

**THE ELEVENTH JUDICIAL CIRCUIT
MIAMI-DADE COUNTY, FLORIDA**

**CASE NO. 09-1
(Court Administration)**

**ADMINISTRATIVE ORDER
NO. 09-09
(Rescinding AO 06-02 and
AO 06-02 A1)**

**IN RE: REVISIONS TO UNIFORM
FINAL JUDGMENT OF
FORECLOSURE FORM, ADOPTION
OF OTHER FORECLOSURE FORMS,
AND ESTABLISHMENT OF OTHER
FORECLOSURE PROCEDURES**

WHEREAS, as acknowledged in Administrative Order No. 06-02, and as amended by Administrative Order No. 06-02 A1, it had become common practice for attorneys to submit Final Judgments of Foreclosure containing various terms and provisions not included in Form 1.996 of the Florida Rules of Civil Procedure; and

WHEREAS, pursuant to said Administrative Orders, in an effort to promote uniformity and ease of review in examining these proposed Final Judgments, a specific format for such Final Judgments was prescribed; and

WHEREAS, on July 1, 2006, amended statutory requirements regarding mortgage foreclosure procedures became effective and were accordingly incorporated in the Final Judgments of Foreclosure; and

WHEREAS, pursuant to Administrative Order No. 09-08, the 11th Circuit Homestead Access to Mediation Program ("CHAMP") was established for the case management of residential foreclosure cases filed on or after May 1, 2009 in this Circuit through the implementation of mandatory mediation of mortgage foreclosure actions involving homestead properties; and

WHEREAS, in compliance with AO No. 09-08, certain forms have to be revised or created to include, (i) Civil Cover Sheet, (ii) Plaintiff's Certification of Settlement Authority, (iii) Plaintiff's Certification of Residential Mortgage Foreclosure Case Status and (iv) Final Judgment of Foreclosure; and

WHEREAS, with regard to actions involving condominium and homeowner's association fee foreclosures, private investor mortgage foreclosures, foreclosures of

non-homestead properties, construction lien foreclosures, and homestead foreclosure actions filed prior to May 1, 2009, while CHAMP is unavailable for the parties, mediation procedures as set forth in Rule 1.720(f), Florida Rules of Civil Procedure, will continue to be available; and

WHEREAS, other foreclosure procedures governing the issuance of writs of possession for homestead and non-homestead residential properties need to be established;

NOW, THEREFORE, pursuant to the authority vested in me as Chief Judge of the Eleventh Judicial Circuit of Florida, under Rule 2.215 of the Florida Rules of Judicial Administration, it is hereby **ORDERED**:

1. **Residential Mortgage Foreclosure Documents.** The following documents shall be submitted in the form attached hereto:
 - A. Civil Cover Sheet
 - B. Plaintiff's Certification of Settlement Authority
 - C. Plaintiff's Certification of Residential Mortgage Foreclosure Case Status
 - D. Final Judgment of Foreclosure

2. **Reformation and/or lost notes.** With regard to those foreclosure matters wherein the circumstances require the court to address reformation and/or lost note(s) issues, if properly pleaded in the Complaint and proved in the Motion for Final Summary Judgment of Foreclosure, the Final Judgment of Foreclosure may address such issues. With regard to lost notes, the language to be included in the Final Judgment must be written in bold print and stated as follows:

“The Court finds that the Plaintiff has reestablished 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, judgment is hereby entered in favor of the Plaintiff as to its request to enforce the lost note.”

With regard to reformation, attorneys may propose the language to be included in bold print in the Final Judgment, for the court's consideration.

3. **Supplemental Orders.** As provided in the Final Judgment of Foreclosure (attached hereto), the court shall retain jurisdiction to enter further orders for additional relief that are proper, including, without limitation, writs of possession (as hereinafter stated) and deficiency judgments. Any such additional relief sought to be included as part of the Final Judgment of

Foreclosure may be allowed if within the court's jurisdiction, and properly pleaded. If such relief is granted, it must be entered as a Supplemental Order to the Final Judgment of Foreclosure.

4. **Mediation for Other Homestead and Non-homestead Properties.** In accordance with Administrative Order No. 09-08, only foreclosure actions against homestead properties filed on or after May 1, 2009 are eligible for the 11th Circuit Homestead Access to Mediation Program ("CHAMP").

