

ADMINISTRATIVE ORDER
NO. 2010-11-02

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

**AMENDED ADMINISTRATIVE ORDER GOVERNING CASE MANAGEMENT OF
RESIDENTIAL FORECLOSURE CASES AND MANDATORY REFERRAL OF
MORTGAGE FORECLOSURE CASES INVOLVING HOMESTEAD RESIDENCES TO
MEDIATION, ORANGE COUNTY**

WHEREAS, pursuant to Article V, section 2(d) of the Florida Constitution, and section 43.26, Florida Statutes, the Chief Judge of each judicial circuit is charged with the authority and power to do everything necessary to promote the prompt and efficient administration of justice, and rule 2.215(b)(3), Florida Rules of Judicial Administration, mandates the Chief Judge to “develop an administrative plan for the efficient and proper administration of all courts within the circuit;” and

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

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

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

NOW, THEREFORE, I, Belvin Perry, Jr., pursuant to the authority vested in me as Chief Judge of the Ninth Judicial Circuit of Florida under Florida Rule of Judicial Administration 2.215, order the following, **immediately**, and to continue until further order:

Scope

1. Residential Mortgage Foreclosures. This Administrative Order shall apply to all residential mortgage foreclosure actions filed in Orange County in which the origination of the note and mortgage sued upon was subject to the provisions of the Federal Truth in Lending Act, Regulation Z. However, compliance with this Order varies depending on whether the property secured by the mortgage is a homestead residence.

The parties to the foreclosure action shall comply with the conditions and requirements imposed by this Order. If the foreclosure action is a mandatory referral to the Residential Mortgage Foreclosure Mediation Program pursuant to this Order, it is not necessary to file a Request for Mediation with the court.

Upon the original effective date of this Order, as specified in paragraph 26, **all newly filed** mortgage foreclosure actions filed against a homestead residence shall be referred to the Residential Mortgage Foreclosure Mediation (RMFM) Program unless:

- (a) the plaintiff and borrower agree in writing otherwise; or
- (b) unless pre-suit mediation was conducted in accordance to paragraph 24.

In actions to foreclose a mortgage on a homestead residence, the plaintiff and borrower **shall attend at least one mediation session**, unless:

- (a) the plaintiff and borrower agree in writing not to participate in the RMFM Program; or

(b) the Program Manager files a notice of borrower nonparticipation.

Upon the original effective date of this 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 Order may also be required:

- (a) for homestead residential mortgage foreclosure actions filed prior to the effective date of this Order;
- (b) to residences which are not homestead residences; and
- (c) any other residential foreclosure action the presiding judge deems appropriate.

A party requesting that the case be sent to mediation with the RMFM Program at the discretion of the presiding judge shall make the request in the format of Exhibit 3 attached.

2. Referral to Mediation. This 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. 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 Order and the mediation process must be completed *before* the plaintiff applies for default judgment, a summary judgment hearing, or a final hearing in an action to foreclose a mortgage on a homestead residence unless a notice of nonparticipation is filed by the Program Manager.

4. Delivery of Notice of RMFM Program with Summons. After the effective date of this Order, in all actions to foreclose a mortgage on residential property the clerk of court shall attach to the summons to be served on each defendant a notice regarding managed mediation for homestead residences in the format of Exhibit 2 attached.

Additionally, the clerk of court shall provide a daily list of each homestead foreclosure filing, with the case number, to the Program Manager.

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 (1) business day after Form A is filed with the clerk of court, counsel for plaintiff shall also electronically transmit a copy of Form A to the Program Manager along with the court 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.

Within ten (10) days after Form A is filed with the clerk of court, counsel for the plaintiff shall send a check or money order made payable to the Orange County Bar Association, 880 North Orange Avenue, Orlando, Florida 32801 in the amount of \$700.00. PLAINTIFF SHALL ATTACH A PHOTOCOPY OF FORM A TO THE CHECK. This amount includes the \$400.00 administrative fee component of the RMFM Program and the \$300.00 mediation fee component as detailed in paragraph 20 of this Order. The check

must match the information provided on Form A and the court case number must be included on the check. NO PERSONAL CHECKS WILL BE ACCEPTED.

