

**IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY FLORIDA**

ADMINISTRATIVE MEMORANDUM

No. 13-C

(Court Administration—Section 24)

**2013-2014 CASE MANAGEMENT PLAN
FOR FORECLOSURE CASES AND USE OF
CASE MANAGERS FUNDED IN 2013 TRIAL
COURT BUDGET**

WHEREAS, the foreclosure crisis has negatively impacted the judicial branch, and the resulting flood of foreclosure filings has disproportionately affected the circuit civil division of the Eleventh Judicial Circuit by creating a backlog of cases in the civil division; and

WHEREAS, the number of statewide foreclosure filings has increased exponentially from 57,106 filings in 2005 to 399,118 filings in 2009, and while the number of filings declined from 2010 through 2011, the numbers began to increase in 2012 and more are expected in 2013; and

WHEREAS, while the Courts have made significant progress in reducing the existing backlog of pending foreclosure cases, the Eleventh Judicial Circuit should make all efforts to proactively prepare for the anticipated influx of new foreclosure filings to avoid erasing the gains that have been made and to avoid creating a new and even greater backlog of cases in each of the circuit civil division; and

WHEREAS, the Florida Legislature has recognized that the foreclosure crisis has greatly impacted the economy of the state of Florida and negatively affected the judicial branch in terms of both funding and caseload.¹ The Legislature has further noted that Florida has the largest share of foreclosure inventory of any state in the nation and that, as a result, the state court system is struggling with a backlog of foreclosure cases² and

WHEREAS, in an effort to more efficiently process foreclosure cases to conclusion, the Legislature has enacted Chapter 2013-137, effective June 7, 2013, which applies to all existing mortgages and pending cases; and

WHEREAS, in enacting Chapter 2013-106, § 3, Laws of Florida, the Legislature has appropriated additional non-renewable funding from the General Revenue Fund to the state courts system to provide supplemental resources, including additional senior judge days and temporary case management staff in the trial courts "to reduce the backlog of pending foreclosure cases," and

¹ See *House of Representatives Final Bill Analysis, Bill No. CS/CS/HB 87, Summary Analysis*, Florida House of Representatives, May 16, 2013, passed by the House of Representatives on April 29, 2013, by the Senate on May 3, 2013, by the Senate, and signed into law by the Governor on June 7, 2013.

² *Id.* at p. 2.

WHEREAS, the Eleventh Judicial Circuit is therefore mandated to resolve the existing backlog of foreclosure cases and should make all efforts to proactively prepare for an influx of new foreclosure filings to avoid creating a new backlog of cases in each circuit civil division; and

WHEREAS, the trial courts throughout the State have identified many pending cases in each of the circuit civil divisions where (1) service of process has not been timely made upon defendants; (2) service has been made but defaults have neither been requested nor obtained; (3) motions to dismiss, motions to quash service or for extension of time or motions to strike have been filed but a hearing has neither been requested nor set; and/or (4) cases which appear on the docket to be at issue, but have neither been noticed nor set for trial, resulting in further delay and increased backlog; and

WHEREAS, Rule 2.545, Florida Rules of Judicial Administration, mandates that trial judges "shall take charge of all cases at an early stage in the litigation and shall control the progress of the case thereafter . . . ;" and

WHEREAS, Rule 2.250, Florida Rules of Judicial Administration, has set forth a twelve-month time period as a presumptively reasonable time period for the completion of civil non-jury trial cases; and

WHEREAS, the Trial Court Budget Commission has established a Foreclosure Initiative Workgroup, to identify barriers to the timely disposition of foreclosure cases and recommend solutions. In response, the Workgroup recommended, *inter alia*, additional case management personnel to assist the trial courts and "more active judicial or quasi-judicial case management and adjudication, . . ." and

WHEREAS, in response to the recommendations of the Trial Court Budget Commission, the Chief Justice of the Florida Supreme Court in Administrative Order Number 13-28, has approved the use of additional funding appropriated by the Legislature to the state trial courts to employ case managers to expeditiously process foreclosure trial cases to conclusion;

NOW THEREFORE, pursuant to the authority vested in me by the Chief Judge as Administrative Judge of the Civil Division of the Eleventh Judicial Circuit,

NOTICE IS HEREBY GIVEN of the following Foreclosure Case Management Plan for foreclosure cases pending and filed in the Eleventh Judicial Circuit for fiscal year 2013-2014, see attached Exhibits:

- I. General Foreclosure Requirements and Rules for the 11th Judicial Circuit
- II. Residential Mortgage Foreclosure Summary Judgment/Sales Cancellation Calendar ("foreclosure master calendar") in Courtroom 3-3
- III. Foreclosure Project Trials in Courtrooms 22A and 3-1[senior judge] and Complex Foreclosure Trials
- IV. Division Judge Foreclosure Motion Calendars, Orders to Show Cause under §702.10 and Trials
- V. 11th Circuit's New Foreclosure Case Management Pilot Project.