Condominium and homeowner's association fee foreclosures, private investor mortgage foreclosures, foreclosures of non-homestead properties, construction lien foreclosures, and homestead foreclosure actions filed prior to May 1, 2009, **are not eligible for CHAMP**. Such foreclosures will continue to follow the mediation procedures set forth in Rule 1.720(f), Florida Rules of Civil Procedure.

5. **Writs of Possession.** The court shall not issue writs of possession in foreclosure actions involving homestead or non-homestead residential properties without evidence that all parties involved in such action have been properly served, notice of hearing has been provided and a hearing is held before the court.

Administrative Order No. 06-02 and Administrative Order No. 06-02 A1 are hereby rescinded in their entirety and shall be held for naught.

This Administrative Order 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 _____ day of May, 2009.

**JOSEPH P. FARINA, CHIEF JUDGE
ELEVENTH JUDICIAL CIRCUIT OF FLORIDA**

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

DIVISION <input type="checkbox"/> CIVIL <input type="checkbox"/> DISTRICTS <input type="checkbox"/> FAMILY <input type="checkbox"/> OTHER	CIVIL COVER SHEET	CASE NUMBER
PLAINTIFF	VS. DEFENDANT	CLOCK IN

The civil cover sheet and the information contained here does not replace the filing and service of pleadings or other papers as required by law. This form is required by the Clerk of Court for the purpose of reporting judicial workload data pursuant to Florida Statute 25.075. See instructions and definitions on reverse of this form.

TYPE OF CASE (Place an 'x' in one box only)

Domestic Relations	Torts	Other Civil
<input type="checkbox"/> Simplified dissolution <input type="checkbox"/> Dissolution of Marriage <input type="checkbox"/> Support - IV-D <input type="checkbox"/> Support - Non IV-D <input type="checkbox"/> UIFSA - IV-D <input type="checkbox"/> UIFSA - Non IV-D <input type="checkbox"/> Domestic Violence <input type="checkbox"/> Other domestic relations	<input type="checkbox"/> Professional Malpractice <input type="checkbox"/> Products liability <input type="checkbox"/> Auto negligence <input type="checkbox"/> Other negligence	<input type="checkbox"/> Contracts <input type="checkbox"/> Condominium <input type="checkbox"/> Real property <input type="checkbox"/> Mortgage foreclosure <input type="checkbox"/> Commercial <input type="checkbox"/> Residential <input type="checkbox"/> Homestead <input type="checkbox"/> Non-Homestead <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Challenge to proposed Constitutional Amendment <input type="checkbox"/> Other

Is Jury Trial Demanded in Complaint ? Yes No

DATE:

COMPLEX BUSINESS COURT

This action is appropriate for assignment to Complex Business Court as delineated in the attached addendum pursuant to Administrative Order. Yes No

Signature of Attorney for party initiating action: _____ Print Name: _____

Address _____

Telephone _____

JUDGE:

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET

I. **Class 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 (if applicable) and the name (last, first, middle initial) of plaintiff(s) and defendant(s).

II. **Type of Case.** Place an "X" in the appropriate box. If the cause fits more than one type of case, select the most definitive. Definitions of the cases are provided below.

- (A) **Simplified Dissolution of Marriage** - Petitions for the termination of marriage pursuant to Fla.C.Civ.P.1.1611(C).
- (B) **Dissolution of Marriage** - Petitions for the termination of marriage other than simplified dissolution.
- (C) **Support - IV-D** - all matters relating to child or spousal support in which an application for assistance has been filed under Title IV-D, Social Security Act; except for such matters relating to dissolution of marriage petitions (F.S. 409.2564, 409.2571 and 490.2597), paternity, or UIFSA.
- (D) **Support - Non IV-D** - all matters relating to child or spousal support in which an application for assistance has been filed under Title IV-D, Social Security Act.
- (E) **UIFSA - IV-D** - all matters relating to Chapter 88, Florida Statutes, in which an application for assistance has not been filed under Title IV-D, Social Security Act.
- (F) **UIFSA - Non IV-D** - all matters relating to Chapter 88, Florida Statutes, in which an application for assistance has not been filed under Title IV-D, Social Security Act.
- (G) **Domestic Violence** - all matters relating to injunctions for protection against domestic violence pursuant to F.S. 741.30.
- (H) **Domestic Relations** - all matters involving adoption, paternity, change of name, child custody, separate maintenance, annulment, or other matters not included in categories (A) through (G).
- (I) **Auto Negligence** - all matters arising out of a party's allegedly negligent operation of a motor vehicle.
- (J) **Professional Malpractice** - all professional malpractice lawsuits.
- (K) **Products Liability** - all matters involving injury to person or property allegedly resulting from the manufacture or sale of a defective product or from a failure to warn.
- (L) **Other Negligence** - all actions sounding in negligence, including statutory claims for relief on account of death or injury, not included in categories (I), (J), and (K).
- (M) **Condominium** - all civil lawsuits pursuant to Chapter 718, Florida Statutes, where a condominium association is a party in the lawsuit.
- (N) **Eminent Domain** - all matters relating to the taking of private property for public use, including inverse condemnation by state agencies, political subdivisions and public service corporations.
- (O) **Real Property/Mortgage Foreclosure** - all matters relating to the possession, title and boundaries of real property including: homestead and non-homestead residential foreclosures, commercial foreclosures and foreclosures associated with condominium associations and condominium units.
- (P) **Contracts and Indebtedness** - all contract actions relating to promissory notes and other debts, including those arising from the sale of goods. Excludes contract disputes involving condominium associations.
- (Q) **Change to proposed constitutional amendment** - a challenge to a legislatively initiated proposed constitutional amendment. Excludes challenges to citizen-initiated proposed constitutional amendments, because the Florida Supreme Court has direct jurisdiction of such challenges.
- (R) **Other Civil** - all civil matters not included in categories (A) through (Q).

