ADMINISTRATIVE OFFICE OF THE COURTS
INTER-OFFICE

MEMO 2011-44

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

FROM: Thomas A. Genung, Trial Court Administrator

DATE: August 19, 2011

RE: **Administrative Order 2011-06 (Amending AO 2010-03) Administrative Order for Case Management of Residential Foreclosure Cases and Mandatory Referral of Mortgage Foreclosure Cases Involving Homestead Residences to Mediation**

Attached please find original **Administrative Order 2011-06** for filing with the Court.

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

TAG/ms
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
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
Program Manager – Collins Center for Public Policy
IT

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

ADMINISTRATIVE ORDER NO.: 2011-06
(Amending Administrative Order 2010-03)

RE: ADMINISTRATIVE ORDER FOR 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 that 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 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, 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 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 Collins Center for Public Policy, Inc. (hereafter referred to as "the Program Manager") 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 Nineteenth Judicial Circuit; and

Whereas, the Federal Government, via the HAMP program, has established a more stringent level of income verification than what was required at the time the previous Administrative Order was issued, which causes this Court to raise the level of documentation required to ensure that Plaintiff Representatives will be able to have full authority to settle without further consultation at mediation pursuant to rule 1.720, *Florida Rules of Civil Procedure*.

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 for Public Policy, Inc., to implement and carry out the intent of this Administrative Order.

"**The Program Manager**" means the Collins Center for Public Policy, Inc., qualified in accordance with parameters attached as Exhibit 14. Also referred to as the "Mediation Manager."

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

"**Plaintiff's Counsel**" means counsel of record assigned to the case, or a member of The Florida Bar of the law firm retained by the Plaintiff who is knowledgeable about the case.

"**Plaintiff's representative**" means the person designated by the Plaintiff in the Form A who will appear at mediation and who has full authority to settle without further consultation and resolve the foreclosure suit. The Plaintiff's representative is distinct from Plaintiff's counsel.

"**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.

"**Plaintiff's Disclosure for Mediation**" means those documents requested by the borrower pursuant to paragraph 7 below.

"**Borrower's Financial Disclosure for Mediation**" means those documents described in Exhibit 5 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 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.

"**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 (Origination Subject to TILA).*** This Administrative Order shall apply to all residential mortgage foreclosure actions filed in the Nineteenth 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.[1] 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 agree in writing otherwise or unless pre-suit mediation was conducted in accordance to paragraph 23. 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 agree in writing not to participate in the RMFM Program or the Program Manager files a notice of borrower nonparticipation.

   Upon the effective date of this Administrative Order, all newly filed residential mortgage foreclosure actions involving property that is not a homestead residence shall comply with the requirements of filing a Form A as required by paragraph 5 below and the requirements of paragraph 18 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 which 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 format of Exhibit 3 attached.

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. 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 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 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. Mediators used in the RMFM Program shall be trained in accordance with the standards stated in Exhibit 13 attached. 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

[1] Condominium association and homeowner's association fee foreclosures and mechanics lien and construction lien foreclosures are not included in the RMFM Program.

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 the effective date of this Administrative Order, in all actions to foreclose a mortgage on residential property the plaintiff 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

5. ***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 transmit in the electronic format approved by the Chief Judge a copy of Form A to the Program Manager 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.

   The Program Manager shall notify plaintiff's counsel of any incomplete or seemingly inaccurate information and plaintiff's counsel shall provide correct information promptly. The Program Manager's website address is http://www.CollinsMediation.org.

   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. 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 paragraph 23 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. 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 Forms A must be electronically transmitted to the Program Manager via http://www.CollinsMediation.org no later than one business day after being filed with the clerk of court. All information from any Exhibit 7 must be reflected in the electronically amended form A through http://www.CollinsMediation.org, at most one (1) business day after filing with the clerk of court. Any outside counsel attending in person as plaintiffs representative with full authority to settle must file a notice of appearance with the clerk of court and the attorney's name must be reflected in the Exhibit 7, as well as the latest electronically amended Form A through http://www.CollinsMediation.org.

6. ***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 in person or by telephone with an approved mortgage foreclosure counselor no later than 30 days after the borrower is initially in contact with the Program Manager. The borrower's legal counsel may also attend foreclosure counseling, but attendance by legal counsel without the borrower does not satisfy the requirement. If the borrower fails to timely schedule a meeting with a foreclosure counselor, or if the borrower fails to submit the required financial disclosure forms, such failure shall be grounds for the Program Manager to file a Notice of Borrower Nonparticipation as provided in paragraph 9 below. Completion of the Borrower's Financial Disclosure for Loan Modification referenced in Exhibit 5A is mandatory in every case so that the borrower's basic financial condition can be assessed by the plaintiff. As applicable, the borrower's financial disclosure for alternative workout options, short sale, and a deed in lieu of foreclosure referenced in Exhibits 5B and 5C should be submitted or made available to plaintiff's counsel and plaintiff's representative designated in Form A.

It shall be the responsibility of the Program Manager to transmit the Borrower's Financial Disclosure for Mediation to plaintiff's counsel and the plaintiff's representative designated in Form A via a secure dedicated e-mail address or to upload same to the web-enabled information platform described in paragraph 8. If the information is uploaded, the Program Manager shall notify plaintiff's counsel and the plaintiff's representative that the borrower's financial disclosure for mediation is available. The Program Manager is not responsible or liable for the accuracy of the borrower's financial information. The transmission of the Borrower's Financial Disclosure for Mediation to plaintiff's counsel and the plaintiff's representative shall occur no later than 60 days after the Program Manager receives the electronic transmission of Form A from plaintiff's counsel.