Counsel for the plaintiff shall also send borrower, at borrower's last known mailing address, a copy of the complaint, a copy of the summons and a copy of Exhibit 2 of this Order, Notice of RMFM Program to be Served with Summons, via U.S. Mail within forty-eight (48) hours of filing the complaint.

As different payment options become available, the Program Manager may change payment acceptance terms without the necessity of amending this Administrative Order.

In Form A, plaintiff's counsel must affirmatively certify whether the origination of the note and mortgage sued upon was subject to the provisions of the Federal Truth in Lending Act, Regulation Z. In Form A, plaintiff's counsel must also affirmatively certify whether the property is a homestead residence. 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 24 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 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 a secure dedicated e-mail address or on the web-enabled information platform described in paragraph 8 no later than one (1) business day after being filed with the clerk of court.

Plaintiff shall notify the Program Manager of any additional documents they require for mediation no later than fifteen (15) days prior to mediation.

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:

- (a) consult with an Orange County RMFM Program approved mortgage foreclosure counselor, complete financial counseling with the counselor within 45 (forty-five) days of the suit being filed; and
- (b) provide to the Program Manager the information required by the Borrower's Financial Disclosure for Mediation in the format of Exhibit 5 attached within sixty (60) days from the date suit is filed; and
- (c) schedule mediation with the Program Manager within sixty (60) days from the date the suit is filed.

The Borrower's Financial Disclosure for Mediation will vary depending on the type of modification, short sale or other relief sought in mediation. It shall be the responsibility of the Program Manager to transmit the Borrower's Financial Disclosure for Mediation via a secure dedicated e-mail address or to upload same to the web-enabled information platform described in paragraph 8; however, the Program Manager is not responsible or liable for the accuracy of the borrower's financial information.

7. *Plaintiff's Disclosure for Mediation.* Within the time limit stated below, prior to attending mediation the borrower may make a written request for any of the following information and documents from the plaintiff:

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 value of the mortgage loan.

The most current appraisal of the property available to the plaintiff.

A separate line item for any fees, costs, interest, penalties or other charges that the plaintiff is asserting may be due and owing.

The borrower must deliver a written request for such information to the Program Manager in the format of Exhibit 6 attached no later than twenty-five (25) days prior to the mediation session.

The Program Manager shall promptly electronically transmit the request for information to plaintiff's counsel.

Plaintiff's counsel is responsible for ensuring that the Plaintiff's Disclosure for Mediation is electronically transmitted via a secure dedicated e-mail address or to the web-enabled information platform described in paragraph 8 below no later than five (5) business days before the mediation session. The Program Manager shall immediately deliver a copy of Plaintiff's Disclosure for Mediation to the borrower.

When Plaintiff's counsel uploads the Disclosure for Mediation to the web-enabled platform, they shall immediately notify the Program Manager of the upload via e-mail. Failure to upload documents to the web-enabled information platform or to notify Program Manager of upload of documents may result in the rescheduling of mediation.

For purposes of this paragraph, net present value is defined as the calculation utilized to estimate the cash flow the investor (owner) of the loan is likely to receive if the loan is modified and the investor's cash flow if the loan is not modified. If a net present value statement is requested by the borrower, the statement shall be the net present value results required by the Home Affordability Modification Program (HAMP) provided by the U.S. Treasury's NPV Model, or Workout Evaluator, or the servicer's NPV Model.

Failure of the plaintiff to timely provide the information to the Program Manager required by this paragraph may result in an Order to Show Cause and possible sanctions. All information transmitted pursuant to this paragraph shall be via a secure dedicated e-mail address or to the web-enabled information platform described in paragraph 8. The Program Manager is not responsible or liable for the accuracy of the borrower's financial information.

8. *Information to be Provided on 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, should be submitted via a secure dedicated e-mail address or in a web-enabled information platform with XML data elements. Please refer to the Orange County Bar Association's website for further information. <http://www.orangecountybar.org>.