III. **Is Jury Trial Demanded in Complaint?** Check the appropriate box to indicate whether or not a jury is being demanded in the complaint.

IV. **Complex Business Court** - Check the appropriate box to indicate whether or not this case is to be assigned to the Complex Business Court.

DATE AND ATTORNEY SIGNATURE. Date and sign the civil cover sheet.

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

GENERAL JURISDICTION DIVISION

CASE NO.:

Plaintiff,
vs.

Defendant(s).

PLAINTIFF'S CERTIFICATION OF SETTLEMENT AUTHORITY

The undersigned counsel, on behalf of Plaintiff/Lender, does hereby file its certification of settlement authority and states as follows:

1. Plaintiff/Lender's representative in this matter is _____
_____ ("Representative").

2. During the course of these proceedings, Representative shall either appear in person or telephonically at _____ (Toll free number).

I HEREBY CERTIFY that the undersigned has spoken with the Plaintiff/Lender's Representative and confirmed that the Representative has full and complete settlement authority to enter into a binding agreement this _____ day of _____, 200__.

Signature: _____

Printed name: _____

Bar Number: _____

Address: _____

Telephone No.: _____

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

GENERAL JURISDICTION DIVISION

CASE NO.:

Plaintiff,
vs.

Defendant(s).

**PLAINTIFF'S CERTIFICATION OF
RESIDENTIAL MORTGAGE FORECLOSURE CASE STATUS**

The undersigned attorney hereby certifies that the information provided herein is true and correct:

DEFENDANTS	SERVED	DROPPED	ANSWER	DEFAULT

Confirm courtesy copies were mailed to defendants and indicate dates:

- _____ Motion for Summary Judgment.
- _____ Notice of Hearing on Summary Judgment.
- _____ Affidavit of Indebtedness.
- _____ Affidavit of Costs.
- _____ Affidavit of Attorney Fees.
- _____ Affidavit as to Reasonableness of Attorney Fees.

Confirm compliance and indicate dates:

- _____ Original note and mortgage, and assignment, if applicable, provided to the Court.
- _____ Affidavit of lost note filed.
- _____ Case under CHAMP program, compliance attached.

Undersigned counsel further certifies, under penalty of perjury, that in accordance with Administrative Order No. 09- 08:

- a. The Summary Final Judgment of Foreclosure submitted is the court-approved form, without any alterations or additions; and
- b. That the amounts in the final judgment are accurate and correspond with the affidavits filed herein.

Date

Signature of Attorney

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

GENERAL JURISDICTION DIVISION

CASE NO.:

vs. Plaintiff,

Defendant(s).

FINAL JUDGMENT OF FORECLOSURE
(Pursuant to Administrative Order 09-09)

THIS ACTION was heard before the Court on Plaintiff's Motion for Summary Final Judgment on _____, 200____. On the evidence presented, **IT IS ORDERED AND ADJUDGED** that:

1. The Plaintiff's Motion for Summary Judgment is **GRANTED**. Service of process has been duly and regularly obtained over Defendants: _____.

