

# NOTICE TO THE BAR

## **RESIDENTIAL MORTGAGE FORECLOSURE MEDIATION PROGRAM** **– RULE RELAXATION ORDER**

The Supreme Court Order of November 17, 2008, which accompanies this Notice, relaxes and supplements several Rules of Court in order to implement New Jersey's Residential Mortgage Foreclosure Mediation Program.

Foreclosure plaintiffs' attorneys should note that, pursuant to the relaxation of *Rules* 4:4-4 and 4:64-1(d), as of January 5, 2009 informational and instructional materials on the Foreclosure Mediation Program must be served on homeowner-defendants with the summons and complaint, and again with the notice of motion for judgment. These informational and instructional materials are posted on the Judiciary's Internet web site ([www.njcourtsonline.com](http://www.njcourtsonline.com)).

Questions concerning this Notice or the Foreclosure Mediation Program should be directed to Kevin M. Wolfe, Chief, Civil Practice Liaison, Civil Practice Division, Administrative Office of the Courts, at 609-292-8470 or [Kevin.Wolfe@judiciary.state.nj.us](mailto:Kevin.Wolfe@judiciary.state.nj.us).

/s/ Glenn A. Grant

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Glenn A. Grant, J.A.D.  
Acting Administrative Director of the Courts

**Dated: November 19, 2008**

# SUPREME COURT OF NEW JERSEY

Whereas, the number of residential mortgage foreclosure actions recently filed in the Superior Court of New Jersey demonstrates that New Jersey is suffering a mortgage foreclosure crisis;

Whereas, a residential mortgage foreclosure mediation program will provide a neutral forum for certain residential borrower-homeowners in foreclosure and their lenders to work out new mortgage terms or other agreements mutually acceptable to both the borrower-homeowners and the lenders so that, where possible, residential borrower-homeowners may remain in their homes; and

Whereas, the New Jersey Judiciary thus has developed a residential mortgage foreclosure mediation program and created documents to be served on borrower-homeowners, including: (1) a Notice of Foreclosure Mediation Availability, (2) a Foreclosure Mediation Financial Worksheet, and (3) a combination HUD-Certified Housing Counselor Instruction Form and Foreclosure Mediation Recommendation Statement;

Pursuant to *N.J. Const.* (1947), Art. VI, §2, par. 3, IT IS ORDERED, effective January 5, 2009 and until further Order of the Court, that the Rules of Court be relaxed and supplemented, as set forth below, so as to permit the Judiciary to establish and operate a statewide residential mortgage foreclosure mediation program in the Superior Court, Chancery Division, General Equity Part:

*Rule 4:4-4* is relaxed and supplemented so as to require that the Notice of Foreclosure Mediation Availability, Foreclosure Mediation Financial Worksheet, and combination HUD-Certified Housing Counselor Instruction Form and Foreclosure Mediation Recommendation Statement be served with all residential mortgage foreclosure complaints and summons;

*Rule 4:64-1(d)* is relaxed and supplemented so as to require that the Notice of Foreclosure Mediation Availability, Foreclosure Mediation Financial Worksheet, and combination HUD-Certified Housing Counselor Instruction Form and Foreclosure Mediation Recommendation Statement be served with the notice of motion for judgment and proof of amount due;

*Rule 4:64-1(d)* is further relaxed and supplemented so as to require that proofs submitted in support of a residential mortgage foreclosure judgment include a certification that the Notice of Foreclosure Mediation Availability, Foreclosure Mediation Financial Worksheet, and combination HUD-Certified Housing Counselor Instruction Form and Foreclosure Mediation Recommendation Statement were served with the summons and complaint and the notice of motion for judgment;

*Rule* 4:64-4 is relaxed and supplemented so as to suspend the right of subordinate residential encumbrancers to prosecute abandoned foreclosure actions, if the primary mortgagee agrees to a workout in mediation;

*Rule* 1:40-12(a)(3) is relaxed and supplemented so as to allow New Jersey licensed attorneys who have met the training requirements of *R.* 1:40-12(b)(1) to be eligible to serve in the foreclosure mediation program with fewer than five years of experience in their profession and to allow foreclosure mediator applicants who have met the training requirements of *R.* 1:40-12(b)(1) to be eligible to serve in the program without evidence of prior successful mediation of a minimum of ten cases;

*Rule* 1:40-12(b)(1) is relaxed and supplemented so as to permit mediators who have met the training requirements of this rule to be eligible to serve in the foreclosure mediation program without having been mentored for five hours by an experienced mediator; and

Standard IIIB (“Unrelated Matters”) in the Court-approved Standards of Conduct for Mediators is relaxed and supplemented so as to apply only to mediators actually serving in the residential mortgage foreclosure mediation program and not to other members of the mediators’ firms.

For the Court,

/s/ Stuart Rabner

Chief Justice

Dated: November 17, 2008