGNED, as counsel of record for plaintiff and as an officer of the court, certifies that prior to filing suit a plaintiff's representative with full settlement authority attended and participated in mediation with the borrower, conducted by:

Name of Pre-suit mediator: _____

Telephone: _____

Email: _____

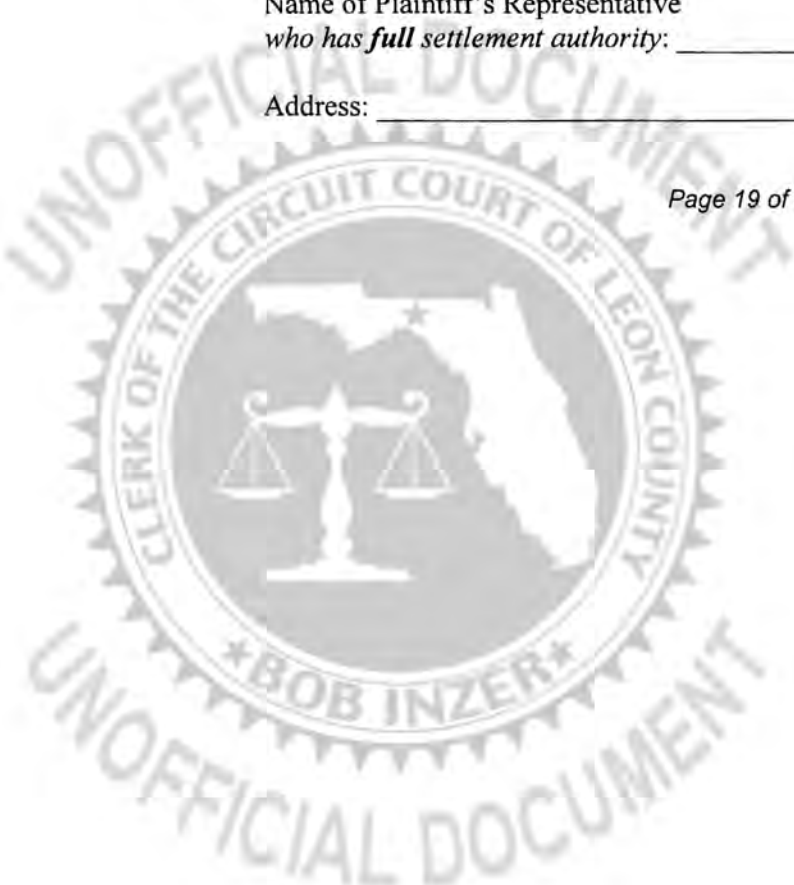
and the mediation resulted in an impasse or a pre-suit settlement agreement was reached but the settlement agreement has been breached. The undersigned further certifies that prior to mediation the borrower received services from a HUD or NFMC approved foreclosure counselor, Borrower's Financial Disclosure for Mediation was provided, and Plaintiff's Disclosure for Mediation was provided.

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

Name of Plaintiff's Representative who has **full** settlement authority: _____

Address: _____



Telephone: _____

Facsimile No.: _____

Email: _____

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 Plaintiff's

Counsel: _____

Printed Name: _____

Fla. Bar Number: _____

Address: _____

Telephone Number: _____

Facsimile Number: _____

Email: _____

Certificate of Borrower's Last Known Address and Occupancy

Borrower Name: _____

Last Known Mailing Address: _____

Is this residence occupied by the Borrower? _____ Yes

An answer of "unknown," "not sure," "not applicable," or other like response will not be accepted. _____ No



SECOND JUDICIAL CIRCUIT

EXHIBIT 2

NOTICE OF RMFM PROGRAM TO BE SERVED WITH SUMMONS

Page 21 of 59



IN THE CIRCUIT COURT OF THE SECOND 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 is said at mediation.

You will not have to pay anything to participate in this mediation program. To participate in the mediation, as soon as practical, you must contact the Tallahassee Bar Association, Inc., by calling (850) 222-3292 (extension 304) Monday through Thursday 9:00 a.m. to 5:00 p.m. and Friday 9:00 a.m. to 2:00 p.m. Tallahassee Bar Association, Inc., will explain more about the mediation program to you when you call.

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.

If you have attended mediation arranged by Tallahassee Bar Association, Inc., prior to being served with this lawsuit, and if mediation did not result in a settlement, you may file a motion asking the court to send the case to mediation again if your financial circumstances have changed since the first mediation.

AS STATED IN THE SUMMONS SERVED ON YOU:

- **YOU OR YOUR LAWYER MUST FILE A WRITTEN RESPONSE TO THE COMPLAINT TO FORECLOSE THE MORTGAGE WITH THE COURT WITHIN 20 DAYS AFTER YOU WERE SERVED WITH THE COMPLAINT.**
- **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 IN THE MEDIATION.**

Dated this _____ day of _____, 2010.

Charles A. Francis, CHIEF JUDGE



SECOND JUDICIAL CIRCUIT

EXHIBIT 3

BORROWER'S REQUEST TO PARTICIPATE IN RMFM PROGRAM

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

Plaintiff(s)

Vs.

Civil Case No.: _____

Defendant(s).

_____ /

**BORROWER'S REQUEST TO PARTICIPATE
IN THE RMFM PROGRAM**

_____, as the BORROWER on the mortgage sued upon in this case, hereby requests that this case be referred by the Court to mediation using the RMRM Program. The undersigned states, under penalty of perjury, that he or she is currently living on the property as a primary residence and the property has a homestead tax exemption.

Dated this ___ day of _____, 2010.

Signed: _____
BORROWER



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

Plaintiff(s)

Vs.

Civil Case No.: _____

Defendant(s).
_____ /

**CERTIFICATE OF SERVICE OF
BORROWER'S REQUEST TO PARTICIPATE IN THE RMFM PROGRAM**

I HEREBY CERTIFY that a true and correct copy of the BORROWER'S REQUEST TO PARTICIPATE IN THE RMRM PROGRAM of the Second Judicial Circuit, in and for Leon County, Florida, has been furnished via electronic mail or U.S. Mail to: Clerk of the Circuit Court, Civil Division (original), Lender's Counsel, Borrower or Borrower's Counsel, (if any), Jr. Lienholder's Counsel (if any).

Dated this ____ day of _____, 2010.

Signature
(Print Name),
RMFM Program Manager
Tallahassee Bar Association, Inc.
Leon County Courthouse
301 S. Monroe Street, Suite 108
Tallahassee, FL 32301
(850) 222-3292, ext. 304
(850) 222-3864 facsimile
www.tallahasseebar.org/rmfmprogram



SECOND JUDICIAL CIRCUIT

EXHIBIT 4

BORROWER DECLINES TO PARTICIPATE IN RMFM PROGRAM

&

NOTICE OF BORROWERS NON-PARTICIPATION

Page 26 of 59



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

Name of Plaintiff,
Plaintiff.

Vs.

Circuit Court Case No.:

Name of Defendant(s)
Defendant(s).
_____ /

**BORROWER DECLINES TO PARTICIPATE IN THE
RESIDENTIAL MORTGAGE FORECLOSURE MEDIATION PROGRAM**

Name of Borrower(s), as the borrower on the mortgage sued upon in this case, hereby states that I DO NOT wish to participate in mediation using the RMFM Program.

Dated this ___ day of _____, 2010.

Signature

Print Name: _____

Please return this completed form to:

**RMFM Program Manager
Tallahassee Bar Association, Inc.
Leon County Courthouse
301 South Monroe Street, Suite 108
Tallahassee, Florida 32301**



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

Plaintiff(s)

Vs.

Civil Case No.: _____

Defendant(s).
_____ /

**NOTICE OF BORROWER'S NON-PARTICIPATION
WITH RMFM PROGRAM**

The Tallahassee Bar Association, PROGRAM MANAGER, hereby gives notice to the court that _____, BORROWER, will not be participating in the RMFM Program because on the following checked reason(s):

- 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;
- Borrower has failed or refuses to comply with the Borrower's Financial Disclosure for Mediation;
- The RMFM Program has been unable to contact Borrower.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic mail or U.S. Mail to: Clerk of the Circuit Court, Civil Division (original), Lender's Counsel, Borrower's Counsel, if any, Jr. Lienholder's Counsel, if any this ____ day of _____, 201__.

Signature
 (Print Name),
 Tallahassee Bar Association, Inc.
 RMFM Program Manager
 Leon County Courthouse
 301 S. Monroe Street, Suite 108
 Tallahassee, FL 32301
 (850) 222-3292, ext. 304
 (850) 222-3864 facsimile
www.tallahasseebar.org/rmfmprogram



Second Judicial Circuit

EXHIBIT 5 Borrowers' Financial Disclosure for Mediation

- 5a - Loan Modification
- 5b - Short Sale
- 5c - Deed in Lieu of Foreclosure

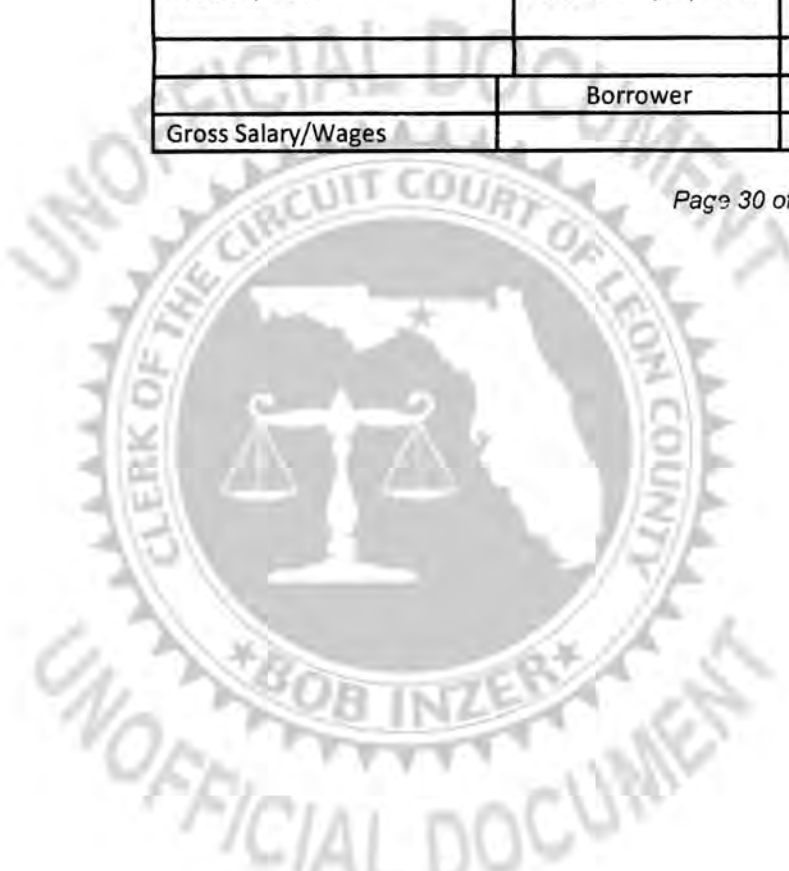


5a

FORECLOSURE MEDIATION FINANCIAL WORKSHEET	
Case No.: _____	
_____ v. _____	
Plaintiff's Name	First Defendant's Name

SECTION 1: 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	Married	Civil Union/Domestic Partner
<input type="checkbox"/> Separated	<input type="checkbox"/> Unmarried (single, divorced, widowed)	Separated	<input type="checkbox"/> Unmarried (single, divorced, widowed)
Dependents (not listed by Co-Borrower)		Dependants (Not listed by Co-Borrower)	
Present Address (Street, City, State, Zip)		Present Address (Street, City, State, Zip)	

SECTION 2: 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)			



SECTION 3: EXPENSE & 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		

SECTION 4: ASSETS		
	Estimated Value	
Personal Residence		
Real Property		
Automobile 1		
Automobile 2		
Checking Accounts		
Savings Accounts		
IRA/401K/Keogh Accounts		
Stocks/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		



SECTION 4: ASSETS CON'T

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 Income 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/loss statement

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



Fannie Mae Hardship Form 1021

Home Affordable Modification Program Hardship Affidavit

Borrower Name:

_____ (First Middle Last)

Date of Birth:

Co-Borrower:

Property Street Address:

Property City, State, Zip:

Servicer:

Loan Number:

In order to qualify for _____'s ("Servicer") offer to enter into an agreement to modify my loan, I/we am/are submitting this form to the Servicer and indicating by my/our checkmarks the one or more events that contribute to my/our difficulty making payments on my/our mortgage loan:

My income has been reduced or lost. For example: unemployment, underemployment, reduced job hours, reduced pay, or a decline in self-employed business earnings.
I have provided details below under "Explanation."

