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05/19/2010 at 02:33 PM, BOB INZER, CLERK OF COURTS

IN THE SECOND JUDICIAL CIRCUIT OF FLORIDA

OFFICE OF THE CHIEF JUDGE

ADMINISTRATIVE ORDER 2010 -05

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

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

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

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

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

WHEREAS, The Tallahassee Bar Association, Inc. is an independent, nonpartisan, nonprofit organization that has demonstrable ability to assist the courts with managing the residential mortgage foreclosure actions that recently have been filed in the Second Judicial Circuit.

IT IS THEREFORE

ORDERED:

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

1. **"RMFM Program"** (stands for Residential Mortgage Foreclosure Mediation Program) means the mediation program managed by The Tallahassee Bar Association, Inc. to implement and carry out the intent of this Administrative Order.

2. **"The Program Manager"** means The Tallahassee Bar Association, Inc., qualified in accordance with parameters attached as Exhibit 13 hereto. "The Program Manager" is also referred to as the "Mediation Manager."

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

4. **"Plaintiff's representative"** means the person who will appear at mediation who has full authority to settle without further consultation and resolve the foreclosure suit.

5. **"Borrower(s)"** means an individual(s) named as a party in the foreclosure action who is/are a primary obligor on the promissory note which is secured by the mortgage being foreclosed.

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

7. **"Forms"** means the forms contained in Exhibits 1, 2, 3, 4, 5(a)(b) and (c), 6, 7, 8, 9, and 10 all of which are attached hereto.

8. **"Form "A"** means the certifications required herein in the format of Exhibit 1 which is attached hereto.

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

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

11. **"Foreclosure counselor"** means a counselor trained in advising persons of options available when facing a mortgage foreclosure, who has no criminal history of committing a felony or a crime of dishonesty, and who is certified by the United States Department of Housing and Urban Development (HUD) or National Foreclosure Mitigation Counseling Program (NFMC) as an agency experienced in mortgage delinquency and default resolution counseling. Approved foreclosure counselors include but are not limited to Legal Services of North Florida and The Tallahassee Lender's Consortium.

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

B. Scope

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

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

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

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

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

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

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

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2. **Referral to Mediation.**

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

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

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

3. **Compliance Prior to Judgment.**

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

4. **Delivery of Notice of RMFM Program with Summons.**

After June 1, 2010, in all actions to foreclose a mortgage on residential property, the clerk of court shall attach to the summons to be served on each defendant a notice regarding managed mediation for homestead residences in the format of Exhibit 2 attached hereto.

C. **Procedure**

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

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

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

a) the case number of the action;

b) the contact information for all of the parties; (the contact information must include at a minimum the last known mailing address and phone number for each party):

c) a check in the amount of $675.00.

d) a statement whether the property that is the subject matter of the foreclosure action is occupied by the borrower.

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

In Form "A", plaintiff's counsel must affirmatively certify whether the origination of the note and mortgage sued upon was subject to the provisions of the federal Truth in Lending Act, Regulation Z. In Form "A", plaintiff's counsel must also affirmatively certify whether the property is a homestead residence, and whether it is occupied by the borrower at the time the foreclosure action is filed. Plaintiff's counsel is not permitted to respond to the certification with "unknown," "unsure," "not applicable," or similar nonresponsive statements.

If the property is a homestead residence and if the case is not exempted from participation in the RMFM Program because of pre-suit mediation conducted in accordance with H1 below, plaintiff's counsel shall further certify in Form "A" the identity of the plaintiff's representative who will appear at mediation. Plaintiff's counsel may designate more than one plaintiff's representative. At least one of the plaintiff's representatives designated in Form "A" must attend any mediation session scheduled pursuant to this administrative order with full authority to sign any settlement agreement arising therefrom.

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

2. **Responsibilities of Borrower.**

Within ten (10) days of the Program Manager receiving a copy of Form "A", the Program Manager shall begin efforts to contact the borrower to explain the RMFM Program to the borrower and the requirements that the borrower must

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comply with to obtain a mediation. The Program Manager shall also ascertain whether the borrower wants to participate in the RMFM Program.

The borrower must do the following prior to mediation being scheduled: meet with an approved mortgage foreclosure counselor within thirty (30) days, and provide to the Program Manager the information required by the Borrower's Financial Disclosure for Mediation. The Borrower's Financial Disclosure for Mediation will depend on what option the borrower wants to pursue in trying to settle the action.

It shall be the responsibility of the Program Manager to transmit the Borrower's Financial Disclosure for Mediation via a secure dedicated e-mail address or to upload same to the web-enabled information platform described in paragraph C4 or to make actual delivery upon the parties; however, the Program Manager is not responsible or liable for the accuracy of the borrower's financial information.

