

MORTGAGE FORECLOSURE REQUIREMENTS FOR ESCAMBIA COUNTY
(Effective July 1, 2015)

COUNSEL MUST APPEAR IN PERSON FOR ALL FORECLOSURE HEARINGS. TELEPHONIC APPEARANCE IS NOT PERMITTED.

EFFECTIVE JULY 1, 2015, COUNSEL OF RECORD (HAVE FILED A NOTICE OF APPEARANCE IN THE CASE) MUST APPEAR FOR REPRESENTED PARTIES FOR ALL FORECLOSURE HEARINGS.¹

IT IS THE RESPONSIBILITY OF COUNSEL OF RECORD FOR THE PLAINTIFF TO EXAMINE THE COURT FILE *PRIOR TO* THE SCHEDULED HEARING ENSURING THAT ALL DOCUMENTS HAVE BEEN FILED (*see checklist page 2*) AND THAT THE FILE IS READY FOR THE HEARING. IF THE PARTIES CANNOT PROCEED ON THE MATTER SCHEDULED, A CASE MANAGEMENT CONFERENCE WILL BE HELD.

IF A HEARING ON THE MOTION FOR SUMMARY JUDGMENT IS HELD AND THE FILE IS INCOMPLETE, THE MOTION FOR SUMMARY JUDGMENT WILL BE DENIED, AND THE COURT WILL ENTERTAIN ASSESSING FEES AND COSTS INCURRED BY THE DEFENDANT'S ATTORNEY AND ANY OTHER SANCTIONS THE COURT DEEMS APPROPRIATE.

NO FACSIMILE COPIES AUTHORIZED. COUNSEL SHALL REFRAIN FROM FAXING TO THE CLERK OF COURT'S OFFICE AND TO COURT'S CHAMBERS "ADVANCE", "INFORMATION ONLY" OR "COURTESY" COPIES OF THEIR RESPECTIVE FILINGS WITHOUT EXPRESS AUTHORIZATION FROM THE COURT.

HEARINGS WILL BE SCHEDULED ON A FIRST COME/FIRST SERVE BASIS. SCHEDULING OF HEARINGS CAN BE COORDINATED VIA CONFERENCE CALL OR EMAIL. IF REQUESTING A HEARING DATE VIA EMAIL, PLEASE COPY OPPOSING COUNSEL AND INCLUDE THE CASE NUMBER, CASE STYLE AND THE TYPE OF MOTION TO BE HEARD. HEARINGS ARE NOT CONFIRMED UNTIL AN EMAIL IS RECEIVED FROM THE CASE MANAGER. HEARINGS SHALL ONLY BE CANCELLED WITH A MOTION AND ORDER FROM THE COURT.

¹ Notice of Limited Appearance is not acceptable. The only Rules that allow such is in Family Law cases. Civil Rules of Procedure do not provide for such an animal.

BELOW IS A CHECKLIST OF DOCUMENTS (PROVIDED AS A GUIDE) THAT SHOULD BE CONTAINED IN THE FILE AT THE TIME OF THE HEARING.

- Value of Real Property/Mortgage Foreclosure Form
- Notice of Mediation, if applicable
- Report of Mediator/Mediation Report, if applicable
- Motion for Summary Judgment, if applicable
- Motion for Default Final Judgment, if applicable
- Affidavit of Indebtedness (with supporting attachments)
- Affidavit of Costs (with supporting attachments)
- Attorney's Fee Affidavit (with supporting attachments)
- Supporting Attorney's Fee Affidavit (original)
- Attorney's Affidavit of Filing Supporting Documents
- Original Note and Mortgage (filed with a Notice of Filing—Certified Copies of
- Mortgage(s) are acceptable only if certified true and correct copies by the **Escambia County Clerk of Court**). **If not filed 10 days before hearing, the originals should be brought to Court.**
- Assignment(s) of Mortgage, if applicable
- Affidavit of Lost Note and/or Mortgage, if applicable. Should the Affidavit of Lost Note/Mortgage be found to be in proper form, the Final Judgment shall reflect in the last paragraph the following: ***“Plaintiff herein agrees to indemnify and hold harmless Defendant (Borrower) from all loss, liability, costs, damages, reasonable attorney’s fees and expenses arising out of the representations made in the Affidavit of Lost Note/Mortgage.”***
- Copies of warranty deeds, as applicable
- Foreclosure Checklist for Final Hearing (Attachment 10)