Borrower: Yes ___ No ___ Co-Borrower: Yes ___ No ___

My household financial circumstances have changed. For example: death in family, serious or chronic illness, permanent or short-term disability, increased family responsibilities (adoption or birth of a child, taking care of elderly relatives or other family members).
I have provided details below under "Explanation."

Borrower: Yes ___ No ___ Co-Borrower: Yes ___ No ___

My expenses have increased. For example: monthly mortgage payment has increased or will increase, high medical and health-care costs, uninsured losses (such as those due to fires or natural disasters), unexpectedly high utility bills, increased real property taxes.
I have provided details below under "Explanation."

Borrower: Yes ___ No ___ Co-Borrower: Yes ___ No ___



My cash reserves are insufficient to maintain the payment on my mortgage load and cover basic living expenses at the same time. Cash reserves include assets such as cash, savings, money market funds, marketable stocks or bonds (excluding retirement accounts). Cash reserves do not include assets that serve as an emergency fund (generally equal to three times my monthly debt payments). I have provided details below under "Explanation."

Borrower: Yes ___ No ___ Co-Borrower: Yes ___ No ___

My monthly debt payments are excessive, and I am overextended with my creditors. I may have used credit cards, home equity loans or other credit to make my monthly mortgage payments. I have provided details below under "Explanation."

Borrower: Yes ___ No ___ Co-Borrower: Yes ___ No ___

There are other reasons I/we cannot make our mortgage payments. I have provided details below under "Explanation."

INFORMATION FOR GOVERNMENT MONITORING PURPOSES

The following information is requested by the federal government in order to monitor compliance with federal statutes that prohibit discrimination in housing. You are not required to furnish this information, but are encouraged to do so. The law provides that a lender or servicer may not discriminate either on the basis of this information, or on whether you choose to furnish it. If you furnish the information, please provide both ethnicity and race. For race, you may check more than one designation. If you do not furnish ethnicity, race, or sex, the lender or servicer is required to note the information on the basis of visual observation or surname if you have made this request for a loan modification in person. If you do not wish to furnish the information, please check the box below.

Borrower:

- Ethnicity:**
 _____ Latino/Hispanic
 _____ Non-Latino/Hispanic
- Race:**
 _____ American Indian/Alaska Native
 _____ Black/African American
 _____ Native Hawaiian/Other Pacific Islander
 _____ White
 _____ I do not wish to furnish this information

Co-Borrower:

- Ethnicity:**
 _____ Latino/Hispanic
 _____ Non-Latino/Hispanic
- Race:**
 _____ American Indian/Alaska Native
 _____ Black/African American
 _____ Native Hawaiian/Other Pacific Islander
 _____ White
 _____ I do not wish to furnish this information



TO BE COMPLETED BY INTERVIEWER:

Interviewer's Name: _____
(Print of Type)

Interviewer's Employer
Name & Address: _____

Interviewer's Signature: _____

Dated: _____

Address: _____

Telephone: _____
(Area Code + Telephone Number)

Internet Address: _____



BORROWER/CO-BORROWER ACKNOWLEDGEMENT

1. Under penalty of perjury, I/we certify that all of the information in this affidavit is truthful and the event(s) identified above has/have contributed to my/our need to modify the terms of my/our mortgage loan.
2. I/we understand and acknowledge the Servicer may investigate the accuracy of my/our statements, may require me/us to provide supporting documentation, and that knowingly submitting false information may violate Federal law.
3. I/we understand the Servicer will pull a current credit report on all borrowers obligated on the Note.
4. I/we understand that if I/we have intentionally defaulted on my/our existing mortgage, engaged in fraud or misrepresented any fact(s) in connection with this Hardship Affidavit, or if I/we do not provide all of the required documentation, the Servicer may cancel the Agreement and may pursue foreclosure on my/our home.
5. I/we certify that my/our property is owner-occupied and I/we have not received a condemnation notice.
6. I/we certify that I/we am/are willing to commit to credit counseling if it is determined that my/our financial hardship is related to excessive debt.
7. I/we certify that I/we am/are willing to provide all requested documents and respond to all Servicer communication in a timely manner. I/we understand that time is of the essence.
8. I/we understand that the Servicer will use this information to evaluate my/our eligibility for a loan modification or other workout, but the Servicer is not obligated to offer me/us assistance based solely on the representations in this affidavit.
9. I/we authorize and consent to Servicer disclosing to the U.S. Department of Treasury or other government agency, Fannie Mae and/or Freddie Mac any information provided by me/us or retained by Servicer in connection with the Home Affordable Modification Program.

BORROWER:

CO-BORROWER:

Signature

Signature

Date

Date

Email

Email



Exhibit 5b

In addition to the FANNIE MAE HARDSHIP FORM 1021 in Exhibit 5A above, the following information must be uploaded into the web-enabled IT platform on behalf of the borrower:

- Signed purchase contract for the homestead residence
- Listing agreement for sale of the homestead residence
- Preliminary HUD-1
- Written permission from the borrower authorizing the plaintiff or any agent of the plaintiff to speak with the real estate agent about the borrower's loan

Borrowers should be reminded that the sale MUST be an arm's length transaction, and the property cannot be sold to anyone with close personal or business ties to the borrower.



EXHIBIT 5c

BORROWER'S FINANCIAL DISCLOSURE FOR MEDIATION (DEED IN LIEU OF FORECLOSURE)

In addition to the FANNIE MAE HARDSHIP FORM 1021 in Exhibit 5A above, the following information must be uploaded into the web-enabled IT platform on behalf of the borrower:

Current title search for the homestead residence.



Second Judicial Circuit
EXHIBIT 6
Borrowers Request for Plaintiff's Disclosure
For Mediation

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

[Name of Plaintiff]

Plaintiff,

vs.

Case No.

[Names of Defendant(s)]

Defendant(s)
_____ /

**NOTICE OF BORROWER'S REQUEST FOR
PLAINTIFF'S DISCLOSURE FOR MEDIATION**

_____, (*printed name*), as the borrower on the mortgage sued upon in this case, hereby requests the following information and disclosure from the plaintiff pursuant to Administrative Order 2010-05 entered in the Second Judicial Circuit (*mark the information and documents requested*):

- ___ Documentary evidence the Plaintiff is the owner and holder in due course of the note and mortgage sued upon.
- ___ A history showing the application of all payments by the borrower during the life of the loan.
- ___ A statement of the Plaintiff's position on the present net present value of the mortgage loan.
- ___ The most current appraisal of the property available to the Plaintiff.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by regular U. S. Mail this ___ day of _____, 2010 to:
Plaintiff's/Lender's Counsel

(*Signature of Borrower/Defendant*)



CERTIFICATE OF SERVICE OF PROGRAM MANAGER

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Borrower's Request for Plaintiff's Disclosure for Mediation dated _____ has been served on Plaintiff's counsel via electronic mail and regular U. S. Mail this ___ day of _____, 2010.

Clerk of Court *original*

Plaintiff's Counsel

Jr. Lienholder's Counsel, if any

Borrower

Program Manager, Second Judicial Circuit
Residential Mortgage Foreclosure Mediation Program
Tallahassee Bar Association, Inc.
Leon County Courthouse
301 S. Monroe Street, Suite 108
Tallahassee, FL 32301
(850) 222-3232 ext. 304
RMFMprogram@tallahasseebar.org



Second Judicial Circuit

EXHIBIT 7

**PLAINTIFF'S NOTICE OF ATTENDING MEDIATION
THROUGH THE USE OF COMMUNICATION EQUIPMENT**

Page 45 of 59



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

[Name of Plaintiff]

Plaintiff,

vs.

Case No.

[Names of Defendant(s)]

Defendant(s)
_____ /

**NOTICE THAT PLAINTIFF'S REPRESENTATIVE
WILL APPEAR THROUGH THE USE OF COMMUNICATION EQUIPMENT
AND DESIGNATION OF AUTHORITY TO SIGN SETTLEMENT AGREEMENT**

Plaintiff gives notice of exercising the option to allow Plaintiff's representative designated in Form "A" filed in this case to attend mediation through the use of communication equipment, and designates *[name of person]* as the person who will be physically present at mediation with full authority on behalf of plaintiff to sign any settlement agreement reached at mediation.

On the date of the mediation, Plaintiff's representative can be reached by calling the following telephone number: *[telephone number, including area code and extension]*.

Signed on this ___ day of _____, 20__.

Signature of Plaintiff

Print Name of Plaintiff

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic mail or U.S. Mail to: The RMFM Program Manager, Borrower or Borrower's Counsel, (if any), and Jr. Lienholders Counsel, (if any), this ___ day of _____, 201__.

Lender's Counsel

By: _____
Signature

Printed Name

Address

Page 46 of 59



City, State Zip

Telephone Number

Second Judicial Circuit

EXHIBIT 8

**PLAINTIFF'S CERTIFICATION REGARDING ATTENDANCE
AT MEDIATION THROUGH THE USE OF
COMMUNICATION EQUIPMENT**

Page 47 of 59



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

Plaintiff(s)

Vs.

Civil Case No.: _____

Defendant(s).
_____ /

**CERTIFICATION REGARDING ATTENDANCE AT MEDIATION
THROUGH THE USE OF COMMUNICATION EQUIPMENT**

[Name], who was designated as Plaintiff's Representative in Form "A" filed herein, under penalty of perjury, states to the court that [he][she] (*mark as appropriate*):

- Attended mediation through the use of communication equipment, and was on the communication equipment at all times during the entire mediation.
- Attended mediation, through the use of communication equipment but was not on the communication equipment at all times during the mediation.

Dated this ____ day of _____, 2010.

Plaintiff's Representative

Printed Name

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic mail or U.S. Mail to: The RMFM Program Manager, Borrower or Borrower's Counsel, (if any), and Jr. Lienholders Counsel, (if any), this ____ day of _____, 201__.

Lender's Counsel

By: _____
Signature

Printed Name

Address

City, State Zip

Telephone Number



Second Judicial Circuit

EXHIBIT 9

Mediation Report

Page 49 of 59



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

Plaintiff(s)

Vs.

Civil Case No.: _____

Defendant(s).
_____ /

MEDIATION REPORT

(RMFM Program)

Due within 10 days of Mediation

Pursuant to the Court's Order, a Mediation Conference was conducted by
_____, Certified Circuit Civil Mediator, on [date].

1) The following were present:

a) The Plaintiff's Representative, _____ and
Plaintiff's attorney, _____

b) The Defendant[s],
_____, and
his/her/their attorney[s], _____

2) The result of the Mediation Conference is as follows (*Mediator selects only one*):

- A signed **SETTLEMENT AGREEMENT** was reached during this Conference.
- The parties have reached a total **IMPASSE**.
- The parties have agreed to **ADJOURN** the mediation to _____ [date].
- Mediation has been **TERMINATED**.