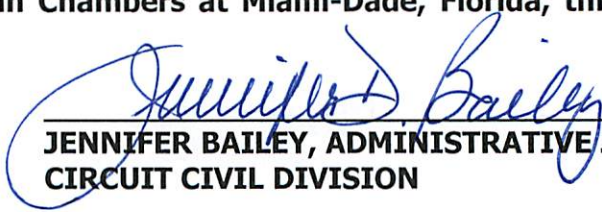
The Circuit may alter the attached procedures from time to time as dictated by resources and efficiencies and existing circumstances. The circuit reserves the right to make those changes to the exhibits to this administrative order without the necessity of reissuance of the administrative

order. Any changes will be posted on the circuit website at www.jud11.flcourts.org. In addition, the Foreclosure Project maintains an email list by which it communicates with interested parties. Requests to be added should be sent to fmc@jud11.flcourts.org or by filing out a request form that are available in the foreclosure project courtrooms.

NOW THEREFORE, pursuant to the authority vested in me as Administrative Judge of the Circuit Civil Division of the Eleventh Judicial Circuit Court of Florida and Rule 2.215, Florida Rules of Judicial Administration, the following procedural requirements are hereby revised and implemented: (see attached Exhibits)

This Administrative Memorandum shall take effect immediately and shall remain in effect until further order of the Court.

DONE AND ORDERED in Chambers at Miami-Dade, Florida, this 2nd day of August 2013.



JENNIFER BAILEY, ADMINISTRATIVE JUDGE
CIRCUIT CIVIL DIVISION

Exhibit I

GENERAL FORECLOSURE REQUIREMENTS AND RULES FOR THE 11TH CIRCUIT

A. FILES:

With the advent of efilings, and with the proliferation of pleadings during the foreclosure crisis, the Clerk has had to utilize off-site storage for foreclosure files. Do not assume that your paper court file will be immediately available upon request. Files prior to 2009 may take up to a week to be delivered to the courthouse. In addition, parties must assure themselves what is in the file. Many old files had original notes filed in them and were subsequently dismissed. If a party needs the old file to secure the note, it is the responsibility of the party who filed the note to locate it. Also, please monitor the file destruction policies in connection with old cases which were previously dismissed. The Clerk will not incur the expense and risk of mailing originals back on request. Any party seeking return of a note shall make appropriate arrangements with the Clerk after receiving a court order directing return of same. If a note is cancelled due to entry of judgment against defendant/s, the note shall be retained by the Clerk and not returned to counsel absent a court order vacating the judgment, dismissing the case and directing return.

B. ORIGINAL NOTES:

Plaintiff shall not file the Original Note with the complaint or otherwise. A full and complete copy of the note, including all endorsements, more specifically including those on back pages, and allonges, should be filed. The Original Note should be delivered to the Court at the time of final hearing, whether summary judgment or trial. If any law firm representing Plaintiff submits the note to the Clerk of the Court in violation of this administrative memorandum, it will be responsible to its client and to the borrower for any subsequent loss or inability to locate the note.

C. PLEADINGS:

a. Civil Cover Sheet

Each filing of a new complaint requires completion of a civil cover sheet signed by the filing attorney. Fla. R. Civ. P. Form 1.997 (2012). If a foreclosure case was previously filed and dismissed, the existence of the prior case must be noted under "related case." (Paragraph VI on the Civil Cover Sheet) Counsel shall list the full prior case number. The newly-filed case will be assigned to the Division which was assigned the previous case. This information should be evident through pre-judgment title work, and the fact that a different law firm may have been involved does not relieve Plaintiff from the obligation of completing the civil cover sheet accurately. Failure to note the existence of a prior filing may result in sanctions against the signing attorney.

b. Service of process

Motions to quash service, or for default, should be promptly prosecuted upon execution of service or attempted service. Motions for default should not be delayed for months and years after service was executed. Affidavits of diligent search supporting publication should be detailed with facts, not check marks, and comply with the current form under the Florida Rules of Civil Procedure.

c. Motions

The Eleventh Circuit Civil Division continues to hold separate foreclosure motion calendars. For each judge's procedure, please consult the circuit website at: <http://www.jud11.flcourts.org> All Motions must be promptly set for hearing upon filing. Failure to set motions for hearing may result in these motions being deemed abandoned or denied without hearing by the Presiding Judge.

d. Discovery

Both Plaintiffs and Defendants are reminded of the availability of the Eleventh Circuit's Ex-parte motion to compel discovery procedure, a copy of which is attached hereto as Administrative Order #06-09. If a party does not receive discovery and fails to pursue that discovery in a timely motion to compel, same will not be considered to warrant delay in a case.