9. *Nonparticipation by Borrower.* If the borrower does not want participate in the RMFM Program, or if the borrower fails or refuses to cooperate with the Program Manager, or if the Program Manager is unable to contact the borrower, the Program Manager shall file a notice of nonparticipation in the format of Exhibit 4 attached. The notice of nonparticipation shall be filed after the forty-five (45) day borrower contact period has expired or as soon as Program

Manager has been notified that borrower affirmatively opts out of the RMFM Program. A copy of the notice of 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 the United States Department of Housing and Urban Development shall be by rotation or by such other procedures as may be adopted by the Chief Judge in the county in which the action is pending. The borrower's failure to participate in foreclosure counseling shall be cause for terminating the case from the RMFM Program.

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 volunteer pro bono attorney in programs run by lawyer referral, legal services, and legal aid programs as may exist within this Circuit.

If the borrower applies to one of those agencies and is coupled with a legal services attorney or a volunteer pro bono attorney, the attorney shall file a notice of appearance with the clerk of the court and provide a copy to the attorney for the plaintiff and the Program Manager. The appearance may be limited to representation only to assist the borrower with mediation but, if a borrower secures the services of an attorney, counsel of record must attend the mediation. If any borrower retains a private attorney, the attorney must file a notice of appearance and provide Program Manager with a copy of such notice of appearance as the Program Manager is not a party to the case and does not automatically receive such notifications otherwise.

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 Order and attend a mediation session as scheduled by the Program Manager.

Within sixty (60) days after suit is filed, the Program Manager shall schedule a mediation session.

The mediation session shall be scheduled for a date and time convenient to the plaintiff's representative, the borrower, and counsel for the plaintiff and the borrower, using a mediator from the panel 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(s) within this Circuit obtained by the Program Manager for mediation. Mediation shall be completed within the time requirements established by rule 1.710(a), Florida Rules of Civil Procedure. Mediation shall not be scheduled until the borrower has had an opportunity to meet with an approved foreclosure counselor.

Mediation shall not be scheduled earlier than ten (10) days after the Borrower's Financial Disclosure for Mediation has been transmitted to the plaintiff via a secure dedicated e-mail address or uploaded to the web-enabled information platform described in paragraph 8. 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.

Absent good cause, as determined by the court, mediation must be completed within 120 days after suit is filed. If mediation fails to be completed within 120 days after suit is filed, and the court makes a determination that such failure is attributable to either party, and that party is unable to show good cause as to why mediation could not be completed within the specified time

frame, the court may dismiss the action without prejudice, or impose such other sanctions as the court deems appropriate.

13. Attendance at Mediation. The following persons are required to be physically present at the mediation session: (a) the borrower; (b) the borrower's counsel of record, if any; (c) the plaintiff's lawyer; and (d) the plaintiff's representative with full authority to settle as designated in the most recently filed Form A. 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 the person who has full authority to sign any settlement agreement reached. Plaintiff's counsel may be designated as the person with full authority to sign the settlement agreement.

At the time that the mediation is scheduled to physically commence, but prior to the commencement of the mediation conference, and prior to any discussion of the case in the presence of the mediator, the Program Manager or designee shall take a written roll consisting of the signature and printed name of each party present. That written roll is a determination of the presence of: (a) the borrower; (b) the borrower's counsel of record, if any; (c) the plaintiff's lawyer; and (d) the plaintiff's representative with full authority to settle. Determination of plaintiff's representative's full authority to settle shall be verified through completion of a certificate affirming said representative has full authority to settle. Said certificate must be signed by the plaintiff's representative appearing at the mediation, or by plaintiff's counsel, and may be provided to the Program Manager prior to the mediation, or signed at the mediation.

If the Program Manager, or designee, determines that anyone is not present, it shall be reported as a nonappearance on the written roll. If the Program Manager, or designee,

determines that the plaintiff's representative present does not have full authority to settle, it shall be reported on the written roll that the plaintiff's representative did not appear with full settlement authority as required by this Order. If a party appears via telephonic means, that should be notated by the Program Manager, or designee, or the mediator on the written roll. The written roll and communication of authority to the Program Manager, or designee, is not a mediation communication.