As required by Administrative Order 2010-05 a copy of the most recently filed Form A is attached.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic mail or U.S. Mail to: The Plaintiff and Plaintiff's Counsel, the Borrower or Borrower's Counsel, if any, and Jr. Lienholders Counsel, if any this ____ day of _____, 201__.

Program Manager, Second Judicial Circuit
RMFM Program
Tallahassee Bar Association, Inc.



Leon County Courthouse
301 S. Monroe Street, Suite 108
Tallahassee, FL 32301
(850) 222-3232 ext. 304
RMFMprogram@tallahasseebar.org



Second Judicial Circuit

Exhibit 10

Certification Regarding Settlement Authority

(Residence Not Homestead)

Page 52 of 59



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

Plaintiff(s)

Vs.

Civil Case No.: _____

Defendant(s).
_____ /

PLAINTIFF'S CERTIFICATION SETTLEMENT AUTHORITY
(Residence Is Not Homestead)

In compliance with Administrative Order 2010-05, the undersigned attorney certifies that following person or entity has full authority to negotiate a settlement of this case with the borrower without further consultation: *(All of the following information must be provided)*

Name: _____
Mailing Address: _____
Telephone Number _____
(including area code and extension):
Fax Number: _____
Email Address: _____
Loan/File Number: _____

Notice to Defendants: Because of privacy laws and rules, the plaintiff will only be able to negotiate a modification of the loan with the named borrower on the underlying debt.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic mail or U.S. Mail to: The RMFM Program Manager, Borrower or Borrower's Counsel, (if any), and Jr. Lienholders Counsel, (if any), this ____ day of _____, 201__.

Lender's Counsel

By: _____
Signature

Printed Name

Address

City, State Zip

Telephone Number



Second Judicial Circuit

EXHIBIT 11

**ORDERS FOR REFERRALS, COMPLIANCE,
AND ENFORCEMENT**

Page 54 of 59



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

Plaintiff(s),

vs.

Case No.

Defendant(s).

ORDER TO SHOW CAUSE

(Plaintiff's Failure to Comply with Administrative Order 2010-05.

It appearing to the court that Plaintiff has failed to comply with the requirements of Administrative Order 2010-05 in regards to the following (as marked):

Form A

___ Plaintiff failed to file Form A.

___ Plaintiff failed to electronically submit Form A to the Program Manager using the approved web-based information platform.

Payment of RMFM Program Fees

___ Plaintiff failed to pay the portion of the RMFM Program fees payable at the time suit is filed.

___ Plaintiff failed to pay the portion of the RMFM Program fees payable within 10 days after the notice conference is filed.

Electronic Transmittal of Case Number and Borrower Contact Information

___ Plaintiff failed to electronically submit the case number and contact information to the borrower to the Program Manager using the approved web-based information platform.

Failure to File and Serve Certification Regarding Settlement Authority

___ Plaintiff failed to file and serve the certification regarding the person or entity with full settlement authority where the residence is not homestead (Form Exhibit 9 attached to the Administrative Order 2010-05).



Attendance at Mediation

- ___ Plaintiff's counsel failed to attend mediation.
- ___ Plaintiff's representative designated in the most recent Form A filed in the court file failed to attend mediation.
- ___ Plaintiff's agent with full authority to sign a settlement agreement failed to attend mediation.
- ___ Plaintiff's representative failed to attend by telephone at all times during the mediation session.
- ___ After the mediation resulted in an impasse, plaintiff's representative failed to file the certification regarding attendance at mediation by telephone at all times (Form Exhibit 7 attached to the Administrative Order 2010-05).

IT IS ORDERED that Plaintiff shall appear before the court at the _____ County Chourthose, courtroom _____ on the _____ day of _____, 201__ to show cause why sanctions for noncompliance the Administrative Order 2010-05 should not be imposed. Plaintiff is cautioned that failure to appear at the show cause hearing may result in the case being dismissed and the imposition of other appropriate sanctions.

Dated this _____ day of _____, 201__.

Circuit Judge

Copies Furnished



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

Plaintiff(s),

vs.

Case No.

Defendant(s).

ORDER AFTER SHOW CAUSE HEARING

(Plaintiff's Failure to Comply with Administrative Order 2010-05)

The court having determined that Plaintiff has failed to comply with the requirements of Administrative Order 2010-05, it is ORDERED and ADJUDGED (as marked):

Form A

___ Within 10 days from the date of this order, Plaintiff shall file and electronically submit Form A to the Program Manager using the approved web-based information platform.

Payment of RMFM Program Fees

___ Within 10 days from the date of this order, Plaintiff shall pay \$ _____ of the RMFM Program fees to the Program Manager.

Electronic Transmittal of Case Number and Borrower Contact Information

___ Within 10 days from the date of this order, Plaintiff shall electronically submit the case number and contact information to the borrower to the Program Manager using the approved web-based information platform.

Failure to File and Serve Certification Regarding Settlement Authority

___ Within 10 days after the date of this order, Plaintiff shall file and serve the certification regarding the person or entity with full settlement authority where the residence is not homestead (Form Exhibit 9 attached to the Administrative Order 2010-05).

Attendance at Mediation

___ Plaintiff's counsel shall attend the next scheduled mediation in this case.



____ (Name), as plaintiff's representative designated in the most recent Form A filed in the court file, shall physically attend the next scheduled mediation in this case.

____ (Name), as plaintiff's agent with full authority to sign a settlement agreement shall attend the next scheduled mediation in this case.

Dismissal

___ This case is dismissed without prejudice.

Additional Sanctions

___ The court determines _____ is entitled to an award of attorney's fees and cost, the amount of which shall be determined at a subsequent hearing.

Dated this ____ day of _____, 2010.

Circuit Judge

Copies Furnished



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

Plaintiff(s),

vs.

Case No.

Defendant(s).

ORDER REFERRING CASE TO RMFM PROGRAM

(Case Filed Prior to June 1, 2010)

It appearing to the court that the residence which is the subject of this action to foreclose a mortgage is a "homestead residence" to which Administrative Order 2010-05 applies and that Defendant _____ (Borrower) has requested that the case be referred to mediation, it is ORDERED:

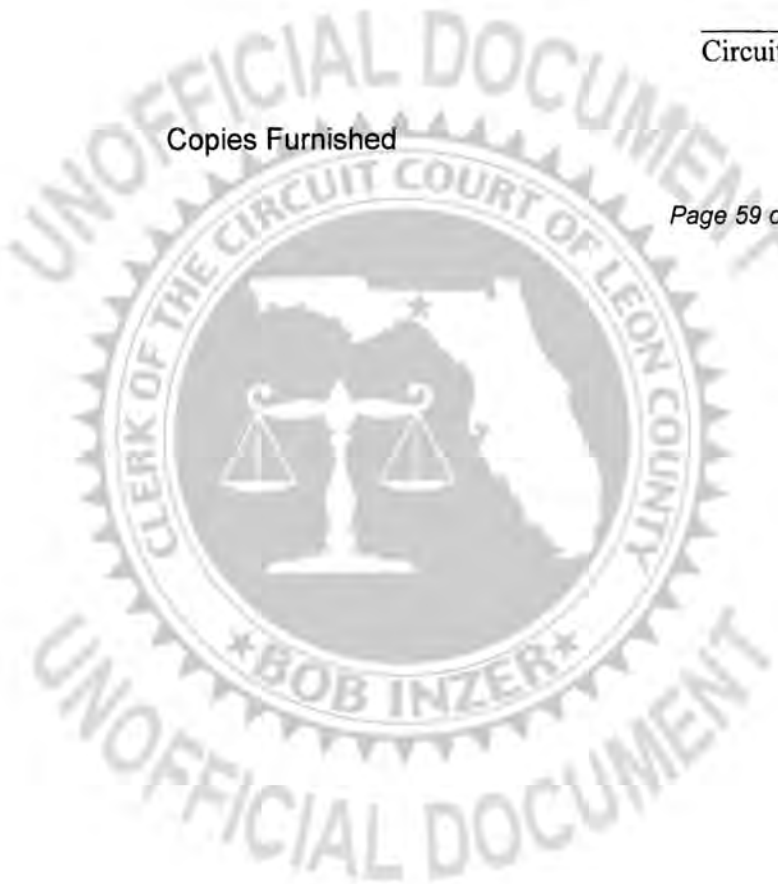
1. The case is referred to the RMFM Program for mediation, and the plaintiff and borrower shall comply with Administrative Order 2010-05.
2. Within 10 days from the date of this order, the plaintiff shall pay that portion of the RMFM Program fees payable at the time suit is filed, file a properly filled out Form A in the manner required by the administrative order, and electronically transmit Form A to the Program Manager using the approved web-based information platform.
3. The plaintiff and borrower are to cooperate with the Program Manager and must attend any mediation scheduled by the Program Manager.
4. The plaintiff is advised and cautioned that failure to comply in a timely manner with the requirements of this order will result in dismissal of the cause of action without further order of the court.

Dated this _____ day of _____, 2010.

Circuit Judge

Copies Furnished

Page 59 of 59



From: Paula Watkins
To: 2nd Judicial Circuit Clerks; All Judges; Daniels, Nancy; Fernandez, S...
CC: Arrant, Kathy; Bryant, Marianne; Galeener, Loretta; Novak, Carolyn; ...
Date: 20.5.10 2:10 PM
Subject: Admin Order 2010-05, Mortgage Foreclosure Mediation Program (59 pages)
Attachments: Admin Order 2010-05 Mortgage Foreclosure Mediation 5-19-10.pdf

Good afternoon, please find attached Administrative Order 2010-05 in re: Case Management of Residential Foreclosure Cases and Mandatory Referral of Mortgage Foreclosure Cases Involving Homestead Residences to Mediation.

If you have any questions, please contact David Wolfson at (850)577-4438 or e-mail at WolfsonD@leoncountyfl.gov OR Marianne Bryant at (850) 222-3292 Ext 304 or e-mail at bryantm@tallahasseebar.org.

Thank you for your time.

*Paula Watkins
2nd Judicial Circuit
Office of Court Administration,
Room 225-N
Leon County Courthouse
301 S. Monroe Street
Tallahassee, FL 32301
Phone : (850) 577-4422
Fax: (850) 487-7947*

From: Paula Watkins
To: Court Adm Staff; Court Reporters; Detention Review/Court Mental Health...
Date: 11.8.10 1:58 PM
Subject: All-Staff Meeting Thursday, August 12th - Cancelled

Hi. I will e-mail you with a new date and location once it's been determined. Thank you.

*Paula Watkins
2nd Judicial Circuit
Office of Court Administration,
Room 225-N
Leon County Courthouse
301 S. Monroe Street
Tallahassee, FL 32301
Phone : (850) 577-4422
Fax: (850) 487-7947*

**IN THE SECOND JUDICIAL CIRCUIT OF
FLORIDA**

OFFICE OF THE CHIEF JUDGE

ADMINISTRATIVE ORDER 2010 -05

**IN RE: CASE MANAGEMENT OF RESIDENTIAL FORECLOSURE CASES AND
MANDATORY REFERRAL OF MORTGAGE FORECLOSURE CASES INVOLVING
HOMESTEAD 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), Florida Rules of Judicial Administration, 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 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 Second Judicial Circuit, and state and county budget constraints have limited the ability of the courts in the Second Judicial Circuit to manage these cases in a timely manner; and

WHEREAS, high residential mortgage foreclosure rates are damaging the economy in the Second Judicial Circuit; and

WHEREAS, the Supreme Court of Florida has determined that mandatory mediation of homestead residential mortgage foreclosure actions prior to the matter being set for final hearing will facilitate the laudable goals of meaningful participation in the process, 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 these 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 Tallahassee Bar Association, Inc. is an independent, nonpartisan, nonprofit organization that has demonstrable ability to assist the courts with managing the large

number of residential mortgage foreclosure actions that recently have been filed in the Second Judicial Circuit.

