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12/08/2010 at 03:00 PM, BOB INZER, CLERK OF COURTS

**IN THE SECOND JUDICIAL CIRCUIT OF FLORIDA**

**OFFICE OF THE CHIEF JUDGE**

**ADMINISTRATIVE ORDER 2010-05**
**FIRST AMENDMENT**

**IN RE: AMENDMENTS TO CASE MANAGEMENT OF RESIDENTIAL FORECLOSURE CASES AND MANDATORY REFERRAL OF MORTGAGE FORECLOSURE CASES INVOLVING HOMESTEAD RESIDENCES TO MEDIATION**

**WHEREAS**, as mandated by the Supreme Court of Florida in AOSC 09-54 (Re: Final Recommendations on Residential Mortgage Foreclosures) issued December 28, 2009, the Second Judicial Circuit implemented the managed mediation program mandates by the issuance of AO 2010-05; and

**WHEREAS**, the Supreme Court of Florida, on November 5, 2010, issued AOSC 10-57 entitled Guidance Concerning Managed Mediation Programs For Residential Mortgage Foreclosure Cases which clarified and mandated certain requirements for the managed mediation programs; and

**WHEREAS,** in order to be in compliance with the Supreme Court's mandates in AOSC 10-57, it is necessary to amend AO 2010-05.

**IT IS THEREFORE ORDERED**:

1. Section B.2. is amended to read as follows:

B. Scope

Referral to Mediation.

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

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

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Referral to the RMFM Program is for administration and management of the mediation process and assignment of a Supreme Court of Florida certified circuit civil mediation, who has been trained in mediation 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 12 attached to AOSC 10-57, which are incorporated herein by reference. 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.

2. Paragraph G is amended to read as follows:

G. List of Participating Mediators and Rotation of Mediators.

1. The Program Manager shall post on its website the list of Supreme Court of Florida certified mediators it will use to implement the RMFM Program. The mediators to be utilized may either be individuals or law firms. In the event a law firm is appointed, it shall select a mediator who is qualified under the terms of this order to be the mediator of the cases that firm receives in the rotation. The criteria to be used in selecting mediators shall be those criteria set forth in Paragraph B2, along with experience, education, training, merit, availability, and diversity. The selections shall be at the discretion of the Program Manager.

2. The Program Manager shall also state in writing the procedure, subject to the approval by the chief judge, the program will use to rotate the appointment of mediators. If a law firm is appointed, it shall be construed to satisfy the rotation requirement for all members of the firm. The RMFM Program shall require the use of Supreme Court Civil Circuit certified mediators who have been specially trained in the manner set forth in Exhibit 12 attached to AOSC 09-54 and are incorporated by reference herein, and made a part hereof.

3. The list presenters of training programs specifically qualified to conduct such trainings in the Second Judicial Circuit of Florida, include, but are not limited to: Christopher Shulman, Esq., Gregory Firestone, PhD, and David A. Wolfson, Esq. Other training providers who desire that their programs qualify under Exhibit 12 attached to AOSC 09-54 and are incorporated by reference herein and made a part hereof shall submit an application to the Program Manager along with their program materials for determination as to whether the program qualifies under the provisions of Exhibit 12.

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4. Individuals qualified to mediate mortgage foreclosure cases, shall be Florida Supreme Court certified in Circuit Civil, who have been trained to mediate mortgage foreclosure cases, and who reflect the diversity of the community in which it operates. Assignment of mediators shall be on a rotation basis that fairly spreads work throughout the pool of mediators working in the RMFM Program, unless the parties mutually agree on a specific mediator or the case requires a particular skill on the part of the mediator.

3. All references to the word "impasse" in AO 2010-05 shall be changed to the words "no agreement".

4. Exhibit 9 "Mediation Report" attached hereto is amended as set forth in the attachment.

5. This order shall be effective immediately.

**DONE AND ORDERED** in Tallahassee, Leon County, Florida this 8th day of December, 2010.

Charles A. Francis

**CHARLES A. FRANCIS**
Chief Judge

Copies furnished to:

All Circuit and County Judges, Second Judicial Circuit
All Clerks of Court, Second Judicial Circuit
Grant Slayden, Trial Court Administrator
David Wolfson, Alternative Dispute Resolution Director
Marianne D. Bryant, RMFM Program Manager



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# EXHIBIT 9

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

CIVIL CASE NUMBER:_____

_____

Plaintiff(s),

vs.

_____

Defendant(s).

_____/

**MEDIATION REPORT**

(RMFM Program)

*Due within 10 days of Mediation*

Pursuant to the Court's Order, a Mediation Conference was conducted by Florida Supreme Court Certified Circuit Court Mediator _____ on _____ day _____ date.

The following were physically present at the Mediation Conference

a) Plaintiff's Representative _____, and
b) Plaintiff's Attorney_____.
c) The Defendant(s) _____ and
d) The Defendant(s) Attorney(s)_____ and _____.
e) Others physically present: _____
_____

Plaintiff's representative present by electronic equipment:_____

The result of the Mediation Conference is as follows:

_____ 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)

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_____
Mediator Signature

A COPY OF THE MOST RECENTLY FILED Form A is attached to this report for the court's use.

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed to Plaintiff(s) and Defendant(s) this _____day of _____, 201____.

THE TALLAHASSEE BAR, INC.

By:_____
Program Manager
301 S. Monroe St., Room 108
Tallahassee, Florida 32301
Tel: 850-222-3232 ext. 304
RMFMprogram@tallahasseebar.org



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