The authorization by this 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 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 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 Mediation Report shall notify the presiding judge regarding who appeared at mediation without making further comment as to the reasons for an impasse. The Program Manager shall attach a copy of the written roll as described in paragraph 13 of this Order to the Mediation Report.

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(s) to appear at mediation, or impose such other sanctions as the court deems appropriate including, but not limited to, attorney's fees and costs if the borrower is represented by an attorney. 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. If the parties do not reach an agreement as to any matter as a result of mediation, the mediator shall report the lack of an agreement to the court without comment or recommendation. In the case of an impasse, the report shall advise the court who attended the mediation, and a copy of Form A or any amended Form A shall be attached to the report for the court to determine if at least one of the plaintiff's representative named in Form A appeared for mediation. The mediator's report to the court shall be in the format of Exhibit 9 attached. Each mediation report shall be completed and reported to the Program Manager, or designee, immediately after each mediation session. The Program Manager, or designee, shall then file each mediation report with the clerk of court.

16. *Mediation Communications.* All mediation communications occurring as a result of this 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 Order have been met. In cases involving a homestead residence, the presiding judge shall require that copies of either 1) the most recently filed Form A and the report of the mediator, or 2) the most recently filed Form A and the notice of borrower's nonparticipation be sent to the presiding judge by the plaintiff or plaintiff's counsel prior to setting a final hearing or delivered with the packet requesting a summary or default final judgment.

The failure of a party to fully comply with the provisions of this 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.

Summary of RMFM Program Timelines*

19. RMFM Program Timelines. The following timelines shall be followed:

Suit is filed

Form A filed with Complaint
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

48 hours after suit is filed

Counsel for the plaintiff shall send borrower, at borrower's last known mailing address, a copy of the complaint, a copy of the summons and a copy of Exhibit 2 of this Order, Notice of RMFM Program to be Served with Summons, via U.S. Mail

10 days after suit is filed

Form A and full payment submitted to Program Manager by Plaintiff's counsel

Within 45 days from date suit is filed

Borrower must contact Program Manager
Borrower consults with foreclosure counselor and completes counseling

Within 60 days from date suit if filed

Borrower must complete and submit Borrower's Financial Disclosure for Mediation to Program Manager

60 days after suit is filed mediation session is scheduled

25 days prior to mediation session

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

15 days prior to mediation session

Plaintiff must notify Program Manager of any additional documents needed for mediation

10 days prior to mediation session

Program Manager electronically transmits Borrower's Financial Disclosure for Mediation to Plaintiff

5 days prior to mediation session

Any amended Form A designation of the plaintiff's representative must be filed with the Clerk
Plaintiff's counsel transmits Plaintiff's Financial Disclosure for Mediation to Program Manager

1 day prior to mediation session

Any amended Form A designation of the plaintiff's representative must be transmitted to Program Manager

45 days after suit is filed

Notice of Nonparticipation filed by Program Manager, if applicable

120 days after suit is filed

Mediation is completed

* Please note, in the event of reinstatement to the RMFM Program, upon agreement of all parties, after the borrower contact timeframe has expired and/or Notice of Non-Participation has been filed by the Program Manager, the RMFM Program Timelines shall begin anew with the exception that no borrower contact time is needed (if Program Manager is already in contact with the borrower at the time of reinstatement). Borrower must complete counseling within thirty (30) days of reinstatement and mediation must take place within sixty (60) days of the reinstatement date. The Program Manager may file a Notice of Withdrawal of Non-Participation.

Additionally, in the event of Plaintiff non-compliance, the timeline shall begin from the date of Plaintiff's full compliance. Full compliance has been delineated by the Florida Supreme Court to consist of: completed Form A, payment of fees, court/clerk case number and contact information as specified in paragraph 5 of this Order.