I. FINAL SUMMARY JUDGMENT PACKET: The Foreclosure Packet containing the proposed General Magistrate’s Report and Recommendation on Final Judgment, proposed Final Judgment Incorporating General Magistrate’s Report and Recommendation, Notice of Sale, Foreclosure Sale Fee, Certificate of Sale, Certificate of Title and supporting affidavits **shall be submitted directly to the Court at the time of the hearing**. *Do not* provide the Court with “advance or courtesy copies” of the Final Judgment package. In accordance with F.R.C.P. 1.080, please provide substantial copies of documents and self-addressed postage paid envelopes for mailing. **Do not provide the Court “courtesy” copies of documents already filed in the court file.**

a. Form for Final Summary Judgment: (*Attachment 3*) Any proposed final summary judgment must substantially conform to Form 1.996(a) (Final Judgment of Foreclosure), Florida Rules of Civil Procedure and Florida Statutes 45.031. The standard form must be revised to include the appropriate summary judgment language (and shall ensure all counts in the complaint are clearly addressed) and also language indicating that the General Magistrate's Report and Recommendation is hereby ratified, approved and incorporated herein. 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. **To assist the Court in easily identifying any changes (deletions or additions) to the standard Form 1.996 (a) beyond those identified above, the party submitting the proposed Final Summary Judgment shall in cover letter (*attachment 1*), identify and justify for the Court all changes to the standard form.**

b. 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.

c. Service of Process Expenses: Based on the ordinary and reasonable charges prevailing in this area, the Court will award up to \$40.00 per person or entity, unless unusual circumstances. If more than \$40.00 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.

d. Final Disposition Form: (*Attachment 4*) A completed Form 1.998 Final Disposition Form shall be submitted with the Final Judgment.

e. Clerk's Fees: Checks for payment of Clerk's fees should be included with the Final Judgment Packet. Questions regarding the Clerk's Requirements and Fees should be directed to the Escambia County Clerk's Office at 850-595-4130 (circuit civil department). Additional information can be obtained on the Clerk's website at: <http://www.escambiaclerk.com> under the Court Services link.

II. DEFAULT FINAL JUDGMENTS: The Court will review and consider entering a Default Final Judgment, without the necessity of a hearing, if all parties have been properly defaulted.

III. OTHER INFORMATION: The Court's requirements are self-explanatory. **ADDITIONAL DIRECTIONS WILL NOT BE PROVIDED BY TELEPHONE OR LETTER.** It is your responsibility to be familiar with the legal requirements of filing and proving a lawsuit. If you want to schedule a hearing without the information the Court requires, you may coordinate with the Case Manager to set a Case Management Conference. The Court will require personal appearance of counsel for this hearing. The moving office is responsible for issuing the notice of hearing.

IV. CANCELLATION OF FORECLOSURE SALES: The Court requires a Motion and Order to cancel a foreclosure sale and the Clerk's reopen fee. [*Attachment 7*, F.R.C.P. Form 1.996 (c)] Motions must be filed with the Clerk of Court and opposing counsel/party **five (5) days** prior to presenting to the Court.

a. The Motion for Cancellation of Sale must constitute a genuine emergency and be supported by meritorious reasons which fully apprise the Court of the circumstances.

b. The Motion for Cancellation of Sale should be supported by exhibits or documentation establishing the grounds for cancellation.

c. Successive Motions to Cancel Sale should address a new basis for cancellation, which justify another cancellation.

IV. WRIT OF POSSESSION: The Court requires a Motion and Order for the Clerk to issue a writ of possession.

a. Submission of a Motion for Writ of Possession and a copy of the certificate of title must be filed with the Clerk of Court and opposing counsel/party **five (5) days** prior to presenting to the Court.

V. PROCESS FOR SUBMITTING PROPOSED ORDERS: Below are some important changes that require your immediate attention.

a. **Effective January 1, 2015, the Escambia County Clerk's office will no longer accept proposed orders through the Florida Courts E-Filing Portal.** All proposed orders should be submitted via U.S. mail or hand delivery to the judge's office. Once signed, the orders will be e-served to all parties who have an email address on file with the Clerk. Please do not submit self-addressed stamped envelopes or extra copies of orders. The Attorney submitting the proposed order will continue to be responsible for providing copies to any party without a designated email address.