IT IS THEREFORE

ORDERED:

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

1. **“RMFM Program”** (stands for Residential Mortgage Foreclosure Mediation Program) means the mediation program managed by The Tallahassee Bar Association, Inc. to implement and carry out the intent of this Administrative Order.
2. **“The Program Manager”** means The Tallahassee Bar Association, Inc., qualified in accordance with parameters attached as Exhibit 13 hereto. “The Program Manager” is also referred to as the “Mediation Manager.”
3. **“Plaintiff”** means the individual or entity filing to obtain a mortgage foreclosure on residential property.
4. **“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.
5. **“Borrower(s)”** means an individual(s) named as a party in the foreclosure action who is/are a primary obligor on the promissory note which is secured by the mortgage being foreclosed.
6. **“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.
7. **“Forms”** means the forms contained in Exhibits 1, 2, which are attached hereto and made a part hereof, and 3, 4, 5(a)(b) and (c), 6, 7, 8, 9, and 10 all of which are attached to AOSC09-54 and its subsequent amendments, if any, which are incorporated by reference herein and made a part hereof.
8. **“Form “A”** means the certifications required herein in the format of Exhibit 1 which is attached hereto.
9. **“Plaintiff’s Disclosure for Mediation”** means those documents requested by the borrower pursuant to paragraph 7 below.
10. **“Borrower’s Financial Disclosure for Mediation”** means those documents described in Exhibit 5 which is attached to AOSC09-54 and is incorporated by reference herein and made a part hereof

11. **“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 the United States 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. Approved foreclosure counselors include but are not limited to Legal Services of North Florida and The Tallahassee Lender’s Consortium.
12. **“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.

B. Scope

1. **Residential Mortgage Foreclosures [Origination Subject to Truth in Lending Act (TILA)].**

This administrative order shall apply to all residential mortgage foreclosure actions filed in the Second Judicial Circuit in which the origination of the note and mortgage sued upon was subject to the provisions of the federal Truth in Lending Act, Regulation Z. However, compliance with this administrative order varies depending on whether the property secured by the mortgage is a homestead residence.

Upon the effective date of this administrative order, all newly filed mortgage foreclosure actions filed against a homestead residence shall be referred to the RMFM Program unless the plaintiff and borrower knowingly agree in writing otherwise or unless pre-suit mediation was conducted in accordance to paragraph F(1). The parties to the foreclosure action shall comply with the conditions and requirements imposed by this administrative order.

In actions to foreclose a mortgage on a homestead residence, the plaintiff and borrower shall attend at least one mediation session, unless the plaintiff and borrower knowingly agree in writing not to participate in the RMFM Program or the Program Manager files a notice of borrower nonparticipation.

The borrower must elect whether to participate in the RMFM program within ten (10) days after being contacted by the Program Manager. In the event this election is not filed within that ten (10) day period, it shall be presumed that the borrower does not wish to participate in the program.

Subsequent to May 1, 2010, all newly filed residential mortgage foreclosure actions involving property that are not a homestead residence shall comply with the requirements of filing a Form “A” as required by paragraph C1 below and the requirements of paragraph C13 below (plaintiff’s certification as to settlement authority).

At the discretion of the presiding judge, compliance with this administrative order may also be required for homestead residential mortgage foreclosure actions filed prior to the effective date of this administrative order, to residences that are not homestead residences, and any other residential foreclosure action the presiding judge deems appropriate. A party requesting that the case be sent to mediation with the RMFM Program at the discretion of the presiding judge shall make the request in the format of Exhibit 3 which is attached to AOSC09-54 and is incorporated by reference herein and made a part hereof.

2. Referral to Mediation.

This administrative order constitutes a formal referral to mediation pursuant to the Florida Rules of Civil Procedure in actions involving a mortgage foreclosure of a homestead residence. Additional orders of referral are not necessary; however, the presiding judge may execute additional orders of referral, in their discretion.

The plaintiff and borrower are deemed to have stipulated to mediation by a mediator assigned by the Program Manager unless pursuant to rule 1.720(f), Florida Rules of Civil Procedure, the plaintiff and borrower file a written stipulation, based upon a reasonable understanding of the impact of waiving mediation, choosing not to participate in the RMFM Program.

Referral to the RMFM Program is for administration and management of the mediation process and assignment of a Supreme Court of Florida certified circuit civil mediator who is a member in good standing of The Florida Bar, with extensive real estate experience in either litigation or mediation, who has been trained in mediating residential mortgage foreclosure actions, whose residence or the primary location of business is the Second Judicial Circuit of Florida, and who has agreed to be on the panel of available certified circuit civil mediators. Mediators used in the RMFM Program shall be trained in accordance with the standards stated in Exhibit 12 attached to AOSC09-54. Mediation through the RMFM Program shall be conducted in accordance with Florida Rules of Civil Procedure and Florida Rules for Certified and Court-Appointed Mediators.

3. Compliance Prior to Judgment.

The parties must comply with this Administrative Order and the mediation process must be completed before the plaintiff applies for default judgment, a summary judgment hearing, or a final hearing in an action to foreclose a mortgage on a homestead residence unless a notice of nonparticipation is filed by the Program Manager.

4. Delivery of Notice of RMFM Program with Summons.

After May 1, 2010, 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 hereto.

C. Procedure

1. **Responsibilities of Plaintiff's Counsel; Form "A".**

When suit is filed, counsel for the plaintiff must file a completed Form "A" with the clerk of court. If the property is a homestead residence, all certifications in Form "A" must be filled out completely. Within one business day after Form "A" is filed with the clerk of court, counsel for plaintiff shall also electronically transmit or otherwise deliver a copy of Form "A" to the Program Manager along with:

- a) the case number of the action;
- b) the 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);
- c) a check in the amount of \$675.00.
- d) a statement whether the property that is the subject matter of the foreclosure action is occupied by the borrower.

Nothing herein shall preclude the Program Manager from having access to the clerk's file in each residential mortgage foreclosure action which is the subject matter of this order.

In Form "A", plaintiff's counsel must affirmatively certify whether the origination of the note and mortgage sued upon was subject to the provisions of the federal Truth in Lending Act, Regulation Z. In Form "A", plaintiff's counsel must also affirmatively certify whether the property is a homestead residence, and whether it is occupied by the borrower at the time the foreclosure action is filed. 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 and if the case is not exempted from participation in the RMFM Program because of pre-suit mediation conducted in accordance with H1 below, plaintiff's counsel shall further certify in Form "A" the identity of the plaintiff's representative who will appear at mediation. Plaintiff's counsel may designate more than one plaintiff's representative. At least one of the plaintiff's representatives designated in Form "A" must attend any mediation session scheduled pursuant to this administrative order with full authority to sign any settlement agreement arising therefrom.

Form "A" may be amended to change the designated plaintiff's representative, and the amended Form "A" must be filed with the court no later than five (5) days

prior to the mediation session. All amended Form “A’s” must be electronically transmitted to the Program Manager via a secure dedicated e-mail address or on the web-enabled information platform described in paragraph 8 no later than one business day after being filed with the clerk of court.

2. Responsibilities of Borrower.

Within ten (10) days of 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 within thirty (30) days, and provide to the Program Manager the information required by the Borrower’s Financial Disclosure for Mediation. 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 transmit the Borrower’s Financial Disclosure for Mediation via a secure dedicated e-mail address or to upload same to the web-enabled information platform described in paragraph C4 or to make actual delivery upon the parties; however, the Program Manager is not responsible or liable for the accuracy of the borrower’s financial information.

3. Plaintiff’s Disclosure for Mediation.

Within the time limit stated below, prior to attending mediation the borrower may request any of the following information and documents from the plaintiff:

- a) Documentary evidence the plaintiff is the owner and holder in due course of the note and mortgage sued upon.
- b) A history showing the application of all payments by the borrower during the life of the loan.
- c) A statement of the plaintiff’s position on the present net value of the mortgage loan.
- d) The most current appraisal of the property available to the plaintiff.

The borrower must deliver a written request for such information to the Program Manager in the format of Exhibit 6 which is attached to AOSC09-54 and is incorporated by reference herein and made a part hereof. Not later than fifteen (15) days prior to the mediation session. The Program Manager shall promptly electronically or otherwise transmit the request for information to plaintiff’s counsel.

Plaintiff's counsel is responsible for ensuring that the Plaintiff's Disclosure for Mediation is electronically transmitted via a secure dedicated e-mail address or to the web-enabled information platform described in paragraph C4 below or otherwise transmitted no later than five (5) business days before the mediation session. The Program Manager shall immediately deliver a copy of Plaintiff's Disclosure for Mediation to the borrower.

4. Information to Be Provided on Web-Enabled Information Platform or otherwise.

All information to be provided to the Program Manager to advance the mediation process, such as Form "A", Borrower's Financial Disclosure for Mediation, Plaintiff's Disclosure for Mediation, as well as the case number of the action and contact information for the parties, shall be submitted via a secure dedicated e-mail address or in a web-enabled information platform with XML data elements, or by actual delivery upon the parties.

5. Nonparticipation by Borrower.

If the borrower has meaningfully decided that he or she 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 4 attached. The notice of nonparticipation shall be filed no later than sixty (60) days after the initial copy of Form "A" is filed with the court. A copy of the notice of nonparticipation shall be served on the parties by the Program Manager.

6. Referral to Foreclosure Counseling.

The Program Manager shall be responsible for referring the borrower to a foreclosure counselor prior to scheduling mediation. Selection from a list of foreclosure counselors certified by the United States Department of Housing and Urban Development shall be by rotation or by such other procedures as may be adopted by the Program Manager. The borrower's failure to participate in foreclosure counseling shall be cause for terminating the case from the RMFM Program.

Legal Aid of North Florida and the Tallahassee Lender's Consortium shall be qualified foreclosure counselors under the terms of this order. Nothing herein precludes the Program Manager from utilizing other qualified foreclosure counselors.

7. Referrals for Legal Representation.

In actions referred to the RMFM Program, the Program Manager shall advise any borrower who is not represented by an attorney that the borrower has a right to consult with an attorney at any time during the mediation process and the right to bring an attorney to the mediation session.

The Program Manager shall also advise the borrower that the borrower 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 borrower applies to one of those 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 Program Manager. The appearance may be limited to representation only to assist the borrower with mediation but, if a borrower secures the services of an attorney, counsel of record may attend the mediation.

At the discretion of the mediator and with the agreement of the parties, mediation may proceed in the absence of counsel unless otherwise ordered by the court.

8. Scheduling Mediation.

The plaintiff's representative, plaintiff's counsel, and the borrower are all required to comply with the time limitations imposed by this administrative order and attend a mediation session as scheduled by the Program Manager. No earlier than thirty (30) days and no later than sixty (60) 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 comprised of mediators with the qualifications set forth in Paragraph B2 above. Mediation sessions will be held at a suitable location(s) within the circuit. It shall be the responsibility of the Program Manager to provide facilities for the 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 ten (10) days after the Borrower's Financial Disclosure for Mediation has been transmitted to the plaintiff via a secure dedicated e-mail address or uploaded to the web-enabled information platform described in paragraph C4, or otherwise delivered.

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.

Except as provided herein, the following persons are required to be physically present at the mediation session:

- a) a plaintiff's representative designated in the most recently filed Form "A";

- b) plaintiff's counsel;
- c) the borrower(s);
- d) and the borrower's counsel of record, if any.

