

**IN THE SECOND JUDICIAL CIRCUIT OF
FLORIDA**

OFFICE OF THE CHIEF JUDGE

ADMINISTRATIVE ORDER 2010-09

**IN RE: UNIFORM PROCEDURES FOR RESIDENTIAL MORTGAGE
FORECLOSURE CASES**

WHEREAS, pursuant to Article V, section 2(d) of the Florida Constitution, and section 43.26, Florida Statutes, the chief judge of each judicial circuit is charged with the authority and power to do everything necessary to promote the prompt and efficient administration of justice, and rule 2.215(b)(3), Florida Rules of Judicial Administration, mandates the chief judge to “develop an administrative plan for the efficient and proper administration of all courts within the circuit;” and

WHEREAS, rule 2.545 of the Rules of Judicial Administration requires that the trial courts “...take charge of all cases at an early stage in the litigation and...control the progress of the case thereafter until the case is determined...”, which includes... “assuming early and continuous control of the court calendar; ...” “identifying priority cases;” “...implement such docket control policies as may be necessary to advance priority cases to ensure prompt resolution;” “...developing rational and effective trial setting policies, and advancing the trial setting of priority cases, older cases...”; and

WHEREAS, the Supreme Court of Florida has determined that effective case management is one of the best methods the courts can employ to facilitate and provide a more efficient use of limited judicial and clerk resources in a court system that is already overburdened; and

WHEREAS, the volume of mortgage foreclosure case filings have significantly increased in the Second Judicial Circuit of Florida requiring a uniform procedure for case management,

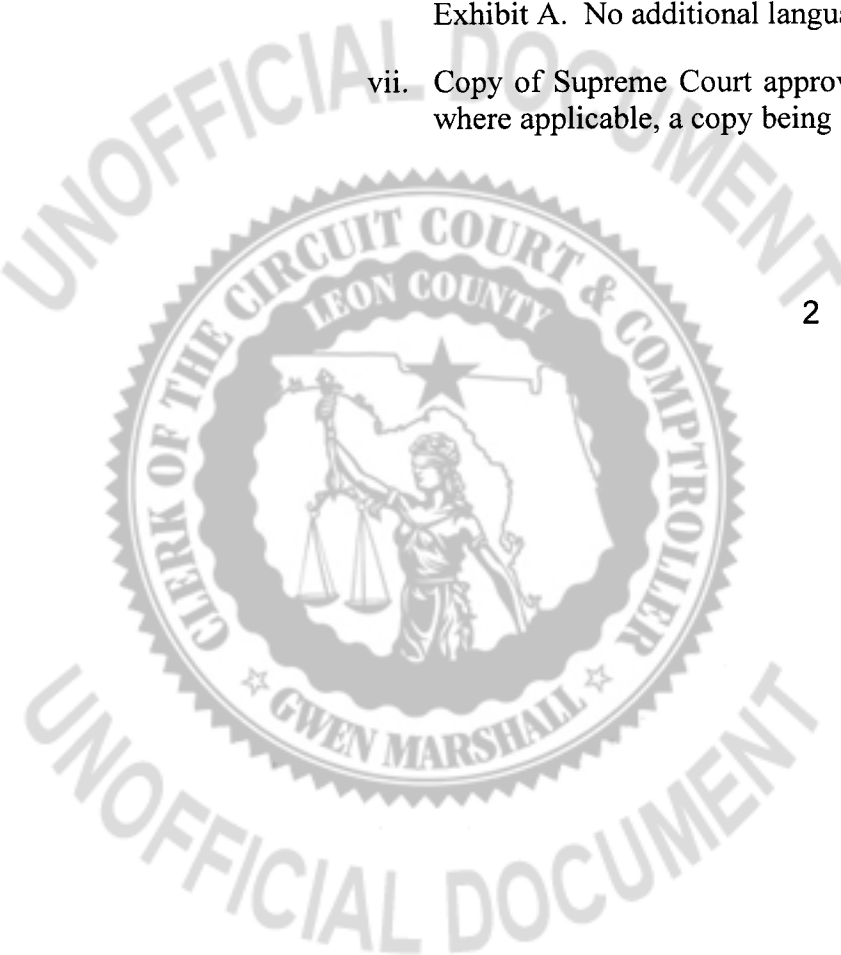
IT IS THEREFORE

ORDERED:

