

**MORTGAGE FORECLOSURE REQUIREMENTS**  
**JOHN T. BROWN, CIRCUIT JUDGE, OKALOOSA COUNTY**

**REQUIREMENTS EFFECTIVE 2/15/10**

The following documents *must accompany a motion for default judgment, motion for summary judgment or request for a final hearing in the foreclosure action*:

- Affidavit of Indebtedness (with supporting attachments)
- Affidavit of Costs (with supporting attachments)
- Attorney's Fee Affidavit
- Supporting Attorney's Fee Affidavit (original)
- Original Note and Mortgage (if not previously attached to the Complaint, or previously submitted by Notice of Filing)
- Original Assignment(s) of Mortgage (if not previously attached to the Complaint, or previously submitted by Notice of Filing)
- Affidavit of Lost Note and/or Mortgage (If original Note and/or Mortgage lost and Complaint includes Count to reestablish lost Note and/or Mortgage)  
*(hearing is required and counsel must appear at the hearing in person)*
- Copies of warranty deeds, as applicable.

**Motions for Summary Judgment** - Scheduling Hearing:

**PRIOR** to contacting my Judicial Assistant the **FORECLOSURE FORM FOR FINAL HEARING** must be faxed to my office (850-609-3073) for review. When coordinating a hearing with my Judicial Assistant, the hearing date shall be scheduled **at least twenty (20) days after service** of the motion for summary judgment (at least 25 days if *service by mail*). See Fla. R. Civ. P. 1.510(c). All hearings are scheduled via conference call with ***all*** offices' of counsel of record present for the purpose of scheduling. Personal appearance is required at all MSJ hearings. If you use outside counsel, you must conference in said attorney at the time you schedule all MSJ hearings.

**PLEASE SEND** any *proposed* Final Summary Judgment of Foreclosure, Notice of Sale, Certificate of Sale, Certificate of Title, and other applicable papers **DIRECTLY TO THE CLERK'S OFFICE**.

**Motions for Default Judgment** - Scheduling Hearing: For a hearing on a motion for a default judgment, please call my Judicial Assistant at (850) 609-5416 to schedule the hearing. A proposed Final Default Judgment and all other necessary documents should be sent **DIRECTLY TO THE CLERK'S OFFICE**. Be advised a hearing is required regarding the award of attorney fees.

The moving party is responsible for issuing the notice of hearing.

**Form for Final Summary Judgment (of Foreclosure):**

Any proposed final summary judgment **must** substantially conform to Supreme Court Form 1.996(a) (Final Judgment of Foreclosure). The standard form must be revised to include the appropriate summary judgment language (and shall ensure all counts in the complaint are clearly addressed). Further, the parties may believe other changes to the standard form are necessary either based upon the facts of a particular case or as a matter of practice. For example, the Court also finds that the appropriate language to award reasonable attorney's fees in accordance with Florida Patients' Compensation Fund v Rowe, 472 So. 2d 1145 (Fla. 1985) may be inserted.

a. **To assist the Court in easily identifying any changes (deletion or addition) to the standard Form 1.996 beyond those identified above, the party submitting the proposed Final Summary Judgment shall in cover letter, identify and justify for the Court all changes to the standard form.**

**See Attachments:**

**(1) SAMPLE COVER LETTER**

**(2) FORM FINAL SUMMARY JUDGMENT**

b. **Bid Assignments:** Language providing for bid assignments through Clerk of Court and *without* further Order of the Court **will not** be accepted in any proposed Final Summary Judgment. Bid assignments shall be handled by separate motion to the Court and separate Order from the Court.

c. **Writ of Possession:** Language providing for the Clerk of Court to issue a writ of possession *without* further of the Court **will not** be accepted in any proposed Final Summary Judgment. Writs of Possession shall be handled by separate motion to the Court and separate Order from the Court.

**Title Search Expenses:**

Based on the ordinary and reasonable charges prevailing in this area, the Court will award up to **\$225.00** in aggregate for title search-related expenses. If more than \$225.00 is claimed, proof of the additional amounts must be submitted (i.e. copy of the invoice from the entity rendering service *and* proof of payment must be attached). Acceptable "proof of payment" includes, for example, a cancelled check or paid receipt. In addition, the movant shall file a cover letter justifying for the Court the expenses which exceed the ordinary and reasonable charges prevailing in this area.