RMFM Program Fees

20. 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 \$700.00 payable as follows:

- 1) \$400.00 paid by plaintiff to the Program Manager within ten (10) days after filing Form A with the clerk of court for administrative fees of the RMFM Program, including outreach to the borrower and foreclosure counseling fees; and
- 2) \$300.00 paid by plaintiff to the Program Manager within ten (10) days after filing Form A with the clerk of court for the mediation fee component of the RMFM Program fees.

Payment, consisting of both fee components, must be sent to the Program Manager within ten (10) days after filing Form A with the clerk of court. A photocopy of Form A must

accompany payment, and the information on the payment must match the information recorded on Form A. Payment shall be in the form of check or money order made payable to the Orange County Bar Association, 880 North Orange Avenue, Orlando, Florida 32801. No personal checks will be accepted. The court case number must be recorded on the check.

If more than one mediation session is needed, the total program fee stated above will also cover a second mediation session. However, if an additional mediation session is needed after the second session, the plaintiff shall be responsible for the payment of the program fees for such additional mediation sessions, unless the parties agree otherwise. The program fees for the third and each subsequent mediation session shall be no more than \$150.00 per hour with a minimum of two (2) hours per session.

If the case is not resolved through the mediation process, the presiding judge may tax the program fees as a cost or apply it as a set off in the final judgment of foreclosure.

If the borrower cannot be located, chooses not to participate in the RMFM Program, or if the borrower does not make any contact with the foreclosure counselor, the plaintiff shall be entitled to a refund of the portion of the Program fees attributable to foreclosure counseling. The refund shall not exceed \$125.00 and shall be determined by the Program Manager. 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. No request to cancel, reset or notice of settlement received by the Program Manager within five (5) days prior to a scheduled mediation session shall be entertained or result in 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 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

21. *Monitoring Compliance Concerning Certain Provisions of This 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 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 requested by the Chief Judge. The reports shall be monthly or quarterly as determined by the Chief Judge. The Program Manager shall also copy the foreclosure docket case manager on the results of each mediation.

The Program Manager may assist with enforcing compliance with this 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 containing statistical information about the status of cases in the RMFM Program and RMFM Program finances in the format and with the

frequency requested by the Chief Judge. The reports shall be monthly or quarterly as determined by the Chief Judge.

The Program Manager shall also implement a reporting system to collect data on the number of cases referred to the Program and whether the cases settled, adjourned, or ended in impasse. Further, the Program Manager shall track the percentage of cases referred to the Program that result in the Program Manager successfully contacting borrowers; the percentage of scheduled mediations failing to go forward because plaintiff's representative did not appear; the percentage of scheduled mediations failing to go forward because the borrower did not appear; and the percentage of mediations resulting in partial or complete agreements compared to those resulting in impasse.

22. Designation of Plaintiff Liaisons with RMFM Program. Any plaintiff who has filed five (5) or more foreclosure actions in the Ninth Judicial Circuit while this 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 thirty (30) days after the effective date of this Order, and on the first Monday of each February thereafter while this Order is in effect.

The liaisons shall be informed of the requirements of this 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 the 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 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

23. *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 by the chief judge, the program will use in selecting mediators. The Program Manager shall also state in writing the procedure, subject to the approval by the chief judge, the program will use to rotate the appointment of mediators. 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.

Due to the ongoing issue of mediators listing full availability in multiple circuits throughout the State resulting in tardiness, failure to show, last minute cancellations and the like on the part of the mediator, as well as failure to follow Program rules and guidelines, and in an overall effort to maintain the performance and quality of the RMFM Program, it shall be in the Chief Judge's discretion to remove any mediator from rotation, in consultation with the Program Manager, should circumstances arise which warrant the removal of the mediator from the RMFM Program list of mediators.

Pre-Suit Mediation Encouraged

24. *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 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 Ninth Judicial Circuit.

If the parties participated in pre-suit mediation using the RMFM Program 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.