1. Any Motion for Summary Judgment filed in a residential mortgage foreclosure in Leon, Gadsden and Franklin Counties, except as provided herein, shall be governed by the following Uniform Procedures:
 - a. Hearings for Summary Judgments shall be scheduled by contacting the Second Judicial Circuit Case Scheduler (hereinafter Scheduler).



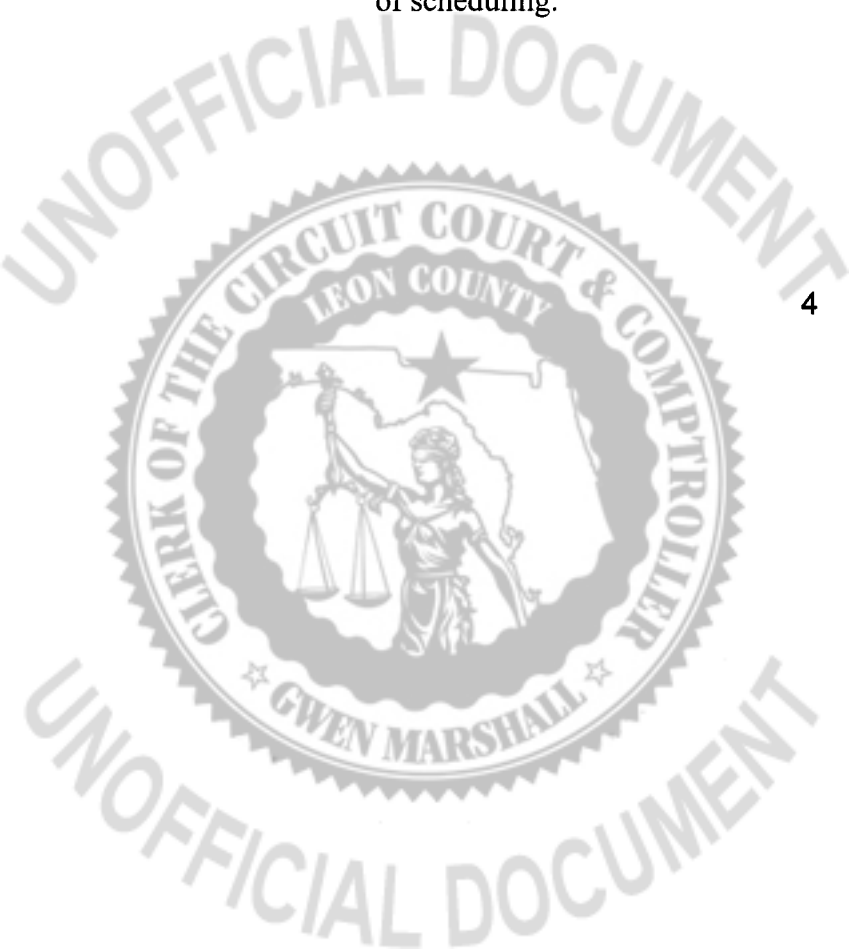
- i. The contact information for the current Scheduler may be found on the Second Judicial Circuit of Florida website which is located at: (<http://www.leoncountyfl.gov/2ndCircuit/ForeclosureProcedure.php>.)
 - ii. The Scheduler at the time of the execution of this order is Ina Hawkins, whose email address is HawkinsIn@leoncountyfl.gov.
 - iii. The primary means of contact shall be by email.
 - iv. Only if necessary, contact may be made by telephone by calling (850) 577-8067.
- b. A maximum of twenty (20) cases may be set on each calendar by a single law firm, subject to available calendar time.
 - c. Each case may be set for a maximum of fifteen (15) minutes.
 - d. No hearing may be scheduled or the time reserved for summary judgment hearings in residential foreclosure cases until such time as the motion for summary judgment and all required supporting summary judgment evidence, including but not limited to original note, mortgage, and assignments of mortgage where applicable, and all supporting affidavits are filed with the clerk. A summary judgment hearing package shall be transmitted to the Scheduler not less than ten (10) days prior to the scheduled hearing. In the event the package is not received within such ten (10) day period, in addition to any sanction hereinafter set forth, the hearing shall be removed from the calendar. A summary judgment hearing package shall include, but not be limited to:
 - i. The Motion for Summary Judgment.
 - ii. The Notice of Hearing.
 - iii. The Original Note and Mortgage (copies will not be accepted). In lieu of the original note, a bond in the face amount of the requested final judgment amount conditioned upon indemnification of the maker(s) of the note for any costs, expenses or damages incurred as the result of the enforcement of the note by any other party, and issued by a Florida licensed surety, shall be filed with the clerk within such time.
 - iv. Copy of Affidavit in Support of Summary Judgment.
 - v. Copy of Affidavit in Support of Attorney's Fees.
 - vi. Supreme Court approved Summary Final Judgment, a copy being attached as Exhibit A. No additional language shall be added.
 - vii. Copy of Supreme Court approved Affidavit of Diligent Search and Inquiry, where applicable, a copy being attached as Exhibit B.