Mandatory Disclosure: Unless excused by the Program Manager, to fulfill their responsibilities for financial counseling borrowers shall provide at a minimum the following documentation to their credit counselors. Failure to provide such documentation may result in borrower's termination from the RMFM Program:

1. Last two (2) years' federal tax returns, signed.
2. Proof of income - e.g., last 30 days' worth of current pay stubs; contribution letters signed and dated, notarized if possible; IRA, 401K statements; award letters (SSI, etc); if renting out a part of the house, please provide lease/sublease document; child support; etc. Pay stubs must have year-to-date earnings declared.
3. Past two (2) bank statements.
4. If self employed, attach a copy of year-to-date profit-loss statement; if new year, last quarter's P/L.
5. Hardship Affidavit Letter.
6. IRS 4506T Form.
7. RMA form (Request for Modification Affidavit).
8. Proof of all expenses (child support, utility bills, auto loans, auto insurance, cable, etc.).
9. Homeowner's insurance.
10. Current real estate tax bill, if non-escrow loan.

Exhibit 5A, Foreclosure Mediation Financial Worksheet, Section 4, is amended following the signatures of the borrowers to substitute the above documents for those items required to be attached to the Worksheet by borrower.

Optional Disclosure: Some lenders require additional documentation to thoroughly assess a borrower's eligibility for the most desirable alternatives to foreclosure. In such cases, the Program

Manager or the credit counselor may recommend that the borrower produce such material in order to enhance the prospects of a successful mediation. However, while it is strongly encouraged, compliance with this recommendation is at the borrower's option.

7. ***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 that 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, no later than 25 days prior to the mediation session. The Program Manager shall promptly electronically transmit the request for information to plaintiff's counsel.

    Because of frequent non-compliance with this requirement by plaintiffs, the time for delivering the requested items to the Program Manager shall be at least ten (10) calendar days prior to the date set for mediation.

    Upon being advised that a borrower has requested disclosure of such documents, the Program Manager shall file with the court a Notice of Non-Compliance whenever such material is not provided to the Program Manager in a timely manner. In such event, the mediation that has been scheduled may be cancelled and reset. However, the mediation shall not be rescheduled and the case shall not progress in court until the requested documents have been produced or excused to the satisfaction of the Program Manager.

    If the mediator for the cancelled session has been paid a fee as a consequence of the plaintiff's untimely compliance, as a sanction for non-compliance the plaintiff shall pay the Program Manager an additional sum of $350.00 for mediator services to be rendered at the rescheduled mediation. Unless an objection is filed timely as required below, this sum shall be paid within fifteen (15) calendar days after the Notice of Non-Compliance is mailed to the plaintiff.

    Plaintiffs who object to the sanction may file a motion before the assigned judge to have the sanction waived. However, the court shall grant waivers only upon a showing of good cause. If the sanction payment or objections thereto are not forthcoming, or if plaintiff's noncompliance with borrower's request for document production continues, the Program Manager shall advise the court by filing a Notice of Non-Compliance, and with or without hearing the assigned judge may impose additional sanctions, including, without limitation, dismissing the action without prejudice but with leave to refile the case with a new clerk's fee. In the motion plaintiff may include a request that the assigned judge conduct an expedited review of its objection.

8. ***Information to Be Provided Via Secure Dedicated E-mail Address or Web-Enabled Information Platform.*** 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 electronically in a format approved by the chief judge via a secure dedicated e-mail address or in a web-enabled information platform with XML data elements.

9. ***Nonparticipation by Borrower.*** The Program Manager shall have 30 days after electronically receiving contact information for the borrower (as required by paragraph 5 above) to contact the borrower. If the borrower does not want to 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 Borrower's Nonparticipation in the format of Exhibit 4 attached. The Notice of Borrower's Nonparticipation shall be filed no later than 10 days after the borrower advises that he or she does not want to participate in the program, or fails to cooperate with requirements of this Administrative Order. If the Program Manager is unable to contact the borrower within 30 days after electronically receiving contact information for the borrower, the Notice of Borrower's Nonparticipation shall be filed within 40 days after the borrower contact information is electronically received by the Program Manager. A copy of the Notice of Borrower's Nonparticipation shall be served on the parties by the Program Manager.

10. ***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 HUD shall be by rotation or by such other procedures as may be adopted by administrative order of the chief judge. The borrower's failure to participate in foreclosure counseling shall be cause for terminating the case from the RMFM Program. Credit counselors employed by the Program Manager are authorized to collect and submit borrower's financial material directly to the person designated by plaintiff in the most recently filed Form A.

11. ***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 *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 *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 must attend the mediation.

12. ***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 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 a suitable location 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 and 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 8. Mediation shall not be scheduled earlier than 30 days after the Borrower's Financial Disclosure for Mediation has been transmitted to the plaintiff.

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.

13. ***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; the borrower; and the borrower's counsel of record, if any. However, 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, advising that the plaintiff's representative will be attending through the use of communication equipment and designating a person who is attending the mediation live and not electronically, 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.

    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 counsel; 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.

    In preparing for mediation, when plaintiff has been made aware in advance of specific options being proposed by borrowers to resolve the litigation, the representative of plaintiff who has been designated to appear and attend mediation shall make reasonable efforts to be informed to the extent necessary to knowledgeably discuss, accept, or reject such options at the mediation, and shall have full authority to settle the options without further consultation at mediation. "Full authority to settle without further consultation" is including, but not limited to, authority to approve loan modifications, consent to borrower refinancing or short sales, authorize deed in lieu of foreclosure, and consent to waiver of deficiencies and consent to other workout options.