EXCEPTION: Final Judgment packets should be submitted to the Court, along with the required copies and self-addressed stamped envelopes.

CERTIFICATE OF SERVICE REQUIRED ON ORDERS:

Please include the following certificate of service format on proposed orders:

The undersigned deputy clerk hereby certifies that he/she delivered a true and correct copy of the foregoing via email to those listed herein on the e-service distribution list. The attorney who submitted the proposed order is responsible for distribution of the order to any party who is not on the e-service distribution list.

Witness my hand and seal of the court on this ____ day of _____, 20____, as Clerk of the Circuit Court.

Pam Childers

Clerk of the Circuit Court

By: _____

http://www.escambiaclerk.com/clerk/coc_efiling_helpfulhints.aspx

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Attachments (10):

1. Form—Sample Cover Letter to Court (re: changes to standard form judgment; expenses)
2. Form—*proposed* General Magistrate’s Report and Recommendation on Final Judgment
3. Form—*proposed* Final Summary Judgment of Foreclosure [Form 1.996 (a)]
4. Form—Final Disposition Form [Form 1.998]
5. Form—*proposed* General Magistrate’s Report and Recommendations on Plaintiff’s/Defendant’s Motion
6. Form—*proposed* Order on General Magistrate’s Report and Recommendations on Plaintiff’s/Defendant’s Motion
7. Form—Motion to Cancel and Reschedule Foreclosure Sale [Form 1.996 (c)]
8. Form—*proposed* Order on Motion to Cancel and Reschedule Foreclosure Sale
9. Form—Hearing Request Form
10. Form—Foreclosure Checklist for Final Hearing

ATTACHMENT 1—SAMPLE/FORM COVER LETTER TO COURT

[Date]

The Honorable _____
Circuit Judge/General Magistrate
Escambia County Courthouse
190 Governmental Center
Pensacola, Florida 32502

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

Dear Judge/General Magistrate _____:

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

The following changes have been made to the standard Form 1.996 (a), Final Judgment:

- (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 [$>$ \$225.00]. The expenses over \$225.00 are reasonable and necessary for the following reasons: _____.

Plaintiff claims service of process fees in the amount of [$>$ \$40.00] for Defendant XXXXX. The reasons for these additional service fees are as follows: _____.

Sincerely,

ATTORNEY'S SIGNATURE BLOCK

cc: (Opposing counsel/parties)

**ATTACHMENT 2—PROPOSED GENERAL MAGISTRATE’S REPORT AND
RECOMMENDATION ON FINAL JUDGMENT**

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

Plaintiff, Case No.:
vs. Division:
Defendant(s)

**GENERAL MAGISTRATE’S REPORT AND RECOMMENDATION
ON FINAL JUDGMENT OF FORECLOSURE; NOTICE OF FILING**

THIS CAUSE was before the undersigned General Magistrate on _____,
201___ for non-jury trial / on Plaintiff’s Motion for Summary Judgment. An Order of Referral
to General Magistrate was entered on _____, 201___. No timely objection was
filed to the Order of Referral to General Magistrate. Present before the General Magistrate
was/were

_____.

A. Having considered the pleadings, evidence presented and being fully advised in the
premises, the General Magistrate makes the following findings of fact:

1. The General Magistrate has received testimony and/or examined the affidavits filed
herein and finds the Plaintiff is entitled to the entry of a Final Judgment of
Foreclosure in accordance with the proposed Final Judgment attached hereto as
Exhibit “A”. **[Counsel should attach a proposed Final Judgment labeled Exhibit “A”.]**
2. The Plaintiff requests a _____ sale date.

3. All parties have not waived the ten day period in which to file exceptions to the Report and Recommendations of the General Magistrate.

B. Based upon the findings above, the General Magistrate recommends the proposed Final Judgment of Foreclosure attached hereto as Exhibit "A" be entered by the Court.

DONE this _____ day of _____, 20__.

KEITH A. McIVER
General Magistrate

IF YOU WISH TO SEEK REVIEW OF THE REPORT AND RECOMMENDATIONS MADE BY THE MAGISTRATE, YOU MUST FILE EXCEPTIONS IN ACCORDANCE WITH FLORIDA RULE OF CIVIL PROCEDURE 1.490(i). YOU WILL BE REQUIRED TO PROVIDE THE COURT WITH A RECORD SUFFICIENT TO SUPPORT YOUR EXCEPTIONS OR YOUR EXCEPTIONS WILL BE DENIED. A RECORD ORDINARILY INCLUDES A WRITTEN TRANSCRIPT OF ALL RELEVANT PROCEEDINGS. THE PERSON SEEKING REVIEW MUST HAVE THE TRANSCRIPT PREPARED IF NECESSARY FOR THE COURT'S REVIEW.

CERTIFICATE OF SERVICE

I, hereby, certify that the original Report and Recommendation was filed with the Clerk of the Court on this _____ day of _____, 201___. Additionally, the parties listed below without an email address were served by the General Magistrate's office via regular U.S. mail on the same date. For parties listed below with an email address, the Clerk of the Court has e-served the Report and Recommendation on the date handwritten in by a party's respective email address.

[Service List]

KEITH A. McIVER
General Magistrate

X Electronic reporting provided
 Court reporter present: _____

ATTACHMENT 3—PROPOSED FINAL SUMMARY JUDGMENT OF FORECLOSURE
[in accordance with F.R.C.P. Form 1.996(a) or 1.996(b)]

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

Plaintiff, Case No.:
Division:
vs.
Defendant(s).

FINAL JUDGMENT

THIS CAUSE came on to be heard on _____, 201____, for non-jury trial /
on Plaintiff’s Motion for Summary Judgment before

- the undersigned Circuit Judge and on the evidence presented and the Court being otherwise fully advised in the premises, it is thereupon,
- the General Magistrate. The General Magistrate’s Report and Recommendations on Final Judgment of Foreclosure dated _____, 201____, to which no timely exception was filed has been reviewed by the Court and it is hereby ratified, approved, and incorporated herein, it is thereupon,

ORDERED AND ADJUDGED as follows:

1. [Normal paragraphs for a final judgment in conformity with Florida Rule of Civil Procedure Forms 1.996(a) or 1.996(b).]

Plaintiff,(name and address)....., is due

- Principal \$.....
- Interest to date of this judgment
- Title search expense
- Taxes
- Attorneys’ fees
- Finding as to reasonable number of hours:
- Finding as to reasonable hourly rate:
- Other*:

(*The requested attorney’s fee is a flat rate fee that the firm’s client has agreed to pay in this matter. Given the amount of the fee requested and the labor expended, the Court finds that a lodestar analysis is not necessary and that the flat fee is reasonable.)

Attorneys’ fees total

Court costs, now taxed
 Other:
 Subtotal \$.....
 LESS: Escrow balance
 LESS: Other
TOTAL \$.....

that shall bear interest at the rate of% a year.

2. Plaintiff holds a lien for the total sum superior to all claims or estates of defendant(s), on the following described property in **ESCAMBIA** County, Florida:

(describe property or attached as Exhibit "A")

3. If the total sum with interest at the rate described in paragraph 1 and all costs accrued subsequent to this judgment are not paid, the Clerk of the Court shall sell the property at public sale on(date)....., to the highest bidder for cash, except as prescribed in paragraph 4, at the courthouse located at: **190 Governmental Center, in ESCAMBIA County in Pensacola, Florida, 32502** in accordance with section 45.031, Florida Statutes., using the following method (CHECK ONE):

At(location of sale at courthouse; e.g., north door)....., beginning at(time of sale)..... on the prescribed date.

By electronic sale beginning at(time of sale)..... on the prescribed date at www.escambia.realforeclose.com (website).

4. 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, provided, however, that the purchaser of the property for sale shall be responsible for the documentary stamps payable on the certificate of title. If plaintiff is the purchaser, the Clerk shall credit plaintiff's bid with the total sum with interest and costs accruing subsequent to this judgment, or such part of it as is necessary to pay the bid in full.

5. 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 attorneys' fees; fourth, the total sum due to plaintiff, less the items paid, plus interest at the rate prescribed in paragraph 1 from this date to the date of the sale; and by retaining any remaining amount pending the further order of this Court.

6. On filing 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 and defendant's right of redemption as prescribed by section 45.0315, Florida Statutes (2013) shall be terminated, except as to claims or rights under chapter 718 or chapter 720, Florida Statutes, if any. Upon the filing of the certificate of title, the person named on the certificate of title shall be let into possession of the property.

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

8. (if applicable) *Plaintiff herein agrees to indemnify and hold harmless Defendant (Borrower) from all loss, liability, costs, damages, reasonable attorney's fees and expenses arising out of the representations made in the Affidavit of Lost Note/Mortgage.*"

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 THE 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 THE 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 THE COURT, (ESCAMBIA COUNTY CLERK OF COURT) WITHIN 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 (*NORTHWEST FLORIDA LEGAL SERVICES, INC., D/B/A EMERALD COAST LEGAL AID (701 South "J" STREET PENSACOLA, FLORIDA 32502, (850) 432-2336, www.nwfls.org*) 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 *NORTHWEST FLORIDA LEGAL SERVICES, INC.*, FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

DONE AND ORDERED in Chambers at Pensacola, Escambia County, Florida,
this ____ day of _____, 20__.

Circuit Judge

CERTIFICATE OF SERVICE

The undersigned deputy clerk hereby certifies that he/she delivered a true and correct copy of the foregoing via email to those listed herein on the e-service distribution list and by regular U.S. mail to any party not on the e-service distribution list.

Witness my hand and seal of the court on this ____ day of _____, 20____, as Clerk of the Circuit Court.

Pam Childers

Clerk of the Circuit Court

By: _____

Final Judgment packets should be submitted to the Court, along with the required copies and self-addressed stamped envelopes.

NOTE: Paragraph 1 must be varied in accordance with the items unpaid, claimed, and proven. The form does not provide for an adjudication of junior lienors' claims nor for redemption by the United States of America if it is a defendant. The address of the person who claims a lien as a result of the judgment must be included in the judgment in order for the judgment to become a lien on real estate when a certified copy of the judgment is recorded. Alternatively, an affidavit with this information may be simultaneously recorded. For the specific requirements, see section 55.10(1), Florida Statutes; Hott Interiors, Inc. v. Fostock, 721 So.2d 1236 (Fla. 4th DCA 1998).

**ATTACHMENT "A" TO FINAL JUDGMENT
(Legal Description of Property)**

ATTACHMENT 4—FORM 1.998. FINAL DISPOSITION FORM

This form shall be filed by the prevailing party for the use of the Clerk of Court for the purpose of reporting judicial workload data pursuant to Florida Statutes section 25.075. (See instructions on the reverse of the form.)

I. CASE STYLE

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

[XXXXXXXXXXXXXXXXXX],
Plaintiff,

vs.

CASE NO. __-CA-000__

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

_____/

II. MEANS OF FINAL DISPOSITION (Place an “x” in one box for major category and one subcategory, if applicable, only)

- Dismissed Before Hearing
 - Dismissed Pursuant to Settlement – Before Hearing
 - Dismissed Pursuant to Mediated Settlement – Before Hearing
 - Other – Before Hearing
- Dismissed After Hearing
 - Dismissed Pursuant to Settlement – After Hearing
 - Dismissed Pursuant to Mediated Settlement – After Hearing
 - Other After Hearing – After Hearing
- Disposed by Default
- Disposed by Judge
- Disposed by Non-jury Trial
- Disposed by Jury Trial
- Other: _____

DATE _____

SIGNATURE OF ATTORNEY FOR PREVAILING PARTY _____

FORM 1.998. INSTRUCTIONS FOR ATTORNEYS COMPLETING FINAL DISPOSITION FORM

I. Case Style. Enter the name of the Court, the appropriate case number assigned at the time of filing of the original complaint or petition, the name of the judge assigned to the case and the names (last, first, middle initial) of plaintiff(s) and defendant(s).

II. Means of Final Disposition. Place an “x” in the appropriate major category box and in the appropriate subcategory box, if applicable. The following are the definitions of the disposition categories.