e. Substitution of Counsel

If an attorney wishes to substitute for another attorney, written consent of client is required pursuant to Fla. R. Jud. Admin. 2.505(e)(2). This consent must be submitted with the Motion to Substitute. The Order granting substitution of counsel should reference the docket code "OSOC" in the upper left corner and must include the Florida Bar Number of the new counsel. Attorneys who substitute in are responsible for the action as it stands at the time of substitution and should be prepared to proceed on all scheduled court dates and become fully familiar with the file and the docket.

f. Notices to Attorneys

Clerk-issued notices, such as lack of prosecution notices, are computer-generated and are sent to the bar number on file for the case, usually the bar number associated with the filing of a complaint or an answer or motion to dismiss. It is the responsibility of the law firm to make sure that the information reflected in the clerk's records is accurate. This includes the new requirements under Fla. R. Jud. Admin 2.516 regarding email addresses.

g. Voluntary Dismissal of Foreclosure

Plaintiff's filing of a Notice of Voluntary Dismissal must be submitted to the presiding judge accompanied by a proposed Order of Dismissal and accurately completed Final Disposition Form, Form 1.998. If submitted contemporaneously with a summary judgment or trial hearing, same may be submitted to the Foreclosure Project Judge presiding. Absent compliance with this requirement, the foreclosure case will not be dismissed, will remain open and subject to scheduling of hearings to progress the case.

h. Notices of Conflict/Unavailability: Where an attorney is scheduled for trial before multiple courts at the same time, the attorney should follow Florida Rule of Judicial Administration 2.550(c) which addresses such circumstances. The rule states in part:

1. When an attorney is scheduled to appear in 2 courts at the same time **and cannot arrange for other counsel to represent the clients' interests,**

(emphasis added) the attorney shall give prompt written notice of the conflict to opposing counsel, the clerk of each court, and the presiding judge of each case.

2. This rule clearly contemplates that the attorney raising the conflicts should first make a diligent effort to arrange for other counsel to represent the client's interests and then, only if coverage is unavailable, give prompt written notice of the conflict.
3. The notice of conflict must reference efforts to arrange for other counsel to represent the client's interests. At a minimum, immediately upon the occurrence of a scheduling conflict, counsel should attempt to arrange coverage by other counsel within the firm practicing within the same subject area. If there is no alternate counsel available due to other trial conflicts, then timely notice should be given to the court and should specify the trial conflicts of the original and alternate counsel. This should include the style and case number of any conflicting case, the names of all attorneys who have filed pleadings in the case on behalf of the party raising the conflict in the last 60 days, the location, date and time of the scheduled trial in that matter, the date of entry of the trial order in each case, and the name and phone number of the judge who will try each case.
4. Any such motion or notice shall provide specific detail regarding the good faith effort to arrange other counsel and, if appropriate, shall specifically identify the scheduling conflicts of other counsel by case number, date, and location. The only court related matters sufficient to justify a scheduling conflict are trials or other hearings set by judges. In those instances, copies of the relevant order shall be attached to the motion or notice. In addition to giving preference to those cases in which the trial date has been first set, the court will also consider the age of the case.
5. Counsel and law firms must make the necessary decisions in accepting representation to assure adequate staffing and representation in all cases, given the number of trials that will be set in pending aged cases across the tri-county circuit jurisdictions.
6. This Order equally applies where there is a conflict raised due to "witness unavailability" of records custodian witnesses. Parties are advised to assure a sufficient number of witnesses be available for the scheduled trials. If a conflict is raised, the same information must be provided as to all records custodian witnesses listed on witness lists, as is required above for attorneys raising conflicts.
7. If a case is being set or reset for trial in open court, it is incumbent upon counsel to request a brief recess to confirm availability of counsel and/or witnesses on that day. Counsel should come to court prepared to discuss future dates at all hearings. Where there is a clear conflict and no additional coverage available, Counsel must list all dates within 30 days that they are available for trial.
8. Only if such a good faith effort to arrange coverage is unsuccessful shall a motion to continue or notice of scheduling conflict be filed.
9. Notices without the required detail will be rejected by the Court without further order. Notices of conflict or unavailability do not replace motions to continue. If a party seeks a continuance please make sure to follow the proper procedures below. Conflicts or unavailability raised immediately prior to trial will be given less weight by the court than those timely raised at initial setting.

10. The number of previous trial continuances in a given matter will also be considered. If a case is continued due to a conflict, subsequent assertions of conflicts will be given reduced weight.
11. To the extent possible, the courts of the respective circuits will work cooperatively to resolve true scheduling conflicts where appropriate to provide alternative scheduling. The notice of conflict must be timely filed when the conflict first becomes apparent. If the notice of conflict is filed on the eve of trial, judges may not be able to confer and resolve the conflict, which will then remain the responsibility of counsel as a result of the untimely filing. Where the above information has been properly and timely presented to the Court, the judges or their designees shall confer and undertake to avoid the conflict by agreement among themselves in accordance with the case guidelines cited in Fla. R. Jud. Admin. 2.550(a).

i. Group/bulk trial scheduling procedure:

To seek to schedule multiple foreclosure trial settings involving the same Plaintiff witness or law firm:

1. Plaintiff must submit a complete trial package TO THE 9TH FLOOR OF THE MIAMI DADE COUNTY COURTHOUSE which includes:
 - a. A cover sheet entitled "Group Scheduling Request for Foreclosure Trials," with a complete case list attached, referencing the case name and number along with the reason for group scheduling—for example, same attorneys, or same witness, etc.; CASES MUST BE PENDING WITHIN THE SAME DIVISION (SECTION) NUMBER OF THE CIRCUIT COURT, IN OTHER WORDS, ALL ASSIGNED TO THE SAME JUDGE.
 - b. An individual courtesy copy of the Notice of Non-Jury Trial served and filed in each case pursuant to Rule 1.440 Fla. R. Civ. P. (2011);
 - c. Each Notice of Trial must be accompanied by a separate page which lists a complete and current service list, referencing the case number on top, together with postage-paid, addressed envelopes for each party including the plaintiff;
 - d. The trial package for multiple settings cannot exceed 25 cases.
2. It is within the Court's discretion to grant a request for group trial scheduling.
3. Cases for which multiple witnesses are expected to be called or which are heavily contested should not be included in group requests. Those cases should be noticed separately for trial with an accurate estimation of time needed for trial, after joint consultation with opposing counsel.
4. The Plaintiff is responsible for providing a court reporter if they wish the proceedings to be recorded.

Exhibit II

Foreclosure Master Calendar

Residential Mortgage Foreclosure summary judgment motions and sales cancellation motions from all divisions except Division 6 will continue to be heard on the Foreclosure Master Calendar in 2013-2014 under the procedures delineated below. Condominium and Homeowner Association lien foreclosures, Construction and Mechanic's lien foreclosures and Commercial foreclosures shall continue to be heard on the assigned division judge's foreclosure calendar. Check with individual judge's webpage for specific instructions or requirements.

Motion for residential mortgage foreclosure summary judgment hearing on the Foreclosure Master Calendar, held daily in Courtroom 3-3

1. Pleadings should be closed, with no pending motions for extension of time, motions to dismiss or outstanding discovery.
2. Submission of a complete package for summary final summary judgment via the escheduling portal located at:
<https://www.jud11.flcourts.org/attorneyLogin.aspx?ReturnUrl=%2feschedule%2feschedule.aspx>
3. You should be prepared to electronically upload the following documents in order to secure a hearing date:
 - a. Complaint
 - b. Defaults
 - c. Answers
 - d. Notice of Dropping Party (ies)
 - e. If no default has been entered, the return of service package including:
 - (1) Non-Military Affidavit
 - (2) Individual Service of Process
 - (3) Substitute Service
 - (4) Service by Publication
 - (5) Affidavit of Diligent Search
 - f. Motion for summary judgment
 - g. Copies of the original note and mortgage, including assignments, allonges and/or endorsements
 - (1) As applicable, lost note affidavit
 - h. Affidavit of Indebtedness
 - i. Affidavit of costs
 - j. Affidavit of attorney fees
 - k. Affidavit as to the reasonableness of attorney fees
 - l. As applicable, Certificate of Compliance with Mediation
 - m. Proposed summary final judgment of foreclosure approved form
4. Upon completing the submission process, the scheduler may secure a hearing date. Hearing dates must be coordinated with opposing counsel. A proper Notice of Hearing shall be submitted to the Presiding Judge at the hearing.

5. **The Original Note must be surrendered for cancellation at the hearing unless it is a lost note case. Do not send or file the Original Note prior to the final hearing.**

6. Affidavits in support of summary judgment must comply with 11th Circuit requirements, which are:

The Affidavit must:

Provide accounting figures in the same format as the approved final summary judgment form referenced herein.

1. Include per diem interest calculations.
2. Establish that prior to the date of filing of the Complaint (reference the date under a dd/mm/yyyy format) Plaintiff held the note or the Plaintiff filed on behalf of the holder of the note at that time. It is the best practice to identify the holder of the note.
3. Attach sworn or certified copies of all papers referred to in whole or in part in the affidavit. *See*, F.R.C.Pro. 1.510(e)

7. **Final Summary Judgment of Foreclosure Form**

The approved Final Summary Judgment of Foreclosure Form attached hereto must be utilized in all residential mortgage foreclosures and specifically reference the name(s) of defendant(s) against whom judgment is executed. (Exhibit B) This Form is readily identifiable by the bold type docketing code "**FJUD**," referenced on the front page of the judgment. Exceptions to usage of the approved Final Summary Judgment of Foreclosure Form: commercial, condominium and homeowner's association fee foreclosures and construction/mechanics lien foreclosures.

1. All foreclosure judgments and orders of dismissal must be submitted together with an accurately executed Form 1.998, the Final Disposition Form.
2. Reformation: If reformation was properly pled in the Complaint and proven in the Motion for Summary Judgment, the Final Summary Judgment must address this issue. Reformation language should be included in the proposed Final Summary Judgment to correct the items which require reformation.
3. Re-establishment of Lost Notes: If re-establishment was properly pled in the Complaint, a Lost Note Affidavit filed and re-establishment proven in the Motion for Summary Judgment, the Final Summary Judgment must address this issue. Lost Note affidavits must comply with the statutory requirements of §702.015: affirmatively allege Plaintiff is the holder of the original note at time of filing, or allege with specificity the factual basis of Plaintiff's right to enforce the note and if delegated that right from another, identify with specificity the document which grants the Plaintiff the right to enforce the note. The affidavit must detail the clear chain of all endorsements, and assignments of the note and set forth specific facts under §673.3091. Supporting exhibits should be included.
4. With regard to lost notes, the language to be included in the proposed Final Judgment must be prominently referenced in bold type and stated as follows:

"The Court finds that the Plaintiff has re-established the terms of the lost note and its right to enforce the instrument as required by Section 673.3091, Florida Statutes. Plaintiff shall hold the Defendant maker of the note harmless and shall indemnify them from any loss

they may incur by reason of a claim by any other person to enforce the lost note. Since adequate protection is provided as required by Section 673.3091, Florida Statutes, by the following means:

(Identify means of security per statute §702.11:

**a written indemnification agreement, a surety bond,
a letter of credit, or cash collateral or other: which should
include specific detail)**

judgment is hereby entered in favor of the Plaintiff as to its request to enforce the lost note."

If the lost note has been found while the case is pending, Plaintiff must address the lost note count by disposing of that count prior to or at summary judgment and surrender the Original Note for cancellation.

5. Supplemental Orders. The approved Final Summary Judgment of Foreclosure includes form language retention by the Court of jurisdiction to enter further orders for additional relief that are proper, including, without limitation, writs of possession and deficiency judgments. Any additional relief outside the approved form sought as part of the Final Summary Judgment of Foreclosure may be allowed if said relief has been properly pled and if it is within the court's jurisdiction. If the Court grants the relief requested, the relief must be entered as a Supplemental Order to the Final Summary Judgment of Foreclosure, not submitted as a change to the approved form final judgment other than reformation and lost note as specified above. However, the presiding judge may add such additional language as he/she sees fit to ensure justice, such as requiring bond, etc.

Motions to Cancel/Reset Foreclosure Sale in Courtroom 3-3:

Contested motions to cancel sale shall be heard before the Foreclosure Master Calendar where the sale is imminent. If a sale is cancelled due to resolution of the case, the necessary motion should be brought to the division judge where possible before the sale date and should include the specific sale date for cancellation and dismissal of the case. If the sale is imminent or contested, the parties should seek cancellation by timely motion in Courtroom 3-3.

1. Motions to cancel must be filed with the Clerk of Courts and all parties/opposing counsel notified in writing of the intended hearing date, time and location. The Movant must bring a copy of the filed motion and the notice of hearing to the calendar. Parties who appear at the calendar without giving reasonable notice to all opposing parties will not be heard, and the Court will not undertake to contact counsel for Plaintiff or Defendants. A minimum of forty-eight (48) hours' notice by e-mail or fax is presumed reasonable notice for emergency hearings.

Requests from non-moving parties/counsel to appear by phone for the cancellation calendar may be honored if timely delivered via e-mail to fmc@jud11.flcourts.org no later than 3 p.m. the day prior to the noticed hearing. These requests must state which party you are representing and include a local phone number, the case number, and the date and time of the hearing. Only one attempted phone call will be made.

For purposes of this cancellation calendar, a genuine emergency is defined as a court ordered sale scheduled within the next five (5) days. Parties must show reasonable notice to all opposing parties including borrowers, condominium and homeowner's associations. There is no cap on the number of emergency motions which will be heard if they are properly before the court by meeting the above conditions including documentation requirements discussed herein.

2. Non-emergency motions to cancel sale will only be heard if the prerequisites discussed herein are met. This is a limited calendar with a pre-set cutoff of 30 cases for non-emergency future sales.
8. The motion for cancellation of sale must be supported by meritorious reasons which fully apprise the Court of the circumstances; and documentary evidence in support of the grounds must be provided. The 11th Circuit encourages the use of factual detail and precise language in the Motions to Cancel Sale presented to its judges. Motions lacking grounds/specificity will not be entitled to oral argument and will be ruled upon based upon the written motion.
 3. For example, motions to cancel sale due to short sale must attach copies of all short sale documentation which would be contracts, not listing agreements. Motions to cancel for loss mitigation must attach documentary proof that the case is in loss mitigation. Motions which require documentary evidence will not be heard if there is no documentary evidence attached to the written motion and sent to the opposing parties. Successive motions to cancel sale should address a new basis for cancellation which warrants another cancellation. Cases which have been cancelled before and which have been noted with "No Further Cancellation" language must demonstrate extraordinary good cause for cancellation.
 4. All motions for cancellation of sale requiring a hearing will be handled on a walk-in basis if the above requirements are met. These hearings will be conducted in Courtroom 3-3 at 8:30 A.M. only. Registration for the walk-in calendar ends at 9:25 a.m. and no additional cases will be added to the calendar after that time.
 5. All Orders on Motion to Cancel Sale shall utilize the form provided by the Court's website at www.jud11.flcourts.org unless otherwise determined by the Presiding Judge.
 6. For voluntary dismissals, a packet including the motion, order to dismiss, vacate and cancel sale, together with the required final disposition form should be dropped off for later pick-up. The orders will be signed at conclusion of the calendar. If the sale is for the day of submission, please advise the case manager/bailiff and he/she will expedite same with the judge. No hearings are necessary on voluntary dismissals.