3. **Plaintiff's Disclosure for Mediation.**

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

a) Documentary evidence the plaintiff is the owner and holder in due course of the note and mortgage sued upon.

b) A history showing the application of all payments by the borrower during the life of the loan.

c) A statement of the plaintiff's position on the present net value of he mortgage loan.

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

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

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

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

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

5. **Nonparticipation by Borrower.**

If the borrower has meaningfully decided that he or she does not want participate in the RMFM Program, or if the borrower fails or refuses to cooperate with the Program Manager, or if the Program Manager is unable to contact the borrower, the Program Manager shall file a notice of nonparticipation in the format of Exhibit 4 attached. The notice of nonparticipation shall be filed no later than sixty (60) days after the initial copy of Form "A" is filed with the court. A copy of the notice of nonparticipation shall be served on the parties by the Program Manager.

6. **Referral to Foreclosure Counseling.**

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

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

7. **Referrals for Legal Representation.**

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

The Program Manager shall also advise the borrower that the borrower may apply for a volunteer pro bono attorney in programs run by lawyer referral, legal services, and legal aid programs as may exist within the circuit. If the borrower applies to one of those agencies and is coupled with a legal services attorney or a volunteer pro bono attorney, the attorney shall file a notice of appearance with the clerk of the court and provide a copy to the attorney for the plaintiff and the Program Manager. The appearance may be limited to representation only to assist the borrower with mediation but, if a borrower secures the services of an attorney, counsel of record may attend the mediation.

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

8. Scheduling Mediation.

The plaintiff's representative, plaintiff's counsel, and the borrower are all required to comply with the time limitations imposed by this administrative order and attend a mediation session as scheduled by the Program Manager. No earlier than thirty (30) days and no later than sixty (60) days after suit is filed, the Program Manager shall schedule a mediation session.

The mediation session shall be scheduled for a date and time convenient to the plaintiff's representative, the borrower, and counsel for the plaintiff and the borrower, using a mediator from the panel comprised of mediators with the qualifications set forth in Paragraph B2 above. Mediation sessions will be held at a suitable location(s) within the circuit. It shall be the responsibility of the Program Manager to provide facilities for the mediation. Mediation shall be completed within the time requirements established by rule 1.710(a), Florida Rules of Civil Procedure.

Mediation shall not be scheduled until the borrower has had an opportunity to meet with an approved foreclosure counselor. Mediation shall not be scheduled earlier than ten (10) days after the Borrower's Financial Disclosure for Mediation has been transmitted to the plaintiff via a secure dedicated e-mail address or uploaded to the web-enabled information platform described in paragraph C4, or otherwise delivered.

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

9. Attendance at Mediation.

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

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

b) plaintiff's counsel;

c) the borrower(s);

d) and the borrower's counsel of record, if any.

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

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

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

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

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

10. <u>Attendance at Mediation through the use of Communication Equipment</u>:

a) The plaintiff's representative may appear at mediation through the use of communication equipment, if plaintiff files and serves at least five (5) days prior to the mediation a notice in the format of Exhibit 7 attached hereto, advising that the plaintiff's representative will be attending through the use of communication equipment and designating the person who has full authority to sign any settlement agreement reached.

b) Plaintiff's counsel may be designated as the person with full authority to sign the settlement agreement, however this does not satisfy the requirement that plaintiff's representative be present as previously provided herein, nor shall it excuse the personal attendance of plaintiff's counsel at all mediations, even if they are not designated as the person with full authority to sign the settlement agreement.

c) The authorization by this administrative order for the plaintiff's representative to appear through the use of communication equipment is pursuant to rule 1.720(b), Florida Rules of Civil

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

d) If the plaintiff's representative attends mediation through the use of communication equipment:

i. The person authorized by the plaintiff to sign a settlement agreement must be physically present at mediation.

ii. If the plaintiff's representative attends mediation through the use of communication equipment, the plaintiff's representative must remain on the communication equipment at all times during the entire mediation session.

iii. If the plaintiff's representative attends through the use of communication equipment, and if the mediation results in an impasse, within five (5) days after the mediation session, the plaintiff's representative shall file in the court file a certification in the format of Exhibit 8 attached hereto as to whether the plaintiff's representative attended mediation.

iv. If the mediation results in an impasse after the appearance of the plaintiff's representative through the use of communication equipment, the failure to timely file the certification regarding attendance through the use of communication equipment shall be grounds to impose sanctions against the plaintiff, including requiring the physical appearance of the plaintiff's representative at a second mediation, taxation of the costs of a second mediation to the plaintiff, or dismissal of the action.