- viii. An original Notice of Sale.
 - ix. An original Final Disposition Form.
 - x. Sufficient copies and envelopes with sufficient postage attached, addressed to all necessary individuals to serve copies of original orders, when entered.
 - xi. Copies of any other evidence filed and necessary to support the Motion.
- e. All attorneys must appear in person. **Telephonic appearances shall not be permitted.**
- f. **All summary judgment hearings shall be held in the locations in each respective county** in the Second Judicial Circuit as follows:
- i. Franklin County: Franklin County Courthouse, 22 Market St., Hearing Room Third Floor, Apalachicola, FL 32320
 - ii. Gadsden County: Guy A. Race Judicial Complex; West Entrance; 13 N. Monroe St.; Quincy, FL 32351
 - iii. Leon County: Leon County Courthouse, 301 S. Monroe St., Room 301-B, Tallahassee, FL 32301
- g. All cases where the residence is owner-occupied, and a response has been filed by the Defendant which seeks relief shall comply with the provisions of Administrative Order of the Second Judicial Circuit of Florida, 2010-05, which requires completion of the requisites for the Residential Mortgage Foreclosure Mediation Program prior to a Motion for Summary Judgment being set for hearing.
- h. Upon confirmation of the hearing date, **all original notices for hearing must be filed with the clerk of court at the location hereinafter set forth within seven (7) days of setting.** In the event this provision is violated, in addition to any sanction hereinafter set forth, the case shall be removed from the calendar on which it is scheduled. The location of the courts are:
- i. Franklin County Clerk: Franklin County Courthouse, 22 Market St., Apalachicola, FL 32320
 - ii. Gadsden County Clerk: Guy A. Race Judicial Complex; West Entrance; 13 N. Monroe St.; Quincy, FL 32351
 - iii. Leon County Clerk: Leon County Courthouse, 301 S. Monroe St., Room 301-B, Tallahassee, FL 32301
 - iv. A courtesy copy of the notice shall be sent to the Scheduler at 301 S. Monroe St., Room 301-B, Tallahassee, Florida 32301.

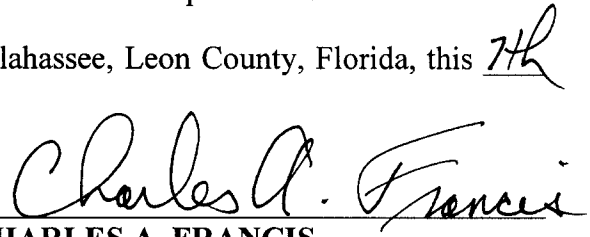


- i. Once a hearing is set, it can only be canceled by order of this Court upon the Motion to Cancel and Reschedule Foreclosure Hearing on the approved form attached as Exhibit C, being filed by any party.
 - i. The Motion and proposed Order shall be transmitted to the presiding judge in the case.
 - ii. The Motion shall not be sent to the Scheduler.
 - iii. The Motion shall be filed a minimum of five (5) days prior to the scheduled hearing, except in the event of a bona fide emergency.
2. Once a judgment has been entered and a sale has been scheduled, the sale may be canceled only upon Motion to Cancel and Reschedule Foreclosure Sale utilizing the form attached hereto as Exhibit D. The original shall be filed with the clerk of court.
3. All parties shall timely cooperate with the Scheduler at all times, including but not limited to, supplying all requested information in a timely manner.
4. The following procedures will take effect immediately, for all Summary Judgment Motions in residential mortgage foreclosure cases for Jefferson County:
 - a. All foreclosure hearings, including Motions for Summary Judgment, will be scheduled by contacting the assigned judge's judicial assistant who is currently Lynn Underwood, at 850-577-4312 or 850-342-0247.
 - b. Hearings will take place at: The Jefferson County Courthouse, 1 Courthouse Circle, Monticello, Florida 32344.
 - c. Please adhere to the dates and times provided by the judicial assistant at the time of scheduling.
5. The following procedures will take effect immediately, for all Summary Judgment Motions in residential mortgage foreclosure cases for Liberty County:
 - a. All foreclosure hearings, including Motions for Summary Judgment, will be scheduled by contacting Kathy Brown, Liberty County Clerk's Office, at 850-643-5188, Ext. 101.
 - b. Hearings will take place at: The Liberty County Courthouse, 10818 N.W. State Road 20, Bristol, Florida 32321.
 - c. Please adhere to the dates and times provided by the judicial assistant at the time of scheduling.



6. The following procedures will take effect immediately, for all Summary Judgment Motions in residential mortgage foreclosure cases for Wakulla County:
 - a. All foreclosure hearings, including Motions for Summary Judgment, will be scheduled by contacting the assigned judge's judicial assistant who is currently Deanna Gravius, at 850-926-0917.
 - b. Hearings will take place at: The Wakulla County Community Center, 318 Shadeville Highway, Crawfordville, Florida 32327. This is a temporary location, and subject to change upon completion of the current courthouse improvement project. Any change in location shall be posted on the Second Judicial Circuit of Florida website.
 - c. Please adhere to the dates and times provided by the judicial assistant at the time of scheduling.
7. In the event a party fails to comply with any provision of this order, the case will be subject to immediate dismissal without prejudice, and without the necessity of further notice or hearing. This order shall be sufficient notice of this provision.

DONE AND ORDERED, in chambers at Tallahassee, Leon County, Florida, this 7th day of October, 2010.


CHARLES A. FRANCIS
Chief Judge

Copies Furnished:

All Circuit and County Judges, Second Judicial Circuit
All Clerks of the Circuit Court, Second Judicial Circuit
Second Judicial Circuit of Florida Website