Exhibit III
Foreclosure Project Trials in Courtrooms 22a, 3-1 (senior judge) and 4-3
(complex foreclosure trials):

Procedures previously in place will generally continue as established. Cases which are identified as ready for trial will be set by the Court and will be pulled from all divisions except Division 6. Parties will be required from time to time to provide accurate current service lists and stamped addressed envelopes for mailing trial orders. Trial orders for trials before senior judges will continue to be mailed directly by the Court. Division judges may use mail or may choose to serve his/her trial orders by email. Check individual judicial websites for specific judges' procedures.

1. There are three foreclosure project trial courtrooms. The courtrooms are dedicated to the priority of clearing the backlog of aged cases:
 - a. Regularly scheduled residential foreclosure trials are set in Courtroom 3-1 at 73 W. Flagler Street daily, and in Courtroom 22A of the Lawson E. Thomas Courthouse at 175 NW 1st Ave. Trials set in these courtrooms will have the location appear on the docket with the trial order, ONTA (22-A) and ONTB (3-1).
 - b. Complex foreclosure cases will continue to be set in Courtroom 4-3. (ONTC) The assessment of a case as complex must be made by either a division judge or a senior judge to be referred to the Complex foreclosure case trial setting. Division Judges may refer no more than 5 cases monthly.
 - c. Trial Orders are served by mail directly by the 11th Circuit. The parties must comply with the deadlines set forth therein.
 - d. To seek a trial continuance in a trial scheduled before a senior judge/complex foreclosure trial, please follow these procedures:
 - 1) Motions for continuance of foreclosure trial should be provided to all parties on the service list a minimum of seven (7) business days prior to trial. Emergency Motions may be filed and served with less than seven days, but they must be true emergencies, involving recent events, not general argument.
 - a. Motions for continuance must include reasons and supporting documentation, and dockets. For example, documentary evidence of a participatory modification process not emails between lawyers.
 - 2) If there is an agreement to continue trial, it is required that the movant secure the signatures of all non-defaulted parties to demonstrate that they have agreed to this continuance, including condominium and homeowners' associations. The Court reserves the right to reject agreed continuances in aged cases or where the continuance is unjustified or documentation lacking.
 - 3) The motion for continuance trials set before the foreclosure project must be filed with the Clerk of the Courts and a courtesy copy provided to: fmc@jud11.flcourts.org. **Do not** submit on eCourtesy to the division judge. Delay in submission after filing may result in your motion being denied as untimely. The Foreclosure Project tracks

submission. Do not wait until the eve of trial to submit a previously filed motion for continuance.

- 4) A Presiding Judge of the Foreclosure Team will review the motion. Most motions will be ruled upon from submission without argument, and you will receive a written order. **Do not** set the motion for continuance before the Division Judge.

- (a) If the Court in its discretion deems that argument is warranted, movant will be advised by e-mail about setting the motion for hearing. The hearing will be set before the Presiding Judge at the specified time and location, which may generally be expected to be Monday morning.

The Trial Date Setting is not cancelled until the movant receives written Order of Continuance from the Court or the Foreclosure Team. Do not count on a case being continued by virtue of agreement or simple filing of the motion. The movant shall be responsible for notifying all parties on the service list of the continuance of trial. Failure to properly notify all parties may subject the movant to sanctions, including but not limited to imposition of attorney fees and costs.

- e. Division judges continue to handle motions (except in limine) for cases set for trial before a senior judge. Attorneys are hereby **ordered** to advise a division judge if the motion before him or her involves a case which is set for trial before a senior judge and must advise the division judge of the trial date.

