

**IN THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO AND PINELLAS COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER NO. 2019-004 PA/PI-CIR

RE: MORTGAGE FORECLOSURE PROCEDURES UPDATE – JANUARY 2019

Effective June 23, 2018, the Protecting Tenants at Foreclosure Act of 2009 (“the Act”) was restored, revising sections 701-703 of the Act as they were on December 30, 2014.

This Administrative Order provides procedures and forms to re-implement the statutory protections and a process to submit an application for a writ of possession to the judge under the Act. **All parties and counsel are hereby noticed of the restoration of the Act, and the requirements in this Order.**

Accordingly, to update the Court’s mortgage foreclosure procedures pursuant to the authority of the Chief Judge in Article V, section 2(d), Florida Constitution, Rule of Judicial Administration 2.215, and section 43.26, Florida Statutes, it is

ORDERED:

I. INITIATION OF RESIDENTIAL MORTGAGE FORECLOSURE CASES

1. For each residential mortgage foreclosure case, the Plaintiff/Lender’s attorney must:
 - a. File a verified complaint in accordance with Florida Rules of Civil Procedure 1.110(b) and 1.115, and section 702.015, Fla. Stat. In cases where the original note will be used, a copy must be filed. Because of electronic filing, the Court prefers that the original note be retained for submission at the summary judgment hearing or trial.
 - b. File with the complaint a **Form A – Plaintiff/Lender’s Contact Information**. If the case involves multiple plaintiffs, only one Form A – Plaintiff/Lender’s Contact Information must be filed. The Form A – Plaintiff/Lender’s Contact Information that must be used is Attachment A to this Administrative Order.
 - c. File with the complaint a **Form B – Important Notice to Homeowner**, which provides notice to the homeowner of mediation alternatives and other resources. Form B – Important Notice to Homeowner, is Attachment B to this Administrative Order. Previous versions of Form B or the Important Notice to Homeowner must not be used.
2. The Clerk shall not issue a summons in a residential mortgage foreclosure case until a Plaintiff/Lender files a verified complaint, a Form A – Plaintiff/Lender’s Contact Information, which is Attachment A to this Administrative Order, and a Form B – Important Notice to Homeowner, which is Attachment B to this Administrative Order.
3. For every residential mortgage foreclosure case filed, the process server must note on the return of service that the summons was served with the complaint, Form A – Plaintiff/Lender’s Contact Information, which is Attachment A to this Administrative Order, and a Form B – Important Notice to Homeowner, which is Attachment B to this Administrative Order.

II. PROCEDURES APPLICABLE TO ALL MORTGAGE FORECLOSURE CASES

A. Motions for Order to Show Cause for Entry of Final Judgment of Foreclosure pursuant to section 702.10, Florida Statutes

1. Florida Rule of Civil Procedure Form 1.944(c) Motion

When a verified complaint in accordance with section 702.015, Fla. Stat., has been filed, section 702.10, Fla. Stat., provides a summary procedure for lienholders to obtain a final judgment of foreclosure. If a lienholder determines that a section 702.10 motion is appropriate, it may file a section 702.10 motion for an order to show cause for entry of final judgment in the format set forth in Florida Rule of Civil Procedure Form 1.944(c). *See In re Amendments to Florida Rules of Civil Procedure*, 153 So. 3d 258, 265-66 (Fla. 2014); Ch. 2013-137, section 8, Laws of Fla.

2. Florida Rule of Civil Procedure Form 1.944(d) proposed Order To Show Cause

When filing a section 702.10 motion, the lienholder shall supply the court with a proposed order to show cause for all defendants in the format set forth in Florida Rule of Civil Procedure Form 1.944(d). As required by section 702.10(1)(a)(8), Fla. Stat., attached to the proposed order shall be a proposed updated Form D – Uniform Final Judgment of Foreclosure, which is Attachment D to this Administrative Order. *See* section 702.10(1)(a), Fla. Stat.; *In re Amendments to Florida Rules of Civil Procedure*, 153 So. 3d at 266-67.

3. At the time of filing the section 702.10 motion for an order to show cause, the lienholder is *not* required to file a Form C – Certificate of Compliance with Foreclosure Procedures with the Clerk, which is Attachment C to this Administrative Order.

B. Summary Judgment Hearings

1. Certificate Filed Prior to Requesting Summary Judgment Hearing Date

Prior to requesting a summary judgment hearing for a mortgage foreclosure, the attorney of record for the Plaintiff must file an updated **Form C – Certificate of Compliance with Foreclosure Procedures**, which is Attachment C to this Administrative Order, with the Clerk. This certifies that the attorney has completed the necessary steps prior to setting the matter for hearing. Only the Form C – Certificate of Compliance with Foreclosure Procedures attached to this Administrative Order may be used. Previous versions of Form C or the Certificate of Compliance must not be used.

2. Foreclosure Judgment Packet Prior to Hearing

In residential and commercial foreclosure cases, unless the presiding judge provides otherwise, the Plaintiff's attorney must deliver a foreclosure judgment package to the presiding judge's office at least five business days prior to the scheduled hearing on a motion for summary judgment. In both residential and commercial foreclosure cases, the Plaintiff's attorney must serve the Defendant's attorney, or if the Defendant is not represented then serve the Defendant, a copy of the foreclosure judgment packet at least five business days prior to a scheduled hearing on a motion for summary judgment. The

packet must include:

- a. the proposed updated **Form D – Uniform Final Judgment of Foreclosure**, which is Attachment D to this Administrative Order (the packet filed with the Court shall include sufficient copies for conforming and stamped, addressed envelopes for all parties);
- b. a copy of the Promissory Note (original should be retained for submission at the summary judgment hearing or trial);
- c. an affidavit of non-payment with a copy of the payment records upon which the affiant relies;
- d. a copy of the Form C – Certificate of Compliance with Foreclosure Procedures, which is Attachment C to this Administrative Order; and
- e. a copy of the Notice of Hearing.

Statutory fees must be submitted to the Clerk of the Court and not submitted to the Court with the foreclosure judgment packet.

C. Uniform Judgment of Foreclosure

All proposed final judgments of foreclosure must be in the format of Form D – Uniform Final Judgment of Foreclosure, which is Attachment D to this Administrative Order, unless otherwise specifically approved by the judge entering the final judgment. **Any changes to Form D – Uniform Final Judgment of Foreclosure, which is Attachment D to this Administrative Order, must be brought to the attention of the presiding judge at the final judgment hearing or non-jury trial.**

D. Foreclosure Sales

1. Notice of Sale

The Plaintiff is responsible for completing and submitting the Notice of Sale directly to the appropriate newspaper. Notices must be prepared and published in accordance with Florida Statutes, Chapters 45 and 702. Plaintiff's failure to timely publish notice may subject the Plaintiff to sanctions.

2. Cancellation of Sale

The sale date set by the judgment can only be canceled and rescheduled by Court order. Any motion or request to cancel this sale must be served on all parties in conformity with Florida Rule of Civil Procedure 1.080(a) and must be set for hearing with proper notice. Claiming this matter is an "emergency" does not avoid this requirement. A violation of any party's due process rights will subject the movant and/or counsel to sanctions. *See Jade Winds v. Citibank*, 63 So. 3d 819 (Fla. 3d DCA 2011). The Court may grant an ex-parte cancellation without hearing, if ALL parties agree.

If a Plaintiff wishes to cancel a sale, a written motion must be filed with the Court in substantial compliance with Florida Rules of Civil Procedure Form 1.996(c). The motion also must state the number of times the Plaintiff has previously requested the cancellation

of a sale and must include an affidavit with supporting grounds for the motion. Because of the advent of online sales, publication in a newspaper is not as necessary as it once was. Therefore, the mere failure to publish a notice of sale is not a ground for canceling the sale, and does not impair the clerk's authority to issue a certificate of sale. *See HSBC Bank v. Nixon*, 117 So. 3d 430 (Fla. 4th DCA 2012). Any proposed order prepared to cancel the sale must also include a date to reschedule the sale or provide a blank space for a date to be filled in by the Court or Clerk.

3. Credit Bids

Only the judgment owner will be allowed to credit bid. An assignment of the judgment filed with the Clerk prior to the sale will effectively transfer with it the right to credit bid at the sale. Court approval of the assignment is not required.

4. Certificate of Title

The filing of a Certificate of Sale by the Clerk gives certain property rights to the highest bidder. In order to assign those rights and have the Certificate of Title issued to a third party, the highest bidder must file a written conveyance made in accordance with section 689.01 or section 692.01, Fla. Stat., governing real estate transfers. Such conveyance must be filed with the Clerk prior to the issuance of the Certificate of Title. Neither the Court nor the Clerk will change a Certificate of Title based upon a conveyance filed after the Certificate of Title has been issued.

E. Bankruptcy

If, prior to the commencement of a foreclosure sale, the Clerk receives a formal Suggestion of Bankruptcy on behalf of a named Defendant in that foreclosure case, the Clerk shall remove the foreclosure sale from the docket without Court order. The Court may order the sale to proceed based upon evidence that there is a valid bankruptcy court order lifting the stay or dismissing the bankruptcy case.

Any interested parties (including the Plaintiff, junior lienholders or third party purchaser) may seek a bankruptcy court order to show there was no valid stay, that the stay was lifted, or to seek other appropriate relief pursuant to 11 U.S.C section 362.

In the event a foreclosure sale proceeds and is later vacated due to a bankruptcy stay, when no formal Suggestion of Bankruptcy was filed in the foreclosure case, the Clerk shall not be required to refund mandatory court registry or sales fees. *See Wilken v. North County Company, Inc.*, 670 So. 2d 181 (Fla. 4th DCA 1976) (holding that a court could determine the party responsible for reimbursing forfeited sales and registry fees upon the invalidation of a foreclosure sale).

F. Clerk of the Circuit Court Responsibilities

1. Retention of Documents

All original mortgages and promissory notes in each mortgage foreclosure case are required to be surrendered to the Court, and the Clerk must retain such documents in the

court file. The Clerk shall not return any of these instruments to a party absent specific order of the Court. Any other exhibits in the court file may not be released by the Clerk until ninety days after the judgment becomes final.

2. Certificates of Title

After the Clerk issues a Certificate of Sale, the Clerk may during the ten day objection period following the sale, accept a written conveyance made by the highest bidder and issue the Certificate of Title in the name of the grantee provided the conveyance is made in accordance with section 689.01 or section 692.01, Fla. Stat., governing real estate transfers. The Clerk may not issue a Certificate of Title based upon any other attempt to transfer an interest by the winning bidder to another entity. The Clerk may not change a Certificate of Title based upon a conveyance filed after the Certificate of Title is issued.

III. SCHEDULING AND RELATED MATTERS

A. Residential Mortgage Foreclosure Cases

The Court may set the case for trial on its own motion in accordance with Rule of Civil Procedure 1.440.

B. Motions Decided on Written Submissions

There is no rule or law in Florida state or federal court that requires a trial judge to hear oral argument on a pretrial non-evidentiary motion. *See Gaspar, Inc., v. Naples Fed. Sav. & Loan Ass'n*, 546 So. 2d 764 (Fla. 5th DCA 1989). A party is afforded due process on such matters when given an opportunity to present a legal memorandum and then the Court may enter an order based upon submissions without a noticed hearing and oral argument of counsel. *See also Nudel v. Flagstar Bank*, 52 So. 3d 692 (Fla. 4th DCA 2010).

Therefore, all parties are hereby noticed that pretrial non-evidentiary motions may be subject to review and ruling by a judge based only upon the motion along with written argument and any authority timely filed in the action. Each party/counsel filing such a motion shall contemporaneously file with the Clerk and serve opposing party/counsel any additional legal argument the movant wants the Court to consider. The opposing party/counsel shall have ten days after being served to file their argument and legal memorandum with citations of authority in opposition to the relief requested. Following expiration the period allowed for these submissions the Court may at any time rule without further notice or hearing. Interested parties may notify the Court the matter is ripe for decision and request a ruling by letter which should include a simple form order for the judge to indicate whether the specific motion is either granted or denied, along with copies for conforming and stamped addressed envelopes for all parties.

Nothing in this section of the Administrative Order requires a judge to rule without oral argument. Individual judges may prefer hearings on certain pretrial non-evidentiary motions and counsel may consult the judges practice preferences on the website regarding such preferences.

The judicial practice preferences, scheduling information, and location of hearings may be found on the Court's website: www.jud6.org/LegalCommunity/PracticeRequirementsofJudges.html.

C. Commercial Mortgage Foreclosure Cases

Commercial mortgage foreclosure cases are to be scheduled on the assigned section judge's calendar. The judicial practice preferences of each judge, which may contain a judge's individualized procedures for mortgage foreclosure cases, may be found on the Court's website: www.jud6.org/LegalCommunity/PracticeRequirementsofJudges.html.

IV. PROCEDURES APPLICABLE TO WRITS OF POSSESSION

The following provisions apply to motions for a writ of possession arising from the mortgage foreclosure of any residential property.

A. Ex-Parte Writ of Possession – Occupied by Mortgagor

1. In any residential foreclosure case, the new owner/titleholder may, without scheduling a hearing, submit an application to the court for an order directing the clerk to issue a writ of Possession where the property is occupied by the mortgagor in the foreclosure case, or by the child, spouse, or parent of the mortgagor.

2. The titleholder must prepare an application for ex-parte writ of possession, based upon sworn affidavit that the property is occupied by the mortgagor in the foreclosure case, or by the child, spouse, or parent of the mortgagor. This application should be in a form substantially similar to **Form E – Ex-Parte Application and Order for Writ of Possession – Mortgagor**, which is Attachment E to this Administrative Order.

3. The original of this application, containing the form order, should be submitted to the assigned judge for review and ruling. If the judge finds the sworn facts support the request, then the order will be granted and filed with the Clerk who shall issue the Writ of Possession, commanding the Sheriff to remove all persons from the property. A copy of the order will be sent to the applicant only if an addressed envelope with postage is provided in the submissions.

B. Writ of Possession – Tenants

1. If the new titleholder does not plan on occupying the premises as a primary residence, a bona fide tenant may continue to occupy the unit until the end of the lease term.

2. If the new titleholder will occupy the premises as a primary residence, the titleholder must file **Form F – Notice to Tenant of Termination**, which is Attachment F to this Administrative Order. This notice must certify that the tenants have been provided notice as required by the Protecting Tenants at Foreclosure Act.

3. When a writ of possession is filed, the moving party must contact the judicial assistant for the section judge and set the motion for hearing on the uniform motion calendar, or such other time as may be directed, or the section judge may choose to rule on the motion without a hearing. If a hearing is set, notice of the hearing must be provided to all tenants by the moving party. At the hearing on the motion, the moving party must bring:

- a. a copy of the Notice to Tenant of Termination;

- b. a copy of the Final Judgment of Foreclosure; and
- c. a copy of the Certificate of Title.

C. Motions Seeking a Writ of Possession Based on Other Facts

If the new owner/titleholder seeks a writ of possession but does not use the procedures detailed above, the Court will need to make an evidentiary determination that the occupant is not entitled to the protections of the Act, based on the exclusions under section 702, subsection (b) of the Act, or other facts. This requires the filing of a formal motion and the scheduling of an adversary hearing with notice to the occupant/tenant. At such hearing both sides may present evidence upon which the Court can rule. Prior to filing such a motion, the judicial assistant for judge of the section number on the case must be contacted to obtain a hearing time and date.

D. Issuance of Writ by Clerk

If a Final Judgment of Foreclosure authorizes the Clerk to issue a writ of possession without further action of the Court, the Clerk shall not do so unless the procedures established in this Administrative Order have been followed and the Court has specifically authorized the writ.

Administrative Order 2017-007 PA/PI-CIR is hereby rescinded. The Court may update the attachments to this Administrative Order without an amendment to this Administrative Order.

DONE AND ORDERED in Chambers at St. Petersburg, Pinellas County, Florida, this _____ day of January 2019.

ORIGINAL SIGNED ON JANUARY 23, 2019
BY ANTHONY RONDOLINO, CHIEF JUDGE

- Attachment A:** Form A – Plaintiff/Lender’s Contact Information
- Attachment B:** Form B – Important Notice to Homeowner
- Attachment C:** Form C – Certificate of Compliance with Foreclosure Procedures
- Attachment D:** Form D – Uniform Final Judgment of Foreclosure
- Attachment E:** Form E – Ex-Parte Application and Order for Writ of Possession – Mortgagor
- Attachment F:** Form F – Notice to Tenant of Termination

cc: All Judges
The Honorable Paula S. O’Neil, Clerk of the Circuit Court, Pasco County
The Honorable Ken Burke, Clerk of the Circuit Court, Pinellas County
Gay Inskeep, Trial Courts Administrator
Ita M. Neymotin, Regional Counsel, Second District
Ngozi Acholonu, Assistant Regional Counsel
Lillian Simon, Director of Administrative Services, Pasco County
Nichole Alvarez-Sowles, Chief Operations Officer, Pasco County Clerk’s Office
Bar Associations, Pinellas and Pasco County
Law Libraries, Pinellas and Pasco County

**IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO/PINELLAS COUNTY, FLORIDA
CIVIL DIVISION**

Plaintiff(s),

REF #:

v.

