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FILED

JAN 17 2012

JOEY HASTINGS, CLERK
By: *Mari Ketchum Stackhouse*
DEPUTY CLERK

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN THE FOR THE COUNTY OF WASHOE

IN THE ADMINISTRATIVE MATTER OF:

THE ASSIGNMENT AND RULES GOVERNING
PETITIONS FOR JUDICIAL REVIEW IN
FORECLOSURE MEDIATION CASES IN THE
SECOND JUDICIAL DISTRICT COURT

ADMINISTRATIVE ORDER 2012-2

WHEREAS, the Nevada Supreme Court issued an Order Adopting Foreclosure Mediation Rules governing the Foreclosure Mediation Program in ADKT 435 on June 30, 2009, which has been amended September 28, 2009, November 4, 2009, and March 1, 2011;

WHEREAS, Foreclosure Mediation Rule 5(7)(f) provides:

- (f) A party to the mediation may file a petition for judicial review with the district court in the county where the notice of default was properly recorded seeking a determination of bad faith participation and sanctions pursuant to NRS Chapter 107 as amended. All such petitions shall be reviewed by the district court in accordance with Nevada Rules of Civil Procedure and NRS Chapter 107.

WHEREAS, the Second Judicial District issued an Administrative Order on November 16, 2009, pertaining to the management of Petitions for Judicial Review arising out of the Foreclosure Mediation Program that was established by the Nevada Supreme Court;

1 WHEREAS, the Administrative Order of November 16, 2009 expires on December 31,
2 2011, and this Court finds an extension of this Administrative Order relating to the management
3 of Petitions for Judicial Review arising from the Foreclosure Mediation Program appropriate;

4 WHEREAS, the assignment of all Petitions for Judicial Review of Foreclosure
5 Mediations to a district judge in the general jurisdiction division will allow for priority
6 calendaring and hearing of these petitions thus being an efficient management decision for the
7 court;

8 WHEREAS, judicial assignment and timely administration of Petitions for Judicial
9 Review of Foreclosure Mediations pursuant to NRS Chapter 107 requires the extension of this
10 Administrative Order to guide the management of these Petitions for Judicial Review;

11 WHEREAS, Second Judicial District Court Rule 2(6) provides that the Chief Judge
12 supervise case flow management. THEREFORE,

13 1. A Petition for Judicial Review of the Foreclosure Mediation Program shall be assigned
14 to a Foreclosure Mediation Court docket if the subject matter of the action is:

15 (a) A dispute concerning the conduct of parties involved in a Mediation conducted
16 under the Foreclosure Mediation Program pursuant to NRS 107.086.

17 (b) The enforcement of an agreement reached by the parties in Mediation under the
18 Foreclosure Mediation Program pursuant to NRS 107.086.

19 2. Actions in which the primary claim alleges wrongful foreclosure, class actions related
20 to foreclosure, quiet title, or actions arising from a landlord-tenant relation shall not be included
21 in the Foreclosure Mediation Court docket.

22 3. A party in a Petition for Judicial Review arising from the Foreclosure Mediation
23 Program assigned to another department of this court may request that the action be transferred
24 to the Foreclosure Mediation Court docket. Upon filing of such a request, the clerk shall transfer
25 the case file to the presiding judge of the Foreclosure Mediation Court who shall thereupon
26 determine whether to assume jurisdiction of the case. The decision of the presiding judge of the
27 Foreclosure Mediation Court to accept or decline jurisdiction of the action is final, and is neither
28 appealable nor reviewable upon any petition for extraordinary relief.

1 4. Any judge of the Foreclosure Mediation Court may hear and decide all other civil and
2 criminal actions assigned to such judge as any other general jurisdiction district court judge.

3 5. The Chief Judge shall assign a District Judge of the Second Judicial District to the
4 Foreclosure Mediation Court who shall serve for a term of two years unless reappointed.

5 6. Subject to approval by the judge of the Foreclosure Mediation Court and the Chief
6 Judge, an action filed in any other judicial district of Nevada may be transferred to the
7 Foreclosure Mediation Court of this District if all parties and the district judge assigned to the
8 case consent.

9 7. The judge of the Foreclosure Mediation Court may transfer a Foreclosure Mediation
10 action to another judge of this district for any and all proceedings, subject to the consent of the
11 judge to whom the action is transferred.