11. <u>Failure to Appear at Mediation</u>.

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

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

If the borrower fails to appear, or if the mediation results in an impasse with all required parties present, and if the borrower has been lawfully served with a copy of the complaint, and if the time for filing a responsive pleading has passed, the matter may proceed to a final hearing, summary judgment, or default final judgment in accordance with the rules of civil procedure without any further requirement to attend mediation. If the borrower or borrower's counsel of record fails to appear, the court may impose such other sanctions as the court deems appropriate, including, but not limited to, attorney's fees and costs.

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

12. **Written Settlement Agreement; Mediation Report.**

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

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

In the case of an impasse, the report shall advise the court who attended the mediation, and a copy of Form "A" or any amended Form "A" shall be attached to the report for the court to determine if at least one of the plaintiff's representative named in Form "A" appeared for mediation. The mediator's report to the court shall be in the format of Exhibit 9 attached hereto.

12. **Mediation Communications.**

All mediation communications occurring as a result of this administrative order, including information provided to the Program Manager that is not filed with the court, shall be confidential and inadmissible in any subsequent legal proceeding pursuant to Chapter 44, Florida Statutes, the Florida Rules of Civil Procedure, and the Florida Rules for Certified and Court-Appointed Mediators, unless otherwise provided for by law. The provisions of chapter 44.401-44.406, The Mediation Confidentiality and Privilege Act, specifically apply to the Program Manager.

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13. **Failure to Comply with Administrative Order.**

In all residential foreclosure actions, if a notice for trial, motion for default final judgment, or motion for summary judgment is filed with the clerk of court, no action will be taken by the court to set a final hearing or enter a summary or default final judgment until the requirements of this administrative order have been met.

In cases involving a homestead residence, the presiding judge shall require that copies of either: (1) the most recently filed Form "A" and the report of the mediator; or, (2) the most recently filed Form "A" and the notice of borrower's nonparticipation be sent to the presiding judge by the plaintiff or plaintiff's counsel prior to setting a final hearing or delivered with the packet requesting a summary or default final judgment.

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

14. **Mediation Not Required If Residence Is Not Homestead.**

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

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

D. RMFM Program Fees

1. **Fee Structure**:

The fee structure for the RMFM Program is based on the assumption that a successful mediation can be accomplished with one mediation session. Accordingly, pursuant to rule 1.720(g), Florida Rules of Civil Procedure, the reasonable program fees for the managed mediation, including foreclosure counseling, costs for facilities in which to conduct the mediations, the mediator's fee, and administration of the managed mediation program, is a total of no more than $675.00 payable as follows:

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

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2. **Additional Mediation Sessions**.

If more than one mediation session is needed, the total program fee stated above will also cover a second mediation session. However, if an additional mediation session is needed after the second session, the plaintiff shall be responsible for the payment of the program fees for such additional mediation sessions, unless the parties agree otherwise. The program fees for the third and each subsequent mediation session shall be no more than $250.00 per session.

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

4. **Refunds.**

a) If the borrower cannot be located, chooses not to participate in the RMFM Program, or if the borrower does not make any contact with the foreclosure counselor, the plaintiff shall be entitled to a refund of the portion of the program fees attributable to foreclosure counseling, to wit $75.00, and the mediators fee, to wit: $250.00, for a total of $325.00.

b) If mediation is scheduled and the borrower announces an intention not to participate further in the RMFM Program prior to the mediation session, or if the case settles and the Program Manager has notice of the settlement at least five (5) days prior to the mediation session, the plaintiff shall be entitled to a refund of the program fees allocated for the mediation session, to wit $250.00.

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

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

a) The mediator's fees and costs;

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

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

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

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

E. Program Manager to Monitor Compliance and Satisfaction

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

a) The Program Manager shall be responsible for monitoring whether Form "A" has been filed in all residential foreclosure actions that commence after June 1, 2010 and whether the RMFM Program fees have been paid if the residence is a homestead residence.

b) The Program Manager shall send compliance reports to the chief judge or the chief judge's designee in the format and with the frequency required by the chief judge.

c) The Program Manager may assist with enforcing compliance with this administrative order upon filing a written motion pursuant to rule 1.100(b), Florida Rules of Civil Procedure, stating with particularity the grounds therefor and the relief or order sought. Example orders are attached as Exhibit 11 attached hereto.