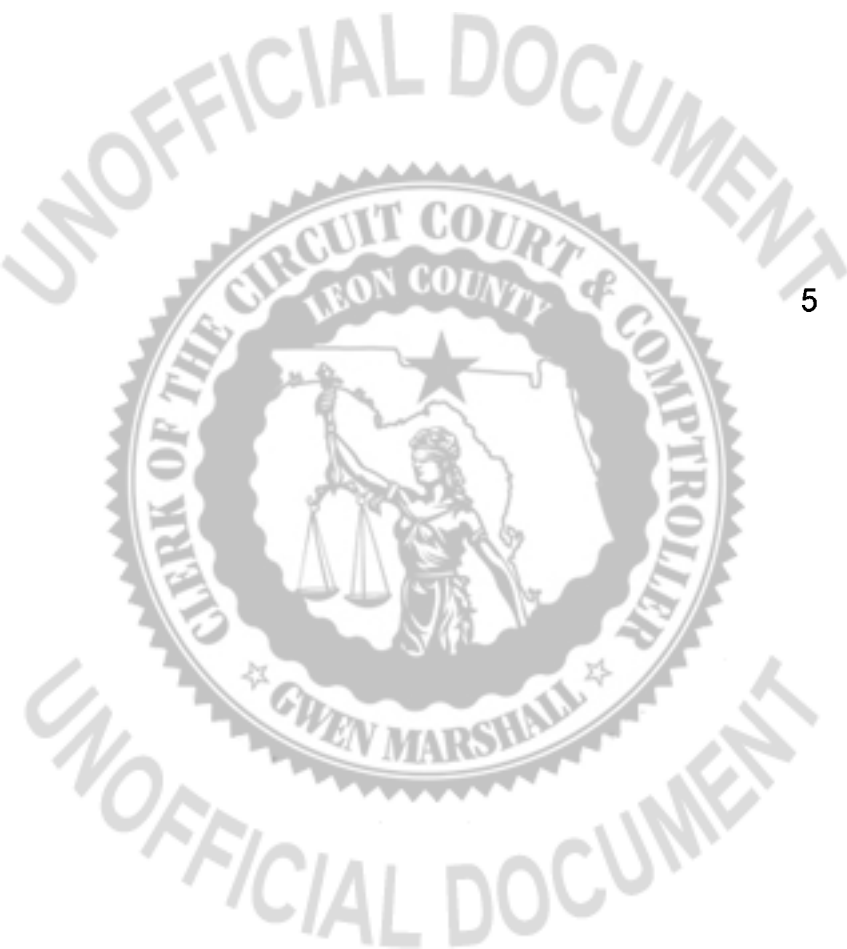


EXHIBIT A

FINAL JUDGMENT OF FORECLOSURE



IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
_____ COUNTY, STATE OF FLORIDA

_____,
Plaintiff,

vs.

Case No.: _____

_____,
Defendant.

_____ /

FINAL JUDGMENT OF FORECLOSURE

This action was tried before the court. On the evidence presented

IT IS ADJUDGED that:

1. 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: _____

Attorneys' fees total _____

Court costs, now taxed _____

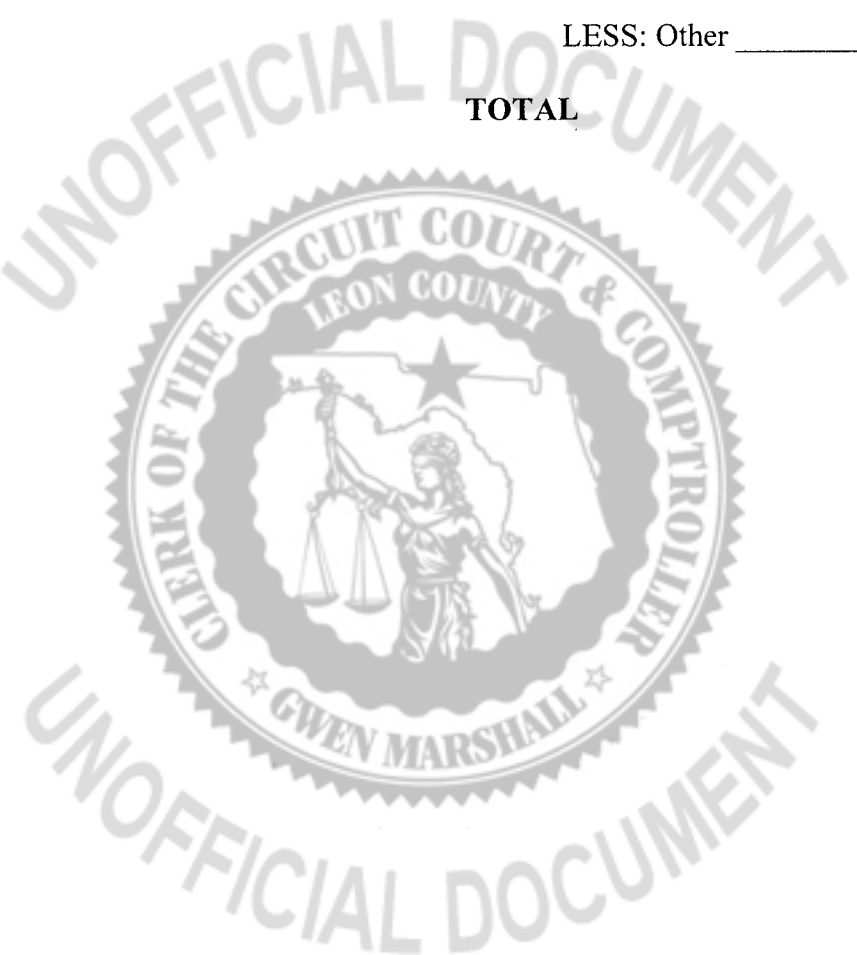
Other: _____

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 _____ County, Florida:

(describe property)

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 this 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(street address of courthouse)..... in County in(name of city)....., Florida, 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(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, 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. If any defendant remains in possession of the property, the clerk shall without further order of the court issue forthwith a writ of possession upon request of the person named on the certificate of title.

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

IF THIS PROPERTY IS SOLD AT PUBLIC AUCTION, THERE MAY BE



UNOFFICIAL DOCUMENT

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, (INSERT INFORMATION FOR APPLICABLE 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 (INSERT LOCAL OR NEAREST LEGAL AID OFFICE AND TELEPHONE NUMBER) 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 (NAME OF LOCAL OR NEAREST LEGAL AID OFFICE AND TELEPHONE NUMBER) FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

ORDERED at _____, Florida, on _____.

Circuit Judge



EXHIBIT B

**AFFIDAVIT OF DILIGENT SEARCH
AND INQUIRY**



IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
_____ COUNTY, STATE OF FLORIDA

_____,
Plaintiff,

vs.

Case No.: _____

_____,
Defendant.

_____/

AFFIDAVIT OF DILIGENT SEARCH AND INQUIRY

I, *(full legal name)* _____ (individually or an Employee of _____), being sworn, certify that the following information is true:

1. I have made diligent search and inquiry to discover the current residence of _____, who is [over 18 years old] [under 18 years old] [age is unknown] (circle one). **Refer to checklist below and identify all actions taken (any additional information included such as the date the action was taken and the person with whom you spoke is helpful) (attach additional sheet if necessary):**

[check all that apply]

- _____ Inquiry of Social Security Information
- _____ Telephone listings in the last known locations of defendant's residence
- _____ Statewide directory assistance search
- _____ Internet people finder search {specify sites searched}
- _____ Voter Registration in the area where defendant was last known to reside.
- _____ Nationwide Masterfile Death Search
- _____ Tax Collector's records in area where defendant was last known to reside.
- _____ Tax Assessor's records in area where defendant was last known to reside
- _____ Department of Motor vehicle records in the state of defendant's last known address
- _____ Driver's License records search in the state of defendant's last known address.



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_____ Department of Corrections records in the state of defendant's last known address.

