



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

2009-41

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

FROM: Thomas A. Genung, Trial Court Administrator

DATE: November 18, 2009

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

A handwritten signature in black ink, appearing to be "Thomas A. Genung", with a long horizontal line extending to the right.

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

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

TAG/mt
Attachment

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

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

ADMINISTRATIVE ORDER NUMBER 2009 -15
(Amending Administrative Order 2009-01)

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

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

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

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

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

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

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

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

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

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

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

NOW, THEREFORE, IT IS ORDERED:

Definitions

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

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

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

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

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

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

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

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

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

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

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

Scope

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

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

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

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

Procedure

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DONE AND ORDERED on November 16th, 2009.



Steven J. Levin
Chief Judge

INDEX OF EXHIBITS

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

EXHIBIT 1

FORM A

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

IN THE CIRCUIT COURT IN AND FOR _____ COUNTY,
FLORIDA

[Name of Plaintiff]

Case No.:

Plaintiff,

vs.

[Names of Defendant(s)]

Defendant(s)

Form "A"

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

Certificate of Plaintiff's Counsel Regarding Status of Residential Property

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

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

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

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

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

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

Date:

(Signature of Plaintiff's Counsel)
[Printed name, address, phone number and
Fla. Bar No.]

EXHIBIT 2

NOTICE OF RMFM PROGRAM TO BE SERVED WITH
SUMMONS

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

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

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

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

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

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

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

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

EXHIBIT 3

NOTICE OF BORROWER'S NONPARTICIPATION

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

Case No(s).:

Plaintiff(s),

vs.

Defendant(s).

**NOTICE OF BORROWER NONPARTICIPATION
WITH RMFM PROGRAM**

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

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

Signed on _____, 20____.

POLICY

THE COLLINS CENTER FOR PUBLIC
Program Manager for RMFM Program

BY: _____
(Signature)

(Printed name)

[Certificate of Service on the parties]

EXHIBIT 4

BORROWER'S FINANCIAL DISCLOSURE FOR MEDIATION

EXHIBIT 4A: LOAN MODIFICATION

EXHIBIT 4B: SHORT SALE

EXHIBIT 4C: DEED IN LIEU OF FORECLOSURE

EXHIBIT 4A

BORROWER'S FINANCIAL DISCLOSURE FOR MEDIATION (LOAN MODIFICATION)

FORECLOSURE MEDIATION FINANCIAL WORKSHEET

Case No.:

v.

Plaintiff's Name _____

First Defendant's Name _____

PERSONAL INFORMATION

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

EMPLOYMENT INFORMATION

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

EXPENSE AND LIABILITIES

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

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

Reason for Delinquency/Inability to Satisfy Mortgage Obligation:

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

Further Explanation:

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

| | | |
|-----------------------|-----|------|
| Signature of Borrower | SSN | Date |
|-----------------------|-----|------|

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

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

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

Fannie hardship form 1021
Home Affordable Modification Program Hardship Affidavit

Borrower Name (first, middle, last): _____
Date of Birth: _____
Co-Borrower Name (first, middle, last): _____
Date of Birth: _____
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:

- ___ Hispanic/Latino
- ___ Not Hispanic/Latino

CO-BORROWER:

Ethnicity:

- ___ Hispanic/Latino
- ___ Not Hispanic/Latino

Race:

- ___ American Indian/Alaska Native
- ___ Asian
- ___ Black/African American
- ___ Native Hawaiian/Other Pacific Islander
- ___ White

Race:

- ___ American Indian/Alaska Native
- ___ Asian
- ___ Black/African American
- ___ Native Hawaiian/Other Pacific Islander
- ___ White

___ I do not wish to furnish this information

___ I do not wish to furnish this information

TO BE COMPLETED BY INTERVIEWER

Interviewer's Name (print or type):

Name/Address of Interviewer's Employer:

Face-to-face interview

Interviewer's Signature/Date _____ / _____

Address _____

Telephone (include area code) _____

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 to 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 Signature | Date | Co-Borrower Signature | Date |
| E-mail Address: _____ | | E-mail Address: _____ | |
| Cell phone # _____ | | Cell phone # _____ | |
| Home Phone # _____ | | Home Phone # _____ | |
| Work Phone # _____ | | Work Phone # _____ | |
| Social Security # _____ - _____ - _____ | | Social Security # _____ - _____ - _____ | |

EXPLANATION:

(Provide any further explanation of the hardship making it difficult for you to pay on your mortgage.)

EXHIBIT 4B

BORROWER'S FINANCIAL DISCLOSURE FOR
MEDIATION
(SHORT SALE)

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 4C

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

EXHIBIT 5

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

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

Case No(s).:

Plaintiff(s),

vs.

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 _____, 20__.

[Name of Plaintiff]

(Signature)

(Printed Name)

[Certificate of Service by Plaintiff's Counsel]

EXHIBIT 6

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

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

Case No(s).:

Plaintiff(s),

vs.

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.

Signed on _____, 20____.

(Signature)

(Printed Name)

[Certificate of Service by Plaintiff's Counsel]

EXHIBIT 7
MEDIATION REPORT

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

Case No(s):

Plaintiff(s),

vs.

Defendant(s).

MEDIATION REPORT
(RMFM Program)

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

1. The following were present:
 - a) The Plaintiff's Representative, *[name]*, and Plaintiff's attorney, *[name]*.
 - b) The Defendant[s], *[name(s)]*, and his/her/their attorney[s], *[name(s)]*.
2. The result of the Mediation Conference is as follows *[Mediator selects only one]*:
 - _____ A **SETTLEMENT AGREEMENT** was signed during the 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 2009-15 a copy of the most recently filed Form A is attached.

[Certificate of Service]

EXHIBIT 8

CERTIFICATE OF COMPLIANCE WITH
ADMINISTRATIVE ORDER 2009-15

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

Case No(s).:

Plaintiff,

vs.

Defendant(s).

**CERTIFICATE OF COMPLIANCE WITH
ADMINISTRATIVE ORDER 2009-15**

(Must Be Submitted With Request For Final Or Summary Judgment)

The undersigned attorney certifies (*mark as appropriate*):

_____ This action was filed before November 10, 2009, and compliance with
Administrative Order 2009-01 was not ordered by the court.

_____ This action was filed after November 10, 2009, and Plaintiff and Plaintiff's
counsel have fully complied with the requirements of Administrative Order
2009-01 as amended, and a true and accurate copy of the most recently filed
Form A and the mediators report or notice of borrower's nonparticipation is
attached to this certificate.

Signed on [date].

[signature block for certifying attorney]

[certificate of service]