2. **Satisfaction with RMFM Program and Program Operation Reports.**

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

F. Designation of Plaintiff Liaisons with RMFM Program.

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

2. The liaisons shall be informed of the requirements of this administrative order and shall be capable of answering questions concerning the administrative status of pending cases and the party's internal procedures relating to the processing of

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

G. List of Participating Mediators and Rotation of Mediators.

1. The Program Manager shall post on its website the list of Supreme Court of Florida certified mediators it will use to implement the RMFM Program. The mediators to be utilized may either be individuals or law firms. In the event a law firm is appointed, it shall select a mediator who is qualified under the terms of this order to be the mediator of the cases that firm receives in the rotation. The criteria to be used in selecting mediators shall be those criteria set forth in Paragraph C2, along with experience, education, training, merit, availability, and diversity. The selections shall be at the discretion of the Program Manager.

2. The Program Manager shall also state in writing the procedure, subject to the approval by the chief judge, the program will use to rotate the appointment of mediators. If a law firm is appointed, it shall be construed to satisfy the rotation requirement for all members of the firm. The RMFM Program shall encourage the use of Supreme Court civil circuit certified mediators who have been specially trained in the manner set forth in Exhibit 12 attached to AOSC09-54 and is incorporated by reference herein, and made a part hereof.

3. The list presenters of training programs specifically qualified to conduct such trainings in the Second Judicial Circuit of Florida, include, but are not limited to: Christopher Shulman, Esq., Gregory Firestone, PhD, and David A. Wolfson, Esq. Other training providers who desire that their programs qualify under Exhibit 12 attached to AOSC09-54 and are incorporated by reference herein and made a part hereof shall submit an application to the Program Manager along with their program materials for determination as to whether the program qualifies under the provisions of Exhibit 12.

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

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H. Pre-Suit Mediation Encouraged

1. Mortgage lenders, whether private individuals, commercial institutions, or mortgage servicing companies, are encouraged to use any form of alternative dispute resolution, including mediation, ***before*** filing a mortgage foreclosure lawsuit with the clerk of the court. Lenders are encouraged to enter into the mediation process with their borrowers ***prior*** to filing foreclosure actions in the Second Judicial Circuit to reduce the costs to the parties for maintaining the litigation and to reduce to the greatest extent possible the stress on the limited resources of the courts caused by the large numbers of such actions being filed across the state and, in particular, in the Second Judicial Circuit.

2. If the parties participated in pre-suit mediation using the RMFM Program or participated in any other pre-suit mediation program having procedures substantially complying with the requirements of this administrative order, including provisions authorizing the exchange of information, foreclosure counseling, and requiring use of Supreme Court of Florida certified circuit civil mediators specially trained to mediate residential mortgage foreclosure actions, the plaintiff shall so certify in Form "A", in which case the plaintiff and borrower shall not be required to participate in mediation again unless ordered to do so by the presiding judge. A borrower may file a motion contesting whether pre-suit mediation occurred in substantial compliance with the RMFM Program.

3. Nothing in this paragraph precludes the presiding judge from sending the case to mediation after suit is filed, even if pre-suit mediation resulted in an impasse or there was a breach of the pre-suit mediation agreement. This administrative order shall be recorded by the clerk of the court in each county of the Second Judicial Circuit, takes effect on June 1, 2010, and will remain in full force and effect unless and until otherwise ordered.

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

Charles A. Francis
CHARLES A. FRANCIS
Chief Judge

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

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SECOND JUDICIAL CIRCUIT

EXHIBIT 1

FORM "A"

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

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

[Name of Plaintiff]

Plaintiff(s),

Vs. **Civil Case No.:_____**

[Names of Defendant(s)]

Defendant(s)

Form "A"

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

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

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

____WAS or
WAS NOT

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

Certificate of Plaintiff's Counsel Regarding Status of Residential Property

THE UNDERSIGNED, as counsel of record for plaintiff and as an officer of the court, certifies the property that is the subject matter of this lawsuit

_____IS or
_____IS NOT

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

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

Certificate of Plaintiff's Counsel Regarding Pre-Suit Mediation

The following certification

____ DOES or
____DOES NOT

apply to this case:

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

Name of Pre-suit
mediator:_____

Telephone:

_____

Email:

_____

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

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

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

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

Address: _____

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Telephone: _____
Facsimile No.: _____

Email: _____

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

Date: _____

Signature Plaintiff's
Counsel:_____
Printed Name:_____
Fla. Bar Number: _____
Address: _____
Telephone Number:_____
Facsimile Number: _____
Email: _____

Certificate of Borrower's Last Known Address and Occupancy

Borrower Name: _____

Last Known Mailing Address: _____

_____

_____

_____

Is this residence occupied by the Borrower? _____ Yes

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

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SECOND JUDICIAL CIRCUIT

EXHIBIT 2

NOTICE OF RMFM PROGRAM TO BE SERVED WITH SUMMONS

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IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR _____COUNTY, FLORIDA

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

If you are being sued to foreclose the mortgage on your primary home and your home has a homestead exemption and if you are the person who borrowed the money for the mortgage, you have a right to go to "mediation." At "mediation," you will meet with a Florida Supreme Court Certified Mediator, appointed by the Court, and also a representative of the company asking to foreclose your mortgage to see if you and the company suing you can work out an agreement to stop the foreclosure.

