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IN THE SECOND JUDICIAL CIRCUIT OF FLORIDA

OFFICE OF THE CHIEF JUDGE

ADMINISTRATIVE ORDER 2011-01

IN RE: UNIFORM PROCEDURES FOR RESIDENTIAL MORTGAGE FORECLOSURE CASES

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 ..."assuming early and continuous control of the court calendar; ..."identifying priority cases;" "...implement such docket control policies as may be necessary to advance priority cases to ensure prompt resolution;" "...develop rational and effective trial setting policies, and advancing the trial setting of priority cases, older cases...", and

WHEREAS, the Supreme Court of Florida has determined that effective case management is one of the best methods the courts can employ to facilitate and provide a more efficient use of limited judicial and clerk resources in a court system that is already overburdened; and

WHEREAS, uniform procedures for case management of foreclosure cases in the Second Judicial Circuit were implemented through Administrative Order 2010-09, and were subsequently amended by Administrative Order 2010-09, First Amendment; and

WHEREAS, the case management procedures set forth in those Administrative Orders have changed in all of the counties located in the Second Judicial Circuit.

IT IS THEREFORE ORDERED

1. Administrative Order 2010-09 and the First Amendment thereto are hereby repealed and are replaced by the provisions of this Administrative Order. Compliance with these procedures and requirements are mandatory, and failure to comply may result in dismissal of the case or judgment being entered.

2. Any Motion for Summary Judgment or for Final Hearing filed in the Second Judicial Circuit of Florida after April 1, 2011, scheduled by a party in a residential mortgage foreclosure action, except as provided herein, shall be governed by the following Uniform Procedures:

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a. The scheduling of all foreclosure hearings in all of the Counties located in the Second Judicial Circuit of Florida shall be done directly with the Judicial assistant of the Circuit Judge assigned to that individual case. This provision shall take affect immediately.

The primary contact information and any special procedures for all of the assigned judges and their judicial assistants may be found on the Second Judicial Circuit of Florida website which is located at:

http://www.leoncountyfl.gov/2ndCircuit/ForeclosureProcedure.php

b. No hearing may be scheduled or time reserved for summary judgment or final hearings in residential mortgage foreclosure cases until such time as the motion for summary judgment or motion for final judgment and all supporting evidence, including but not limited to the original note, mortgage, and assignments of mortgage where applicable, and all supporting affidavits are **filed with the clerk** as provided in the applicable rule of the Florida Rules of Civil Procedure. A summary judgment or final hearing package shall be transmitted to the judicial assistant to the assigned judge to the individual case not less than ten (10) days prior to the hearing. A summary judgment or final judgment hearing package shall include but not be limited to:

i. A copy of the original Motion for Summary Judgment or Motion for Final Judgment.

ii. A copy of the original Notice of Hearing.

iii. The a copy of the original note and mortgage which has been **filed with the clerk**. In lieu of the original note, a bond in the face amount of the requested final judgment amount conditioned upon indemnification of the makers of the note for any costs, expenses, or damages incurred as a result of the enforcement of the note by any other party. The bond shall be issued by a Florida licensed surety, in the form prescribed by form 1.960 of the Florida Rules of Civil Procedure, and shall be filed with the clerk within the above described time limitation.

iv. A copy of the Affidavit in Support of Summary Judgment.

v. A copy of the Affidavit in Support of Attorneys Fees.

vi. A copy of the Affidavit in Support of Costs.

vii. A proposed Summary or Final Judgment in the form prescribed by form 1.996(a) of the Florida Rules for Civil Procedure.

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viii. No additional language shall be added to the Final Judgment without the express consent of the court. If applicable, a copy of an Affidavit of Diligent Search and Inquiry in the form prescribed by form 1.924 of the Florida Rules of Civil Procedure.

ix. An original Notice of Sale.

x. An original Final Disposition Form.

xi. Sufficient copies and envelopes with sufficient postage attached addressed to all necessary individuals to serve copies of original orders, when entered.

xii. Copies of any other evidence necessary to support the Motion.

c. **All attorneys and witnesses must appear in person**. Telephonic appearance shall not be permitted, unless otherwise specifically ordered by the assigned judge.

d. All hearings shall be heard and all documents to be filed with the Clerk shall be filed in the locations in each respective county in the Second Judicial Circuit as follows:

i. Franklin County: Franklin County Courthouse, 22 Market St., Apalachicola, Florida 32320.

ii. Gadsden County: Guy A. Race Judicial Complex; West Entrance; 13 N. Monroe St.; Quincy, FL 32351.

iii. Jefferson County: The Jefferson County Courthouse; 1 Courthouse Circle; Monticello, FL 32344.

iv. Leon County: Leon County Courthouse in the assigned judge's courtroom/chambers as is applicable (which may be found at the following link: http://www.leoncountyfl.gov/2ndCircuit/index.php?Page=Judges.php); 301 S. Monroe St., Tallahassee, Florida 32301. The Clerk of Court is located on the First Floor of the Courthouse.

v. Liberty County: Liberty County Courthouse; 10818 N.W. State Road 20, Bristol, Florida 32321.

vi. Wakulla County: Wakulla County Courthouse; 3056 Crawfordville Highway; Crawford, Florida 32327.

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e. All cases filed after June 1, 2010, in which the residence is owner-occupied, and a response has been filed by the Defendant which seeks relief or which have been ordered to the Residential Mortgage Foreclosure Mediation Program (hereafter RMFM) shall comply with the provisions of Administrative Order of the Second Judicial Circuit of Florida, 2010-05, which specifies that completion of the requisites for the Residential Mortgage Foreclosure Mediation Program prior to a Motion for Summary Judgment or Final Hearing being scheduled.

f. Upon confirmation of the hearing date, the original notice of hearing must be filed with the clerk of the court at the location set forth above, within seven (7) days after confirmation of the scheduled hearing, and a confirming copy must be sent to the assigned judge within seven (7) days of confirmation. In the event this provision is violated, in addition to any sanction hereinafter set forth, the case shall be removed from the calendar on which it is scheduled.

g. Once a hearing is set, it can only be canceled by order of the assigned judge upon a written Motion to Cancel **filed with the clerk** (with a courtesy copy to the assigned judge) setting forth good cause. The Motion shall be filed a minimum of five (5) days prior to the hearing, except in the event of a bona fide emergency.

3. Once a judgment has been entered, and a sale has been scheduled, the sale may be canceled only upon Motion to Cancel and Reschedule Foreclosure Sale in the form prescribed by Form 1.996(b) of the Florida Rules for Civil Procedure **filed with the clerk** (and a courtesy copy provided to the assigned judge).

4. All counsel and parties shall cooperate with the assigned judge 's judicial assistant at all times, including but not limited to supplying all requested information in a timely manner.

5. In the event a party fails to comply with any provision of this order, or fails to appear at any scheduled hearing, the case shall be subject to dismissal without prejudice if the offending party is the Plaintiff, or a default and or default judgment may be entered if appropriate should the offending party be the Defendant.

6. No residential mortgage foreclosure case which has been dismissed is subject to being reopened by payment of a reopen fee, and any such request to reopen the file will be denied by the Court. All cases so dismissed shall be subject to a new filing fee.

7. In residential mortgage foreclosure cases filed after February 11, 2010, the complaint shall be verified as set forth in rule 1.110(b) of the Florida Rules for Civil Procedure. Failure to verify the complaint shall be grounds for dismissal of the complaint.

8. Notwithstanding any provision herein to the contrary, all assigned judges shall have discretion to alter the foregoing procedures.

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DONE AND ORDERED, in chambers at Tallahassee, Leon County, Florida this 8th day of April, 2011.

CHARLES A. FRANCIS
Chief Judge

Copies Furnished:

All Circuit and County Judges, Second Judicial Circuit
All Clerks of the Circuit Court, Second Judicial Circuit
Second Judicial Circuit of Florida Website

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