    If anyone claims not to have any of those powers, or crosses out any of the wording concerning full authority (or verbally indicates that full authority is limited to only certain issues), then the plaintiff's representative will not be considered as having full authority to settle and will be reported as a non-appearance on the written roll.

    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.

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 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, 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*.

14. ***Failure to Appear at Mediation.*** If either the plaintiff's representative designated in the most recently filed Form A and Exhibit 7 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, 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 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 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. 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.

15. ***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 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 representatives named in Form A appeared for mediation. The mediator's report to the court shall be in the format of Exhibit 9 attached.

16. ***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.

17. ***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.

    Unless otherwise ordered by the court, a certificate of compliance in the format of Exhibit 12 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.

18. ***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.

    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.

19. ***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), *Florida Rules of Civil Procedure*, the reasonable program fees for the managed mediation, including foreclosure counseling, the mediator's fee, and administration of the managed mediation program, is a total of no more than $750.00 payable as follows:

    1) Not more than $400.00 paid by plaintiff at the time suit is filed, for administrative fees ($275.00) of the RMFM Program, including outreach to the borrower and foreclosure counseling fees ($125.00); and

    2) Not more than $350.00 paid by plaintiff within 10 days after notice of the mediation conference is filed for the mediation fee component of the RMFM Program fees.

    If more than one mediation session is needed, the total program fee stated above will also cover a second mediation session if the first ended in adjournment. 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 not more than $350.00 per session.

If a case was closed due to borrower's failure to complete credit counseling, the contingency fee for the credit counseling organization must be returned to the plaintiff. If the case is re-opened within 30 days of the original closure by the credit counselor, only the contingency fee must be repaid to the Program Manager, by the plaintiff. If the case is re-opened 30 days or later, the full $125 fee must be repaid by the plaintiff to the Program Manager. If counseling is being repeated at any time, the Plaintiff must repay the full $125 for the new counseling session to the Program Manager.

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 in whole or part as a cost or apply them as a setoff in the final judgment of foreclosure.

If the borrower cannot be located, chooses not to participate in the RMFM Program, or 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 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. 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.

The total fees include 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 a web-enabled information platform, a secure dedicated e-mail address or other secure system for information transmittal, and other related expenses incurred in managing the foreclosure mediation program.

Program Manager to Monitor Compliance and Satisfaction

20. ***Monitoring Compliance Concerning Certain Provisions of This Administrative Order, Satisfaction with RMFM Program, and Program Operation.*** The Program Manager shall be responsible for monitoring whether Form A has been filed in all residential foreclosure actions that commence after the effective date of this Administrative Order and whether the RMFM Program fees have been paid if the residence is a homestead residence. 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.

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 therefore and the relief or order sought. Example orders are attached as Exhibit 11.

The Program Manager shall also provide the chief judge with periodic reports as to whether plaintiffs and borrowers are satisfied with the RMFM Program.

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.

The Program Manager shall provide to the clerk of court all original compliance reports, together with the activity report, all original mediators' reports, and any original motions submitted to the Program Manager. The Program Manager shall use e-filing (where available) to file the paperwork with the clerk of court.

21. ***Designation of Plaintiff Liaisons with RMFM Program.*** Any plaintiff who has filed five (5) or more foreclosure actions in the Nineteenth 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), e-mail, 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 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 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.

List of Participating Mediators and Rotation of Mediators

22. ***List of Participating Mediators and Rotation of Mediators.*** The Program Manager shall post on its website the list of Florida Supreme Court certified mediators it will use to implement the RMFM Program and will state in writing the criteria, subject to approval of the chief judge, the program will use in selecting mediators. The Program Manager shall also state in writing the procedure, subject to the approval of the chief judge, the program will use to rotate the appointment of mediators, and maintain a list as to which mediation site(s) in the Nineteenth Judicial Circuit the mediators designate their willingness to mediate. The RMFM Program shall require the use of mediators who have been trained to mediate mortgage foreclosure cases, reflecting 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.

    Mediators who are on the list of approved mediators maintained by the Program Manager on the date this Administrative Order is signed may continue to mediate cases referred to the RMFM Program; however, such mediators shall not continue working in the RMFM Program if they have not completed the training requirements imposed by paragraph 2 above within 90 days after the effective date of this Administrative Order.

Pre-Suit Mediation Encouraged

23. ***Pre-Suit Mediation.*** 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 actions being filed across the state and, in particular, in the Nineteenth Judicial Circuit.

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 Florida Supreme Court 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.

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 Nineteenth Judicial Circuit and shall take effect on **October 1, 2011**. This Administrative Order shall remain in full force and effect until otherwise ordered.

DONE AND ORDERED in Stuart, Martin County, Florida this 12th day of August, 2011.

STEVEN J. LEVIN, CHIEF JUDGE
NINETEENTH JUDICIAL CIRCUIT
STATE OF FLORIDA

Original filed with Martin County Clerk of Court
copies to: All Judges in the Nineteenth Circuit
St. Lucie County Clerk of Court
Okeechobee County Clerk of Court
Indian River County Clerk of Court
Program Manager: Collins Center for Public Policy

RMFM PROGRAM TIMELINES

TIMELINE FROM DATE SUIT IS FILED

Suit is filed

- Form A filed with Complaint
- RMFM Program fees paid by Plaintiff
- Notice of RMFM Program attached to Summons

1 business day after suit is filed

- Form A electronically transmitted to Program Manager by Plaintiff's counsel

60-120 days after suit is filed

- Borrower meets with foreclosure counselor
- Borrower's Financial Disclosure for Mediation is transmitted to IT platform
- Mediation session is scheduled
- Borrower requests Plaintiff's Disclosure for Mediation, if desired

