

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR SEMINOLE COUNTY,
FLORIDA

ADMINISTRATIVE ORDER NO:
12-25-S
SUPERSEDES 09-09-S AMENDED,
11-17-S and 12-12-S

**IN RE: MEDIATION – MANDATORY MEDIATION CIRCUIT COURT SEMINOLE COUNTY
OWNER-OCCUPIED RESIDENTIAL MORTGAGE FORECLOSURES**

WHEREAS, high residential foreclosure rates are having a damaging impact on the economy of Seminole County, the State of Florida, and the financial community; and,

WHEREAS, owner-occupied residential foreclosures place increased strain on family relationships, leading to higher divorce rates, increased incidents of domestic violence, and adverse impacts on children; and,

WHEREAS, the Judges in the Seminole County Circuit Civil Divisions are routinely advised by owner-occupant litigants that it is difficult, if not outright impossible, to negotiate settlements due to the inability to communicate with appropriate representatives of the lender or the lender's attorneys after the complaint for foreclosure has been filed. In many of these cases, the first opportunity the owner/occupant litigants have to discuss the issues and attempt to resolve their differences is at a hearing on the lender's motion for summary judgment, at trial or later at the foreclosure sale. By that time in most cases, all judicial labor has been expended and the costs and attorney's fees have increased significantly. The failure of the parties to communicate in a timely fashion results in unnecessary waste of resources by the court, the court staff, and the clerk's office and could be obviated by pre-judgment mediation; and,

WHEREAS, Florida Rule of Civil Procedure 1.700(a) provides that a presiding judge may enter an order referring all or any part of a contested civil matter to mediation or arbitration; and

WHEREAS, foreclosure actions are equitable in nature, the law abhors a forfeiture, and the nature of a owner-occupied residential foreclosure mandates that the court give full, fair, and equitable consideration to all issues in these cases rather than deal with them in a summary fashion; and,

WHEREAS, the presiding Seminole Circuit Civil Division judges have determined that greater economy of limited judicial and clerk resources would occur if contested homeowner-occupied residential foreclosure cases in Seminole County were required to be scheduled for mediation before being set for final hearing;

NOW, THEREFORE, IT IS ORDERED:

1. For all homeowner-occupied residential mortgage foreclosure actions filed in Seminole County, Florida, and in which responsive pleadings or other filings asserting viable defenses or seeking any form of affirmative relief are filed by a homeowner Defendant, this order shall constitute an order of referral to mediation at Plaintiff's expense. Counsel for plaintiff shall coordinate and schedule the case for mediation prior to the date the matter is set for final or summary judgment hearing. The plaintiff may schedule mediation with any Supreme Court Certified Civil Mediator.
2. The plaintiff shall make a reasonable effort to coordinate the mediation with all parties and shall give the defendant homeowner(s) and any un-defaulted inferior lien holders reasonable advance notice of the date, time, and place of the mediation. When plaintiff gives notice of the mediation, plaintiff shall also give written notice identifying the lender's representative and attesting to the representative's authority to participate in mediation and settle on behalf of the lender.
3. Nothing in this Order is intended to prevent the plaintiff from filing all pleadings necessary to proceed to final or summary judgment and scheduling a hearing on a motion for summary judgment or a trial, so long as the hearing or trial is set to occur after the conclusion of the scheduled mediation session or mediation has been waived as permitted under paragraph 2 above.
4. Plaintiff shall provide lender's loan modification package to defendant(s) within ten (10) days after scheduling mediation, and the defendant(s) shall provide the completed package at least fifteen (15) days prior to the date of the mediation. Upon completion of the mediation, the mediator shall file a written report with fifteen (15) days from the date of the mediation. Plaintiff's representative may appear telephonically if all paperwork has been exchanged as set forth herein.
5. If defendant(s) fail to appear at a properly noticed mediation or if the matter impasses after mediation, the matter may be promptly noticed for final or summary judgment, provided all requirements of F.R.C.P. 1.510 have been met. If plaintiff fails to appear for mediation or no representative with full settlement authority appears, the action shall be dismissed without prejudice.
6. Lenders are encouraged to enter into pre-suit mediation to expedite the process and hopefully result in fewer foreclosures being filed.

DONE AND ORDERED this 26th day of July, 2012.

ALAN A. DICKEY
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CHIEF JUDGE

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