- (A) Dismissed Before Hearing—the case is settled, voluntarily dismissed, or otherwise disposed of before a hearing is held;
- (B) Dismissed Pursuant to Settlement - Before Hearing—the case is voluntarily dismissed by the plaintiff after a settlement is reached without mediation before a hearing is held;
- (C) Dismissal Pursuant to Mediated Settlement - Before Hearing—the case is voluntarily dismissed by the plaintiff after a settlement is reached with mediation before a hearing is held;
- (D) Other - Before Hearing—the case is dismissed before hearing in an action that does not fall into one of the other disposition categories listed on this form;
- (E) Dismissed After Hearing—the case is dismissed by a judge, voluntarily dismissed, or settled after a hearing is held;
- (F) Dismissal Pursuant to Settlement - After Hearing—the case is voluntarily dismissed by the plaintiff after a settlement is reached without mediation after a hearing is held;
- (G) Dismissal Pursuant to Mediated Settlement - After Hearing—the case is voluntarily dismissed by the plaintiff after a settlement is reached with mediation after a hearing is held;
- (H) Other - After Hearing—the case is dismissed after hearing in an action that does not fall into one of the other disposition categories listed on this form;
- (I) Disposed by Default—a defendant chooses not to or fails to contest the plaintiff’s allegations and a judgment against the defendant is entered by the Court;
- (J) Disposed by Judge—a judgment or disposition is reached by the judge in a case that is not dismissed and in which no trial has been held. Includes stipulations by the parties, conditional judgments, summary judgment after hearing and any matter in which a judgment is entered excluding cases disposed of by default as in category (I) above;
- (K) Disposed by Non-Jury Trial—the case is disposed as a result of a contested trial in which there is no jury and in which the judge determines both the issues of fact and law in the case;
- (L) Disposed by Jury Trial—the case is disposed as a result of a jury trial (consider the beginning of a jury trial to be when the jurors and alternates are selected and sworn);
- (M) Other—the case is consolidated, submitted to arbitration or mediation, transferred, or otherwise disposed of by other means not listed in categories (A) through (L).

DATE AND ATTORNEY SIGNATURE. Date and sign the final disposition form.

**ATTACHMENT 5—PROPOSED GENERAL MAGISTRATE’S REPORT AND
RECOMMENDATIONS ON PLAINTIFF’S/DEFENDANT’S MOTION**

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

Plaintiff, Case No.:
vs. Division:
Defendant(s).

**GENERAL MAGISTRATE’S REPORT AND RECOMMENDATIONS ON
DEFENDANT’S, _____, MOTION TO DISMISS FILED _____
_____, 201____ CLERK’S DOCUMENT TAG # _____ ; NOTICE OF FILING**

THIS MATTER was before the General Magistrate on _____, 201____, for hearing on the Motion to Dismiss filed by the Defendant, _____. An Order of Referral to General Magistrate was entered on _____, 201____. No objection to the Order of Referral to General Magistrate was filed. Present before the General Magistrate were _____.

-
- A. Having considered the pleadings, testimony presented and being fully advised in the premises, the General Magistrate makes the following findings of fact:
1. Counsel listed above entered oral notices of appearances at the instant hearing. Counsel were directed to file their respective Notice of Appearance of Additional Attorney.
 2. Defendants’ Motion to Dismiss is based on two grounds.
 3. First, Defendant asserts that Plaintiff’s counsel possessing the note and Plaintiff’s counsel signing the certification required by Florida Statute §702.15 did not comply with the statute and thus Plaintiff does not have standing to pursue the foreclosure action. The Plaintiff asserts that its counsel, as its agent, possessing the note and executing the certification meets the requirement of the statute. The General Magistrate finds that in the circumstances described, counsel’s possession of the note and execution of the certification is in compliance with Florida Statute §702.15.

4. Second, the Defendant asserts dismissal for the failure to join _____ and _____. The General Magistrate finds these entities are not indispensable parties.

5. The parties did not waive the time period to file exceptions to this report.

B. The General Magistrate recommends as follows:

1. The Motion to Dismiss filed by the Defendant, _____, on _____, 201__ (Clerk's Document Tag #____) should be denied.
2. The Defendant should file an Answer within ten days of the entry of an Order approving this report.

WHEREFORE, the undersigned General Magistrate files this Report with the Office of the Clerk and recommends entry of an Order approving the Report.

DONE in Pensacola, Escambia County, Florida on this ____ day of _____, 20__.

KEITH A. McIVER
General Magistrate

IF YOU WISH TO SEEK REVIEW OF THE REPORT AND RECOMMENDATIONS MADE BY THE MAGISTRATE, YOU MUST FILE EXCEPTIONS IN ACCORDANCE WITH FLORIDA RULE OF CIVIL PROCEDURE 1.490(i). YOU WILL BE REQUIRED TO PROVIDE THE COURT WITH A RECORD SUFFICIENT TO SUPPORT YOUR EXCEPTIONS OR YOUR EXCEPTIONS WILL BE DENIED. A RECORD ORDINARILY INCLUDES A WRITTEN TRANSCRIPT OF ALL RELEVANT PROCEEDINGS. THE PERSON SEEKING REVIEW MUST HAVE THE TRANSCRIPT PREPARED IF NECESSARY FOR THE COURT'S REVIEW.