12 8. If any judge of the Foreclosure Mediation Court is the subject of a peremptory
13 challenge pursuant to SCR 48.1, the clerk shall randomly reassign the case to another general
14 jurisdiction judge of the Second Judicial District Court.

15 **IT IS HEREBY ORDERED:**

16 1. That Hon. Patrick Flanagan shall hear all Petitions for Judicial Review of
17 Foreclosure Mediations seeking enforcement of any agreement reached by the parties to the
18 mediation, a determination of bad faith participation and/or sanctions pursuant to NRS Chapter
19 107 and the Nevada Rules of Civil Procedure for as long as the Chief Judge determines that the
20 interests of the district court are promoted by the use of that this docket assignment for these
21 cases.

22 2. That Petitions for Judicial Review filed in the Second Judicial District Court
23 pursuant to the Amended Supreme Court Foreclosure Mediation Rules and NRS Chapter 107,
24 shall be as follows:

25 (a) A petitioner seeking judicial review under authority of NRS 107 must first file
26 and then serve a Petition for Judicial Review with accompanying memorandum of points and
27 authorities in support thereof within thirty (30) calendar days of receipt of Mediator's Statement.

28 The Petition must include the Mediator's Statement as an Exhibit thereto.

1 (b) Within three (3) judicial days of the filing of the Petition, Petitioner must file
2 a request for Transmission of the Record and serve it on the Administrator of the Foreclosure
3 Mediation Program.

4 (c) the Petitioner shall promptly serve the Petition by certified mail in accordance
5 with the Foreclosure Mediation Rule 5(7)(f) and NRCP 5(b)(2)(B).

6 (d) The Petition for Judicial Review shall be reviewed by the district court in
7 accordance with the Nevada Rules of Civil Procedure, NRS Chapter 107, and any local rule or
8 administrative order adopted by the judicial district to adjudicate such petitions.

9 (e) The petitioner must cause the Petition for Judicial Review to be transmitted to
10 the District Court and served on any party and/or person appearing at the mediation on behalf of
11 a party, by certified or register mail, return receipt requested.

12 (f) A Petition for Judicial Review that names the Administrator as a respondent
13 must be served upon the Administrator at the Administrative Office of the Courts, 201 South
14 Carson Street, Carson City, Nevada 89701, by certified or registered mail, return receipt
15 requested. Upon receipt of notice of the filing of a Petition for Judicial Review by the
16 Administrator, and until final resolution of that action, the Administrator, or designee, shall
17 refrain from taking any action which will adversely affect any party to the mediation.

18 (g) The Respondent must file and serve a Response with accompanying
19 memorandum of points and authorities, if desired, in opposition to the Petition for Judicial
20 review within thirty (30) calendar days after service of the Order for Judicial Review.

21 (h) Petitioner may file and serve Reply points and authorities, if desired, not later
22 than fifteen (15) calendar days after service of Respondent's Response.

23 (i) Following the filing of the Petition seeking judicial review, the Court shall
24 schedule a hearing at which the parties shall present argument as to whether or not any party to
25 the Mediation participated in the mediation in bad faith or to enforce any agreements and/or to
26 determine whether sanctions should issue against any party to the Mediation. If the Court
27 determines that good cause is shown for the issuance of sanctions, the Court may schedule an
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1 Evidentiary Hearing to determine whether or not to issue sanctioned as provided for in Chapter
2 107 and the Foreclosure Mediation Rules adopted by the Supreme Court.

3 (j) All memoranda of points and authorities filed in proceedings involving
4 petitions for judicial review must be in the form provided for appellate briefs in Rule 28 of the
5 Nevada Rules of Appellate Procedure.

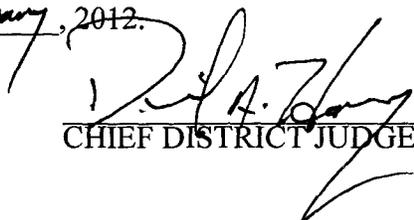
6 (k) Upon completion of the evidentiary hearing the court shall timely issue
7 findings of fact and conclusions of law.

8 (l) Continuances or extensions may be granted upon written stipulation or good
9 cause shown.

10 (m) The statement of the Mediator made in connection with these proceedings is
11 admissible without the necessity of any additional foundation or testimony of the Mediator.

12 3. This Administrative Order shall be in effect until December 31, 2013, or until
13 specifically modified or rescinded by subsequent Administrative Order.

14 DATED this 17th day of January, 2012.

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16 CHIEF DISTRICT JUDGE
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