At the time that the mediation is scheduled to physically commence, the Program Manager shall enter the mediation room prior to the commencement of the mediation conference and, prior to any discussion of the case in the presence of the mediator, take a written roll. That written roll will consist of a determination of the presence of the borrower; the borrower's counsel of record, if any; the plaintiff's lawyer; and the plaintiff's representative with full authority to settle.

If the Program Manager determines that anyone is not present, that party shall be reported by the Program Manager as a non-appearance by that party on the written roll. If the Program Manager determines that the plaintiff's representative present does not have full authority to settle, the Program Manager shall report that the plaintiff's representative did not appear on the written roll as a representative with full settlement authority as required by this administrative order. The written roll and communication of authority to the Program Manager is not a mediation communication. The mediator may not report lack of full settlement authority if that information is obtained by a mediation communication.

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. Attendance at Mediation through the use of Communication Equipment:

- a) The plaintiff's representative may appear at mediation through the use of communication equipment, if plaintiff files and serves at least five (5) days prior to the mediation a notice in the format of Exhibit 7 which is attached to AOSC09-54 and is incorporated by reference herein and made a part hereof, 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.
- b) Plaintiff's counsel may be designated as the person with full authority to sign the settlement agreement, however this does not

satisfy the requirement that plaintiff's representative be present as previously provided herein

- c) The authorization by this administrative order for the plaintiff's representative to appear through the use of communication equipment is pursuant to rule 1.720(b), Florida Rules of Civil Procedure (court order may alter physical appearance requirement), and in recognition of the emergency situation created by the massive number of residential foreclosure cases being filed in this circuit and the impracticality of requiring physical attendance of a plaintiff's representative at every mediation. Additional reasons for authorizing appearance through the use of communication equipment for mortgage foreclosure mediation include a number of protective factors that do not exist in other civil cases, namely the administration of the program by a Program Manager, pre-mediation counseling for the borrower, and required disclosure of information prior to mediation. The implementation of this administrative order shall not create any expectation that appearance through the use of communication equipment will be authorized in other civil cases.
- d) If the plaintiff's representative attends mediation through the use of communication equipment:
 - i. The person authorized by the plaintiff to sign a settlement agreement must be physically present at mediation.
 - ii. 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.
 - iii. If the plaintiff's representative attends through the use of communication equipment, and if the mediation results in an impasse, within five (5) days after the mediation session, the plaintiff's representative shall file in the court file a certification in the format of Exhibit 8 which is attached to AOSC09-54 and is incorporated by reference herein and made a part hereof as to whether the plaintiff's representative attended mediation.
 - iv. 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.

11. Failure to Appear at Mediation.

If either the plaintiff's representative designated in the most recently filed Form "A" or the borrower fails to appear at a properly noticed mediation and the mediation does not occur, or when a mediation results in an impasse, and the determination that a party has not appeared was not learned through a mediation communication, the report of the mediator shall notify the presiding judge regarding who appeared at mediation without making further comment as to the reasons for an impasse.

If the borrower fails to appear, or if the mediation results in an impasse with all required parties present, and if the 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 borrower or borrower's counsel of record fails to appear, the court may impose such other sanctions as the court deems appropriate, including, but not limited to, attorney's fees and costs.

If plaintiff's counsel or the plaintiff's representative fails to appear, the court may dismiss the action without prejudice, order plaintiff's counsel or the plaintiff's representative's to appear at mediation, or impose such other sanctions as the court deems appropriate including, but not limited to, attorney's fees and costs if the borrower is represented by an attorney.

12. Written Settlement Agreement; Mediation Report.

If a partial or final agreement is reached, it shall be reduced to writing and signed by the parties and their counsel, if any. Pursuant to rule 1.730(b), Florida Rules of Civil Procedure, if a partial or full settlement agreement is reached, the mediator shall report the existence of the signed or transcribed agreement to the court without comment within ten (10) days after completion of the mediation.

If the parties do not reach an agreement as to any matter as a result of mediation, the mediator shall report the lack of an agreement to the court without comment or recommendation.

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 at least one of the plaintiff's representative named in Form "A" appeared for mediation. The mediator's report to the court shall be in the format of Exhibit 9 which is attached to AOSC09-54 and is incorporated by reference herein and made a part hereof.

12. Mediation Communications.

All mediation communications occurring as a result of this administrative order, including information provided to the Program Manager that is not filed with the court, 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. The provisions of chapter 44.401-44.406, The Mediation Confidentiality and Privilege Act, specifically apply to the Program Manager.

13. Failure to Comply with Administrative Order.

In all residential foreclosure actions, if a notice for trial, motion for default final judgment, or motion for summary judgment is filed with the clerk of court, 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.

In cases involving a homestead residence, 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 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.

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 Not Required If Residence Is Not Homestead.

If the plaintiff certifies in Form “A” that the property is **NOT** a homestead residence when suit is filed, plaintiff’s counsel must file and serve with the complaint a certification identifying the agent of plaintiff who has full authority to settle the case without further consultation. The certification shall be in the form of Exhibit 10 which is attached to AOSC09-54 and is incorporated by reference herein and made a part hereof.

If the plaintiff certifies in Form “A” that the property is **NOT** a homestead residence, 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, unless otherwise ordered by the presiding judge.

D. RMFM Program Fees

1. Fee Structure:

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), Florida Rules of Civil Procedure, the reasonable program fees for the managed mediation, including foreclosure counseling, costs for facilities in which to conduct the mediations, the mediator's fee, and administration of the managed mediation program, is a total of no more than \$675.00 payable as follows:

- a) Not more than \$675.00 paid by plaintiff directly to the Program Manager at the time suit is filed for administrative fees of the RMFM Program, including outreach to the borrower and foreclosure counseling fees.

2. Additional Mediation Sessions.

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 session shall be no more than \$250.00 per session.

- 3. Payments.** 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.

4. Refunds.

- a) 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, to wit \$75.00.
- b) 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 five (5) days prior to the mediation session, the plaintiff shall be entitled to a refund of the program fees allocated for the mediation session, to wit \$250.00.
- c) If notice of settlement is not received by the Program Manager at least five (5) days prior to the scheduled mediation session, the plaintiff shall not be entitled to any refund of mediation fees.

5. Costs included in Fees. The total fees include:

- a) The mediator's fees and costs;

- b) The cost for the borrower to attend a foreclosure counseling session with an approved mortgage foreclosure counselor;
- c) The costs of an interpreter, if any; and,
- d) The cost to the Program Manager for administration of the managed mediation program which includes but is not limited to, scheduling, telephone lines and instruments, infrastructure to support a web-enabled information platform, a secure dedicated email address or other secure system for information transmittal, the cost of facilities in which the mediations shall be conducted, and other related expenses incurred in managing the foreclosure mediation program.

E. Program Manager to Monitor Compliance and Satisfaction

1. Monitoring Compliance Concerning Certain Provisions of this Administrative Order.

- a) The Program Manager shall be responsible for monitoring whether Form “A” has been filed in all residential foreclosure actions that commence after May 1, 2010 and whether the RMFM Program fees have been paid if the residence is a homestead residence.
- b) The Program Manager shall send compliance reports to the chief judge or the chief judge’s designee in the format and with the frequency required by the chief judge.
- c) The Program Manager may assist with enforcing compliance with this administrative order upon filing a written motion pursuant to rule 1.100(b), Florida Rules of Civil Procedure, stating with particularity the grounds therefor and the relief or order sought. Example orders are attached as Exhibit 11 which is attached to AOSC09-54 and is incorporated by reference herein and made a part hereof.

2. Satisfaction with RMFM Program and Program Operation Reports.

The Program Manager shall also provide the chief judge with periodic reports as to whether plaintiffs and borrowers are satisfied with the RMFM Program. This information shall be obtained by a procedure within the discretion of the Program Manager. The Program Manager shall also provide the chief judge with reports with statistical information about the status of cases in the RMFM Program and RMFM Program finances in the format and with the frequency required by the chief judge.

F. Designation of Plaintiff Liaisons with RMFM Program.

- 1. Any plaintiff who has filed five (5) or more foreclosure actions in the Second Judicial Circuit while this Administrative Order is in effect shall appoint two

RMFM Program liaisons, one of whom shall be a lawyer and the other a representative of the entity servicing the plaintiff's mortgages, if any, and, if none, a representative of the plaintiff. Plaintiff's counsel shall provide written notice of the name, phone number (including extension), email, and mailing address of both liaisons to the chief judge and the Program Manager within 30 days after the effective date of this administrative order, and on the first Monday of each February thereafter while this administrative order is in effect.

2. The liaisons shall be informed of the requirements of this administrative order and shall be capable of answering questions concerning the administrative status of pending cases and the party's internal procedures relating to the processing of foreclosure cases, and be readily accessible to discuss administrative and logistical issues affecting the progress of the plaintiff's cases through the RMFM Program. Plaintiff's counsel shall promptly inform the chief judge and Program Manager of any changes in designation of the liaisons and the contact information of the liaisons. The liaisons shall act as the court's point of contact in the event the plaintiff fails to comply with this administrative order on multiple occasions and there is a need to communicate with the plaintiff concerning administrative matters of mutual interest.

G. List of Participating Mediators and Rotation of Mediators.

1. The Program Manager shall post on its website the list of Supreme Court of Florida certified mediators it will use to implement the RMFM Program. The mediators to be utilized may either be individuals or law firms. In the event a law firm is appointed, it shall select a mediator who is qualified under the terms of this order to be the mediator of the cases that firm receives in the rotation. The criteria to be used in selecting mediators shall be those criteria set forth in Paragraph C2, along with experience, education, training, merit, availability, and diversity. The selections shall be at the discretion of the Program Manager.
2. The Program Manager shall also state in writing the procedure, subject to the approval by the chief judge, the program will use to rotate the appointment of mediators. If a law firm is appointed, it shall be construed to satisfy the rotation requirement for all members of the firm. The RMFM Program shall encourage the use of Supreme Court civil circuit certified mediators who have been specially trained in the manner set forth in Exhibit 12 attached to AOSC09-54 and is incorporated by reference herein, and made a part hereof.
3. The list presenters of training programs specifically qualified to conduct such trainings in the Second Judicial Circuit of Florida, include, but are not limited to: Christopher Shulman, Esq., Gregory Firestone, PhD, and David A. Wolfson, Esq. Other training providers who desire that their programs qualify under Exhibit 12 attached to AOSC09-54 and are incorporated by reference herein and made a part hereof shall submit an application to the Program Manager along with their program materials for determination as to whether the program qualifies under the provisions of Exhibit 12.

4. Individuals qualified to mediate mortgage foreclosure cases, shall be members in good standing of The Florida Bar, whose residence or principle place of business, is the Second Judicial Circuit of Florida, who have extensive real estate experience in litigation or mediation, and who reflect the diversity of the community in which it operates. Assignment of mediators shall be on a rotation basis that fairly spreads work throughout the pool of mediators working in the RMFM Program, unless the parties mutually agree on a specific mediator or the case requires a particular skill on the part of the mediator.

H. Pre-Suit Mediation Encouraged

1. 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 Second 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 actions being filed across the state and, in particular, in the Second Judicial Circuit.
2. If the parties participated in pre-suit mediation using the RMFM Program or participated in any other pre-suit mediation program having procedures substantially complying with the requirements of this administrative order, including provisions authorizing the exchange of information, foreclosure counseling, and requiring use of Supreme Court of Florida certified circuit civil mediators specially trained to mediate residential mortgage foreclosure actions, the plaintiff shall so certify in Form "A", in which case the plaintiff and borrower shall not be required to participate in mediation again unless ordered to do so by the presiding judge. A borrower may file a motion contesting whether pre-suit mediation occurred in substantial compliance with the RMFM Program.
3. Nothing in this paragraph precludes the presiding judge from sending the case to mediation after suit is filed, even if pre-suit mediation resulted in an impasse or there was a breach of the pre-suit mediation agreement. This administrative order shall be recorded by the clerk of the court in each county of the Second Judicial Circuit, takes effect on May 1, 2010, and will remain in full force and effect unless and until otherwise ordered.