Exhibit IV

Division Judges:

Division Judges, which are the judges presiding over the individual judicial sections to which a case is assigned, hear all motions in cases assigned to them except for sales cancellation motions and residential mortgage foreclosure summary judgments which are heard in the Foreclosure Master Calendar, except for Division 6. Division 6 hears its own sales cancellation motions and residential mortgage foreclosure summary judgments. Motions should be set on each judge's foreclosure motion calendar. Information as to each judge's calendar is on the circuit website, www.jud11.flcourts.org

Procedures under Fla. Stat. §702.10, ORDER TO SHOW CAUSE

A plaintiff seeking an order to show cause for the entry of a final judgment in a foreclosure action must provide the following documents to the judge with the motion for an order to show cause:

- a. A copy of the verified complaint *which complies with §702.015*. Complaints which predate the spring 2013 passage of the amendments to §702.015 are unlikely to meet this requirement, so please review your pleading prior to submission.
- b. A copy of the note, allonges and endorsements, assignments and Mortgage. **Do not file the originals, they must be brought to the hearing.**
- c. A proposed Order to Show Cause compliant with §702.10(a) etc.
- d. Attach the proposed final judgment of foreclosure which under the statute is limited to *in rem* relief
- e. Copies of any defaults or answers previously served by a defendant to the case.

All items submitted to the Court must be submitted to the court file. Upon a complete submission, the division judge shall immediately review the submission and determine whether it meets the statutory requirements, and if so, set the Order to Show Cause.

Division Judge Foreclosure Trial Calendars:

Division Judges are also setting and presiding over foreclosure trials. If your case is set before a division judge, the docket will reflect the date and time of trial, but not location. Check your trial order carefully to make sure where you are to report for trial.

In connection with all matters pending before division judges, it is important for parties/counsel to check judge's individual websites to comply with their procedures.

Foreclosure Motion Calendar:

- A. Division judges continue to hear all motion practice in connection with foreclosure cases with the exception of those motions which are assigned to the Foreclosure Master Calendar.
- B. Division judges handle all motions in cases they have set for trial, including motions to continue. Do not deliver motions to continue in cases which are set before the division judge to the 9th floor, deliver them to the presiding judge. Failure to deliver your motion to the correct location will delay consideration. Attorneys are reminded of the requirement to attempt to resolve matters before setting them for hearing in Fla.R.Civ.Pro. 1.380(2).

- C. **Discovery Motions:** see this order with regard to Discovery. The parties are reminded again of the availability of the ex-parte procedure where there has been no response at all. Further, the parties are reminded that they are required to confer prior to setting discovery motions on the motion calendar. That means that the attorneys should attempt to resolve the motion, not just have a secretary place a call. The attorney appearing before the court must be prepared to address attempts to resolve the motion.
- D. **Writs of Possession:**
No Writ of Possession shall issue ex-parte. To secure a Writ, there must be a motion, a properly noticed hearing and an order secured from the Division Judge.
1. Prerequisites to the scheduling of a writ of possession:
 - (a) Submission of motion for writ of possession and a copy of the certificate of title, and
 - (b) Proof of pre-eviction notice in compliance with the Protecting Tenants at Foreclosure Act of 2009, and its extension until 12/31/14 under the Dodd-Frank Wall Street Reform and Consumer Protection Act, as applicable.
- E. **Motion for Return of Bond:**
Plaintiff may seek recovery of bond in those cases in which the Court has required a bond to indemnify the borrower in a lost note case. This motion for return of the bond must be set before the Division Judge. Return of the bond may be sought where:
- (a) The original note is located and delivered to the Court and cancelled. The bond should not be released until the note is cancelled.
 - (b) Where the statute of limitations has expired on the action on the Note/Foreclosure.
 - (c) Upon written agreement of the parties.
 - (d) The motion must be served on all parties at least seven (7) business days prior to submission to the Court and in those cases in which the original note is located, the motion should be noticed for hearing and the original note brought to court for cancellation. Do not file the original note with the Clerk, deliver it to the judge for cancellation.

Exhibit V.

Foreclosure Case Management Pilot Project in cases pending before Division Judges:

all circuit divisions are participating with the exception of Division 6. This represents a new initiative by the circuit to avoid future backlog of foreclosure cases due to inactivity and delay by the parties.

A. Cases filed prior to 7/1/13

1. All foreclosure cases filed prior to July 1, 2013 shall be subject to review by case managers together with civil division judges in order to progress cases. Motions which are outstanding and have not been set for hearing may be ruled upon without oral argument.
2. The case manager will also review and set eligible cases for trial. Trial may be set before the division judge or a senior judge, at the circuit's discretion based upon judicial resources. Plaintiff shall provide a current service list and stamped addressed service envelopes within 7 business days per Administrative Memorandum and judicial request.

B. Cases Filed After July 1, 2013 which are available for review electronically, all participating circuit court judges in the civil division shall subject cases filed after July 1, 2013 to the benchmark case management review, as set forth below:

Effective July 1, 2013, each division of the circuit civil division of the Eleventh Judicial Circuit who accepts assignment of a Division Foreclosure Pilot Project Case Manager shall implement the following uniform case management procedures, in accordance with Chapter 702, Florida Statutes, the Florida Rules of Civil Procedure and the Florida Rules of Judicial Administration.