The mediator will not be allowed to give you legal advice or to give you an opinion about the lawsuit. The mediator's job is to remain neutral and not take sides, but to give both sides a chance to talk to each other to see if an agreement can be reached to stop the foreclosure. If you and the company suing you come to an agreement, a settlement agreement will be written up and signed by you and the company suing you. With some limited exceptions, what each side says at the mediation is confidential and the judge will not know what is said at mediation.

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

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

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

AS STATED IN THE SUMMONS SERVED ON YOU:

- **YOU OR YOUR LAWYER MUST FILE A WRITTEN RESPONSE TO THE COMPLAINT TO FORCLOSE THE MORTGAGE WITH THE COURT WITHIN 20 DAYS AFTER YOU WERE SERVED WITH THE COMPLAINT.**
- **YOU OR YOUR LAWYER MUST ALSO SEND A COPY OF YOUR WRITTEN RESPONSE TO THE PLAINTIFF'S ATTORNEY.**
- **YOU MUST TIMELY FILE A WRITTEN RESPONSE TO THE COMPLAINT EVEN IF YOU DECIDE TO PARTICIPATE IN THE MEDIATION.**

Dated this _____ day of _____, 2010.

_____
Charles A. Francis, CHIEF JUDGE

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CLERK OF THE CIRCUIT COURT & COMPTROLLER LEON COUNTY GWEN MARSHALL
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SECOND JUDICIAL CIRCUIT

EXHIBIT 3

BORROWER'S REQUEST TO PARTICIPATE IN RMFM PROGRAM

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CLERK OF THE CIRCUIT COURT & COMPTROLLER
LEON COUNTY
GWEN MARSHALL

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

Plaintiff(s)

Vs. Civil Case No.:_____

Defendant(s).
_____/

BORROWER'S REQUEST TO PARTICIPATE
IN THE RMFM PROGRAM

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

Dated this ___ day of _____, 2010.

*Signed:*_____
BORROWER

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

Plaintiff(s)

Vs. Civil Case No.:_____

Defendant(s).
_____/

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

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

Dated this ____ day of _____, 2010.

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

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CLERK OF THE CIRCUIT COURT & COMPTROLLER LEON COUNTY GWEN MARSHALL
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SECOND JUDICIAL CIRCUIT

EXHIBIT 4

BORROWER DECLINES TO PARTICIPATE IN RMFM PROGRAM

&

NOTICE OF BORROWERS NON-PARTICIPATION

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LEON COUNTY
GWEN MARSHALL

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IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR _____COUNTY, FLORIDA

Name of Plaintiff,

Plaintiff.

Vs. Circuit Court Case No.:

Name of Defendant(s)

Defendant(s).
_____/

BORROWER DECLINES TO PARTICIPATE IN THE RESIDENTIAL MORTGAGE FORECLOSURE MEDIATION PROGRAM

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

Dated this ___ day of _____, 2010.

_____
Signature

Print Name:_____

Please return this completed form to:

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

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

Plaintiff(s)

Vs. Civil Case No.:_____

Defendant(s).
_____/

NOTICE OF BORROWER'S NON-PARTICIPATION WITH RMFM PROGRAM

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

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

CERTIFICATE OF SERVICE

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

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

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CLERK OF THE CIRCUIT COURT & COMPTROLLER LEON COUNTY GWEN MARSHALL
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Second Judicial Circuit

EXHIBIT 5
Borrowers' Financial Disclosure for Mediation

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

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LEON COUNTY
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5a

FORECLOSURE MEDIATION FINANCIAL WORKSHEET

Case No.:_____

_____ v. _____

Plaintiff's Name First Defendant's Name

SECTION 1: PERSONAL INFORMATION

Borrower's Name		Co Borrower's Name	
Social Security Number:	Date of Birth: (mm/dd/yyyy)	Social Security Number:	Date of Birth (mm/dd/yyyy)
☐ 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)		Dependants (Not listed by Co-Borrower)	
Present Address (Street, City, State, Zip)		Present Address (Street, City, State, Zip)	

SECTION 2: EMPLOYMENT INFORMATION

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			

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Net Salary/Wages			
Unemployment Income			
Child Support/Alimony			
Disability Income			
Rental Income			
Other Income			
Total *(do not include Gross Income)*			