**Service of Process Expenses:**

Based on the ordinary and reasonable charges prevailing in this area, the Court will award up to \$50.00 per person or entity. If more than \$50.00 per person or entity is claimed, proof of the additional amounts must be submitted (i.e. copy of invoices and documentation regarding service of process and proof of payment must be attached). Acceptable "proof of payment" includes, for example, a cancelled check or paid receipt. In addition, the movant shall file a cover letter justifying for the Court the expenses which exceed the ordinary and reasonable charges prevailing in this area.

**OTHER INFORMATION:**

The Court's requirements are self-explanatory. The Court and its staff **WILL NOT GIVE ADDITIONAL DIRECTIONS BY TELEPHONE OR LETTER**. It is your responsibility to be familiar with the legal requirements of filing and proving a lawsuit. ***Counsel will be required to appear in person before the Court.*** If you want to schedule a hearing without the information the Court requires, you may coordinate with my Judicial Assistant to set a ten (10) minute hearing. You are responsible for issuing the notice of hearing.

**\*\*\* SALE LOCATION \*\*\***

For those foreclosure cases before Judge Brown in Okaloosa County, the sale location in the Final Summary Judgment and in the Notice of Sale shall read as follows:

**"The Clerk of Court shall set the property at the public sale on \_\_\_\_\_, 20\_\_\_\_, at 11:00 a.m. (Central Time) or as soon thereafter as the sale may proceed, to the highest bidder for cash, except as prescribed in paragraph below, at the website of www.okaloosa.realforeclose.com, in accordance with Chapter 45, section 45.031, Florida Statutes."**

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Attachments (4):

1. Sample/Form Cover Letter to Court (re: changes to standard form judgment; expenses)
2. Form - *proposed* Final Summary Judgment of Foreclosure
3. Order on Foreclosure Procedures
4. Foreclosure Form for Final Hearing

[Date]

The Honorable John T. Brown  
Circuit Judge  
Okaloosa County Courthouse Annex Extension  
1940 Lewis Turner Blvd, Suite 3-439  
Fort Walton Beach, Florida 32547

RE: **Plaintiff's Name v Defendants' Names**  
**Okaloosa County Case No. 0 -CA-XXXX**

Dear Judge Brown:

Please find enclosed a proposed Final Summary Judgment in the above-mentioned foreclosure case.

The following changes have been made the standard Form 1.996:

- (1) At para. 5, the following words " ....." have been added after the words " ....." The reason for this change is: \_\_\_\_\_.
- (2) At para. 6, the last sentence which reads, " ....." has been added. The reason for this change is: \_\_\_\_\_.
- (3) At para. 9, the words " ....." have been deleted. The reason for this change is: \_\_\_\_\_.
- (4) Para. 14 is an additional paragraph and is necessary in this case for the following reason: \_\_\_\_\_.

Plaintiff claims title search expenses in the amount of [ $>$ \$175.00]. The expenses over \$175.00 are reasonable and necessary for the following reasons: \_\_\_\_\_.

Plaintiff claims service of process fees in the amount of [ $>$ \$50.00] for Defendant XXXXX. The reasons for these additional service fees are as follows: \_\_\_\_\_.

Sincerely,

ATTORNEY'S SIGNATURE BLOCK

cc: (Opposing counsel/parties)

IN THE CIRCUIT COURT FOR THE FIRST JUDICIAL CIRCUIT  
IN AND FOR OKALOOSA COUNTY, FLORIDA  
CIVIL DIVISION

[XXXXXXXXXXXXXXXXXX],  
Plaintiff,

vs.

CASE NO. 0\_\_-CA-000\_\_

[DEFENDANT # 1; DEFENDANT # 2;  
and DEFENDANT # 3];  
Defendants.

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**FINAL SUMMARY JUDGMENT**

**THIS CAUSE** came before the Court for hearing on \_\_\_\_\_, 200 \_\_, upon Plaintiff's Motion for Summary Judgment. Having reviewed the instant Motion and the supporting affidavits and the court file, having heard argument of counsel, and being otherwise fully advised in the premises, it is

**ORDERED AND ADJUDGED that:**

1. The Court has jurisdiction of the subject matter and the parties of this cause.
2. There are no genuine issues of material fact [as to Count I for foreclosure]. Plaintiff's Motion for Final Summary Judgment [on all counts] [on Count I for foreclosure] is **GRANTED**.
3. Plaintiff is entitled to an award of reasonable attorney's fees in the total amount of \$ \_\_\_\_\_ [at rate of \$ \_\_\_\_\_/hour for \_\_\_\_ total *attorney* hours; at the rate of \$ \_\_\_\_\_/hour for \_\_\_\_ total *paralegal* hours] [per flat fee agreement]. In awarding same, the Court has considered all of the criteria set forth in Florida Patients' Compensation Fund v. Rowe, 472 So. 2d 1145 (Fla.

1985).

4. Plaintiff is due the following:

Principal \$ \_\_\_\_\_

Interest to the date of this Judgment \_\_\_\_\_

Title search expense (as allowed) \_\_\_\_\_

Taxes \_\_\_\_\_

Insurance premiums \_\_\_\_\_

Attorney's fees \_\_\_\_\_

Court costs (itemize each here):

Clerk's filing fee \_\_\_\_\_

Service of Process fee (# of Defendants: \_\_\_\_ ) \_\_\_\_\_

Diligent search & inquiry fees (if applicable) \_\_\_\_\_

Publication of Notice of Action (if applicable) \_\_\_\_\_

Other: [specify] \_\_\_\_\_

\_\_\_\_\_

Less:

Undisbursed escrow funds (\$ \_\_\_\_\_)

Unearned insurance premiums, under the note and mortgage sued on in this action (\$ \_\_\_\_\_)

making a **total sum** of \$ \_\_\_\_\_, that shall bear interest at the rate of \_\_\_\_\_ % per year,

or as otherwise prescribed by law, whichever is less.

5. Plaintiff holds a lien for the total sum superior to any claim or estate of Defendant(s) on the following property in Okaloosa County, Florida, commonly known as [insert street address] and legally described as: the legal description is set forth in Attachment "A" to this Final Summary Judgment, and is incorporated herein.

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 Court shall set the property at the public sale on \_\_\_\_\_, 20\_\_\_\_, at 11:00 a.m. (Central Time) or as soon thereafter as the sale may proceed, to the highest bidder for cash, except as prescribed in paragraph below, at the website of [www.okaloosa.realforeclose.com](http://www.okaloosa.realforeclose.com) , in accordance with Chapter 45, section 45.031 , Florida Statutes.

7. Plaintiff shall advance all subsequent costs of this action and shall be reimbursed for them by the clerk if plaintiff is not the purchaser of the property for sale. If plaintiff is the purchaser, the clerk shall credit plaintiff's bid with the total sum with interest and cost accruing subsequent to this judgment, or such part of it, as is necessary to pay the bid in full.

8. On filing the certificate of title the clerk shall distribute the proceeds of the sale, so far as they are sufficient, by paying: first, all of plaintiff's costs; second, documentary stamps affixed to the certificate; third, plaintiff's attorney's fees; fourth, the total sum due to 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 the further order of this court.

9. On filing the certificate of title 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 and the purchaser at the sale shall be let into possession of the property.

10. Jurisdiction of this action is retained to enter further orders that are proper including, without limitation, writs of possession and deficiency judgment.

11. **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 LIENHOLDER CLAIMING A RIGHT TO FUNDS REMAINING AFTER THE SALE, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN 60 DAYS AFTER THIS SALE. IF YOU FAIL TO FILE A CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING FUNDS.**

*If the property being foreclosed on has qualified for the homestead tax exemption in the most recent approved tax roll, the final judgment shall additionally contain the following statement in conspicuous type:*

**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 THE CLERK OF COURT, OKALOOSA COUNTY COURTHOUSE, 1250 N. EGLIN PARKWAY, SHALIMAR, FLORIDA 32579, 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 LEGAL SERVICES OF NORTH FLORIDA, INC., 133 STAFF DRIVE, SUITE B, FORT WALTON BEACH, FLORIDA 32548, (850) 862-3279, 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 OTHER OPTIONS. IF YOU CHOOSE TO CONTACT LEGAL SERVICES OF NORTH FLORIDA, INC. FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.**

12. [IF APPLICABLE]: **In Rem Judgment**: This final summary judgment is an **in rem** judgment against Defendant(s): \_\_\_\_\_ [insert name(s)] \_\_\_\_\_, and there are no in personam damages or costs against said Defendant(s). A deficiency judgment may be sought against only those defendants who executed or assumed the Note, who were personally served in this action, and whose debts have not been discharged in bankruptcy.

13. [IF APPLICABLE]: **Count [?] of [Complaint] [First Amended Complaint] - Reestablishment of Lost [Note] [and/or] [Mortgage]**: The lost [Note] [and] [Mortgage] is/are hereby **REESTABLISHED**.