120 days after suit is filed

- Notice of Borrower's Nonparticipation filed by Program Manager, if applicable

TIMELINE WITH MEDIATION SESSION AS POINT OF REFERENCE

Prior to mediation being scheduled

- RMFM Program fees paid by Plaintiff
- Borrower must contact Program Manager
- Borrower must meet with foreclosure counselor
- Borrower must complete and submit Borrower's Financial Disclosure for Mediation packet to Program Manager

30 days prior to mediation session

- Program Manager electronically transmits Borrower's Financial Disclosure for Mediation to the IT platform

25 days prior to mediation session

- Borrower makes written request for Plaintiff's Disclosure for Mediation if desired

5 days prior to mediation session

- Any amended Form A designation of the plaintiff's representative must be filed with the Clerk

5 business days prior to mediation session

- Plaintiff's counsel transmits Plaintiff's Financial Disclosure for Mediation to the IT platform

1 day prior to mediation session

- Any amended Form A designation of the plaintiff's representative must be uploaded to the IT platform

10 days after mediation session

- Program Manager/Mediator files mediator's report with the clerk of court and serves copies on the parties

INDEX OF EXHIBITS

1. Form A
2. Notice of RMFM Program (titled Notice from the Court Regarding Lawsuits to Foreclose Mortgages on Homes) to be Served with Summons
3. Borrower's Request to Participate in RMFM Program
4. Notice of Borrower's Nonparticipation
5. Borrower's Financial Disclosure for Mediation
6. Borrower's Request for Plaintiff's Disclosure for Mediation
7. Plaintiff's Notice of Attending Mediation by Telephone
8. Plaintiff's Certification Regarding Attending Mediation by Telephone
9. Mediation Report
10. Certification Regarding Settlement Authority (Residence is Not Homestead)
11. Orders for Referrals, Compliance, and Enforcement
12. Certificate of Compliance with Administrative Order 2011-6.1
13. Mediation Training Standards
14. Parameters for Managed Mediation

EXHIBIT 1

FORM A

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

IN THE NINETEENTH JUDICIAL CIRCUIT COURT
IN AND FOR MARTIN, INDIAN RIVER, OKEECHOBEE,
AND SAINT LUCIE COUNTIES, FLORIDA

[Name of Plaintiff]
Plaintiff,

Case No.:

vs.

[Names of Defendant(s)]
Defendant(s)

Form "A"

(Certifications Pursuant to Nineteenth Judicial Circuit Administrative Order 2011-6.1)

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 the Program Manager, 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 plaintiff's representatives, one of whom will appear on behalf of 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 e-mail 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-enabled information platform.

Date:

_____

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

EXHIBIT 2

NOTICE OF RMFM PROGRAM

(NOTICE FROM THE COURT REGARDING LAWSUITS TO FORECLOSE MORTGAGES ON HOMES)

TO BE SERVED WITH SUMMONS

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

NOTICE FROM THE COURT REGARDING LAWSUITS TO FORECLOSE MORTGAGES ON HOMESTEADS

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 foreclosure 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 out-of-pocket for the mediation. However, all or part of the mediation expense may be added to the amount you owe if the foreclosure results in a judgment against you. To participate in mediation, **as soon as practical**, you must contact the Program Manager, the Collins Center for Public Policy, Inc., by calling 877-352-2004 between 8:30 a.m. and 6:00 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. The foreclosure counselor is trained in advising persons of options available when facing a mortgage foreclosure, and is certified by the United States Department of Housing and Urban Development (HUD) or National Foreclosure Mitigation Counseling Program (NFMC). You may also request certain information from the company suing you before going to mediation.

The Program Manager will explain more about the mediation program to you when you call.

If you have attended mediation arranged by the Program Manager 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 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 IN MEDIATION.

You should give this matter your immediate attention.

STEVEN J. LEVIN, CHIEF JUDGE
NINETEENTH JUDICIAL CIRCUIT
MARTIN, INDIAN RIVER, OKEECHOBEE, AND SAINT LUCIE COUNTIES

EXHIBIT 3

BORROWER'S REQUEST TO PARTICIPATE IN RMFM PROGRAM

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

Case No(s).:

Plaintiff(s),

vs.

Defendant(s).

BORROWER'S REQUEST TO PARTICIPATE IN RMFM PROGRAM

_____, *(printed name)*, 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 RMFM 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.

Signed on _____, 20___.

_____

(Signature

_____

(Printed Name)

[Certificate of Service on the parties]

EXHIBIT 4

NOTICE OF BORROWER'S NONPARTICIPATION

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

Case No(s).:

Plaintiff(s),

vs.

Defendant(s).

NOTICE OF BORROWER NONPARTICIPATION WITH RMFM PROGRAM

[Name of Program Manager] hereby gives notice to the court that _____ (Borrower) will not be participating in the RMFM Program because:

- ☐ The RMFM Program has been unable to contact Borrower;
- ☐ 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;
- ☐ Borrower did not appear at scheduled mediation;
- ☐ Other:_____

Signed on _____, 20___.

[Name of Program Manager]

BY: _____
(Signature)

_____
(Printed Name)

[Certificate of Service on the parties]

EXHIBIT 5

BORROWER'S FINANCIAL DISCLOSURE FOR MEDIATION

EXHIBIT 5A: DISCLOSURE FOR MEDIATION

EXHIBIT 5B: SHORT SALE

EXHIBIT 5C: DEED IN LIEU OF FORECLOSURE

EXHIBIT 5A

BORROWER'S FINANCIAL DISCLOSURE FOR MEDIATION

The forms in Exhibit 5A are to be used for financial disclosure for all mediations, regardless of what options the borrower wants to pursue in trying to settle the action.

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	
❑ Married	❑ Civil Union/Domestic Partner	❑ Married	❑ Civil Union/Domestic Partner
❑ Separated	❑ Unmarried (single, divorced, widowed)	❑ Separated	❑ 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)	

SECTION 2: EMPLOYMENT INFORMATION

Borrower		**Co-Borrower**	
Employer	❑ Self Employed	Employer	❑ 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: EXPENSES 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		

SECTION 4: ASSETS

	Estimated Value
Personal Residence	
Real Property	
Personal 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:

- ❑ Reduction in income
- ❑ Poor budget management skills
- ❑ Loss of income
- ❑ Other: _____
- ❑ Medical issues
- ❑ Increase in expenses
- ❑ Divorce/separation
- ❑ Death of family member
- ❑ Business venture failed
- ❑ Increase in loan payment

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 Date

_____ _____
Signature of Co-Borrower Date

Please attach the following:

1. Last two (2) years' federal tax returns, signed.
2. Proof of income - e.g., last 30 days' worth of current pay stubs; contribution letters signed and dated, notarized if possible; IRA, 401K statements; award letters (SSI, etc); if renting out a part of the house,

please provide lease/sublease document; child support; etc. Pay stubs must have year-to-date earnings declared.

3. Past two (2) bank statements.
4. If self employed, attach a copy of year-to-date profit-loss statement; if new year, last quarter's P/L.
5. Hardship Affidavit Letter.
6. IRS 4506T Form.
7. RMA form (Request for Modification Affidavit).
8. Proof of all expenses (child support, utility bills, auto loans, auto insurance, cable, etc.).
9. Homeowner's insurance.
10. Current real estate tax bill, if non-escrow loan.

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 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

Race:
____American Indian/Alaska Native
____Asian
____Black/African American
____Native Hawaiian/Other Pacific Islander
____White

____I do not wish to furnish this information

CO-BORROWER:
Ethnicity:
____Hispanic/Latino
____Not Hispanic/Latino

Race:
____American Indian/Alaska Native
____Asian
____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 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 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 5B

BORROWER'S FINANCIAL DISCLOSURE FOR MEDIATION (SHORT SALE)

In addition to the required disclosure forms in Exhibit 5A above, the following information must be uploaded into the web-enabled IT platform or submitted via secure e-mail address 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 required disclosure forms in Exhibit 5A above, the following information must be uploaded into the web-enabled IT platform or submitted via secure e-mail address on behalf of the borrower:

- Current title search for the homestead residence

EXHIBIT 6

BORROWER'S REQUEST FOR PLAINTIFF'S DISCLOSURE FOR MEDIATION

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

Case No(s).:

Plaintiff(s),

vs.

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 2011-6.1 entered in the Nineteenth 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.

Signed on _____, 20___.

_____
(Signature)

[Certificate of Service on the parties]

EXHIBIT 7

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

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT IN AND FOR MARTIN, INDIAN RIVER, OKEECHOBEE, AND SAINT LUCIE COUNTIES, 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 8

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 MARTIN, INDIAN RIVER, OKEECHOBEE, AND SAINT LUCIE COUNTIES, 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 9

MEDIATION REPORT

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT IN AND FOR MARTIN, INDIAN RIVER, OKEECHOBEE, AND SAINT LUCIE COUNTIES, 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]*, a Florida Supreme Court Certified Circuit Civil Mediator, on *[date]*.

The following were physically present at the Mediation Conference *(please print clearly or type)*:

_____	_____
Plaintiff Representative	Plaintiff's Attorney
_____	_____
Defendant	Defendant's Attorney
_____	_____
Defendant	Defendant's Attorney

Others physically present: _____

_____

Plaintiff's Representative present by electronic equipment: _____

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

_____ The parties reached an agreement: [ ] PARTIAL [ ] FULL

The agreement was [ ] reduced to writing and signed by the parties [ ] transcribed.

_____ There was no agreement.

_____ The mediation was ADJOURNED to _____ *(date and time)*

Mediator Signature: _____

(Print Name) _____

Date: _____

As required by Administrative Order 2011-6.1, a copy of the most recently filed Form A is attached.

[Certificate of Service]

EXHIBIT 10

CERTIFICATION REGARDING SETTLEMENT AUTHORITY (RESIDENCE NOT HOMESTEAD)

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

Case No(s).:

Plaintiff(s),

vs.

Defendant(s).

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

In compliance with Administrative Order 2011-6.1, the undersigned counsel of record 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:
E-mail 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 certify a copy of this certification was served on defendants with the summons.

Date:

[Signature, Address, Phone Number of Plaintiff's Counsel]

EXHIBIT 11

ORDERS FOR REFERRALS, COMPLIANCE, AND ENFORCEMENT

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

Case No(s).:

Plaintiff(s),

vs.

Defendant(s).

ORDER TO SHOW CAUSE
(Plaintiff's Failure to Comply with Administrative Order 2011-6.1)

It appearing to the court that Plaintiff has failed to comply with the requirements of Administrative Order 2011-6.1 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 a secure e-mail or an 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 of conference is filed.

Electronic Transmittal of Case Number and Borrower Contact Information

_____ Plaintiff failed to electronically submit the case number and contact information of the borrower to the Program Manager using a secure e-mail or an 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 10 attached to the Administrative Order).

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 representative 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).