DONE and **ORDERED** this _____ day of May, 2010.

CHARLES A. FRANCIS
Chief Judge

cc: All Circuit and County Judges, Second Judicial Circuit
All Clerks of the Circuit Court, Second Judicial Circuit
State Attorney, Second Judicial Circuit
Public Defender, Second Judicial Circuit

SECOND JUDICIAL CIRCUIT

EXHIBIT 1

FORM "A"

**Please complete online at <http://www.tallahasseebar.org>
And file original with the Clerk of Court**

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

[Name of Plaintiff]

Plaintiff(s),

Vs.

Civil Case No.: _____

[Names of Defendant(s)]

Defendant(s)

Form "A"

(Certifications Pursuant to Second Judicial Circuit Administrative Order 2010-05.)

Certificate of Plaintiff's Counsel Regarding Origination of Note and Mortgage

THE UNDERSIGNED, as counsel of record for plaintiff and as an officer of the court, certifies the origination of the note and mortgage sued upon in this action

___ WAS or
___ WAS NOT

subject to the provisions of the federal Truth in Lending Act, Regulation Z.

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 that 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 both of the following:

Certificate of Plaintiff's Counsel Regarding Pre-Suit Mediation

The following certification

____ DOES or
____ DOES NOT

apply to this case:

THE UNDERSIGNED, as counsel of record for plaintiff and as an officer of the court, certifies that prior to filing suit a plaintiff's representative with full settlement authority attended and participated in mediation with the borrower, conducted by:

Name of Pre-suit mediator: _____

Telephone: _____

Email: _____

and the mediation resulted in an impasse or a pre-suit settlement agreement was reached but the settlement agreement has been breached. The undersigned further certifies that prior to mediation the borrower received services from a HUD or NFMC approved foreclosure counselor, Borrower's Financial Disclosure for Mediation was provided, and Plaintiff's Disclosure for Mediation was provided.

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

Name of Plaintiff's Representative
*who has **full** settlement authority:* _____

Address: _____

Telephone: _____

Facsimile No.: _____

Email: _____

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 Plaintiff's

Counsel: _____

Printed Name: _____

Fla. Bar Number: _____

Address: _____

Telephone Number: _____

Facsimile Number: _____

Email: _____

Certificate of Borrower's Last Known Address and Occupancy

Borrower Name: _____

Last Known Mailing Address: _____

Is this residence occupied by the Borrower? _____ Yes

An answer of "unknown," "not sure," "not applicable," or other like response will not be accepted. _____ No

SECOND JUDICIAL CIRCUIT

EXHIBIT 2

NOTICE OF RMFM PROGRAM TO BE SERVED WITH SUMMONS

**IN THE CIRCUIT COURT OF THE SECOND 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 is said at mediation.

You will not have to pay anything to participate in this mediation program. To participate in the mediation, **as soon as practical**, you must contact the **Tallahassee Bar Association, Inc.**, by calling **(850) 222-3292 (extension 304) Monday through Thursday 9:00 a.m. to 5:00 p.m. and Friday 9:00 a.m. to 2:00 p.m. Tallahassee Bar Association, Inc.**, will explain more about the mediation program to you when you call.

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.

If you have attended mediation arranged by Tallahassee Bar Association, Inc., prior to being served with this lawsuit, and if mediation did not result in a settlement, you may file a motion asking the court to send the case to mediation again if your financial circumstances have changed since the first mediation.

AS STATED IN THE SUMMONS SERVED ON YOU:

- **YOU OR YOUR LAWYER MUST FILE A WRITTEN RESPONSE TO THE COMPLAINT TO FORCLOSE THE MORTGAGE WITH THE COURT WITHIN 20 DAYS AFTER YOU WERE SERVED WITH THE COMPLAINT.**
- **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 IN THE MEDIATION.**

Dated this ____ day of _____, 2010.

Charles A. Francis, CHIEF JUDGE

**IN THE TWELFTH JUDICIAL CIRCUIT COURT FOR
DESOTO, MANATEE AND SARASOTA COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER 2008-14.1

**ADMINISTRATIVE ORDER ESTABLISHING STANDARD PROCEDURES
FOR RESIDENTIAL AND COMMERCIAL MORTGAGE
FORECLOSURE ACTIONS**

WHEREAS, the Twelfth Judicial Circuit is experiencing an unprecedented number of mortgage foreclosures and the influx of these cases is straining the capacity of the courts to manage them efficiently; and

WHEREAS, reductions in judicial branch funding in the State of Florida have resulted in the elimination of support and administrative staff in the circuit, making the review of documentation submitted in connection with foreclosure summary judgments problematic; and

WHEREAS, standardized procedures are required to facilitate efficient processing of foreclosure cases and verification that cases are ripe for final disposition; and

WHEREAS, the court no longer has the personnel to undertake foreclosure file reviews or to confirm the accuracy of summary judgment hearing packets submitted by the parties; and

WHEREAS, judges in the Twelfth Circuit have had persistent difficulties communicating with parties filing foreclosure actions or their attorneys regarding logistical and efficiency issues, and this frustrates the orderly disposition of cases resulting in unnecessary delay and docket congestion; and

WHEREAS, standard procedures for the electronic filing of papers, pleadings and uniform checklists are necessary to assist the Court and Clerk in the processing of large numbers of documents submitted in connection with actions to foreclose mortgages;

NOW, THEREFORE, it is **ORDERED** that the following procedures shall be in force in the Twelfth Judicial Circuit on or after **December 1, 2008**:

This Administrative Order regulates local procedures governing the filing of actions to foreclose residential and commercial mortgages on real property located within the boundaries of the Twelfth Judicial Circuit. Consequently, this Order does not apply to actions to foreclose other interests in real property such as homeowner association liens, condominium or cooperative association liens, mechanic liens, tax or equitable liens.

I. Procedures Applicable to Foreclosure Actions in All Counties On or After 12/1/08

The following procedures are applicable to all parties filing residential or commercial mortgage foreclosure actions in Manatee, Sarasota, and Desoto Counties on or after December 1, 2008. The transition rules set forth in Section IV of this Administrative Order explain whether a case pending as of 12/1/08 is subject to the new local rules or the prior procedures.

A. Standard Form Final Judgment Required

The circuit has adopted a standard foreclosure Final Judgment. This form shall be used in all cases by parties seeking to foreclose mortgages. A copy of this form and all forms referenced in this Administrative Order are available on the circuit's website: www.jud12.flcourts.org

B. Use of JACS to Schedule Hearings in Foreclosure Cases

The Twelfth Circuit has implemented a **Judicial Automated Calendaring System (JACS)**. Information concerning the use of JACS can be found through a link on the circuit's internet home page: www.jud12.flcourts.org. JACS may only be accessed by members of The Florida Bar using their bar number. Each judge serving in the Civil Division of circuit court reserves time in JACS for the setting of hearings, including motions for summary judgment in foreclosure actions.

Effective December 1, 2008, attorneys will be required to have an email address as part of the JACS registration process. Hearing dates reserved and cancelled through JACS will be confirmed through email generated by the calendaring system. Instructions for updating JACS registration are available on the circuit's web site.

The judges have published their policies governing the setting of hearings on the JACS home page. Because the policies differ from judge to judge, they should be consulted by counsel and regularly reviewed for updates and modifications. This is especially true when new judges rotate into the Civil Division. Blocks of time have been set aside specifically for foreclosures.

C. Procedures for Scheduling and Canceling Summary Judgment Hearings

Several law firms engaged in volume foreclosure filings have developed the practice of reserving hearing time for summary judgment before the motion is filed and have consistently failed to comply with judges' cut-off dates for filing summary judgment packets. This has resulted in the waste of valuable hearing time for other litigants when the motion is not forthcoming and the hearing is not canceled by the party. The following procedures are necessary to facilitate the efficient disposition of large numbers of foreclosure filings:

1. No Plaintiffs' Summary Judgment Hearings to be Scheduled Without a Motion Ready for Filing

Hearing time for plaintiffs motions for summary judgments in foreclosure cases shall not be reserved on JACS until the motion, with complete supporting documentation, is prepared and ready for filing with the Clerk. Motions and summary judgment packets shall be transmitted to the Clerk immediately after the hearing time is obtained. The judges will monitor compliance with this requirement and may cancel hearings that have been set without the contemporaneous filing of a motion. Sanctions also may be imposed for chronic disregard of this requirement.

Contested summary judgments filed by plaintiff or defense should be set for hearing on the judges' regular civil docket.

2. Summary Judgment Pleadings and Related Documents to be Sent to Clerks; Checklist Required

Subject to the transition rules in Section IV, on or after December 1, 2008, parties seeking summary judgment in foreclosure actions shall transmit the documentation supporting the motion, including the original proposed Final Judgment, note and mortgage, to the Clerks. **They are not to be sent to the judges' chambers, nor are copies of these papers to be sent to chambers.** As noted above, no summary judgment hearing time shall be obtained on JACS until the motion for summary judgment and supporting documentation is in final form and ready for immediate filing with the Clerk.

The summary judgment documentation submitted to the Clerks shall include the Twelfth Circuit's *Mortgage Foreclosure Summary Judgment Checklist*, a form approved by the chief judge and available on the circuit's website, www.jud12.flcourts.org. The checklist requires counsel's confirmation that appropriate steps have been taken to prepare the case for disposition by summary judgment, and that all documents supporting the motion have been timely filed or submitted.

The *Mortgage Foreclosure Summary Judgment Checklist* requires counsel to accurately set forth the status of the case and to inform the court of any deficiencies. The *Checklist* shall be signed by the attorney of record. Clerks will review counsel's submissions to verify that the *Notice to Homeowners Facing Foreclosure*, discussed below, was attached to the summons whenever the *Checklist* indicates the subject property is a homestead. No further verification of the *Checklist* will be performed by the Clerks. It remains the responsibility of the filing attorney to accurately complete the *Checklist*, and the Clerks and the court will rely upon the attorney's representation as to its accuracy.

Hearings on motions for summary judgment may be canceled if the forms required by this Administrative Order (e.g., circuit-approved Final Judgment, *Mortgage Foreclosure Summary Judgment Checklist*) do not accompany the summary judgment motion or are not used, or if the documents required by the checklist are missing and their absence is not adequately explained.

For good cause shown, upon the request of a party the assigned judge may waive the requirements of this Administrative Order or the production of any item or document required by the checklist. Such requests shall be made before the checklist is filed and the hearing on the motion for summary judgment is scheduled.

3. Procedures Applicable to Cases Filed On or After 12/1/08 - Prerequisite Relating to Homestead Properties - Compliance with Homestead Foreclosure Conciliation Program - Attorney's Certificate;

By separate Administrative Order, Number 08-15.1, the circuit has adopted a Homestead Foreclosure Conciliation Program (HFCP) which must be complied with in foreclosure actions filed on or after December 1, 2008, before a summary judgment hearing is to be scheduled to foreclose a lien on **homestead property** in the three counties of the Twelfth Circuit.

On or after December 1, 2008, when a foreclosure complaint is filed against any residential property, or in any case where the plaintiff is in doubt as to status of the property as a homestead, Administrative Order 08-15.1 requires counsel to include with the summons a *Notice to Homeowners Facing Foreclosure*, which explains the program and invites eligible homeowners to consider participation in the Program.