14. [IF APPLICABLE]: **Count [?] of Complaint - Reformation of Mortgage**: Plaintiff is entitled to reformation of the Mortgage. The mortgage contains a scrivener's error in the legal description, to wit: [describe]. Accordingly, the legal description in the mortgage recorded on \_\_\_\_\_, 20\_\_, in Official Records Book \_\_\_\_, at Page \_\_\_\_, of the public records of Okaloosa County, Florida, is hereby reformed, *nunc pro tunc* to the date of the original recording, to read as follows: the correct legal description is set

forth in Attachment "A" to this Final Summary Judgment, and is incorporated herein.

15. [OTHER/AS APPLICABLE AND WARRANTED IN PARTICULAR CASE]:

\_\_\_\_\_

**DONE AND ORDERED** in Chambers at Fort Walton Beach, Okaloosa County, Florida, this \_\_\_\_\_ day  
of \_\_\_\_\_ 200\_\_.

\_\_\_\_\_  
JOHN T. BROWN  
Circuit Judge

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a copy of the foregoing Final Summary Judgment has been furnished to the following:

\_\_\_\_\_, ESQ.

**LAW OFFICES OF** \_\_\_\_\_

[Street Address]

[City/State/Zip]

(Counsel for Plaintiff)

\_\_\_\_\_, ESQ.

\_\_\_\_\_, P.A.

[P.O. Box \_\_\_\_\_]

[City/State/Zip]

(Counsel for Defendant(s) \_\_\_\_\_)

**[List Name & mailing addresses of all other**

**Defendants that are not represented by counsel provide addressed stamped envelopes for mailing]**

by regular U.S. mail this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

**Clerk of Court**

**BY:** \_\_\_\_\_  
Deputy Clerk

**ATTACHMENT "A"**  
**(Legal Description of Property)**

\_\_\_\_\_ v. \_\_\_\_\_  
CASE NO: \_\_\_\_\_ OKALOOSA COUNTY

DATE FORM FAXED TO JUDGE BROWN'S OFFICE (850-609-3073): \_\_\_\_\_

**FORECLOSURE FORM FOR FINAL HEARING**

DEFENDANT(S) (Every Defendant <u>Must</u> be listed)	RETURN OF SERVICE FILED/ DATE SERVED	DATE ANSWER FILED	DEFAULT PUBLICATION DATE FILED	DATE PARTIES DROPPED OR VOL. DISMISSED

Please enter into the columns above, the docket entry # (DE#) if known; otherwise, insert date for the action.

Date Motion for Summary Judgment was served (at least 25 days before hearing date, if by mail) \_\_\_\_\_

Have the following been filed? (Circle as Applicable)				FINAL JUDGMENT FORM (Circle as Applicable)		
Original Promissory Note:	YES	NO	N/A	YES	NO	Is the form shown in compliance with F.R.C.P 1.996? RCP 1.996?
Substantial Copy of Note:	YES	NO	N/A	YES	NO	Is post-judgment interest as provided in FS 55.03?
Original Mortgage:	YES	NO	N/A	YES	NO	Does Final Judgment include language re-establishing note?
Certified Copy of Mortgage	YES	NO	N/A	YES	NO	Does Final Judgment include language reforming the mortgage?
Assignment (if any):	YES	NO	N/A	YES	NO	Does Final Judgment dispose of all counts of the Complaint?
<b>AFFIDAVITS</b>	<b>DATE</b>	<b>AMOUNT</b>		YES	NO	Is the cost of service less than \$50 per Defendant?
1) Amounts Due:				YES	NO	Is the cost of Title Search less than \$225?
2) Costs				YES	NO	Is there an award for "Title Examination"?
3) Attorney's Fees				YES	NO	Does it include relief against unknowns or "John Doe"?
a. Expert Affidavit				YES	NO	Does it include post-acceleration late fees?
b. Plaintiff's attorney's Affidavit (time and fee arrangement with client)				YES	NO	Is cover letter regarding form of judgment and costs provided?
4) Affidavit of Lost Instrument: (IF ANSWER IS "YES" HEARING MUST BE SET PRIOR SETTING FINAL HEARING— PERSONAL APPEARANCE REQUIRED)				YES	NO	If the U.S.A. is a defendant, does the proposed final summary judgment provide for USA's 120 day (or other) right of redemption under 28 U.S.C. § 2410?
a. Note	YES	NO	N/A			
b. Mortgage	YES	NO	N/A			

PREPARED BY: \_\_\_\_\_  
ATTORNEY SIGNATURE

PREPARED BY: \_\_\_\_\_  
ATTORNEY PRINTED NAME  
DATED: \_\_\_\_\_