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LEON COUNTY
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SECTION 3: EXPENSE & LIABILITIES

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

SECTION 4: ASSETS

	Estimated Value
Personal Residence	
Real Property	
Automobile 1	
Automobile 2	
Checking Accounts	
Savings Accounts	
IRA/401K/Keogh Accounts	
Stocks/Bonds/CDs	
Cash Value of Life Insurance	
Other	
Total	

Reason for Delinquency/Inability to Satisfy Mortgage Obligation

☐ **Reduction in Income**	☐ **Medical Issues**	☐ **Death of Family Member**
☐ **Poor budget management skills**	☐ **Increase in expenses**	☐ **Business venture failed**

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☐ Loss of income	☐ Divorce/Separation	☐ Increase in loan payment
☐ Other		

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LEON COUNTY
GWEN MARSHALL

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SECTION 4: ASSETS CON'T

FURTHER EXPLANATION:

I/WE obtained a mortgage loan(s) secured by the above-described property.

I/WE have described my/our present financial condition and reason for deault and have attached required documentation.

I/WE consent to the release of this financial worksheet and attachments to the mediator and the Plaintiff or Plaintiff's servicing company by way of the Plaintiff's attorney.

By signing below, I/WE certify the information provided is true and correct to the best of MY/OUR knowledge.

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

Please attach the following:

- ✓ Last Federal Income Tax Return filed
- ✓ Proof of Income (e.g., one or two current pay stubs)
- ✓ Past two (2) bank statements
- ✓ If self-employed, attach a copy of the past six month's profit/loss statement

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

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Fannie Mae Hardship Form 1021

Home Affordable Modification Program Hardship Affidavit

Borrower Name: _____
(First Middle Last)

Date of Birth: _____

Co-Borrower: _____

Property Street Address: _____

Property City, State, Zip: _____

Servicer: _____

Loan Number: _____

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

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

Borrower: Yes ____ No ____ Co-Borrower: Yes No

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

Borrower: Yes ____ No ____ Co-Borrower: Yes ____ No ____

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

Borrower: Yes ____ No ____ Co-Borrower: Yes ____ No ____

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

Borrower: Yes ____ No ____ Co-Borrower: Yes ____ No ____

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

Borrower: Yes ____ No ____ Co-Borrower: Yes ____ No ____

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

INFORMATION FOR GOVERNMENT MONITORING PURPOSES

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

Borrower:

Ethnicity:

_____ Latino/Hispanic
_____ Non-Latino/Hispanic

Race:

_____ American Indian/Alaska Native
_____ Black/African American
_____ Native Hawaiian/Other Pacific Islander
_____ White
_____ I do not wish to furnish this information

Co-Borrower:

Ethnicity:

_____ Latino/Hispanic
_____ Non-Latino/Hispanic

Race:

_____ American Indian/Alaska Native
_____ Black/African American
_____ Native Hawaiian/Other Pacific Islander
_____ White
_____ I do not wish to furnish this information

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TO BE COMPLETED BY INTERVIEWER:

Interviewer's Name: _____
(Print of Type)

Interviewer's Employer Name & Address: _____

_____

_____

Interviewer's Signature: _____

Dated: _____

Address: _____

Telephone: _____
(Area Code + Telephone Number)

Internet Address: _____

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LEON COUNTY
GWEN MARSHALL

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BORROWER/CO-BORROWER ACKNOWLEDGEMENT

1. Under penalty of perjury, I/we certify that all of the information in this affidavit is truthful and the event(s) identified above has/have contributed to my/our need to modify the terms of my/our mortgage loan.

2. I/we understand and acknowledge the Servicer may investigate the accuracy of my/our statements, may require me/us to provide supporting documentation, and that knowingly submitting false information may violate Federal law.

3. I/we understand the Servicer will pull a current credit report on all borrowers obligated on the Note.

4. I/we understand that if I/we have intentionally defaulted on my/our existing mortgage, engaged in fraud or misrepresented any fact(s) in connection with this Hardship Affidavit, or if I/we do not provide all of the required documentation, the Servicer may cancel the Agreement and may pursue foreclosure on my/our home.

5. I/we certify that my/our property is owner-occupied and I/we have not received a condemnation notice.

6. I/we certify that I/we am/are willing to commit to credit counseling if it is determined that my/our financial hardship is related to excessive debt.

7. I/we certify that I/we am/are willing to provide all requested documents and respond to all Servicer communication in a timely manner. I/we understand that time is of the essence.