Disclosure of Financial Information and Documents

_____ Plaintiff failed to deliver financial information after borrower timely requested Plaintiff's disclosure for mediation;

IT IS ORDERED that Plaintiff shall appear before the court at the *[designation of courthouse/courtroom]* on *[date]* at *[time]* to show cause why sanctions for noncompliance the Administrative Order 2011-6.1 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.

Signed on *[date]*

[signature block for judge]

[Certificate of Service]

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

Case No(s).

Plaintiff(s),

vs.

Defendant(s).

ORDER AFTER SHOW CAUSE HEARING
(Plaintiff's Failure to Comply with Administrative Order 2011-6.1)

The court having determined that Plaintiff has failed to comply with the requirements of Administrative Order 2011-6.1, 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 a secure e-mail or an 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 a secure e-mail or an 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).

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.

_____ Plaintiff shall deliver the financial information within 10 days of the date of this order, if the borrower timely requested plaintiff's disclosure for mediation.

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.

_____

_____

_____

Signed on *[date]*

[signature block for judge]

[Certificate of Service]

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

Case No(s).:

Plaintiff(s),

vs.

Defendant(s).

ORDER REFERRING CASE TO RMFM PROGRAM
(Cases filed on or before March 13, 2009)

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 2011-6.1 applies and that Defendant _____(Borrower) has requested that the case be referred to mediation, it is ORDERED:

The case is referred to the RMFM Program for mediation, and the plaintiff and borrower shall comply with Administrative Order 2011-6.1. 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 a secure e-mail or an approved web-based information platform.

The plaintiff and borrower are to cooperate with the Program Manager and must attend any mediation scheduled by the Program Manager.

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.

Signed on *[date]*

[signature block for judge]

[Certificate of Service]

EXHIBIT 12

CERTIFICATE OF COMPLIANCE WITH ADMINISTRATIVE ORDER 2011-6.1

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

Case No(s).:

Plaintiff(s),

vs.

Defendant(s).

CERTIFICATE OF COMPLIANCE WITH ADMINISTRATIVE ORDER 2011-6.1

(Must Be Filed with Motion for Default Final Judgment, Motion for Summary Judgment, or Notice for Trial)

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

_____ This action was filed before March 13, 2009, and compliance with Administrative Order 2011-6.1 (and previous Administrative Orders 2009-01, 2009-15, and 2010-03) was not ordered by the court.

_____ This action was filed on or after March 13, 2009, and Plaintiff and Plaintiff's counsel have fully complied with the requirements of Administrative Order 2011-6.1 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]

EXHIBIT 13

MEDIATION TRAINING STANDARDS

Residential Mortgage Foreclosure Training Standards

Introduction

Achieving an informed and committed workforce of Residential Mortgage Foreclosure Mediators requires not only a grasp of the obvious mediation skills, but an extension of those skills into practical and substantive knowledge areas including, but not limited to, mortgage loan products, securities, loan servicers, court processes, and resolution options. A training model which includes both a preliminary online modular dissemination of information followed by live classroom training will provide this knowledge. Participants' completion of online training modules prior to a one-day live class will facilitate better discussion and greater comprehension. Post training access to online practice resources can improve, develop statewide practice and provide real time content updates.

Development of this training model is not only feasible, but also can be developed in a timely way. We recommend that each training provider maintain a needs-based approach to training, reflect on and respond to the participants' needs, and clearly state a training rationale that will serve as a methodological and ethical touchstone. It is our hope that this outline for Residential Mortgage Foreclosure Mediation Training Objectives and Standards will lead to quality mortgage foreclosure mediation training and practice throughout the State of Florida.

1. Mortgage Foreclosure Mediation Training Goals

At the conclusion of the training, the participants shall be able to:

- Recognize Basic Legal Concepts in Mortgage Foreclosure Mediation
- Identify Negotiation Dynamics in Mortgage Foreclosure Mediation
- Identify Mediation Process and Techniques in Mortgage Foreclosure Mediation
- Recognize Financial Issues in Mortgage Foreclosure Mediation
- Identify Communication Skills in Mortgage Foreclosure Mediation
- Recognize Ethical Issues in Mortgage Foreclosure Mediation

2. Learning Objectives

a. Basic Legal Concepts in Mortgage Foreclosure Mediation
   1) Recognize basic legal concepts in mortgage foreclosures.
   2) Explain the process of, and timelines in, mortgage foreclosure and in the mortgage foreclosure mediation process.
   3) Identify the state rules, state and federal statutes, servicing guidelines, and local procedures and forms governing mortgage foreclosure mediation.
   4) Identify the protections, constraints, and exceptions of the Florida Confidentiality and Privilege Act in the context of Mortgage Foreclosure Mediation.

b. Negotiation Dynamics in Mortgage Foreclosure Mediation
   1) Recognize the issues of settlement authority as they relate to the stakeholders in Mortgage Foreclosure Mediation.
   2) Recognize the impact of physical, telephonic, videoconference, on-line, or other electronic means of appearance at the mediation conference on the negotiation.
   3) Recognize the role(s) of the following in the Mortgage Foreclosure Mediation

process:

i. lender
ii. loan servicer
iii. investor
iv. mortgage broker
v. mortgage pool
vi. second mortgagee
vii. condominium association
viii. homeowners' association
ix. lien holders (i.e., municipal, mechanic's lien)
x. MERS
xi. appraiser