2. **Amounts Due.** There is due and owing to the Plaintiff the following:

Principal due on the note secured by the mortgage foreclosed:	\$ _____
Interest on the note and mortgage from _____ to _____	\$ _____
Per diem interest at _____% from _____ to _____	\$ _____
Title search expenses	\$ _____
Taxes for the year of _____	\$ _____
Insurance premiums	\$ _____

Court Costs:

Filing fee	\$ _____
Service of Process at \$ _____ per defendant	\$ _____
Publication for _____	\$ _____

SUBTOTAL \$ _____

Additional Costs:

_____	\$ _____
_____	\$ _____

SUBTOTAL \$ _____

Attorney fees based upon _____ hours at \$_____ per hour	\$ _____
Less: Undisbursed escrow funds	\$ _____
Less: Unearned insurance premiums	\$ _____
GRAND TOTAL	\$ _____

3. **Interest.** The grand total amount referenced in Paragraph 2 shall bear interest from this date forward at the prevailing legal rate of interest.

4. **Lien on Property.** Plaintiff, whose address is _____, holds a lien for the grand total sum specified in Paragraph 2 herein. The lien of the plaintiff is superior in dignity to any right, title, interest or claim of the defendants and all persons, corporations, or other entities claiming by, through, or under the defendants or any of them and the property will be sold free and clear of all claims of the defendants, with the exception of any assessments that are superior pursuant to Florida Statutes, Section 718.116. The plaintiff's lien encumbers the subject property located in Miami Dade County, Florida and described as:

(LEGAL DESCRIPTION)

Property address: _____

5. **Sale of property.** If the grand total amount with interest at the rate described in Paragraph 3 and all costs accrued subsequent to this judgment are not paid, the Clerk of the Court shall sell the subject property at public sale on _____, 200____, at 11:00 A.M. to the highest bidder for cash, except as prescribed in Paragraph 6, at Room 908, 140 West Flagler Street, Miami, Florida after having first given notice as required by Section 45.031, Florida Statutes.

6. **Costs.** 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 costs accruing subsequent to this judgment, or such part of it, as is necessary to pay the bid in full. The Clerk shall receive the service charge imposed in Section 45.031, Florida Statutes, for services in making, recording, and certifying the sale and title that shall be assessed as costs.

7. **Right of Redemption.** On filing of the Certificate of Sale, defendant's right of redemption as proscribed by Florida Statutes, Section 45.0315 shall be terminated.

8. **Distribution of Proceeds.** 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 the plaintiff's costs; second, documentary stamps affixed to the Certificate; third, plaintiff's attorneys' fees; fourth, the total sum due to the plaintiff, less the items paid, plus interest at the rate prescribed in paragraph 2 from this date to the date of the sale. During the sixty (60) days after the Clerk issues the certificate of disbursements, the Clerk shall hold the surplus pending further Order of this Court.
9. **Right of Possession.** Upon filing of the Certificate of Title, defendant and all persons claiming under or against defendant since the filing of the Notice of Lis Pendens shall be foreclosed of all estate or claim in the property and the purchaser at sale shall be let into possession of the property.
10. **Attorney Fees.** The Court finds, based upon the affidavits presented and upon inquiry of counsel for the plaintiff, that _____ hours were reasonably expended by plaintiff's counsel and that an hourly rate of \$_____ is appropriate. PLAINTIFF'S COUNSEL REPRESENTS THAT THE ATTORNEY FEE AWARDED DOES NOT EXCEED ITS CONTRACT FEE WITH THE PLAINTIFF. The Court finds that there are no reduction or enhancement factors for consideration by the Court pursuant to *Florida Patient's Compensation Fund v. Rowe*, 472 So.2d 1145 (Fla. 1985).
11. **NOTICE PURSUANT TO AMENDMENT TO SECTION, 45.031, FLA. ST. (2006)**

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

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, 140 WEST FLAGLER STREET, ROOM 908, MIAMI, FLORIDA (TELEPHONE: (305) 375-5943), 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 THE LEGAL AID SOCIETY AT THE DADE COUNTY BAR ASSOCIATION, 123 N.W. FIRST AVENUE, SUITE 214, MIAMI, FLORIDA, (TELEPHONE: (305) 579-5733), 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 THE DADE COUNTY BAR ASSOCIATION LEGAL AID SOCIETY, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

12. **Jurisdiction.** The Court retains jurisdiction of this action to enter further orders that are proper, including, without limitation, writs of possession and deficiency judgments.

DONE AND ORDERED in Chambers in Miami Dade County, Florida, this _____ day of _____, 200____.

Circuit Judge

Copies furnished to all parties: