

IN THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR THE STATE OF FLORIDA

IN RE: HOMESTEAD MEDIATION PROGRAM FOR
RESIDENTIAL HOMESTEAD MORTGAGE
FORECLOSURE ACTIONS

ADMINISTRATIVE
ORDER
NO. 1.14

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

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 mortgage foreclosure actions; and

WHEREAS, the number of residential homestead mortgage foreclosure case filings have been substantial in the Twentieth Judicial Circuit, and the high residential homestead mortgage foreclosure rates have been damaging to the economies of the counties in the Twentieth Judicial Circuit; and

WHEREAS, early mediation of contested residential homestead mortgage foreclosure actions could potentially facilitate the laudable goals of communication, facilitation, problem-solving between the parties with the emphasis on self-determination, the parties' needs and interests, procedural flexibility, full disclosure, fairness, and confidentiality. Referring these cases to mediation early in the litigation process will also facilitate and provide a more efficient use of limited judicial and clerk resources in a court system that is already overburdened;

NOW, THEREFORE, IT IS ORDERED:

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FILED
CLERK OF COURTS
2019 APR 17 AM 10:08
BY

Definitions

As used in this Administrative Order, the following terms mean:

“Homestead Mediation Program” or “HMP” means the mediation program contemplated by this Administrative Order which makes mediation available to the parties early during the proceedings involving a contested residential homestead mortgage foreclosure action.

“Plaintiff” means the individual or entity filing to obtain a mortgage foreclosure on residential homestead property.

“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. Having full authority to settle includes, but is not limited to, the authority to approve a loan modification, reinstatement, forbearance, repayment plan, short sale, or deed-in-lieu of foreclosure.

“Borrower” means an individual or individuals named as a party/parties in the foreclosure action who is/are a primary obligor(s) on the promissory note which is secured by the mortgage being foreclosed.

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

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

Scope - Residential Homestead Mortgage Foreclosures

This Administrative Order shall apply to all residential homestead mortgage foreclosure actions filed in the Twentieth 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. This Administrative Order does not apply to commercial or residential non-homestead foreclosure actions. Mediation in commercial or residential non-homestead foreclosure actions shall be governed by

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Procedure

1. ***Delivery of Notice of HMP with Summons.*** After the effective date of this Administrative Order, in all actions to foreclose a mortgage on residential homestead property, the Clerk of Court shall attach to the summons to be served on each defendant a notice regarding mediation in the format of Exhibit 1.

2. ***Borrower Opt-in.*** Upon receipt of the summons and notice, the Borrower may file a responsive pleading within twenty (20) days, in accordance with the summons and rules of court. If the Borrower elects to contest the action and file a responsive pleading, and if the Borrower would like to participate in early mediation, the Borrower shall, within twenty (20) days of service of the summons and notice:
 - a. file with the Clerk a written response to the Complaint, with a copy to Plaintiff's attorney.

 - b. file with the Clerk a completed and signed Homestead Mediation Program Opt-In Form in the format of Exhibit 2, with a copy to Plaintiff's attorney.

 - c. in addition, the Borrower shall complete and sign the Financial Worksheet attached as Exhibit 3, include all attachments requested, and submit the original to Plaintiff's counsel, with a copy to the Court's Mediation Department. The Financial Worksheet and attachments contain confidential information and should not be filed with the Clerk.

Upon receipt of a completed and signed Homestead Mediation Program Opt-In Form, the Clerk shall forward a copy to the Court's Mediation Department.

3. ***Nonparticipation by Borrower.*** If the Borrower does not seek to contest the foreclosure action, or if the Borrower files a responsive pleading, but does not want to participate in early mediation, the Borrower need not opt-in and further provisions of this Administrative Order will be inapplicable. This does not preclude a referral to mediation at a later time during the course of

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Clerk of Court and provide a copy to the attorney for the Plaintiff. The appearance may be limited to representation only to assist the Borrower with mediation, but, if a Borrower secures the services of an attorney, counsel of record must attend the mediation.

8. ***Scheduling Mediation.*** Unless otherwise ordered by the Court, the Court's Mediation Department shall schedule a mediation session to be held within sixty (60) days of entry of the Order of Referral, in accordance with Rule 1.700(a)(1), Florida Rules of Civil Procedure. The date, time, and location of the mediation shall be included as part of the Order of Referral, which shall be filed with the Clerk, and copies mailed to all parties as notice. A mediator from the panel of Florida Supreme Court certified circuit civil mediators will be assigned.

If it is necessary for a party to reschedule a mediation session, notice must be filed and submitted to the Court Mediation Department at least three (3) full business days prior to the mediation date (exclusive of the mediation date). When rescheduling a mediation session, a mutually agreeable date and time must be ascertained between the parties and confirmed with the Court Mediation Department at least three (3) full business days prior to the rescheduled mediation session (exclusive of the mediation date).

As per Rule 1.710(a), Florida Rules of Civil Procedure, the mediation process shall be completed within forty-five (45) days of the first scheduled mediation conference, unless extended by order of the Court or by stipulation of the parties.

9. ***Fee for Mediation.*** The fee for mediation shall be \$300.00 for the first two (2) hours, to be equitably and proportionately divided between the Plaintiff and the Borrower, as provided for by Rule 1.720(g). The Borrower's portion of the mediation fee, \$150.00, is due at the beginning of the mediation session, and shall be payable directly to the Mediator. The Plaintiff's portion of the mediation fee, \$150.00, is due at the beginning of the mediation session, and shall be payable directly to the Mediator. Any additional fees for mediation in excess of the initial two (2) hours shall be apportioned equally between the Borrower and the Plaintiff and shall be payable directly to the Mediator.
10. ***Attendance at Mediation.*** The following persons are required to be physically present at the mediation session: a Plaintiff's representative with

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full authority to settle; Plaintiff's counsel; the Borrower; and the Borrower's counsel of record, if any.

At the time that the mediation is scheduled to physically commence, a staff member of the Court Mediation Department shall, prior to any discussion of the case, take a written roll. That written roll will consist of a determination of the presence of a Plaintiff's representative with full authority to settle; Plaintiff's counsel; the Borrower; and the Borrower's counsel of record, if any. If it is determined that anyone is not present, that party shall be reported as a non-appearance by that party on the written roll. If it is determined that the Plaintiff's representative present does not have full authority to settle, it shall be reported as a non-appearance by the Plaintiff's representative with full settlement authority on the written roll. If it is determined that either party does not have sufficient payment of that party's portion of the mediation fee at the beginning of the mediation session, it shall be reported as a non-appearance by that party. The written roll and any communication associated with taking the written roll, are not mediation communications as defined in Section 13 of this Administrative Order, and, therefore, are not confidential.

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.

Appearance by any party at mediation through the use of communication equipment must be by stipulation of the parties or at the discretion of the Court. Any party appearing through the use of communication equipment shall be responsible for ensuring that the communication equipment functions properly and shall be responsible for all charges incurred. The Mediator cannot be held responsible for the failure of any communication equipment, and failure of the communication equipment shall not constitute good cause for failing to appear at mediation.

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11. ***Failure to Appear at Mediation.*** If the Plaintiff's representative, Plaintiff's counsel, Borrower, or Borrower's counsel of record, if any, fails to appear at a properly noticed mediation session and the mediation does not occur, the party who failed to appear will be responsible for a "no show" cancellation fee of \$300.00.

This is a voluntary program which gives the Borrower the choice to participate. Accordingly, if the Borrower does elect to participate, yet the Borrower or Borrower's counsel of record, if any, fails to appear at mediation, this will be deemed as a waiver of the privilege of further participation in the HMP, mediation will not be rescheduled, the case will proceed accordingly, and the Court Mediation Department shall file a Mediation Coordinator's Report reflecting as such. The Borrower, however, is still responsible for the no show cancellation fee of \$300.00 as required above.

If mediation does not take place due to some reason other than the Borrower or Borrower's counsel of record, if any, failing to appear, the Court's Mediation Department will schedule a new mediation session.

12. ***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 impasse to the Court without comment or recommendation and shall advise the Court who attended the mediation. The Mediator's report to the Court shall be in the format of Exhibit 5.
13. ***Mediation Communications.*** All mediation communications occurring as a result of this Administrative Order, including information provided to the Mediator 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.
14. ***Opposition to Mediation.*** Any party opposing mediation may proceed under Fla. R. Civ. P. 1.700(b).

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

Effective Date

This Administrative Order shall become effective on May 1, 2012, and will remain in full force and effect unless and until otherwise ordered.

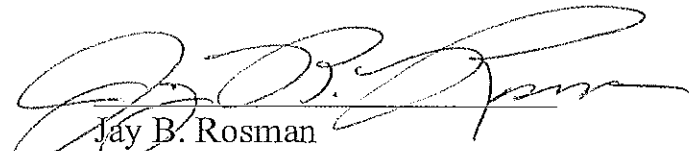
Interpretation

This Administrative Order shall be interpreted in a manner so as to be in compliance with all rules of the Florida Supreme Court and laws of the State of Florida. To the extent that this Administrative Order may conflict with any rule, statute, or law, the rule, statute, or law shall prevail.

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DONE AND ORDERED in Chambers in Fort Myers, Lee County, Florida

this 16 day of April, 2012


Jay B. Rosman
Chief Judge

History. – Administrative Order 1.12 (June 29, 2010); Administrative Order 1.12 (December 6, 2010); Order Vacating Administrative Order 1.12 (December 21, 2011).

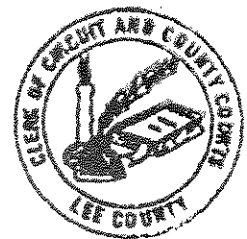
STATE OF FLORIDA, COUNTY OF LEE
FILED FOR RECORD

This 17 Day of April, 2012 Recorded in CIRCUIT
Book 57 Page 31-48 and Record Verified.

CHARLIE GREEN By A. Murray
Clerk Circuit Court Deputy Clerk

Certify this document to be a true and correct copy of the record on file in my office, Charlie Green, Clerk Circuit/ County Court, Lee County, FL. Dated: 4-17-12

By AM
Deputy Clerk



- EXHIBIT 1 -

IN THE CIRCUIT COURT FOR THE TWENTIETH 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 home you may have the opportunity to participate in "mediation." At "mediation," you will meet with a Florida Supreme Court certified mediator appointed by the court and also a representative of the company asking to foreclose your mortgage to see if you and the company suing you can work out an agreement to stop the foreclosure. **The mediator will not be allowed to give you legal advice or to give you an opinion about the lawsuit.** The mediator's job is to remain neutral and not take sides, but to give both sides a chance to talk to each other to see if an agreement can be reached to stop the foreclosure. If you and the company suing you come to an agreement, a settlement agreement will be written up and signed by you and the company suing you. With some limited exceptions, what each side says at the mediation is confidential and the judge will not know what was said at mediation.

The Twentieth Circuit has implemented the **Homestead Mediation Program (HMP)** to provide meaningful mediations early in the foreclosure process for homeowners that meet the criteria listed below. Election into or out of this program does not eliminate the opportunity to mediate at any other time prior to trial as may be allowed by Rule 1.700, Florida Rules of Civil Procedure, and Florida Statute Chapter 44.

Eligibility Criteria for the Homestead Mediation Program:

- The home has a homestead exemption; **and**
- You are the person who borrowed the money for the mortgage; **and**
- The origination of the note and mortgage sued upon was subject to the provisions of the federal Truth in Lending Act, Regulation Z.

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To participate in the Homestead Mediation Program, the borrower must provide all the following documents within 20 days after you were served the summons:

- File with the Clerk a written response to the Complaint, with a copy to Plaintiff's attorney.
- File with the Clerk a completed and signed Homestead Mediation Program Opt-In Form, with a copy to Plaintiff's attorney.
- And, the Borrower shall complete and sign the Financial Worksheet, include all attachments requested, and submit the original to Plaintiff's counsel, with a copy to the Court's Mediation Department.

The Homestead Mediation Program Opt-In Form and the Financial Worksheet can be found on the Court's website at <http://www.ca.cjis20.org/home/main/foreclosure.asp> or by calling the Court Mediation Department at 239-533-3353.

Please note that this program is not to be used as a tactic to delay the foreclosure process and is intended for Borrowers who have the means and ability to effectively mediate their case. An election on the part of the Borrower to opt-in to the HMP does not operate as an automatic stay of the case, but rather, the proceedings, including but not limited to discovery, may continue pending mediation.

The fee for mediation shall be \$300.00 for the first two (2) hours, to be equitably and proportionately divided between the Plaintiff and the Borrower, as provided for by Rule 1.720(g). The Borrower's portion of the mediation fee, \$150.00, is due at the beginning of the mediation session, and shall be payable directly to the Mediator. Any additional fees for mediation in excess of the initial two (2) hours shall be apportioned equally between the Borrower and the Plaintiff and shall be payable directly to the Mediator.

If it is determined that the Borrower does not have sufficient payment for the Borrower's portion of the mediation fee at the beginning of the mediation session, it shall be reported as a failure to appear by the Borrower. Any party that fails to appear at a properly noticed mediation session and the mediation does not occur; the party who failed to appear will be responsible for a "no show" cancellation fee of \$300.00. Due to the voluntary nature of this program by the Borrower, if the Borrower fails to appear, this will be deemed as a waiver of the privilege of further participation in the HMP, mediation will not be rescheduled and the case will proceed accordingly.

If you have questions or for additional information regarding the Homestead Mediation Program, contact the Lee County Mediation office at 239-533-3353 or visit our website at <http://www.ca.cjis20.org/home/main/foreclosure.asp>.

Resources to Assist in the Foreclosure Process

Collier County Bar Association Lawyer Referral Service.....	239-252-8138
Lee County Bar Association Lawyer Referral Service.....	239-334-4491
The Florida Bar Lawyer Referral Service.....	800-342-8011
(for Charlotte, Hendry, and Glades Counties)	
Legal Aid Society of Collier County, Inc. – Naples	239-775-4555
Legal Aid Society of Collier County, Inc. – Immokalee	239-657-7442
Florida Rural Legal Services, Inc. – Fort Myers.....	239-334-4554
Florida Rural Legal Services, Inc. – Punta Gorda	941-505-9007
HUD of SW Florida, providing credit counseling	239-434-2397

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- EXHIBIT 2 -

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN
AND FOR _____ COUNTY, FLORIDA CIVIL DIVISION

Plaintiff

Court Case No _____

Plaintiff Attorney

Judge _____

PLAINTIFF
Vs

Defendant

Defendant Attorney

DEFENDANT

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Homestead Mediation Program Opt-In

I/We hereby certify that I/we voluntarily opt-in to the Homestead Mediation Program (HMP), and meet the eligibility requirements. To ensure a meaningful mediation session I/we also agree to provide all of the following documentation within 20 days of service of the summons and notice.

- File with the Clerk a written response to the Complaint, with a copy to Plaintiff's attorney;
- File with the Clerk a completed and signed Homestead Mediation Program Opt-In Form, with a copy to Plaintiff's attorney;
- And, the Borrower shall complete and sign the Financial Worksheet, include all attachments requested, and submit the original to Plaintiff's counsel, with a copy to the Court's Mediation Department. Do not file the Financial Worksheet and attachments with the Clerk.

I/We also certify that I/we enter into the HMP in good faith. I/We will attend the mediation session, pay the mediation fee at the beginning of the mediation session, and not use this program strictly as a tactic to delay the foreclosure process.

Signature of Borrower

Date

Signature of Co-Borrower

Date

Type or Print Name

Type or Print Name

- EXHIBIT 3 -
CONFIDENTIAL INFORMATION
DO NOT FILE WITH THE CLERK OF COURTS

HOMESTEAD 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 (last 4 digits only)	Date of Birth (mm/dd/yyyy)	Social Security Number (last 4 digits only)	Date of Birth (mm/dd/yyyy)
XXX-XX-		XXX-XX-	
<input type="checkbox"/> Married	<input type="checkbox"/> Civil Union/ Domestic Partner	<input type="checkbox"/> Married	<input type="checkbox"/> Civil Union/ Domestic Partner
<input type="checkbox"/> Separated	<input type="checkbox"/> Unmarried (single, divorced, widowed)	<input type="checkbox"/> Separated	<input type="checkbox"/> Unmarried (single, divorced, widowed)
Dependents (Not listed by Co-Borrower)		Dependents (Not listed by Borrower)	
Present Address (Street, City, State, Zip)		Present Address (Street, City, State, Zip)	

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SECTION 2: EMPLOYMENT INFORMATION			
Employer	<input type="checkbox"/> Self Employed	Employer	<input type="checkbox"/> Self Employed
Position/Title	Date of Employment	Position/Title	Date of Employment
Second Employer		Second Employer	
Position/Title	Date of Employment	Position/Title	Date of Employment
	Borrower	Co-Borrower	Total
Gross Salary/Wages			
Net Salary/Wages			
Unemployment Income			
Child Support/Alimony			
Disability Income			
Rental Income			
Other Income			
Total (do not include Gross income)			

SECTION 3: EXPENSE AND LIABILITIES

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

SECTION 4: ASSETS

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

Reason for Delinquency/Inability to Satisfy Mortgage Obligation:

- | | | |
|--|---|---|
| <input type="checkbox"/> Reduction in income | <input type="checkbox"/> Medical issues | <input type="checkbox"/> Death of family member |
| <input type="checkbox"/> Poor budget management skills | <input type="checkbox"/> Increase in expenses | <input type="checkbox"/> Business venture failed |
| <input type="checkbox"/> Loss of Income | <input type="checkbox"/> Divorce/separation | <input type="checkbox"/> Increase in loan payment |
| <input type="checkbox"/> Other: _____ | | |

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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 default and have attached required documentation.

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

By signing below, I / we certify the information provided is true and correct to the best of my / our knowledge.

_____ Signature of Borrower	_____ SSN (last 4 digits only)	_____ Date
_____ Signature of Co-Borrower	_____ SSN (last 4 digits only)	_____ Date

Please attach copies of the following and send to the Plaintiff's Counsel with a copy to the Court's Mediation Department at 1700 Monroe Street, Fort Myers, Florida 33901.

- ✓ Last two (2) federal tax returns filed
- ✓ Proof of income (e.g. pay stubs for the last 30 days)
- ✓ Past two (2) bank statements
- ✓ If self-employed, attach a copy of the past six month's profit and loss statement
- ✓ Copy of current utility bill with the street address of the foreclosed property as the service and billing address
- ✓ Copies of any awards of alimony, child support, social security disability benefits or income from any other source
- ✓ If another person is assisting with the payment of the mortgage, a signed statement of contribution

Do not file this document or attachments with the Clerk of Courts.

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

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IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR
_____ COUNTY, FLORIDA CIVIL DIVISION

Plaintiff

Plaintiff Attorney
Court Case No _____
Mediation No _____
Judge _____

PLAINTIFF
Vs

Defendant

Defendant Attorney

DEFENDANT

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ORDER OF REFERRAL TO MEDIATION
FOR RESIDENTIAL HOMESTEAD MORTGAGE FORECLOSURE ACTIONS

In accordance with local Administrative Order 1.14, and Fla. R. Civ. P. 1.700, IT IS ORDERED that the above-referenced case is hereby referred to mediation, and mediation is hereby scheduled for:

_____ at _____ at Court Mediation Department
Day, Date Time _____

The General Provisions attached hereto shall be applicable and are incorporated herein.

DONE AND ORDERED this _____ DAY OF _____, 20_____, in chambers at _____, _____ County, Florida.

Judge Name
Circuit Court Judge

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact _____ whose office is located in _____, _____, Florida _____, and whose telephone number is (____) _____, at least 7 days before your scheduled appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