Program Manager

25. *Program Manager.* The Orange County Bar Association, an independent, nonpartisan, nonprofit organization is hereby named Program Manager of the Orange County RMFM Program. The Orange County Bar Association has demonstrable ability to assist the Court with managing the large number of residential mortgage foreclosure actions that have recently been filed in Orange County.

Effective Date

26. This Administrative Order, originally effective Tuesday, July 2, 2010, shall apply to all residential homestead foreclosure cases filed beginning 12:01 a.m. on July 2, 2010, until further notice from the Chief Judge.

Administrative Order No. 2009-02, as amended, remains in full force and effect as to those cases filed prior to 12:01 a.m. on July 2, 2010, until further notice from the Chief Judge.

Administrative Order No. 2010-11-01 is vacated and set aside and has been incorporated and/or amended herein.

DONE AND ORDERED at Orlando, Florida, this 1st day of June, 2011.

_____/s/_____
Belvin Perry, Jr.
Chief Judge

Copies to:

Clerk of Courts, Orange County
Clerk of Courts, Osceola County
General E-Mail Distribution List
<http://www.ninthcircuit.org>

Please complete and electronically transmit a copy to the Program Manager. Instructions for sending are available at <http://www.orangecountybar.org>. Please file original with the Clerk of Court. Additionally, a photocopy of the completed form must be attached to program fees payment.

IN THE CIRCUIT COURT IN AND FOR ORANGE COUNTY, FLORIDA

[Name of Plaintiff]
Plaintiff,

Case No.:

vs.

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

Form “A”

(Certifications Pursuant to Ninth Judicial Circuit Administrative Order 2010-11 (as may be amended))

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 the persons, one of whom will represent the plaintiff in mediation with full authority to modify the existing loan and mortgage and to settle the foreclosure case, and with authority to sign a settlement agreement on behalf of the plaintiff (list name, address, phone number, facsimile number, and email address):

Plaintiff's counsel understands the mediator or the RMFM Program Manager may report to the court who appears at mediation and, if at least one of plaintiff's representatives named above does not appear at mediation, sanctions may be imposed by the court for failure to appear. As required by the Administrative Order, plaintiff's counsel will transmit electronically to the RMFM Program Manager the case number of this action, the contact information regarding the parties, and a copy of this Form A.

PLAINTIFF SHALL ALSO COMPLETE THE FOLLOWING:

Current Borrower Contact Address: _____

Current Borrower Phone Number(s): _____

Date:

(Signature of Plaintiff's Counsel)

Printed name:

Address:

Phone number:

Fla. Bar No.:

EXHIBIT 2
NOTICE OF RMFM PROGRAM TO BE SERVED WITH SUMMONS

IN THE CIRCUIT COURT FOR THE NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, FLORIDA

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

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

You will not have to pay anything to participate in this mediation program. To participate in mediation, as soon as practical, you must contact the Program Manager by calling *1-866-430-5575 (a toll-free number)* between 9:00 a.m. and 5:00 p.m., Monday through Friday.

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

The 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.

/s/ Belvin Perry, Jr.
Chief Judge, Ninth Judicial Circuit

EXHIBIT 3
BORROWER'S REQUEST TO PARTICIPATE IN RMFM PROGRAM

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, 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*)

(*Current Address and Phone Number*)

(*E-Mail Address*)

[Certificate of Service on the parties]

EXHIBIT 4
NOTICE OF BORROWER'S NONPARTICIPATION

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, FLORIDA

Case No(s).:

Plaintiff(s),

vs.

Defendant(s).

**NOTICE OF BORROWER NONPARTICIPATION
WITH RMFM PROGRAM**

The Program Manager hereby gives notice to the court that _____,
(Borrower) will not be participating in the RMFM Program because:

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

Signed on _____, 20__.