4) Recognize techniques for assessing risks and incentives in a mortgage foreclosure case.
5) Recognize concept of "good faith" and distinguish it from state court appearance requirements.
6) Recognize basic mortgage nomenclature and sources, types, and structure of mortgages.
7) Identify options for resolution such as:
   i. modification of mortgage terms
   ii. partial loan forgiveness
   iii. placement of delinquent payments at the end of the loan term
   iv. short sale
   v. deed in lieu of foreclosure
   vi. waiver of deficiency judgment
   vii. stipulation to modify (i.e., if mortgagor makes X number of payments, then the loan will be modified)
   viii. principal set aside
   ix. repayment plan
   x. loan reinstatement
   xi. "right to rent" (i.e., the bank owns the property and rents it to the former borrower at the market rental rate)

c. Mediation Process and Techniques in Mortgage Foreclosure Mediation
   1) Identify procedural elements which should be addressed prior to the parties' entry into the mediation room including telephonic and other electronic equipment.
   2) Identify information which needs to be exchanged prior to mediation (i.e., Pooling and Servicing Agreement; life of loan history; mortgagee current financial disclosure; different loss mitigation, loan modification, and other resolution options).
   3) Identify issues which are appropriate for mortgage foreclosure mediation and those that are not appropriate.
   4) Identify individuals who are essential participants in mortgage foreclosure mediation as well as those who are entitled to be present and those who are not required to participate but whose participation may be helpful in mediation.
   5) Describe techniques for mediating when all parties are self-represented, some

parties are self-represented, or all parties are represented by counsel.

6) Identify appropriate techniques for handling a situation where a representative appearing for a party does not have full authority to settle.
7) Discuss the dynamics of mediating when one or more parties, participants, or representatives frequently participate in mediation.
8) Discuss how emotions affect mortgage foreclosure issues and a party's ability to effectively mediate.
9) Identify the role and procedures of the Program Manager.

d. Financial Issues in Mortgage Foreclosure Mediation
   1) Understand the Net Present Value Model of the Making Home Affordable Program.
   2) Understand debt-to-income ratios and guidelines and potentials for re-defaults.
   3) Identify Fannie Mae, Freddie Mac, FHA, VA, and other loan servicer and investor issues and options.

e. Communication Skills in Mortgage Foreclosure Mediation
   1) Identify appropriate questions to assist the parties see their own and the other party's issues.
   2) Identify resources for foreign language interpreters and when and how to use them.

f. Ethical Issues in Mortgage Foreclosure Mediation
   1) Recognize power imbalances and when a mediator shall advise the parties of the right to seek independent legal counsel.
   2) Understand that a mediator shall not offer a personal or professional opinion intended to coerce the parties, unduly influence the parties, decide the dispute, direct a resolution of any issue, or indicate how the court in which the case has been filed will resolve the dispute.
   3) Memorializing the parties' agreement.

3. **Training Parameters**

a. Training Provider
   1) Training may be provided by the Program Manager(s) OR by independent training providers.

b. Funding
   1) Fees would be paid by mediators to training provider(s) and may include entire training process.

c. Structure
   1) A series of self-study web-based modules corresponding to the six categories of learning objectives outlined in these recommendations – each followed by an online quiz; completed at participant's own pace.
   2) Final online test for pass code entry to live class.
   3) Live classroom training
      i. Length of Training. An instructional hour is defined as 50 minutes.

ii. Span of Training. Live mortgage foreclosure mediation training shall be presented over a period of one (1) day.

4) Certificate of Completion of Advanced Course on Florida Residential Mortgage Foreclosure Mediation given to participant. Access to web-based modules terminates.

5) Optional Online Learning Forum – for continued learning provided by Program Manager(s) OR by independent training providers – additional monthly fee for access.

4. Recommended Course Content Requirements

Required Training Materials. At a minimum, training providers shall provide each of their attendees with a training manual that includes:

a. An agenda annotated with the learning objectives to be covered in each section and the intended method of instruction;

b. Sample mortgage foreclosure mediated settlement agreements;

c. Sample federal government forms, i.e. HAMP Program Hardship Affidavit, HAMP Trial Period Plan, HAMP FAQs, IRS Form 4506-T, Foreclosure Mediation Financial Worksheet;

d. Suggested readings including:
   i. Chapter 44, Florida Statutes – Mediation Alternatives to Judicial Action
   ii. Florida Rules for Certified and Court-Appointed Mediators
   iii. Rules 1.510 and 1.700–1.750, Florida Rules of Civil Procedure
   iv. Chapter 697, Florida Statutes – Instruments Deemed Mortgages and the Nature of a Mortgage
   v. Chapter 701, Florida Statutes – Assignment and Cancellation of Mortgages
   vi. Chapter 702, Florida Statutes – Foreclosure of Mortgages, Agreements for Deeds, and Statutory Liens
   vii. Chapter and/or sections pertaining to Condominiums and Homeowner Associations
   viii. Section 55.10(1), Florida Statutes (2004) pertaining to judgment liens
   ix. Federal statutes (i.e. Bankruptcy; Truth in Lending Act, Hope for Homeowners Act of 2008, Fair Debt Collection Practices Act, Service Members Civil Relief Act of 2003, and others to be identified and defined more specifically)
   x. Homeowner Affordability and Stability Plan, Home Affordable Modification Program (HAMP), and guidelines for servicers
   xi. Glossary of Terms
   xii. List of local, state, and federal resources for borrowers
   xiii. Internet links to useful on line resources
   xiv. Current Supreme Court of Florida Administrative Order, *In Re: Task Force on Residential Mortgage Foreclosure Cases*
   xv. Local Judicial Circuit Administrative Order 2011-6.1 on Residential Mortgage Foreclosure Cases
   xvi. Additional reading resources provided by the Mediation Manager

5. **Training Methodology**

a. Pedagogy. Residential mortgage foreclosure mediation training programs shall include, but are not limited to, the following: lecture, group discussion, and a mortgage foreclosure mediation demonstration.