CERTIFICATE OF SERVICE

I, hereby, certify that the original Report and Recommendation was filed with the Clerk of the Court on this _____ day of _____, 201__. Additionally, the parties listed below without an email address were served by the General Magistrate's office via regular U.S. mail on the same date. For parties listed below with an email address, the Clerk of the Court has e-served the Report and Recommendation on the date handwritten in by a party's respective email address.

[Service List]

KEITH A. McIVER
General Magistrate

X Electronic reporting was provided
_____ Court reporter present: _____

**ATTACHMENT 6—PROPOSED ORDER ON MAGISTRATE’S REPORT AND
RECOMMENDATIONS ON PLAINTIFF’S/DEFENDANT’S MOTION**

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

Plaintiff,

Case No.:

Division:

vs.

Defendant(s).

**ORDER ON GENERAL MAGISTRATE’S REPORT AND RECOMMENDATIONS
ON DEFENDANT’S, _____, MOTION
TO DISMISS FILED _____, CLERK’S DOCUMENT TAG # _____**

THIS CAUSE came on to be heard upon the matters referred to the General Magistrate, and the Court having considered the findings and recommendations therein, the time to file exceptions having expired and being otherwise fully advised in the premises, it is thereupon,

ORDERED AND ADJUDGED as follows:

1. The General Magistrate’s Report and Recommendations on Defendant’s, _____, Motion to Dismiss filed _____, ___, 201___, Clerk’s Document Tag #___ dated _____, is hereby ratified, approved, and incorporated herein.
2. That the parties herein are ordered to comply with all of the findings and recommendations contained in said General Magistrate’s Report, and that the Court hereby adopts each and every recommendation contained therein as this Court’s Order.
3. The Court retains jurisdiction to enforce this Order.

DONE AND ORDERED in Pensacola, Escambia County, Florida, on this _____ day of _____, 20___.

Circuit Judge

Copies furnished to:

ATTACHMENT 7—MOTION TO CANCEL AND RESCHEDULE FORECLOSURE SALE

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

[xxxxxxxxxxxxxxxxxxxx],
Plaintiff,

vs.

CASE NO. ___-CA-000___
DIVISION: _____

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

_____ /

MOTION TO CANCEL AND RESCHEDULE FORECLOSURE SALE

Plaintiff moves to cancel and reschedule the mortgage foreclosure sale because:

1. On _____ this Court entered a Final Judgment of Foreclosure pursuant to which a foreclosure sale was scheduled for _____, 20__ .

2. The sale needs to be canceled for the following reason(s):

- a. _____ Plaintiff and Defendant are continuing to be involved in loss mitigation;
- b. _____ Defendant is negotiating for the sale of the property that is the subject of this matter and Plaintiff wants to allow the Defendant an opportunity to sell the property and pay off the debt that is due and owing to Plaintiff.
- c. _____ Defendant has entered into a contract to sell the property that is the subject of this matter and Plaintiff wants to give the Defendant an opportunity to consummate the sale and pay off the debt that is due and owing to Plaintiff.
- d. _____ Defendant has filed a Chapter ____ Petition under the Federal Bankruptcy Code;
- e. _____ Plaintiff has ordered but has not received a statement of value/appraisal for the property;
- f. _____ Plaintiff and Defendant have entered into a Forbearance Agreement;
- g. _____ Other: _____

3. If this Court cancels the foreclosure sale, Plaintiff moves that it be rescheduled, and said rescheduled sale date is: _____.

s/ Jane Doe
Jane Doe (Printed Name)
Fla. Bar No. 1234567
Attorney for (Plaintiff/Defendant)
ABC Law Firm
123 Main Street
Pensacola, FL 32501
(850) 555-1212
Primary e-mail: Jane.Doe@ABCLaw.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy hereof was served via email or via U.S. Mail on this _____ day of _____, 20__ to all persons shown on the attached service list.

s/ Jane Doe
Jane Doe (Printed Name)
Fla. Bar No. 1234567
Attorney for (Plaintiff/Defendant)
ABC Law Firm
123 Main Street
Pensacola, FL 32501
(850) 555-1212
Primary e-mail: Jane.Doe@ABCLaw.com

NOTE: This form is used to move the Court to cancel and reschedule a foreclosure sale.