UCN:

Defendant(s).

PLAINTIFF/LENDER'S CONTACT INFORMATION

The following information is provided if you wish to speak to a representative of the Lender regarding resolution of this matter and the current amount alleged to be currently owed by you on this obligation.

Lender's Name:

Phone Number:

Fax Number:

Address:

For more information, please contact the lender at the above phone number and address.

IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO/PINELLAS COUNTY, FLORIDA
CIVIL DIVISION

Plaintiff(s),

v.

Defendant(s).

REF #:

UCN:

IMPORTANT NOTICE TO HOMEOWNER

A FORECLOSURE ACTION HAS BEEN FILED AGAINST YOU. YOU HAVE RIGHTS DURING THIS LAWSUIT AND MAY WANT TO PARTICIPATE IN MEDIATION.

IF YOU DO NOT RESPOND TO THIS LAWSUIT, A FINAL JUDGMENT WILL BE ENTERED AND YOUR HOME OR PROPERTY WILL BE SOLD AT A FORECLOSURE SALE.

IF YOU WANT TO TRY AND SAVE YOUR HOME OR PROPERTY, YOU MUST RESPOND TO THIS LAWSUIT AS DIRECTED IN THE SUMMONS. YOU MAY ALSO WANT TO PARTICIPATE IN MEDIATION.

MEDIATION

If you want to participate in mediation to try to save your home you must file a Motion for Foreclosure Mediation. A form Motion for Foreclosure Mediation is available at www.jud6.org. **It is important for you to file with the Court a response to the lawsuit in a timely manner as directed in the Summons even if you request mediation.**

Mediation is a meeting at which you and the plaintiff (your lender) can try to work out an agreement to stop the foreclosure so that you can stay in your home.

In addition to mediation, one or more of the following options may be available to you to save your home:

- 1). **Loan Modification:** Written agreement that permanently changes one or more of the original terms of your mortgage to make the payments more affordable.
- 2). **Reinstatement:** Repayment of the total amount that you are behind in a lump sum payment.
- 3). **Forbearance:** Temporary reduction or suspension of your mortgage payments.

4). **Repayment Plan:** Agreement plan that allows the homeowner to repay the amount that you are behind gradually while making your regularly scheduled monthly payments.

5). **Short Sale:** Lender may allow you to sell the home for less than the total amount owed on the mortgage. If the lender agrees to the short sale, the remaining portion of the mortgage that exceeds the net proceeds from the sale will be written off by the lender.

6). **Deed-in-Lieu of Foreclosure:** Lender will cancel the mortgage if the homeowner voluntarily transfers the title of the property to the lender.

PLEASE REVIEW THE NEXT PAGE, WHICH LISTS RESOURCES ABOUT LEGAL SERVICES, FINANCIAL COUNSELING, AND OTHER RESOURCES. SOME OF THESE MAY BE AVAILABLE TO YOU FREE OR AT LOW-COST. ALSO PLEASE REVIEW THE INFORMATION ABOUT AVOIDING FORECLOSURE RESCUE SCAMS.

INFORMATION ON RESOURCES TO ASSIST YOU IN FORECLOSURE CASES

I. LEGAL RESOURCES

You are urged to get a lawyer to protect your rights and your property. You should find a lawyer even if you ask for mediation or other services. Contact one of these Lawyer Referral Services:

Pasco County	Florida Bar Lawyer Referral	(800) 342-8011	www.floridabar.org
N. Pinellas County	Clearwater Bar Association	(727) 461-4880	www.clwbar.org
S. Pinellas County	St. Petersburg Bar Association	(727) 821-5450	www.stpetebar.com

If you cannot afford a lawyer, you may contact your local legal aid or legal services provider:

S. Pinellas County E. Pasco County W. Pasco County	Bay Area Legal Services	(800) 625-2257	www.bals.org
N. Pinellas County S. Pinellas County	Gulf Coast Legal Services	(727) 443-0657 (727) 821-0726	www.gulfcoastlegal.org
S. Pinellas County	Community Law Program	(727) 582-7480	www.lawprogram.org

II. FINANCIAL COUNSELING

In addition, you may wish to contact a Financial Counseling agency.

Catholic Charities Diocese	(727) 893-1313	www.ccdosp.org
Clearpoint	(800) 750-2227	www.clearpoint.org
Homeowners Hope Hotline	(888) 995-4673	www.makinghomeaffordable.gov www.995hope.org www.hopenow.com
Housing & Education Alliance	(813) 932-4663	www.heausa.org
Solita's House, Inc.	(813) 425-4847	www.solitashouse.com
Neighborhood Home Solutions	(727) 821-6897	www.nhsfl.org
Tampa Bay Community Development Corporation	(727) 442-7075	www.tampabaycdc.org
Community Service Foundation, Inc.	(727) 461-0618	www.csfpinellas.com

III. OTHER RESOURCES

2-1-1 Tampa Bay Cares, Inc.	(727) 888-5211	www.211tampabay.org
Clearwater Neighborhood Housing Services	(727) 442-4155	
Pinellas County Community Development Dept.	(727) 464-8210 (800) 806-5154	www.pinellascounty.org/community
Department of Housing & Urban Develop. (HUD)	(800) 225-5342	www.hud.gov

IV. AVOIDING FORECLOSURE RESCUE SCAMS

You may be contacted by individuals or companies that claim they can save your home from foreclosure. Please seek legal advice before you sign any documents or pay money to anyone offering to save your home from foreclosure. If you think that you have been a victim of a foreclosure scam, you may call one of the following numbers for assistance:

Florida Department of Financial Services	(877) 693-5236	www.myfloridacfo.com
Federal Trade Commission	(877) 382-4357	www.ftc.gov/bcp/consumer.shtm
Office of the Attorney General	(866) 966-7226	www.myfloridalegal.com/
Florida Dept. of Agriculture & Consumer Services	(800) 435-7352	http://www.freshfromflorida.com/
Pinellas County Justice & Consumer Services	(727) 464-6200	www.pinellascounty.org/consumer/

**IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO/PINELLAS COUNTY, FLORIDA
CIVIL DIVISION**

Plaintiff(s),

v.