In addition, Administrative Order 08-15.1 requires the filing of an *Attorney's Certificate of Compliance with the Homestead Conciliation Program* when the motion for summary judgment is filed and the hearing date is booked on JACS. This is a prerequisite to scheduling a hearing on the motion for summary judgment and is part of the *Mortgage Foreclosure Summary Judgment Checklist* and documentation required to schedule a summary judgment hearing. [Forms available on circuit website, www.jud12.flcourts.org.]

4. Cancellation of Summary Judgment Hearings

JACS should be used to cancel summary judgment hearings whenever possible. However, JACS will not authorize a cancellation when it would result in short notice to the parties. When JACS does not permit cancellation, the party who has noticed the hearing may cancel it telephonically by contacting the judge's judicial assistant. The phone call should be followed promptly by a Notice of Cancellation filed with the Clerk. When the cancellation occurs shortly before the hearing, persons who are required to receive notice should be advised of the cancellation by the most expeditious means.

5. Cancellation of Foreclosure Sales

In the event it becomes necessary to cancel a foreclosure sale on short notice, the original motion to cancel and a proposed order shall be filed with the Clerk with copies FAXED to the judge's chambers. These motions will be reviewed expeditiously, and a copy of the signed order will be faxed or emailed to the attorney. Upon request of counsel, Clerks

may set new sale dates upon receiving written notification from judges that a sale has been cancelled.

D. Appointment of Circuit Foreclosure Liaison

Parties who have filed **five (5)** or more foreclosure actions in the Twelfth Circuit in calendar years 2007 or 2008, or who file or intend to file **five (5)** or more foreclosure actions in any subsequent calendar year shall be required to comply with the following:

1. The party shall appoint an agent to serve as its **circuit foreclosure liaison**. The name, phone number (including extension), email and mailing address of the liaison, who may be an attorney or employee of the party, shall be provided to courtweb@jud12.flcourts.org:

For parties who currently qualify under this paragraph, the contact information shall be provided to the office of the Trial Court Administrator on or before **January 1, 2009**. For those parties who do not yet qualify, appointment of the liaison and notification shall occur upon the filing of the **fifth** foreclosure action in the circuit in that calendar year.

2. The liaison shall be informed of the Twelfth Circuit's unique foreclosure procedures and administrative orders, be capable of answering questions concerning the administrative status of pending cases and the party's internal procedures relating to the processing of foreclosure cases, and be readily accessible to discuss administrative and logistical issues affecting the progress of the party's cases through the courts.

3. The Trial Court Administrator shall maintain the circuit's liaison list which shall be made available and used by judges to communicate with parties regarding issues affecting the efficiency of the foreclosure process. **Parties shall promptly inform the Trial Court Administrator of any changes in liaison personnel and shall take such steps as may be necessary to keep the list current and accurate.**

4. The liaison shall act as the court's point of contact in the event a party fails to comply with administrative orders affecting foreclosure litigation in the circuit or the court has a need to communicate with a party concerning administrative matters of mutual interest.

II. E-Filing of Mortgage Foreclosures Required in Manatee and Sarasota Counties For Cases Filed or Set for Summary or Final Hearing On or After December 1, 2008

The Clerks of Manatee and Sarasota Counties are part of a Supreme Court sanctioned project to establish procedures for the electronic filing of pleadings. Known as E-Filing, this innovative system saves litigants money and reduces processing and document review time for the Clerks. **Except for a limited number of original documents or exhibits, such as notes and mortgages, E-Filing eliminates the necessity of providing hardcopies of documents or pleadings to the Clerk. The electronic version replaces them.** Judges and attorneys of record will be able to view the electronically filed documents on line.

Commencing December 1, 2008, parties are required to use the E-Filing system when filing foreclosure pleadings, motions and litigation-related documents in Manatee and Sarasota Counties, and in connection with summary or final judgment hearings scheduled on or after that date. E-Filing procedures are similar in both counties but are not identical. Parties shall use the E-Filing word processing formats prescribed by the Clerks. Litigants and their counsel should consult each Clerk's website for detailed instructions: www.sarasotaclerk.com/ or www.manateeclerk.com/

A. Requests for Exemption: Requests for exemption from E-Filing requirement may be directed to the Clerk, and if denied, appealed by written request for consideration and final decision by the Chief Judge.

B. Rules for E-Filers: The following rules apply to parties E-Filing in Sarasota and Manatee Counties on or after December 1, 2008 or who set final or summary judgment hearings on or after that date:

1. **Original Documents:** Original documents such as promissory notes and mortgages shall be delivered to the Clerk and accompanied by a Notice of Filing. Copies of original documents shall be included in the parties' E-Filing submission.

2. **Parties to Provide Envelopes for Clerk's Use:** E-Filers submitting proposed foreclosure Final Judgments shall deliver to the Clerk **four (4)** self-addressed, stamped envelopes for **each party** entitled to receive conformed copies. For example, in a case with a single plaintiff and a single defendant, the number of envelopes required is eight. The envelopes shall be mailed to the Clerk contemporaneous with the E-Filing of the proposed Final Judgment. The clerk's case number shall be written on the outside of the envelopes. These will be used to provide conformed copies of the judgment, Notice of Sale, Certificate of Sale, and Certificate of Title to the affected parties.

3. **Other Orders Submitted by Counsel:** In the course of litigation, it may be necessary for E-Filers to submit proposed or stipulated orders for the judge's consideration. These shall be E-Filed; however, in addition hard copies shall be sent directly to the assigned judge. The copies sent to the judge shall be accompanied by self-addressed, stamped envelopes for each party entitled to receive conformed copies.

III. Sanctions for Non-Compliance

Failure to comply with the provisions of this Administrative Order may result in the cancellation of hearings, termination of the privilege of telephone hearings, or other sanctions. Chronic offenders may be denied access to JACS and required to request hearing time by email, which may result in substantial delays in the processing of cases.

IV. Transitional Issues and Effective Date

This Administrative Order shall be effective December 1, 2008 as to cases filed on or after that date, subject to the following:

Procedures Applicable to Cases Filed Before 12/1/08

The date JACS is **accessed** to schedule a hearing controls whether a case set for summary judgment proceeds under the new circuit rules or the old rules:

A. If by November 30, 2008, a party has accessed JACS and reserved a summary judgment or final hearing for a date occurring on or after December 1, 2008, the case may continue under the prior procedure. For example, if on November 14, 2008, hearing time was obtained for December 14, 2008, the case may proceed under the old rules. Foreclosure packets may continue to be sent to the judges for those cases, and the older checklists and summary judgment procedures may be used. E-Filing and the new Checklist may be used at any time at the option of the filing party.

B. For cases pending as of December 1, 2008, if JACS is accessed on or after December 1, 2008, and a summary judgment or final hearing date is scheduled, the requirements of this Administrative Order, including E-Filing, use of the standard form Final Judgment, and the new Foreclosure Checklist, shall apply. For example, on a case filed before December 1, 2008, if on December 4, 2008, the attorney accesses JACS and secures a hearing time for January 15, 2009, the case proceeds under the new rules. [However, note that cases filed before 12/1/08 are exempt from the Homestead Foreclosure Conciliation Program.]

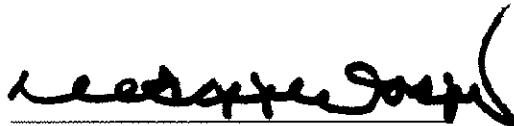
Homestead Foreclosure Conciliation Program

The Homestead Foreclosure Conciliation Program requirements of Section I(C)(3) apply only to cases **filed** on or after December 1, 2008.

Applicability of Administrative Order 2002-16.2

Administrative Order 2002-16.2 remains in force as to cases filed before December 1, 2008, but is vacated as to cases filed on or after that date.

DONE AND ORDERED in Sarasota, Sarasota County this 25th day of November, 2008.



Lee E. Haworth, Chief Judge

cc: All Judges in the Twelfth Circuit
Gulf Coast Legal Services
Legal Aid of Manasota
Florida Rural Legal Services
Florida Legal Services

Clerks of Court, Twelfth Circuit
Manatee County Bar Association
Venice-Englewood Bar Association
Sarasota Bar Association
Law firms representing lenders (copies provided for comment since 10/10/08)

**IN THE TWELFTH JUDICIAL CIRCUIT OF FLORIDA,
IN AND FOR DESOTO, MANATEE AND SARASOTA COUNTIES**

ADMINISTRATIVE ORDER 2008-15.1

**ADMINISTRATIVE ORDER ESTABLISHING CIRCUIT-WIDE
HOMESTEAD FORECLOSURE CONCILIATION PROGRAM**

WHEREAS, the Twelfth Judicial Circuit is experiencing an unprecedented number of foreclosures, many of which affect homestead properties; and the influx of these cases is straining the capacity of the courts to manage;

WHEREAS, a number of homeowners may have defenses to the foreclosures, or are amenable to exploring viable alternatives to foreclosure;

WHEREAS, residential lenders are facing increased delays in resolving the large number of foreclosure cases, and many cases may be resolved early given an opportunity for the parties to communicate their respective positions and to have questions answered;

WHEREAS, communication between lenders and property owners after a case is filed is infrequent and problematic, depriving both sides of an opportunity to resolve cases short of litigation; and

WHEREAS, in an attempt to achieve early resolution of foreclosure cases a new procedure is required to facilitate communication between lenders and owners, with the goal of having both sides in good faith explore options to protracted litigation.

NOW, THEREFORE, IT IS ORDERED, commencing December 1, 2008, the following procedures are adopted in the Twelfth Judicial Circuit:

1. Creation of the Homestead Foreclosure Conciliation Program

This order creates the Homestead Foreclosure Conciliation Program (HFCCP). This program is available only to owners of real property who have filed for **homestead exemption** status pursuant to Article VII, Section 6 of the Florida Constitution on or before the date a foreclosure complaint against the property has been filed with the Clerk. Participation in the program is mandatory for foreclosure plaintiffs but optional for the owners, who may decline to participate. The fact that lenders and owners have engaged in pre-filing discussions does not exempt lenders from complying with this Administrative Order.

2. Notice to Homeowners Facing Foreclosure Required with Complaint and Summons in All Residential Foreclosures

In all actions to foreclose mortgages on residential properties, or in cases where the homestead status of the property is unknown or in doubt the plaintiff shall file with the complaint and attach to the summons a *Notice to Homeowners Facing Foreclosure*. The Notice format has been approved by the Chief Judge and is available on the circuit's website. Parties shall require the Notice to accompany the summons to be served upon each defendant and will advise recipients of the availability of the HFCP, inviting homestead owners to consider participation in the program. The requirement that the Notice be attached to all summons in residential foreclosure filings or where the homestead status is unknown is to insure that no homestead owner is inadvertently overlooked.

3. The Conciliation Telephone Conference

Parties pursuing actions to foreclose liens on homestead properties based upon promissory notes and mortgages shall be required to participate in the Homestead Foreclosure Conciliation Program (HFCP) as set forth herein and to participate in a mandatory Conciliation Telephone Conference. The purpose of the Conciliation Telephone Conference is for the parties to have an open and frank discussion about the alleged default and to consider realistic alternatives to foreclosure.

4. Summary Judgment Hearings Prohibited Pending Compliance with HFCP; Attorney's Certificate of Compliance Required

No action to foreclose homestead properties shall be scheduled for summary judgment or final hearing in this circuit until a Conciliation Telephone Conference is conducted or attempted between lenders and the owners and an *Attorney's Certificate of Compliance* with this administrative order has been filed with the Clerk.¹ If the owners cannot be located or if they decline to participate in the HFCP or they fail to make themselves available for conferences, this fact shall be noted on the *Attorney's Certificate of Compliance* in which instance the action may proceed to disposition. The assigned judges shall monitor the case files for compliance with this order and may cancel summary judgment hearings in which an *Attorney's Certificate of Compliance* has not been filed.