Uniform Case Management Procedures:

1. **Service of Process.** Pursuant to Rule 1.070, Florida Rules of Civil Procedure, if service of process is not made upon a defendant within 120 days of the issuance of a summons, the court, "on its own initiative after notice ... shall direct that service be effected within a specified time or shall dismiss the action without prejudice or drop that defendant as a party."

- a. Accordingly, case managers shall review all cases filed after July 1, 2013, to determine whether service has been made upon all defendants within 90 days of the issuance of summons. If service has not been made, each participating trial judge shall issue a notice directing the plaintiff to effect service within 120 days (30 days from issuance of notice) or the case will be subject to dismissal or dropping of the unserved defendant as a party.
- b. Plaintiffs may seek an extension of time in which to effect service, for good cause shown or for excusable neglect.
- c. Motions for extension of time that fail to include case-specific detail about service efforts on the individual unserved defendants may be summarily denied.

2. **Default.** Rule 1.500 of the Florida Rules of Civil Procedure provides that the Clerk or the Court may enter a default against a party who has failed to file a pleading or paper in the action. Section 520 of the United States Code Annotated is interpreted to require the plaintiff to file an affidavit regarding the non-military status of the defendant before a default may be entered, thus the trial court may not *sua sponte* enter default against a party. Accordingly, case managers shall review all cases filed after July 1, 2013, to determine whether any parties are subject to default.

- a. If it appears from the docket that a party is subject to default, the trial judge shall enter an order requiring the Plaintiff to submit, via ecourtesy, within 30 days:

- i. a motion for clerk's default;
 - ii. a motion for judicial default together with all supporting affidavits; or,
 - iii. a showing of good cause why a default should not be entered, via e-Courtesy.
 - b. Case Managers will review the trial court dockets on 30-day cycles to determine whether defaults have been submitted pursuant to Court Order. The Court may sanction any party who fails to comply with a Court Order. Sanctions may include striking of pleadings against the non-defaulted party.
3. **Motions to Dismiss/Motions to Strike.** Case managers shall periodically review all cases filed after July 1, 2013, to determine whether either a motion to dismiss complaint or motion to strike pleadings has been filed.
- a. If such a motion has not been scheduled for a hearing within 30 days of the time of filing, each participating trial judge shall, on its own motion, set the motion to be heard. If dismissal is denied, the trial court shall set forth the time in which an answer shall be submitted.
 - b. If an answer is not timely filed pursuant to Court Order, the trial court shall order the Plaintiff to timely submit a default and shall set the matter for trial. Case managers shall review the dockets on 30-day cycles to determine whether pending motions to dismiss or motions to strike have been disposed of, pursuant to Court Order. Failure of a party to comply with court order may result in sanctions including denial of the motion to dismiss or motion to strike.
4. **Motion Calendar.** Any motion filed should generally be set for a hearing date within 30 days of filing.
- a. Motions which are filed and which have not been set for hearing within 30 days may be deemed abandoned or withdrawn and, thus, denied without hearing.
 - b. Motions shall be set on the earliest mutually convenient calendar date available.
 - c. Motions to withdraw should be set on motion calendar no later than 20 days prior to trial.
5. **Setting Cases for Trial.** This Administrative Memorandum hereby establishes that it is the Eleventh Circuit's intent to try these cases as soon as practicable, and Plaintiff is required to timely notice the case for trial when all parties have been defaulted or answered. The notice shall indicate whether the case is contested or uncontested and the amount of time reasonably expected to be required to try the case. Any notice of unavailability filed by any attorney in the case shall be attached to the motion. If the case is contested, counsel for Plaintiff and counsel for Defendant shall confer as to the time required. The Court will unilaterally set cases for trial where the parties have failed to timely notice the case for trial. Priority shall be given to aged cases. In accordance therewith:
- a. Case Managers shall review the dockets of all cases filed after July 1, 2013, to determine whether the case is at issue. Pursuant to Rule 1.440(c), Florida Rules of Civil Procedure, if the case is at issue, the trial court "shall issue an order fixing a date for trial." Pursuant to Rule 2.250, Florida Rules of Judicial Administration, a non-jury civil case should be completed within a presumptively-reasonable twelve-month period.

- b. Where all defendants have been defaulted, or where the case is otherwise at issue, the trial court shall set the case for trial.
- c. Case managers will identify all cases where Clerk's or judicial defaults have been obtained against all parties named in the complaint, and these matters shall be set for trial within 45 days after entry of a default.
- d. Alternatively, a trial date shall be set no later than 45 days after the closing of the pleadings absent a showing of good cause why the case should be set thereafter.
- e. Upon notice by the Court, Plaintiffs shall provide a current service list and stamped addressed service envelopes within seven business days.

6. Mediation/Alternative Dispute Resolution. Any party requesting mediation or conciliation shall make that request no later than 30 days prior to the trial date, in order to avoid unnecessary delay or continuance.