8. I/we understand that the Servicer will use this information to evaluate my/our eligibility for a loan modification or other workout, but the Servicer is not obligated to offer me/us assistance based solely on the representations in this affidavit.

9. I/we authorize and consent to Servicer disclosing to the U.S. Department of Treasury or other government agency, Fannie Mae and/or Freddie Mac any information provided by me/us or retained by Servicer in connection with the Home Affordable Modification Program.

BORROWER:	CO-BORROWER:
_____	_____
Signature	Signature
_____	_____
Date	Date
Email _____	Email _____

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Address:	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.)*

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LEON COUNTY
GWEN MARSHALL
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Exhibit 5b

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

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

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

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EXHIBIT 5c

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

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

Current title search for the homestead residence.

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CLERK OF THE CIRCUIT COURT & COMPTROLLER
LEON COUNTY
GWEN MARSHALL
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Second Judicial Circuit
EXHIBIT 6
Borrowers Request for Plaintiff's Disclosure
For Mediation

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

[Name of Plaintiff]

Plaintiff,

vs. Case No.

[Names of Defendant(s)]

Defendant(s)
_____/

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

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

____ Documentary evidence the Plaintiff is the owner and holder in due course of the note and mortgage sued upon.

____ A history showing the application of all payments by the borrower during the life of the loan.

____ A statement of the Plaintiff's position on the present net present value of the mortgage loan.

____ The most current appraisal of the property available to the Plaintiff.

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

Plaintiff's/Lender's Counsel

_____

(Signature of Borrower/Defendant)

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CLERK OF THE CIRCUIT COURT & COMPTROLLER LEON COUNTY GWEN MARSHALL
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CERTIFICATE OF SERVICE OF PROGRAM MANAGER

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

Clerk of Court *original*

Plaintiff's Counsel

Jr. Lienholder's Counsel, if any

Borrower

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

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CLERK OF THE CIRCUIT COURT & COMPTROLLER
LEON COUNTY
GWEN MARSHALL
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Second Judicial Circuit

EXHIBIT 7

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

UNOFFICIAL DOCUMENT

UNOFFICIAL DOCUMENT

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

[Name of Plaintiff]

Plaintiff,

vs. Case No.

[Names of Defendant(s)]

Defendant(s)
_____/

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

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

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

Signed on this __ day of _____, 20___.

_____
Signature of Plaintiff

_____
Print Name of Plaintiff

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

Lender's Counsel
By:_____
Signature

_____
Printed Name

_____
Address

UNOFFICIAL DOCUMENT
CLERK OF THE CIRCUIT COURT & COMPTROLLER LEON COUNTY GWEN MARSHALL
UNOFFICIAL DOCUMENT

City, State Zip

Telephone Number

Second Judicial Circuit

EXHIBIT 8

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

UNOFFICIAL DOCUMENT

CLERK OF THE CIRCUIT COURT & COMPTROLLER
LEON COUNTY
GWEN MARSHALL
UNOFFICIAL DOCUMENT

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

Plaintiff(s)

Vs.

Civil Case No.:_____

Defendant(s).
_____/

CERTIFICATION REGARDING ATTENDANCE AT MEDIATION THROUGH THE USE OF COMMUNICATION EQUIPMENT

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

☐ Attended mediation through the use of communication equipment, and was on the communication equipment at all times during the entire mediation.

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

Dated this ____ day of _____, 2010.

_____
Plaintiff's Representative

_____
Printed Name

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

Lender's Counsel
By:_____
Signature

_____
Printed Name

_____
Address

_____
City, State Zip

_____
Telephone Number

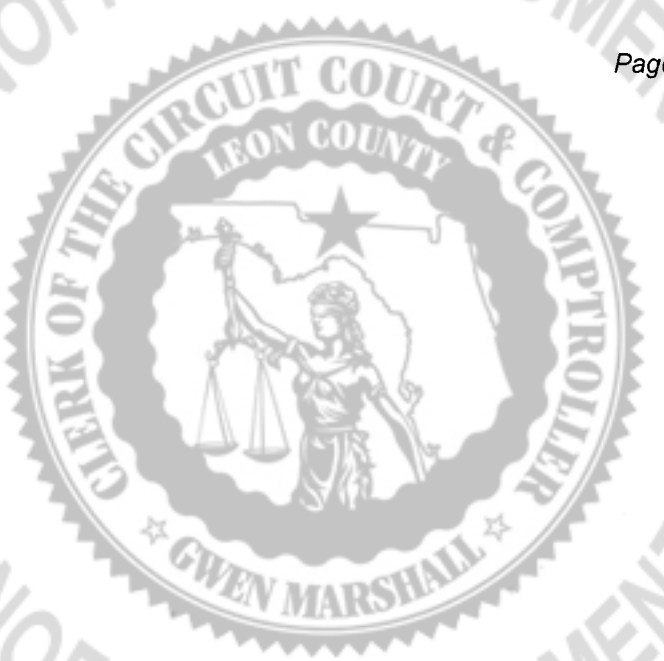
UNOFFICIAL DOCUMENT
CLERK OF THE CIRCUIT COURT & COMPTROLLER LEON COUNTY GWEN MARSHALL
UNOFFICIAL DOCUMENT