1) Use of subject matter specialists; i.e., lender, borrower, loan servicer, investor, plaintiff and defense counsel, mortgage foreclosure counselor, community resources.

2) A subject matter specialist shall have a substantial part of his or her professional practice in the area about which the specialist is lecturing and shall have the ability to connect his or her area of expertise with the residential mortgage foreclosure mediation process.

b. Residential Mortgage Foreclosure Mediation Demonstration. All mortgage foreclosure mediation training programs shall present a residential mortgage foreclosure role-play mediation demonstration either live (including video conferencing) or by video/DVD presentation.

c. Web-Based Methodologies. Web-based technologies may be used as an optional delivery method or as a post-training forum for continued learning and discussion for mediators. An online version of the training may provide a repository for the rapidly changing residential mortgage foreclosure training information.

d. Assessment. Post-training assessment by participants, using post-training surveys combining a Likert scale with narrative response components, should inform content development and methodologies and provide quality assurance for training providers. The post-training survey would give the participants the opportunity to evaluate the effectiveness of the trainer(s), the substantive content of the program, and the practical value of the training, and to offer additional suggestions or comments.

EXHIBIT 14

PARAMETERS FOR MANAGED MEDIATION

PARAMETERS FOR PROVIDERS OF MANAGED MEDIATION SERVICES

Purpose: To define the parameters of managers directing mediation services for parties involved in residential mortgage foreclosure litigation.

A. Characteristics of Program Manager

1. Compliant with ADR principles as promulgated by the supreme court, and ADR statutes and rules;
2. Non-profit entity or associated with a reputable organization of proven competence, autonomous and independent of the judicial branch;
3. Capable of efficient administration of large case loads;
4. Sensitive to cultural, diversity, and Americans with Disabilities Act issues;
5. Politically and professionally neutral;
6. Knowledgeable of court procedures, current trends, laws, rules, and regulations affecting residential foreclosures;
7. Fiscally transparent and accountable;
8. Quickly adaptable to a dynamic and rapidly evolving legal environment;
9. Financially stable;
10. Capable of sustained operation without fiscal impact on the courts;
11. Capable of effectively implementing information technology systems and web-based programs;
12. Alert to ethical and confidentiality issues; and
13. Agreeable to acting as manager for voluntary pre-suit mediation.

B. Services to be Provided by Program Manager

1. Receive mediation referrals and, within designated time limits, schedule and coordinate mediation conferences: date, place, and time; reserve and provide venues for mediation and caucus; manage continuances and re-scheduling;

2. Maintain financial books and records to ensure transparency and accuracy of receipts and expenditures;

3. Prepare financial statements and financial and performance reports (for example, attendance and failure to attend mediation reports);

4. Establish and maintain performance standards for staff and mediators, including maintaining a roster of mediators comprised of persons who are properly trained in accordance with the standards attached, and who are otherwise qualified, and effective in foreclosure mediation;

5. Assist in specialized training of mediators for workout options and resources;

6. Arrange and pay for interpreters;

7. Bill, collect, deposit, and disburse mediation fees and refunds; pay for necessary services and costs incidental to mediation managing as required to implement

mediation Administrative Order;

8. Establish procedures for managing and communicating with pro se litigants and attorneys. This includes implementing a process for prompt outreach to borrower-owners immediately after suit has been filed; the goal of the outreach is to inform mortgagors about the mediation program, invite their participation, and start the process of referral to mortgage foreclosure counseling and the collection of required financial information;

9. Establish procedures for complying with confidentiality rules;

10. Establish a system for managing mediators that:
    a. Provides for the impartial assignment of mediators, for example, by the use of a rotating list,
    b. Is open to qualified supreme court certified mediators who are capable of providing effective services in the residential foreclosure setting, and
    c. Allows for more than one Mediation Managing entity in the circuit if approved by the chief judge.

11. Monitor or supervise the preparation of mediation settlement agreements;

12. In accordance with the Administrative Order establish the schedule for division of fees between mediators, managers and others;

13. Prepare operational reports as required by the chief judge, regarding the number of cases mediated, impasse or successful mediations, etc.;

14. Solicit qualified mediators and maintain current list of mediators available for residential foreclosure cases;

15. Establish procedures for disqualifying and replacing mediators with ethical or other conflicts;

16. Coordinate the referral of mortgagors to certified foreclosure counselors pre-mediation;

17. Refer unrepresented parties to legal aid, or panels of pro bono or reduced fee attorneys;

18. Facilitate the exchange of documents between the parties, pre- and post- mediation, including the establishment and maintenance of a secure web-based communication system between the Program Manager and all parties to mediation using a platform capable of transmitting financial data, e-mail, mediation forms, and attachments, and able to track participant payments and refunds;

19. Maintain for dissemination to owner-borrowers a list of approved foreclosure counselors willing to perform services at the rates established by the court;

20. Answer inquiries from mediators and parties regarding the mediation process and

forms;

21. Establish a system for resolving complaints against mediators and other persons involved in the Managed Mediation Program;

22. Establish procedures for participant evaluation of mediation program services, including satisfaction surveys;

23. Develop the forms and procedures necessary to verify compliance with the residential foreclosure mediation program by lender/servicer representatives, their attorneys, and borrowers; and

24. Using judicial disqualification criteria as a model, disclose to the chief judge any direct or indirect financial ties to lenders/servicers (including any immediate family members), whether present or within the past three (3) years, with a continuing obligation to disclose.