ATTACHMENT 8—ORDER TO CANCEL AND RESCHEDULE FORECLOSURE SALE

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

[XXXXXXXXXXXXXXXXXXXX],
Plaintiff,

vs.

CASE NO. __-CA-000__
DIVISION: _____

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

_____ /

**ORDER ON PLAINTIFF’S MOTION TO CANCEL AND
RESCHEDULE FORECLOSURE SALE**

This cause having come before the Court upon Plaintiff’s Motion to Cancel Sale, and the Court being fully advised in the premises, hereby, **ORDERS AND ADJUDGES:**

Plaintiff’s Motion to Cancel and Reschedule Foreclosure Sale is hereby GRANTED/DENIED.

The foreclosure sale is reset for _____.

DONE AND ORDERED in Chambers at Pensacola, Escambia County, Florida, this _____ day of _____, 20____.

Circuit Judge

Copies furnished to:

All parties on the attached service list

Service List

ABC Law Firm
123 Main Street
Pensacola, FL 32501
Primary e-mail: Jane.Doe@ABCLaw.com

Jane Doe
456 Main Street
Pensacola, FL 32501

CERTIFICATE OF SERVICE

The undersigned deputy clerk hereby certifies that he/she delivered a true and correct copy of the foregoing via email to those listed herein on the e-service distribution list. The attorney who submitted the proposed order is responsible for distribution of the order to any party who is not on the e-service distribution list.

Witness my hand and seal of the court on this ____ day of _____, 20____, as Clerk of the Circuit Court.

Pam Childers

Clerk of the Circuit Court

By: _____

ATTACHMENT 9—HEARING REQUEST FORM

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

Plaintiff,

Case No.:

Division:

vs.

Defendant(s).

**REQUIRED INFORMATION FOR SCHEDULING
HEARING/NON-JURY TRIAL BEFORE CIRCUIT JUDGE/GENERAL MAGISTRATE**

Order of Referral to General Magistrate entered? Yes No
If yes, date? _____

| Defendant(s) | Type of Service* | Answer by Party | Answer by GAL | Default | Dropped or Dismissed |
|--------------|------------------|-----------------|---------------|---------|----------------------|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

*Personal or Constructive

FIRST JUDICIAL CIRCUIT, ESCAMBIA COUNTY, FLORIDA

FORECLOSURE CHECKLIST FOR FINAL HEARING

PLAINTIFF _____

CASE NO. _____

vs.

DEFENDANT _____

| DEFENDANT(S) | ANSWER (Date Filed) | RETURN OF SERVICE (Date Service/ Filed) | CONSTRUCTIVE SERVICE (Yes/No) | DEFAULT (Date entered) | PARTIES DROPPED OR VOL. DISMISSED (Date) |
|--------------|------------------------|--|-------------------------------------|---------------------------|---|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Date Motion for Summary Judgment filed: _____

Have the following documents been filed?

- 1. Original Promissory Note: YES NO N/A Date filed: _____
- 2. Substantial Copy of Note: YES NO N/A Date filed: _____
- 3. Original Mortgage: YES NO N/A Date filed: _____
- 4. Certified Copy of Mortgage: YES NO N/A Date filed: _____
- 5. Assignment (if any): YES NO N/A Date filed: _____
- 6. Affidavit of Lost Instrument:
 - a. Note YES NO N/A Date filed: _____
 - b. Mortgage YES NO N/A Date filed: _____

Affidavits

- 1) Amounts Due: YES NO N/A Date filed: _____
- 2) Costs: YES NO N/A Date filed: _____
- 3) Attorney's Fees: YES NO N/A Date filed: _____
 - a. Expert Affidavit: YES NO N/A Date filed: _____
 - b. Plaintiff's Attorney's
Affidavit (time and fee
arrangement with client) YES NO N/A Date filed: _____

I, the undersigned, certify that I have reviewed the file and verified the information provided herein to be true and correct.

Signature of Attorney for Plaintiff

Date Signed

Printed Name of Attorney