



LARRY COLLETON
PRESIDENT

KENT R. SPUHLER
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RESIDENTIAL FORECLOSURES
Summary of Current (4/15/09) Administrative Orders:

1st Circuit, Escambia, Santa Rosa, Okaloosa and Walton Counties – Effective March 17, 2008 with implementation on April 1, 2008, all owner-occupied residential foreclosure actions must file Form "A" with the action providing among others things a lender representative with the authority to settle. This form shall go immediately to Managed Mediation with the Collins Center. Unless the parties stipulate in writing to the use of an alternate mediator, the parties and the presiding judge are deemed to have stipulated to referral of the mediation to the Collins Center. All Plaintiffs must file a copy of the promissory note, mortgage and any pooling and servicing agreement that may affect the plaintiff's ability to settle. Plaintiff must pay the nonrefundable managed mediation fee of \$750. Defendants will be given a list of HUD and National Foreclosure Mitigation Counseling Program counselors who can assist the defendant in preparing for the mediation. A representative of the counseling agency may accompany the defendant to the mediation. If defendant hires an attorney, the attorney must file a notice of appearance. The appearance may be limited to the mediation only. Includes a Borrowers Financial Information form that the Collins Center may require, along with other documents from the borrower. (See 11th and 19th Circuits)

4th Circuit, Duval County – Requires that for all foreclosures filed in Duval County a copy of "Notice of Legal Assistance Regarding Foreclosure Cases" be attached. Gives the number for JALA on the Notice. Dated June 8, 2008.

4th Circuit, Nassau County – Effective July 7, 2008, no foreclosures may be heard with either party appearing by telephone.

6th Circuit, Pasco and Pinellas Counties – Effective January 19, 2009 all foreclosures on homesteads by institutional lenders must include the Foreclosure Judgment Packet – notice with information to homeowner, lender contact information, certificate of compliance with procedures (plaintiff must indicate information about the original note), Uniform Final Judgment.

7th Circuit, St. Johns County – Effective November 12, 2008, notice of legal assistance served with summons.

9th Circuit, Orange and Osceola Counties – Effective May 1, 2008 no telephone hearings in foreclosure cases.



9th Circuit, Orange and Osceola Counties – Effective February 25, 2009 at option of the court a foreclosure case may be referred for mediation. At time Plaintiff/lender files foreclosure, Defendant/homeowner must be served with a form Notice providing lender contact information for loan workout department and notice of homeowner's right to mediation. Orange County Bar provides a list of certified mediators. Plaintiff pays cost of mediation at \$275 for 2 hours and \$100 per hour thereafter, with one half of the cost recoverable.

11th Circuit, Miami-Dade County – Effective May 1, 2009 upon filing a homestead residential foreclosure action the plaintiff/lender must include a fee for \$750 payable to the Collins Center. Failure to pay the fee results in dismissal without prejudice. When the Collins Center receives the fee, they have 30 days to find the homeowner/defendant to "substantiate the foreclosure action and advise of availability of financial counseling and mediation." The Collins Center shall advise the court if they are unable to locate the homeowner and the court may set final hearing or enter summary judgment. If the homeowner is found by the Collins Center, the homeowner may be referred to a HUD Counselor. The HUD Counselor has 21 days to help the homeowner complete financial forms provided by the Collins Center. The homeowner's financial forms are provided to the lender/plaintiff by the Collins Center. The mediator will be paid \$350. If the mediation does not occur for one of the specific reasons stated in the administrative order, the plaintiff/lender will be refunded the mediator fee of \$350. Within 5 days of the original service, parties may stipulate to not using the mediation services. (See 1st and 19th Circuits)

12th Circuit, Desoto, Sarasota and Manatee Counties – Effective December 1, 2008 on all cases filed after this date the Homestead Foreclosure Conciliation Program (HFCCP) requires that lenders communicate with the homestead owners to explore options to litigation. The HFCCP does not require mediation but requires lenders to schedule a phone conference with homestead owners. Lender's attorney must certify the conference was at least attempted. Pro bono attorneys make a limited appearance. There are sanctions for lenders' failure to comply in good faith with the Administrative Order.

12th Circuit, Desoto, Sarasota and Manatee Counties – Effective March 9, 2009 no telephonic appearances in mortgage foreclosure cases.

14th Circuit, Bay County, the Honorable Michael Overstreet's court – Effective February 1, 2009, no telephonic appearance at mortgage foreclosure hearings and original note and mortgage to be attached.

15th Circuit, Palm Beach County – Effective November 1, 2008 if a borrower wishes to modify their loan, they must complete the Defendant's Foreclosure Questionnaire provided a financial affidavit, 2 years of tax returns, 3 months of pay stubs and proof of living in the property. Lender must process request and respond. Borrower may also request a short sale by providing lender's attorney the sales contract, HUD 1 statement, real estate agent contacts. Mediation may then be ordered by the court upon request by either party.



17th Circuit, Broward County, The Honorable David Krathen division – Effective January 17, 2009, Judge Krathen issued an order requiring all mortgage foreclosure cases in his division complete a notarized form verifying among other things that the original note is filed or that a lost note affidavit is included and has been executed by an officer of the institution who has authority to bind the plaintiff.

18th Circuit, Brevard County – Effective February 9, 2009 if a responsive pleading seeking relief is filed by any Defendant then the case is referred to mediation before final or summary judgment hearing. Plaintiff may schedule mediation through the Supreme Court Certified Civil Mediator or the Brevard Civil Mediation Department. If the mediation department is used the fee is \$250 paid in advance for 1.5 hours. If the matter is not resolved the fee may be added as a cost to the final judgment. A mediation agenda is provided with options: repayment; home saver advance under Fannie Mae; forbearance; modification; sale; deed in lieu; consent judgment; reverse mortgage. A representative with authority to settle for Plaintiff must be available, but can appear by phone.

18th Circuit, Seminole County – Effective January 29, 2009 if a responsive pleading seeking relief is filed by any Defendant then the case is referred to mediation before final or summary judgment hearing. Plaintiff may schedule mediation through the Supreme Court Certified Civil Mediator or the Seminole County Court Mediation Department. If the mediation department is used the fee is \$250 paid in advance for 1.5 hours. If the matter is not resolved the fee may be added as a cost to the final judgment. A representative with authority to settle for Plaintiff must be available, but can appear by phone.

19th Circuit, Indian River, Martin, Okeechobee and St. Lucie Counties – Effective March 13, 2009 all owner occupied residential foreclosure actions must file Form "A" with the action providing among others things a lender representative with the authority to settle. This form shall go immediately to Managed Mediation with the Collins Center. Plaintiff must also file a copy of the promissory note, mortgage and any pooling and servicing agreement that may affect the plaintiff's ability to settle. Plaintiff must pay the nonrefundable managed mediation fee of \$750. Defendants will be given a list of HUD and National Foreclosure Mitigation Counseling Program counselors who can assist the defendant in preparing for the mediation. A representative of the counseling agency may accompany the defendant to the mediation. If defendant gets a legal aid or pro bono attorney, the attorney may file a limited notice of representation only through the conclusion of the mediation process. Includes a Borrowers Financial Information form that the Collins Center may require along with other documents. (See 1st Circuit)

Supreme Court of Florida – Dated March 9, 2009 Administrative Order creating a statewide taskforce to report and recommend to the court a system of mediation or other alternate dispute resolution efforts that would protect the rights of the homeowners and lenders. Interim report due by May 8, 2009. Final report due no later than August 15, 2009.