REF #:

UCN:

Defendant(s).

_____ /

CERTIFICATE OF COMPLIANCE WITH FORECLOSURE PROCEDURES

As counsel for the Plaintiff, I hereby certify the following:

I. Plaintiff Status

_____ (initial) Plaintiff is the original mortgagee and holds original note and for complaints filed or amended on or after July 1, 2013, plaintiff contemporaneously filed with the complaint a certification under oath that the plaintiff is in possession of the original promissory note and:

_____ Previously filed or is simultaneously filing the original note and all allonges with this certification, or

_____ Will file the original note and all allonges with the foreclosure judgment packet.

OR

_____ (initial) Plaintiff holds the note and rights there-under through assignment.

_____ Plaintiff filed an affidavit attesting to the same.

_____ The name of the original lender is _____.

OR

_____ (initial) The original note has been lost or destroyed.

_____ Plaintiff filed an affidavit attesting to the same which details a clear chain of all endorsements, transfers, or assignments of the promissory note and which sets forth facts showing the plaintiff is entitled to enforce a lost, destroyed, or stolen instrument;

_____ A copy of the lost note is attached to the affidavit, including allonges to the note, audit reports showing receipt of the original note, or other evidence of the acquisition, ownership, and possession of the note.

_____ Adequate protection as required by section 673.3091(2), and section 702.11, Florida Statutes, has been provided, which is:

___ a. A written indemnification agreement

___ b. A surety bond

___ c. A letter of credit issued by a financial institution

___ d. A deposit of case collateral with the Clerk

___ e. Other: _____

II. Mediation Status

_____ (initial) The parties participated in mediation but reached an impasse.

OR

_____ (initial) The parties participated in mediation and reached a partial settlement, but the Defendant has failed to comply with the terms of the settlement agreement.

OR

_____ (initial) The parties did not participate in mediation.

III. Defendant Status

The property that is the subject matter of the foreclosure

_____ **IS** _____ **IS NOT**

a homestead residence. “Homestead” refers to residential property for which a homestead real estate tax exemption was granted according to the certified rolls of the last assessment by the county property appraiser prior to the filing of the suit to foreclose the mortgage.

Using the following format provide the name of each Defendant, the date and method of service of process on each Defendant, and the current status of each Defendant. For cases filed prior to July 1, 2010 indicate whether a Notice to Homeowner was provided at the time of service of process as required by Administrative Order 2019-004 or subsequent Administrative Order. For cases filed on or after July 1, 2010 but before July 1, 2015, indicate whether a Notice from the Court to Homeowner was provided as required by Administrative Order 2015-015. For cases filed on or after July 1, 2015, indicate whether a Notice to Homeowner, Form B, was provided to Defendant(s) at the time of service of process.

Name of Defendant	Date and method of service (Personal, Publication, or Substitute).	Status of Defendant (Dropped; Default entered; Represented by Attorney (name); or filed pro se Answer).	Defendant filed an affirmative defense.	Defendant was provided with Notice from the Court to Homeowner.
	____/____/____ _____			
	____/____/____ _____			
	____/____/____ _____			
	____/____/____ _____			

Using the following format provide the name of any Defendant who has not answered or filed a motion to dismiss, and indicate whether an Affidavit of Non-military Service or a Memorandum of Military Service was filed with the Clerk and the date of the document filing. Do not include any Defendant for whom the Clerk of Circuit Court has entered a default.

Name of Defendant	Indicate the type of document, i.e., Affidavit of Non-military service or Memorandum of Military service.	Date of filing with the Clerk of Circuit Court.
		____/____/____
		____/____/____
		____/____/____

IV. Summary Judgment and Final Judgment

I further certify of the following:

_____ (initial) The Motion for Summary Judgment with copies of all supporting affidavits was sent to all Defendants/Borrowers on _____ (date) by _____ (e-mail service, or other stipulated service such as Fed. Ex) and filed with the Clerk of Circuit Court on _____ (date).

_____ (initial) The supporting affidavits include the following information. (Note: These affidavits and amounts may be in the form of one document, but provide the amount claimed for each.)

Document	Amount sought
Affidavit of Indebtedness including copies of payment records upon which the affiant relies (Also see note below)	
Affidavit of Attorney’s Time Expended	
Affidavit as to Costs	
Affidavit as to Reasonable Attorney’s Fees	

Note: If the Plaintiff seeks a prepayment penalty, the Affidavit of Indebtedness must include reference to the specific clause in the loan contract that provides for a prepayment penalty in the event of foreclosure and must specify the amount sought.

_____ (initial) The proposed final judgment is, or at submission will be, in the form of the Sixth Judicial Circuit’s Uniform Final Judgment of Foreclosure and complies with section 45.031, Florida Statutes.

_____ (initial) I have reviewed this Certificate of Compliance with Foreclosure Procedures and supporting documents, and I certify that the above styled matter is ready for hearing and summary judgment.

CERTIFICATE OF SERVICE

I certify that a copy hereof has been furnished to _____

_____ (insert name or names and addresses used for service) by _____ (e-mail) (delivery) (mail) (fax) on _____ (date).

I declare that I have read the foregoing Certificate of Compliance with Foreclosure Procedures and that the facts stated in it are true.

DATED: _____

(Attorney Signature)
Attorney Name:
Address:
Direct telephone number:
Fax number:
E-mail address:
Florida Bar No.:

**IN THE CIRCUIT COURT FOR THE
SIXTH JUDICIAL CIRCUIT IN AND FOR
PASCO/PINELLAS COUNTY, FLORIDA
CIVIL DIVISION**

Plaintiff(s),

v.

Defendant(s).

REF #:

UCN:

UNIFORM FINAL JUDGMENT OF FORECLOSURE

THIS MATTER was heard before the Court on the _____
(motion/trial) of Plaintiff, _____ (*name*), on
_____ (*date*). After consideration of all evidence presented, this Court rules as follows:

IT IS ADJUDGED that:

1. Plaintiff has submitted a Certificate of Compliance with Foreclosure Procedures in compliance with Administrative Order 2019-004 or any subsequent Administrative Order.
2. **VALUE OF CLAIM:** At the initiation of this action, in accordance with section 28.241(1)(a)2.b., Florida Statutes, Plaintiff estimated the amount in controversy of the claim to be \$ _____. In accordance with section 28.241(1)(a)2.c., Florida Statutes, the Court identifies the actual value of the claim to be \$ _____, as set forth below. For any difference between the estimated amount in controversy and the actual value of the claim that requires the filing fee to be adjusted, the Clerk shall adjust the filing fee. In determining whether the filing fee needs to be adjusted, the following graduated filing fee scale in section 28.241(1)(a)2.d., Florida Statutes, controls:

\$400	Value of claim less than or equal to \$50,000 with 5 defendants or less
\$905	Value of claim greater than \$50,000 but less than \$250,000 with 5 defendants or less
\$1,905	Value of claim \$250,000 or greater with 5 defendants or less

If an excess filing fee was paid, the Clerk shall provide a refund of the excess fee. If an additional filing fee is owed, the Plaintiff shall pay the additional fee at least 24 hours prior to the judicial sale. If any additional filing fee owed is not paid prior to the judicial sale, the Clerk shall cancel the judicial sale without further order of the Court.

3. The following amounts are due and owed to the Plaintiff:

Principal due on the note secured by the mortgage foreclosed:	\$
Interest on the note and mortgage from _____ to _____	\$
Per diem interest at ____ % from _____ to _____	\$
Late charges	\$
Escrow advances	\$
Title search expenses	\$
Taxes for the year(s) of _____	\$
Insurance premiums	\$
Court costs:	\$
Filing fee	\$
Service of process \$ _____ per defendant	\$
Publication for _____	\$
SUBTOTAL	\$
Additional costs	\$
SUBTOTAL	\$
Attorney's fees based upon ____ hours at \$ _____ per hour	\$
Less: Undisbursed escrow funds	\$
Less: Unearned insurance premiums	\$
Less: Miscellaneous deductions or credits	\$
TOTAL SUM	\$

4. The total sum in paragraph 3 will bear interest at the prevailing statutory interest rate of ____ percent per year from this date through December 31 of this current year. Thereafter, on January 1 of each succeeding year until the judgment is paid, the interest rate will adjust annually in accordance with section 55.03(3), Florida Statutes.

5. Plaintiff, whose address is _____, holds a lien for the total sum specified in paragraph 3 herein. The lien of the Plaintiff is superior in dignity to all rights, titles, interests, or claims of the Defendant(s) and all persons, corporations, or other entities claiming by, through, or under the Defendant(s), or any of them and the property will be sold free and clear of all claims of the Defendant(s), with the exception of any assessments that are superior pursuant to sections 718.116 and 720.3085, Florida Statutes, or _____

(describe other surviving lien). The Plaintiff lien encumbers the subject property located in Pasco County/Pinellas County, Florida, and described as: _____

 _____ (legal description).

Property Address: _____

6. If the total sum with interest at the rate described in paragraph 4 and all costs accrued subsequent to this judgment are not paid, the Clerk of Circuit Court shall sell the subject property at public sale on _____(date) to the highest bidder for cash, except as prescribed in Paragraph 7, in the following location (mark applicable location):

In an online sale at www.pinellas.realforeclose.com, beginning at 10 a.m. on the prescribed date (mark this box for all sales in Pinellas County)

In an online sale at www.pasco.realforeclose.com, beginning at 11 a.m. on the prescribed date (mark this box for all sales in Pasco County)

after having first given notice as required by section 45.031, Florida Statutes. Plaintiff must arrange for publication of notice of sale in accordance with chapters 45 and 702, Florida Statutes. The Plaintiff must file the original Notice of Sale and Affidavit of Proof of Publication with the Clerk no later than 24 hours prior to the sale.

The sale date set by the judgment can only be canceled and rescheduled by court order. Any motion or request to cancel this sale must be served on all parties in conformity with Florida Rule of Civil Procedure 1.080(a) and must be set for hearing with proper notice. Claiming this matter is an “emergency” does not avoid this requirement. A violation of any party’s due process rights will subject the movant and/or counsel to sanctions. *See Jade Winds v. Citibank*, 63 So. 3d 819 (Fla. 3d DCA 2011).

If a Plaintiff wishes to cancel a sale, a written motion must be filed with the Court in substantial compliance with Florida Rules of Civil Procedure Form 1.996(c). The motion also must state the number of times the Plaintiff has previously requested the cancelation of a sale and must include an affidavit with supporting grounds for the motion. Any proposed order prepared to cancel the sale must also include a date to reschedule the sale.

7. Plaintiff shall advance all subsequent required costs of this action. Except for the fee to the Clerk as provided in section 45.035, Florida Statutes, and publishing costs supported by an affidavit, reimbursement or credit for such costs shall be by court order based upon a written motion and adjudication at a hearing with notice. If a third party bidder is the purchaser, the third party bidder must pay the documentary stamps attached to the certificate of title in addition to the bid.