GENERAL PROVISIONS

1. For purposes of this Order, _____ is appointed as Coordinator to work with the Mediator and to coordinate the mediation session. The telephone number for questions and inquiries is _____, and the fax number is _____. Any and all correspondence pertaining to mediation should be forwarded to the Court Mediation Department, _____, _____, Florida _____.
2. On the date scheduled for mediation, please report to the Court Mediation Department for assignment of the Mediator and the Mediation conference room.
3. The general rules governing mediation are contained in this Order and in Florida Statute Chapter 44, and Fla. R. Civ. P. 1.700, et seq.
4. A notice seeking to reschedule a mediation session must be filed with the Court Mediation Department at least three (3) full business days prior to the mediation date (exclusive of the mediation date). When rescheduling a mediation session, a mutually agreeable date and time must be ascertained between the parties and confirmed with the Court Mediation Department, at least three (3) full business days prior to the mediation date (exclusive of the mediation date).
5. The parties may submit a brief written summary of the facts and issues with the Court Mediation Department, seven (7) days prior to the mediation. The written summary is not to be filed with the Clerk of Court. However, courtesy copies may be sent to all attorneys of record or opposing parties. The case number, mediation number and date of the conference shall be included in the heading of the mediation summary. In the written summary, counsel for corporate parties shall state the name and general job description of the employee or agent who will attend and represent the corporate party.
6. It is mandatory that the following persons be physically present at the mediation session, unless specifically provided otherwise by the court: a Plaintiff's representative with full authority to settle; Plaintiff's counsel; the Borrower; and the Borrower's counsel of record, if any. When more than one Borrower is named as a party in the foreclosure action who are the primary obligors on the promissory note secured by the mortgage being foreclosed, each individual must participate in the mediation session.
7. The participants shall be prepared to spend as much time as necessary to settle the case and/or be prepared to mediate until an impasse is declared by the Mediator.
8. The Mediator has no power to compel or enforce settlement agreements. If a settlement is reached in this case, it shall be the responsibility of the parties or their attorneys of record to reduce the agreement to writing and to comply with Fla. R. Civ. P. I. 730(b), unless waived.
9. It is the responsibility of the parties or their attorneys of record to advise the Court Mediation Department of any party not identified in this Order, or parties who are added to this case

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after the issuance of this Order, and to notify those parties of the date, time and location of the mediation session. Additionally, it is the responsibility of the parties or their attorneys to inform the Court Mediation Department of any dispositive matters that would affect the scheduled mediation session.

10. The Mediator shall be compensated at the rate of \$150.00 per hour with a two (2) hour minimum. Mediation fees shall be equitably and proportionately divided between the Plaintiff and the Borrower, as provided for by Rule 1.720(g). The Borrower's portion is due at the beginning of the mediation session, and shall be payable directly to the Mediator. The Plaintiff's portion of \$150.00 is due at the beginning of the mediation session, and shall be payable directly to the Mediator. Any additional fees for mediation in excess of the initial two (2) hours shall be apportioned equally between the Borrower and the Plaintiff and payable directly to the Mediator. If it is determined that either party does not have sufficient payment at the beginning of the mediation session, it shall be reported as a non-appearance by that party.
11. If the Plaintiff's representative; Plaintiff's counsel; Borrower; or Borrower's counsel of record, if any, fails to appear at a properly noticed mediation session and the mediation does not occur, the party who failed to appear will be responsible for a no-show cancellation fee of \$300.00. Due to the voluntary nature of this program by, if the Borrower or Borrower's counsel of record, if any, fails to appear at mediation, mediation will not be rescheduled, and the case will proceed accordingly. The Borrower, however, is still responsible for the no show cancellation fee of \$300.00 as required above. Otherwise, the Court's Mediation Department will schedule a new mediation session.
12. The Court has the power and will impose sanctions against any party failing to attend the mediation session, against any party failing to pay their portion of the mediation fees in a timely fashion, and against any party for misconduct. Sanctions include, but are not limited to, entry of default; costs being assessed, including attorney fees; the striking of pleadings; and removing the case from the trial calendar.
13. All discussions, representations, and statements made at the mediation session shall be privileged as settlement negotiations, and nothing related to the mediation session shall be admitted at trial or subject to discovery.
14. Any party opposing mediation may proceed under Fla. R. Civ. P. 1.700(b).

Certificate of Service

I hereby certify that a true and correct copy of the foregoing has been furnished by regular U.S. mail this _____ day of _____, 20____ to the above named parties or their counsel.

By: _____

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- EXHIBIT 5 -

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

Case No(s):

Plaintiff(s),

MEDIATOR REPORT

vs.

Defendant(s).

Pursuant to the Court's Order, a Mediation Conference was conducted by Florida
Supreme Court Certified Circuit Court Mediator _____ on
_____, 20_____.

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

Plaintiff 's Representative

Plaintiff's Attorney

Borrower

Borrower's Attorney

Others physically present: _____

Parties present by electronic equipment: _____

The result of the Mediation Conference is as follows:

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

_____ The parties reached a total impasse.

_____ The mediation has been continued until _____

(Day, Date and Time)

Mediator Signature: _____

[Certificate of Service]

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