[Name of Program Manager]

BY: _____
(Signature)

(Printed Name)

[Certificate of Service on the parties]

EXHIBIT 5
BORROWER'S FINANCIAL DISCLOSURE
FOR MEDIATION

EXHIBIT 5A: LOAN MODIFICATION

EXHIBIT 5B: SHORT SALE

EXHIBIT 5C: DEED IN LIEU OF FORECLOSURE

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 FANNIE MAE HARDSHIP FORM 1021 in Exhibit 5A above, the following information must be electronically transmitted to the Program Manager on behalf of the borrower:

Signed purchase contract for the homestead residence

Listing agreement for sale of the homestead residence

Preliminary HUD-1

Written permission from the borrower authorizing the plaintiff or any agent of the plaintiff to speak with the real estate agent about the borrower's loan

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

EXHIBIT 5C
BORROWER'S FINANCIAL DISCLOSURE FOR MEDIATION
(DEED IN LIEU OF FORECLOSURE)

In addition to the FANNIE MAE HARDSHIP FORM 1021 in Exhibit 5A above, the following information must be electronically transmitted to the Program Manager 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 NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, 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 2010-11 (as may be amended) entered in the Ninth 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.

___ A separate line item for any fees, costs, interest, penalties or other charges that the plaintiff is asserting may be due and owing.

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 NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, FLORIDA

Case No(s):

Plaintiff(s),

vs.

Defendant(s).

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

Plaintiff gives notice of exercising the option to allow plaintiff's representative designated in Form A filed in this case to attend mediation through the use of communication equipment, and designates *[name of person]* as the person who will be physically present at mediation with full authority on behalf of plaintiff to sign any settlement agreement reached at mediation. On the date of the mediation, plaintiff's representative can be reached by calling the following telephone number: *[telephone number, including area code and extension]*.

Signed on _____, 20__.

[Name of Plaintiff]

(Signature)

(Printed Name)

[Certificate of Service by Plaintiff's Counsel]

EXHIBIT 8
PLAINTIFF'S CERTIFICATION REGARDING
ATTENDANCE AT MEDIATION THROUGH THE USE OF
COMMUNICATION EQUIPMENT

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, FLORIDA

Case No(s).:

Plaintiff(s),

vs.

Defendant(s).

CERTIFICATION REGARDING ATTENDANCE AT MEDIATION
THROUGH THE USE OF COMMUNICATION EQUIPMENT

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

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

(*Signature*)

(*Printed Name*)

[Certificate of Service by Plaintiff's Counsel]

EXHIBIT 10
CERTIFICATION REGARDING SETTLEMENT AUTHORITY
(RESIDENCE NOT HOMESTEAD)

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, FLORIDA

Case No(s):

Plaintiff(s),

vs.

Defendant(s).

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

In compliance with Administrative Order 2010-11(as may be amended) the undersigned attorney certifies that following person or entity has full authority to negotiate a settlement of this case with the borrower without further consultation:

(All of the following information must be provided)

Name:

Mailing Address:

Telephone Number (including area code and extension):

Fax Number:

Email Address:

Loan/File Number:

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

I 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 NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, FLORIDA

Case No(s).:

Plaintiff(s),

vs.

Defendant(s).

ORDER TO SHOW CAUSE

(Plaintiff's Failure to Comply with Administrative Order 2010-11 (as may be amended))

It appearing to the court that Plaintiff has failed to comply with the requirements of Administrative Order 2010-11 (as may be amended) in regards to the following (*as marked*):

Form A

Plaintiff failed to file Form A.

Plaintiff failed to submit Form A to the Program Manager.

Payment of RMFM Program Fees

Plaintiff failed to pay the RMFM Program fees payable and due within ten (10) days after suit is filed.

Failure to File and Serve Certification Regarding Settlement Authority

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

Attendance at Mediation

Plaintiff's counsel failed to attend mediation.

Plaintiff's representative designated in the most recent Form A filed in the court file failed to attend mediation.

Plaintiff's agent with full authority to sign a settlement agreement failed to attend mediation.

___ Plaintiff's representative failed to attend by telephone at all times during the mediation session.

___ After the mediation resulted in an impasse, plaintiff's representative failed to file the certification regarding attendance at mediation by telephone at all times (Form Exhibit 7 attached to the Administrative Order).

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 with Administrative Order 2010-11 (as may be amended) 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 NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, FLORIDA

Case No(s).:

Plaintiff(s),

vs.