8. If the Plaintiff incurs additional expenses subsequent to the entry of this final judgment but prior to the sale date specified in paragraph 6, Plaintiff may, by written motion served on all parties and adjudication at a hearing with notice, seek to amend this final judgment to include said additional expenses.

9. Only the judgment owner will be allowed to credit bid. An assignment of the final judgment of foreclosure filed with the Clerk of the Circuit Court prior to the public sale will effectively transfer with it the right to credit bid at the sale. Court approval of the assignment of the final judgment is not required.

The filing of a Certificate of Sale by the Clerk gives certain property rights to the highest bidder. In order to assign those rights and have the Certificate of Title issued to a third party, the

highest bidder must file a written conveyance made in accordance with section 689.01 or section 692.01, Florida Statutes, governing real estate transfers. Such conveyance must be filed with the Clerk prior to the issuance of the Certificate of Title. Neither the Court nor the Clerk will change a Certificate of Title based upon a conveyance filed after the Certificate of Title has been issued.

10. On the filing of the Certificate of Title, the Clerk shall distribute the proceeds of the sale, so far as they are sufficient, by paying: first, all of the Plaintiff's costs; second, documentary stamps affixed to the Certificate, unless the property is purchased by a third party bidder; third, Plaintiff's attorneys' fees; fourth, the total sum due to the Plaintiff, less the items paid, plus interest at the rate prescribed in paragraph 4 from this date to the date of the sale; and by retaining any remaining amount pending further Order of this Court.

11. On filing of the Certificate of Sale, Defendant(s) and all persons claiming under or against Defendant(s) since the filing of the Notice of Lis Pendens shall be foreclosed of all estate or claim in the property except as to claims or rights under chapter 718 or chapter 720, Florida Statutes, if any. On filing of the Certificate of Sale, Defendant's right of redemption as provided by section 45.0315, Florida Statutes shall be terminated.

12. The Court finds, based upon the affidavits presented and upon inquiry of counsel for the Plaintiff, that _____ hours were reasonably expended by Plaintiff's counsel and that and hourly rate of \$_____ is appropriate. PLAINTIFF'S COUNSEL CERTIFIES THAT THE ATTORNEY FEE AWARDED DOES NOT EXCEED ITS CONTRACT FEE WITH PLAINTIFF. The Court finds that there are no reduction or enhancement factors for consideration by the Court pursuant to *Florida Patient's Compensation v. Rowe*, 427 So. 2d 1145 (Fla. 1985).

OR

The Court finds, based upon the affidavits presented and upon inquiry of counsel for the Plaintiff, that the flat fee of \$_____ is reasonable and appropriate for the Plaintiff's counsel's attorney's fees. The Court finds that there are no reasons for either reduction or enhancement pursuant to *Florida Patient's Compensation Funds v. Rowe*, 472 So. 2d 1145 (Fla. 1985), and the Court therefore has awarded reasonable attorney's fees in the amount indicated in paragraph 3 of this Judgment.

13. IMPORTANT INFORMATION PROVIDED pursuant to section 45.031, Florida Statutes:

IF THIS PROPERTY IS SOLD AT PUBLIC AUCTION, THERE MAY BE ADDITIONAL MONEY FROM THE SALE AFTER PAYMENT OF PERSONS WHO ARE ENTITLED TO BE PAID FROM THE SALE PROCEEDS PURSUANT TO THIS FINAL JUDGMENT.

IF YOU ARE A SUBORDINATE LIEN HOLDER CLAIMING A RIGHT TO FUNDS REMAINING AFTER THE SALE, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN 60 DAYS AFTER THE SALE. IF YOU FAIL TO FILE A CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING FUNDS.

If the property has qualified for the homestead tax exemption in the most recent approved tax roll, also include the following three paragraphs:

IF YOU ARE THE PROPERTY OWNER, YOU MAY CLAIM THESE FUNDS YOURSELF. YOU ARE NOT REQUIRED TO HAVE A LAWYER OR ANY OTHER REPRESENTATION AND YOU DO NOT HAVE TO ASSIGN YOUR RIGHTS TO ANYONE ELSE IN ORDER FOR YOU TO CLAIM ANY MONEY TO WHICH YOU ARE ENTITLED. PLEASE CHECK WITH EITHER THE PINELLAS CLERK OF CIRCUIT COURT AT 315 COURT STREET, CLEARWATER, FL 33756, (727) 464-7000, OR THE PASCO CLERK OF CIRCUIT COURT AT 38053 LIVE OAK AVENUE, DADE CITY, FL 33523, (352) 521-4517 OR 7530 LITTLE ROAD, NEW PORT RICHEY, FL 34654, (727) 847-8176 WITHIN TEN (10) DAYS AFTER THE SALE TO SEE IF THERE IS ADDITIONAL MONEY FROM THE FORECLOSURE SALE THAT THE CLERK HAS IN THE REGISTRY OF THE COURT.

IF YOU DECIDE TO SELL YOUR HOME OR HIRE SOMEONE TO HELP YOU CLAIM THE ADDITIONAL MONEY, YOU SHOULD READ VERY CAREFULLY ALL PAPERS YOU ARE REQUIRED TO SIGN, ASK SOMEONE ELSE, PREFERABLY AN ATTORNEY WHO IS NOT RELATED TO THE PERSON OFFERING TO HELP YOU, TO MAKE SURE THAT YOU UNDERSTAND WHAT YOU ARE SIGNING AND THAT YOU ARE NOT TRANSFERRING YOUR PROPERTY OR THE EQUITY IN YOUR PROPERTY WITHOUT THE PROPER INFORMATION.