Second Judicial Circuit

EXHIBIT 9

Mediation Report

UNOFFICIAL DOCUMENT



UNOFFICIAL DOCUMENT

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

Plaintiff(s)

Vs. Civil Case No.:_____

Defendant(s).
_____/

MEDIATION REPORT
(RMFM Program)
Due within 10 days of Mediation

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

1) The following were present:
   a) The Plaintiff's Representative, _____ and Plaintiff's attorney, _____
   b) The Defendant[s], _____, and his/her/their attorney[s], _____
2) The result of the Mediation Conference is as follows *(Mediator selects only one)*:
   - ☐ A signed **SETTLEMENT AGREEMENT** was reached during this Conference.
   - ☐ The parties have reached a total **IMPASSE**.
   - ☐ The parties have agreed to **ADJOURN** the mediation to _____ *[date]*.
   - ☐ Mediation has been **TERMINATED**.

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

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

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

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CLERK OF THE CIRCUIT COURT & COMPTROLLER LEON COUNTY GWEN MARSHALL
UNOFFICIAL DOCUMENT

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

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LEON COUNTY
GWEN MARSHALL
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Second Judicial Circuit

Exhibit 10

Certification Regarding Settlement Authority

(Residence Not Homestead)

UNOFFICIAL DOCUMENT

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

Plaintiff(s)

Vs.

Civil Case No.:_____

Defendant(s).
_____/

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

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

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

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

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

Lender's Counsel
By:_____
Signature

_____
Printed Name

_____
Address

_____ _____
City, State Zip

_____
Telephone Number

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CLERK OF THE CIRCUIT COURT & COMPTROLLER LEON COUNTY GWEN MARSHALL
UNOFFICIAL DOCUMENT

Second Judicial Circuit

EXHIBIT 11

ORDERS FOR REFERRALS, COMPLIANCE, AND ENFORCEMENT

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CLERK OF THE CIRCUIT COURT & COMPTROLLER
LEON COUNTY
GWEN MARSHALL

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

Plaintiff(s),

vs. Case No.

Defendant(s).

ORDER TO SHOW CAUSE

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

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

Form A

___ Plaintiff failed to file Form A.

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

Payment of RMFM Program Fees

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

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

Electronic Transmittal of Case Number and Borrower Contact Information

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

Failure to File and Serve Certification Regarding Settlement Authority

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

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Attendance at Mediation

___ Plaintiff's counsel failed to attend mediation.

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

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

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

___ After the mediation resulted in an impasse, plaintiff's representative failed to file the certification regarding attendance at mediation by telephone at all times (Form Exhibit 7 attached to the Administrative Order 2010-05).

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

Dated this _____ day of _____, 201___.

_____
Circuit Judge

Copies Furnished

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CLERK OF THE CIRCUIT COURT & COMPTROLLER
LEON COUNTY
GWEN MARSHALL

UNOFFICIAL DOCUMENT

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

Plaintiff(s),

vs. Case No.

Defendant(s).

ORDER AFTER SHOW CAUSE HEARING
(Plaintiff's Failure to Comply with Administrative Order 2010-05)

The court having determined that Plaintiff has failed to comply with the requirements of Administrative Order2010-05, it is ORDERED and ADJUDGED (as marked):

Form A

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

Payment of RMFM Program Fees

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

Electronic Transmittal of Case Number and Borrower Contact Information

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

Failure to File and Serve Certification Regarding Settlement Authority

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

Attendance at Mediation

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

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

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

Dismissal

___ This case is dismissed without prejudice.

Additional Sanctions

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

_____

_____

_____

Dated this _____ day of _____, 2010.

_____

Circuit Judge

Copies Furnished

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CLERK OF THE CIRCUIT COURT & COMPTROLLER
LEON COUNTY
GWEN MARSHALL

UNOFFICIAL DOCUMENT

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

Plaintiff(s),

vs. Case No.

Defendant(s).

ORDER REFERRING CASE TO RMFM PROGRAM
(Case Filed Prior to June 1, 2010)

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

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

Dated this _____ day of _____, 2010.

_____
Circuit Judge

Copies Furnished

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