5. Rules Applicable to the Conciliation Telephone Conference

The following rules and procedures shall apply to the Conciliation Telephone Conference:

a. Responsibility for determining that the subject property is a homestead and for scheduling the Conciliation Telephone Conference shall be the affirmative duty of the lender or its counsel. The Conference shall occur as soon as possible after the case is

¹ All forms referenced in this order are available on the Twelfth Circuit Website: www.jud12.flcourts.org

filed, but no later than **forty-five (45) days** after service of process on the owners. A single Conciliation Telephone Conference shall be conducted or attempted but additional conferences may be scheduled if the parties agree.

b. At the Conciliation Telephone Conference the lender shall arrange for the participation of knowledgeable persons, including attorneys, loss mitigation staff, and others who can confirm the amount and type of default, and who are authorized to make binding commitments regarding alternatives to litigation, including refinancing, partial forgiveness of debt, approving sales to third parties, clarifying the amount required to reinstate or discharge the loan, requesting deeds in lieu of foreclosure, implementing procedures for the protection of the premises, and establishing a mutually agreeable date for relinquishing possession.

c. If consensus is reached in conference on one or more issues, the affected parties shall set a deadline for the completion or occurrence of all conditions or actions. The terms of the consensus shall be reviewed in conference and promptly memorialized in writing by the lender with a copy provided to the owner. However, actions, conditions, or events agreed to by the parties shall occur or be completed within **forty-five (45) days** of the date of the conference at which the consensus was reached, unless the parties agree in writing to an earlier date. The date set for compliance or action shall be a firm deadline, time being of the essence, unless the completion or occurrence date is extended in writing with the consent of both sides and confirmed by court order.

d. Upon the timely performance of the agreed-upon conditions or events, counsel for the lender shall file an *Attorney's Certificate of Compliance* with the Clerk advising the court that litigation is ready to resume or that the case is being voluntarily dismissed. In those instances where a deadline has been set, the *Attorney's Certificate of Compliance* shall not be filed until all conditions have been performed or the time for their performance has expired. If no consensus is reached in conference, or if the owners have declined to participate in the HFCP or they do not respond to the *Notice to Homeowners Facing Foreclosure* attached to the summons and complaint, the *Attorney's Certificate of Compliance* may be filed and the case proceed to disposition.

e. In addition to the *Attorney's Certificate of Compliance*, upon obtaining a hearing date for summary judgment, the lender shall file with the Clerk a *Mortgage Foreclosure Summary Judgment Checklist*, a form approved by the Chief Judge.² The *Mortgage Foreclosure Summary Judgment Checklist* advises the court that all requirements to dispose of the case by Final Judgment have been met. No summary judgment hearing shall be scheduled until the *Attorney's Certificate of Compliance* and *Mortgage Foreclosure Summary Judgment Checklist* have been completed and filed with the Clerk.

² The *Mortgage Foreclosure Summary Judgment Checklist* is a standard form adopted for use in the circuit by all parties seeking to conclude a foreclosure case by summary judgment. It accompanies the foreclosure packet sent to Clerks in support of the summary judgment hearing. See Admin. Order 08-14.1.

Lenders are advised that by separate administrative order, AO 2008-14.1, the circuit has adopted a uniform **Final Judgment** which is to be used in all foreclosure cases. **Admin. Order 08-14.1, should be reviewed for information concerning the circuit's policies applicable to all residential and commercial foreclosure actions.**

f. The parties shall participate in the Conciliation Telephone Conference in good faith, with the parties conducting themselves in a civil and respectful manner. Either party may audio record the conference provided advance notice is given to the participants.

6. Participation of Bar and Legal Aid Organizations; Limitations on Legal Services for Representation of Homestead Owners

Local bar associations and legal aid organizations have agreed to provide a limited number of *pro bono* attorneys to assist owners facing loss of their homestead. Unless otherwise agreed in writing by the attorney and the client-borrower, the *pro bono* lawyers shall make limited appearances restricting their services to communicating with the lenders on behalf of their clients and assisting them in exploring options other than protracted litigation. The availability of such attorneys and their contact information will be explained in the *Notice to Homeowners Facing Foreclosure* served upon the owners with the summons and complaint. Homestead owners with privately retained attorneys also are entitled to participate in the Program.

7. Sanctions for Non-Compliance

Failure of a lender to comply in good faith with this administrative order may result in sanctions including, without limitation, denying a lender the privilege of appearing telephonically at hearings and having its cases assigned the lowest priority for final or summary judgment hearing time, which may delay disposition for an extended period. The owners' failure to comply with stipulated conditions, including performance within agreed-upon time periods, shall entitle the lender to file an *Attorney's Certificate of Compliance* and to proceed to disposition. The court may resolve disputes about compliance with this administrative order without a hearing based on memoranda or written communication submitted by the parties.

8. Administrative Order Does Not Prohibit Mediation

Nothing in this Administrative Order shall be construed as limiting the authority of the court to order mediation in an appropriate case pursuant to the applicable Rules of Civil Procedure.

9. Transitional Issues and Effective Date

This Administrative Order shall be effective **December 1, 2008**, as to foreclosure actions filed on or after that date. Accordingly, hearings in pending cases scheduled before the effective date are exempt from the requirements of this order.

However, in regard to foreclosure actions filed against homestead owners before December 1, 2008, upon notice and motion the assigned division judge may order any party to participate in a Conciliation Conference upon a showing of good cause and upon such terms as may be appropriate.

DONE AND ORDERED in Sarasota, Sarasota County this 25th day of November, 2008.


Lee E. Haworth, Chief Judge

cc: All Judges in the Twelfth Circuit
Gulf Coast Legal Services
Legal Aid of Manasota
Florida Rural Legal Services
Florida Legal Services
Clerks of Court, Twelfth Circuit
Sarasota County Bar Association
Manatee County Bar Association
Venice-Englewood Bar Association
Law firms representing lenders (copies provided for comment since 10/10/08)

**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR DESOTO, MANATEE, AND SARASOTA COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER. NO. 2009-2.1

**IN RE: EMERGENCY ORDER SUSPENDING TELEPHONE HEARINGS IN
 FORECLOSURE CASES IN SARASOTA AND MANATEE COUNTIES**

WHEREAS, the Twelfth Judicial Circuit has experienced a 628% increase in mortgage foreclosures during the last three calendar years: 2006, 2007, and 2008; and

WHEREAS, the Bradenton – Sarasota – Venice area was eleventh in foreclosure filings among the nation's top 100 metropolitan areas in 2008; and

WHEREAS, economists project the upward trend in foreclosures to continue throughout 2009; and

WHEREAS, legislative and county budgets for the funding of the judicial branch have been substantially reduced, necessitating the elimination of essential case management positions, and impairing the capacity of the courts and the clerk to efficiently manage the surge of new foreclosure cases; and

WHEREAS, the time required of court staff and judicial assistants to manage foreclosure cases greatly exceeds the time available during the regular work week to complete such tasks, funding for additional positions or overtime being nonexistent; and

WHEREAS, many out-of-circuit foreclosure plaintiffs and their counsel who are volume filers of foreclosure actions have failed to comply with Twelfth Circuit Administrative Orders 14.1 and 15.1; in particular they are ignoring the prohibition on setting hearings without contemporaneous filing of summary judgment foreclosure motions and packets, they are failing to include with their complaint and summons the Notice to Homeowners of the circuit's Homestead Foreclosure Conciliation Program, and they are submitting incomplete, false, or inaccurate foreclosure summary judgment checklists and related documents; and

WHEREAS, the privilege of appearing by telephone for summary judgment hearings has been widely abused by several out-of-circuit law firms, causing docket congestion and the wasting of valuable judicial resources;

NOW, THEREFORE, IT IS ORDERED as follows:

1. The Chief Judge finds good cause to require counsel for parties seeking to foreclose commercial or residential mortgages in Manatee and Sarasota County to appear **in person** for all hearings before the assigned judge. The privilege of appearing by phone for any hearing in any commercial or residential mortgage foreclosure case is suspended in these two counties, pending further order of the Chief Judge. Except for emergency matters, the prohibition on

telephone hearings applies to foreclosure summary judgment hearings as well as hearings on other motions set by any party to the foreclosure action.

2. Counsel appearing on behalf of a foreclosing party shall:


a. comply with the rules of civil procedure as they relate to summary judgments, be familiar with the provisions of Twelfth Circuit Administrative Orders 14.1 and 15.1, and the assigned judge's procedures as published on the Twelfth Circuit website;

b. bring to the hearing proposed orders or final judgments to be signed by the judge, together with such copies as the rules of civil procedure require to be provided to other parties in the case;

c. be responsible for mailing conformed copies of signed orders and judgments to other parties in the case.

3. This order shall be effective **MARCH 9, 2009**.

DONE and ORDERED in Sarasota County, Florida, on this 9th day of February, 2009.


LEE E. HAWORTH, CHIEF JUDGE
TWELFTH JUDICIAL CIRCUIT
STATE OF FLORIDA

Distribution:

Original to: Clerk of Court, Sarasota County

Copies to: All Circuit and County Court Judges
Walt Smith, Court Administrator
Clerk of Court, Manatee County
Clerk of Court, DeSoto County
Sarasota County Bar Association
Manatee County Bar Association
Venice Englewood Bar Association
Circuit Foreclosure Liaisons

Supreme Court of Florida

No. AOSC09-54

IN RE: FINAL REPORT AND RECOMMENDATIONS ON
RESIDENTIAL MORTGAGE FORECLOSURE CASES

ADMINISTRATIVE ORDER

Foreclosure case filings in Florida trial courts stood at nearly 369,000 in December 2008. At the beginning of the last quarter of 2009, foreclosure filings statewide totaled in excess of 296,000. Florida has the third highest mortgage delinquency rate, the worst foreclosure inventory, and the most foreclosure starts in the nation. At the close of 2009, it is estimated there will be an inventory of approximately 456,000 pending foreclosure cases statewide. The crisis continues unabated.

The Task Force on Residential Mortgage Foreclosure Cases was established to respond on an emergency basis to the residential mortgage foreclosure crisis in Florida.¹ In Re: Task Force on Residential Mortgage Foreclosure Cases, AOSC09-8 (March 27, 2009). The 15-member Task Force issued a Final Report and

1. The Task Force was asked to recommend “policies, strategies, and methods for easing the backlog of pending residential mortgage foreclosure cases while protecting the rights of parties” through “mediation and other alternative dispute resolution strategies, case management techniques, and approaches to providing *pro bono* or low-cost legal assistance to homeowners.”

Recommendations on August 15, 2009.² The Final Report and Recommendations was published for comment, and oral argument was held on November 4, 2009. In its report, the Task Force identified lack of communication between plaintiffs and borrowers as the most significant issue impeding early resolution of foreclosure cases, and concluded that effective case management and mediation techniques are the best methods the courts can employ to ensure that such communications occur early enough in the case to avoid wasted time and resources for the courts and the parties.

Recognizing that section 44.108, Florida Statutes, and statewide trial court budget policy considerations do not allow trial courts to collect fees for the provision of circuit civil mediation services, the Task Force concluded that outside entities would be needed to manage mediations on the scale required to address the state's foreclosure crisis.

Statewide Managed Mediation Program

The Task Force recommended adoption of a uniform, statewide managed mediation program to be implemented through a model administrative order to be issued by each circuit chief judge. Under this program, all foreclosure cases in the

2. The Task Force met over a period of approximately 20 weeks. During that time period, it conducted in-depth surveys and engaged in other outreach efforts to determine the impact of the foreclosure crisis on lenders and servicers, borrowers, attorneys and judges. The Task Force's Final Report and Recommendations is available at http://www.floridasupremecourt.org/pub_info/documents.shtml#foreclosure.