IF YOU CANNOT AFFORD TO PAY AN ATTORNEY, YOU MAY CONTACT A LEGAL SERVICES OFFICE, SUCH AS: GULFCOAST LEGAL SERVICES, INC., 314 S. MISSOURI AVENUE, SUITE 109, CLEARWATER, FL 33756, (727) 443-0657 / COMMUNITY LAW PROGRAM, 501 FIRST AVENUE N., ROOM 519, ST. PETERSBURG, FL 33701, (727) 582-7480 / BAY AREA LEGAL SERVICE, INC., 4948 CENTRAL AVENUE, ST. PETERSBURG, FL 33707, (800) 625-2257 / BAY AREA LEGAL SERVICE, INC., 37718 MERIDIAN AVENUE, DADE CITY, FL 33532, (800) 625-2257 / BAY AREA LEGAL SERVICE, INC., 8406 MASSACHUSETTS AVENUE, SUITE B-2, NEW PORT RICHEY, FL 34653, (800) 625-2257, TO SEE IF YOU QUALIFY FINANCIALLY FOR THEIR SERVICES. IF THEY CANNOT ASSIST YOU, THEY MAY BE ABLE TO REFER YOU TO A LOCAL BAR REFERRAL AGENCY OR SUGGEST ANOTHER OPTION. IF YOU CHOOSE TO CONTACT ONE OF THESE SERVICES FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

14. Upon issuance of the Certificate of Title, the new owner/titleholder may submit a writ of possession by using procedures and forms found in Administrative Order 2019-004 or any subsequent order.

15. If the Final Judgment of Foreclosure authorizes the Clerk to issue a writ of possession without further action of the Court, the Clerk shall not do so unless the procedures established by Administrative Order and the Act have been followed and the Court specifically authorized the writ.

16. The Court retains jurisdiction of this action to enter further Orders that are proper, including without limitation, Orders authorizing writs of possession and an award of attorney's fees, and to enter a deficiency judgment if the Defendant has not been discharged in bankruptcy.

(ANY ADDITIONAL PROVISIONS OR MODIFICATIONS TO THIS FINAL JUDGMENT SHOULD BE SET FORTH IN BOLD TYPE AND CONSECUTIVELY NUMBERED PARAGRAPHS).

17. (Optional) The Mortgage Note is hereby re-established pursuant to section 673.3091, Florida Statutes.

DONE AND ORDERED in New Port Richey/Dade City, Pasco County / St. Petersburg/Clearwater, Pinellas County, Florida, on this _____ day of _____ 20__.

CIRCUIT JUDGE

Copies furnished to:

**IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO/PINELLAS COUNTY, FLORIDA
CIVIL DIVISION**

Plaintiff(s),

v.

Defendant(s).

REF:

UCN:

EX-PARTE APPLICATION AND ORDER FOR WRIT OF POSSESSION - MORTGAGOR

The undersigned submits this application based upon the Protecting Tenants at Foreclosure Act of 2009 (“the Act”), asking the Court to execute an order for Writ of Possession for property at the following address: _____

I state that the occupant(s) of the premises is/are the Mortgagor(s) in this foreclosure or is/are the child, spouse, or parent of said mortgagor(s). I understand that I am swearing or affirming under oath to the truthfulness of the facts stated above and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

(signature of Titleholder or Titleholder’s Attorney)

STATE OF FLORIDA
COUNTY OF _____

Sworn to or affirmed and signed before me by physical presence or online notarization this _____ day of _____ 20____, by _____ who is personally known or identified by ID: _____ ID number _____.

NOTARY PUBLIC

[Print, type or stamp name of notary]

ORDER ON APPLICATION FOR WRIT

After review of the application and attached notice, the undersigned judge finds:

**The application is in full compliance with the statute and must be GRANTED.
It is therefore ORDERED that the clerk shall issue the Writ of Possession forthwith.**

(or)

The application is denied, without prejudice.

Done in chambers this _____ day of _____, 20____.

Circuit Court Judge

**TO ALL PERSONS RENTING OR OCCUPYING
THE RESIDENTIAL PREMISES LOCATED AT:**

(property address used in the judgment or title certificate)

The above described property has been sold at a court ordered foreclosure auction in the Sixth Circuit Case Number: _____.

The clerk has issued Certificate of Title to the purchaser who now legally owns the property.

In conformity with the Act, the purchaser named in the title may, if the purchaser will occupy the unit as a primary residence, deliver a 90-day notice of termination to any persons occupying the property and demand possession. This document is that formal notice and demand made by the new owner/titleholder of the property.

(the name of the new **owner/titleholder** - as it appears on the title to this property)

(the **mailing address** of the new owner/titleholder - where the rent must be delivered)

NOTICE TO TENANT OF TERMINATION

YOU ARE HEREBY NOTIFIED THAT ANY RENTAL AGREEMENT YOU MIGHT CLAIM TO HAVE REGARDING THIS PROPERTY IS TERMINATED ON THE DATE OF DELIVERY OF THIS NOTICE, THAT YOUR OCCUPANCY IS TERMINATED 90 DAYS FOLLOWING THE DATE OF DELIVERY OF THIS NOTICE, AND THAT BY THIS NOTICE THE NEW OWNER/TITLEHOLDER NOW DEMANDS POSSESSION OF THE PREMISES ON THE _____ DAY OF _____, 20____.

IF YOU DO NOT VACATE THE PREMISES BY THAT DATE THE NEW OWNER/TITLEHOLDER WILL ASK THE COURT FOR AN ORDER TO HAVE THE SHERIFF REMOVE YOU AND YOUR BELONGINGS FROM THE PREMISES. YOU ARE OBLIGATED TO PAY RENT DURING THAT NINETY DAY PERIOD FOR ANY AMOUNT THAT MIGHT ACCRUE DURING THAT PERIOD. YOUR RENT MUST BE DELIVERED TO THE NEW OWNER AT THE MAILING ADDRESS LISTED ABOVE.

Delivered on _____ by _____
(date) (signature of Titleholder or Titleholder's Attorney)

[Titleholder must retain a true copy of this Notice for submission with an Application for Writ]