

THE ELEVENTH JUDICIAL CIRCUIT
MIAMI-DADE COUNTY, FLORIDA
ADMINISTRATIVE MEMORANDUM
CIV 10 - E

IN RE: REQUIREMENTS FOR RESIDENTIAL MORTGAGE FORECLOSURE CASES:

1. AFFIDAVITS IN SUPPORT OF SUMMARY JUDGMENT
2. VACANT PROPERTY PRIORITY
3. MOTIONS TO CANCEL/RESET SALES
4. MOTIONS TO LIFT STAY/PROCEED
5. MOTION FOR RETURN OF BOND
6. SUMMARY JUDGMENT PACKET SUBMISSION REQUIREMENTS

IN THE INTERESTS OF THE JUDICIAL ADMINISTRATION of the Eleventh Judicial Circuit it is necessary to implement procedural changes to effectively manage limited court resources employed in residential mortgage foreclosure cases. NOW, THEREFORE, pursuant to the authority vested in me as Administrative Judge of the Circuit Civil Division in the Eleventh Judicial Circuit of Florida, under Rule 2.215, Florida Rules of Judicial Administration, in an effort to carry out this effort in a fair and efficient manner, the following procedural requirements are hereby implemented:

Affidavits in support of Summary Judgment must:

1. Provide figures in the same format as Florida's form final summary judgment of foreclosure. No computer screen printouts.
2. Include per diem interest calculation.
3. Establish that prior to the date of filing of the Complaint (please 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. The holder should be identified.
4. Attach sworn or certified copies of all papers referred to in whole or part in the affidavit.
5. In cases in which issues regarding prior affidavit execution have been raised, by defendant or by stay motion, an explanation of the corrective measures and new procedures rendering the current affidavit reliable should be included.

Vacant Property procedures:

On a trial basis, the 11th Circuit is experimenting with prioritizing those cases in which property is established as VACANT. To qualify for priority consideration, please follow the following procedure:

1. On the Front Cover sheet of your FMC summary judgment packet, include the word "VACANT" in 48 point type prominently. Include at the end of the packet, the attached Affidavit of Real Property Inspection confirming the vacancy. (see Exhibit A)
2. The Affidavit must establish the grounds by which Plaintiff initially learned the property was vacant (service returns, returned mail, told by borrower for example) as well as establish that the property is currently vacant at the time of the affidavit's execution.
3. Foreclosure cases which have been properly qualified as Vacant will receive priority treatment.

Motions to Cancel or Reset Sale must:

1. Include a statement of the history of the case: date of final judgment, prior sales dates given, movant and date of prior motions to cancel and reason given for cancellation, dates of prior orders to cancel sale, reason for any incomplete sale, etc.
2. If a sale was previously cancelled for loss mitigation, a loss mitigation history and resolution must be included.
3. There will be no reset dates given at time of cancellation on affidavit moratorium or loss mitigation cancellations.

Motions to Lift Stay/Proceed:

1. Any stay in place must be lifted by a properly filed and served Motion to Lift Stay/Proceed.
2. These may be submitted ex parte or noticed on motion calendar. If submitted ex parte, the motion should state the reason to proceed with specificity.

Motion for Return of Bond:

1. In cases in which the Court has imposed a bond to indemnify the borrower in lost note cases, the Plaintiff may seek return of the bond by motion submitted to the judge of the division in which the case is assigned.
2. 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 release until the Note is cancelled.
 - b. Where the statute of limitations has expired on an action on the Note/Foreclosure.
 - c. Upon written agreement of the parties.
3. Motion must be served upon all parties at least seven 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. We discourage parties from filing Original Note in the court files at this time.

Summary Judgment packets: In order to process the number of cases currently pending, all summary judgment submissions must be organized in a specific format as set below.

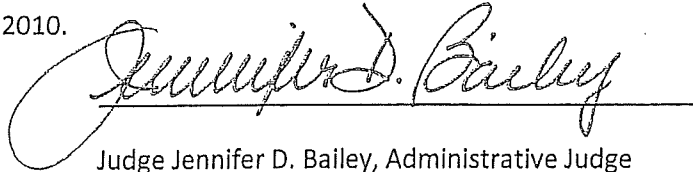
1. Clerk of Court's docket sheet
2. Certification of Case Status (ACCURATE)
3. Complaint
4. Copies of the note and mortgage including allonges and assignments
5. **Separated in order of defendant list on the complaint:**
 - a. Answers
 - b. Orders of Default, Clerk Defaults or Drops
 - c. **Where no default has been entered**, the service package for that defendant including:
 - i. Service return
 - ii. Non-military affidavit
 - iii. Defense manpower searches
 - iv. In publication cases, Affidavit of Diligent Search
 - v. In publication cases, Proof of publication
6. Certificate of compliance (from the Mediation Manager) with residential mortgage foreclosure mediation as mandated by Administrative Order 10-03 A1 or evidence of non-homestead status
7. Motion for summary final judgment of foreclosure

8. Affidavit of indebtedness
9. As applicable, lost note affidavit
10. Affidavit of costs
11. Affidavit of attorney fees
12. Affidavit as to the reasonableness of attorney fees
13. Proposed summary final judgment using the approved form
14. Notices of hearing and postage paid envelopes for all parties on the service list.

The enumerated items in each category referenced above must be stapled together and submitted in proper order.
Please do not include multiple copies of identical items.

This Administrative Memorandum shall take effect on December 20, 2010, and shall remain in effect until further order of the Court.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida, this 17th day of December, 2010.



Judge Jennifer D. Bailey, Administrative Judge

Circuit Civil Division, Eleventh Judicial Circuit of Florida