Defendant(s).

ORDER AFTER SHOW CAUSE HEARING

(Plaintiff's Failure to Comply with Administrative Order 2010-11 (as may be amended))

The court having determined that Plaintiff has failed to comply with the requirements of Administrative Order 2010-11 (as may be amended), it is ORDERED and ADJUDGED (*as marked*):

Form A

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

Payment of RMFM Program Fees

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

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.

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 NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, FLORIDA

Case No(s):

Plaintiff(s),

vs.

Defendant(s).

ORDER REFERRING CASE TO RMFM PROGRAM

(Case Filed Prior to effective date of Administrative Order 2010-11 (as may be amended))

It appearing to the court that the residence which is the subject of this action to foreclose a mortgage is a "homestead residence" to which Administrative Order 2010-11 (as may be amended) 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 2010-11 (as may be amended). Within 10 days from the date of this Order, the plaintiff shall pay the RMFM Program fees, file a properly filled out Form A in the manner required by the Administrative Order, and transmit Form A to the Program Manager.

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]

NOTICE OF MEDIATION

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, FLORIDA

Case No(s).:

Plaintiff(s),

vs.

Defendant(s).

NOTICE OF MEDIATION

Pursuant to Administrative Order 2010-11 (as may be amended), the Program Manager hereby sets this action for mediation on _____, at _____, at the Orange County Courthouse, 425 North Orange Avenue, Orlando, Florida 32801.

The Mediator will be _____.

Attendance.

Each of the following must be physically present at the mediation:

- (a) the borrower;
- (b) the borrower's counsel of record, if any;
- (c) the plaintiff's lawyer; and
- (d) the plaintiff's representative with full authority to settle as designated in the most recently filed Form A (plaintiff's representative may appear through the use of communication equipment if proper notice has been filed).

FAILURE OF ANY OF THESE PARTIES TO APPEAR MAY RESULT IN A DISMISSAL OF THE ACTION WITHOUT PREJUDICE, THE MATTER MAY PROCEED TO A FINAL HEARING, SUMMARY JUDGMENT OR DEFAULT JUDGMENT, OR ANY OTHER SANCTIONS AS THE COURT DEEMS APPROPRIATE.

Be prepared to present any information or papers that will support you side of the case. Borrower shall bring:

- (a) a copy of the Borrower's Financial Disclosure for Mediation to the mediation session;
- (b) any additional documents that the foreclosure counselor indicated to borrower would be required for mediation.

Plaintiff shall bring any and all documents and materials necessary for an effective mediation.

The mediation session is scheduled for up to two (2) hours.

If you need a foreign language interpreter to fully participate in your hearing, it is your responsibility to bring your own interpreter.

Re-Scheduling.

If you wish to change the date and time of the mediation, or cancel the mediation, either:

- (1) you must enter into a written agreement prepared by the Plaintiff and signed by both parties or the attorney; or
- (2) you must contact the Program Manager in writing who shall approve any change to the mediation date and time.

Either option (1) or (2) must be completed and presented to the Program Manager for processing at least ten (10) days prior to the scheduled mediation session.

Until you have received an amended Notice from the Program Manager either cancelling the scheduled mediation session or providing a reset date and time, the full fees will be due and no new date will be considered set. No phone call to reset or cancel a scheduled mediation session will be considered sufficient.

No request to cancel, reset or notice of settlement received by the Program Manager within five (5) days prior to a scheduled mediation session shall be entertained or result in any refund of mediation fees.

Results of Mediation.

The mediator shall report to the Court whether an agreement was reached without comment or recommendation.

If there are any questions about the RMFM Program mediation process, please contact the Program Manager at (407) 515-4330.

Signed on _____, 20____.

[Name of Program Manager]

BY: _____
(Signature)

(Printed Name)

[Certificate of Service on the parties]

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the ADA Coordinator, Human Resources, Orange County Courthouse, 425 N. Orange Avenue, Suite 510, Orlando, Florida, (407) 836-2303, at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.