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No. 33

IN THE SUPREME COURT OF THE STATE OF HAWAII

EM. RIMANDO  
CLERK, APPELLATE COURTS  
STATE OF HAWAII

2009 SEP 29 AM 9:43

FILED

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In the Matter of the  
FORECLOSURE MEDIATION PILOT PROJECT  
Circuit Court of the Third Circuit, State of Hawai'i

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ORDER ESTABLISHING FORECLOSURE MEDIATION PILOT PROJECT  
IN THE THIRD CIRCUIT COURT OF THE STATE OF HAWAII  
(By: Moon, C.J., Nakayama, Acoba, Duffy, and Recktenwald, JJ.)

In consideration of the Foreclosure Mediation Protocol proposed by the Access to Justice Commission and having considered the Report of the Committee to Review the Foreclosure Mediation Protocol in accordance with the May 12, 2009 order establishing the Committee,

IT IS HEREBY ORDERED that a Foreclosure Mediation Pilot Project (hereinafter "FMPP") is established in the Third Circuit Court of the State of Hawai'i effective November 1, 2009, to October 31, 2010. The FMPP shall apply only to foreclosure actions filed in the Third Circuit Court seeking foreclosure of a mortgage on borrower-occupied residential property (hereinafter "Residential Foreclosure Action"). In accordance herewith, and notwithstanding any court rule to the contrary,

IT IS FURTHER ORDERED that in any Residential Foreclosure Action, a Foreclosure Mediation Notice that

substantially complies with Attachment A in form and content, shall be served along with the complaint and summons.

IT IS FURTHER ORDERED that a borrower is eligible to participate in the FMPP, provided the borrower occupies the subject property as the borrower's primary residence. An eligible borrower may request mediation by (1) completing the Foreclosure Mediation Request and (2) filing the Foreclosure Mediation Request as follows: (a) if the property is located in the Districts of Kau, Puna, North Hilo, South Hilo, or Hamakua, and the case will be heard in Hilo, filing must be at the Legal Documents Branch/Section of the Third Circuit Court, Hale Kaulike, 777 Kilauea Avenue, Hilo, Hawai'i 96720, or (b) if the property is located in the Districts of North Kona, South Kona, North Kohala, or South Kohala, and the case will be heard in Kona, filing must be at the Legal Documents Branch of the Third Circuit Court, Kona Division, Keakealani Building, 79-1020 Haukapila Street, Kealakekua, Hawai'i 96750.

IT IS FURTHER ORDERED that the borrower shall (1) mail or deliver a file-stamped copy of the Foreclosure Mediation Request to the attorney for the plaintiff, and (2) mail or deliver a file-stamped copy to either

- (a) The Honorable Greg Nakamura, Third Circuit Court, Hale Kaulike, 777 Kilauea Avenue, Hilo, Hawai'i 96720, if the case is to be heard in Hilo, or to

(b) The Honorable Ronald Ibarra, Third Circuit Court, Kona Division, Keakealani Building, 79-1020 Haukapila Street, Kealahou, Hawai'i 96750, if the case is to be heard in Kona,

no later than fifteen (15) days after service of the Foreclosure Mediation Notice with the complaint and summons. Upon the filing of the Foreclosure Mediation Request, the deadline to file and serve an answer to the complaint and to seek relief by dispositive motion is suspended until further order of the court.

IT IS FURTHER ORDERED that within ten (10) days after the filing date of the Foreclosure Mediation Request, the plaintiff shall schedule a conference with Judge Nakamura or Judge Ibarra, as appropriate, that shall be attended by all parties. At the conclusion of the conference, Judge Nakamura or Judge Ibarra, as appropriate, may order the parties to participate in mediation. If mediation does not result in a settlement of the proceedings, Judge Nakamura or Judge Ibarra, as appropriate, shall set the time for defendant to file and serve an answer to the complaint and for filing of any dispositive motions.

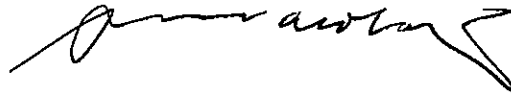
IT IS FURTHER ORDERED that this order shall not apply to cases ordered to mediation pursuant to Rule 12.2 of the Rules of the Circuit Courts of the State of Hawai'i. The FMPP shall terminate on October 31, 2010, unless extended by order of the Supreme Court of Hawai'i.

IT IS FURTHER ORDERED that, within 60 days after termination of this pilot project, a report about the pilot project shall be submitted for this court's consideration. The report shall include, but need not be limited to, the number of Foreclosure Mediation Requests filed, the number of cases in which mediation was ordered, and the disposition of each case ordered to mediation.

DATED: Honolulu, Hawai'i, September 29, 2009.



Dima C. Traxayama



Man E. Adair

Man E. Adair

Circuit Court of the Third Circuit

Case Name: \_\_\_\_\_

Civil Number: \_\_\_\_\_

**FORECLOSURE MEDIATION NOTICE**

**You have been served with a foreclosure complaint that could cause the loss of your home.**

The Court has a **Foreclosure Mediation Pilot Project** to assist parties to resolve foreclosure cases. You are eligible to participate in mediation under this Program if: (1) you are the borrower or co-borrower, and (2) you occupy the property as your primary residence.

Foreclosure mediation is a process in which a neutral mediator assists parties in trying to reach a voluntary agreement to avoid foreclosure. To help you prepare for mediation you should consult with an attorney and with a HUD-certified counseling agency (which you can find by calling 1-888-995-4673 and/or going to [www.995hope.org](http://www.995hope.org) or [www.gov/offices/hsg/sfh/hcc/hccprof14.cfm](http://www.gov/offices/hsg/sfh/hcc/hccprof14.cfm)). You may also bring your attorney to the mediation.

To participate in the Foreclosure Mediation Pilot Project, no later than 15 days after you were served with this Notice, you must complete the Foreclosure Mediation Request below and file these two pages (original and 3 copies) at:

Legal Documents Branch/Section  
Circuit Court of the Third Circuit  
Hale Kaulike  
777 Kilauea Avenue  
Hilo, Hawai'i 96720,

if the property is located in the Districts of Kau, Puna, North Hilo, South Hilo, or Hamakua, and the case will be heard in Hilo; or at:

Legal Documents Branch  
Third Circuit Court  
Kona Division  
Keakealani Building  
79-1020 Haukapila Street  
Kealahou, Hawai'i 96750,

if the property is located in the Districts of North Kona, South Kona, North Kohala, or South Kohala, and the case will be heard in Kona.

You must immediately mail or deliver a file-stamped copy of these two pages to the Plaintiff's attorney, \_\_\_\_\_, whose address is \_\_\_\_\_ and to: \_\_\_\_\_