_____ Federal Prison records search.

_____ Regulatory agencies for professional or occupational licensing.

_____ Inquiry to determine if defendant is in military service.

_____ Last known employment of defendant.

List all additional efforts made to locate defendant:

Attempts to Serve Process and Results:

_____ I inquired of the occupant of the premises whether the occupant knows the location of the borrower-defendant, with the following results:

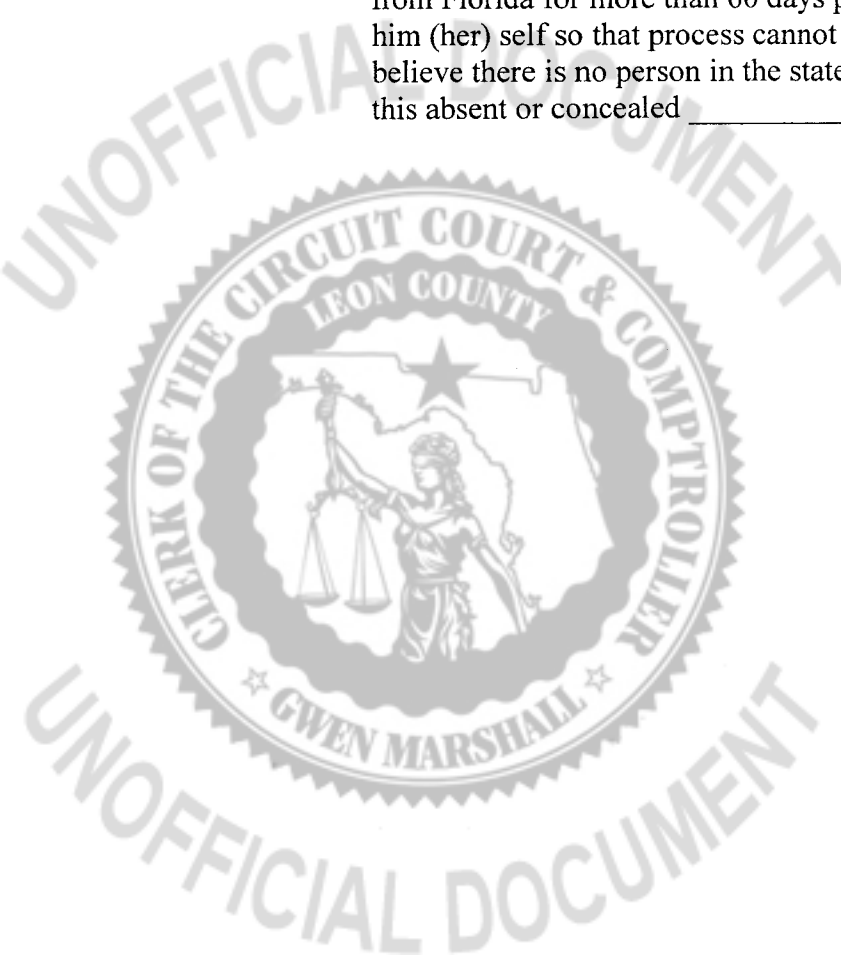
2. _____ **current residence**

[check one only]

_____ a. _____'s current residence is unknown to me

_____ b. _____'s current residence is in some state or country other than Florida and _____'s last known address is:

_____ c. The _____, having residence in Florida, has been absent from Florida for more than 60 days prior to the date of this affidavit, or conceals him (her) self so that process cannot be served personally upon him or her, and I believe there is no person in the state upon whom service of process would bind this absent or concealed _____.



I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this affidavit and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

Dated: _____

Signature of Affiant
Printed Name: _____
Address: _____
City, State, Zip: _____
Phone: _____
Telefacsimile: _____

STATE OF _____
COUNTY OF _____

Sworn to or affirmed and signed before me on this _____ day of _____, 20 _____ by _____.

NOTARY PUBLIC, STATE OF _____

(Print, Type or Stamp Commissioned Name of Notary Public)

_____ Personally known
_____ Produced identification

Type of identification produced: _____



EXHIBIT C

**MOTION TO CANCEL AND
RESCHEDULE FORECLOSURE
HEARING**



IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
_____ COUNTY, STATE OF FLORIDA

_____,
Plaintiff,

vs.

Case No.: _____

_____,
Defendant.

_____ /

MOTION TO CANCEL AND RESCHEDULE FORECLOSURE HEARING

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

1. On ____ this Court scheduled a foreclosure hearing for _____, 20__.

2. The hearing 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.

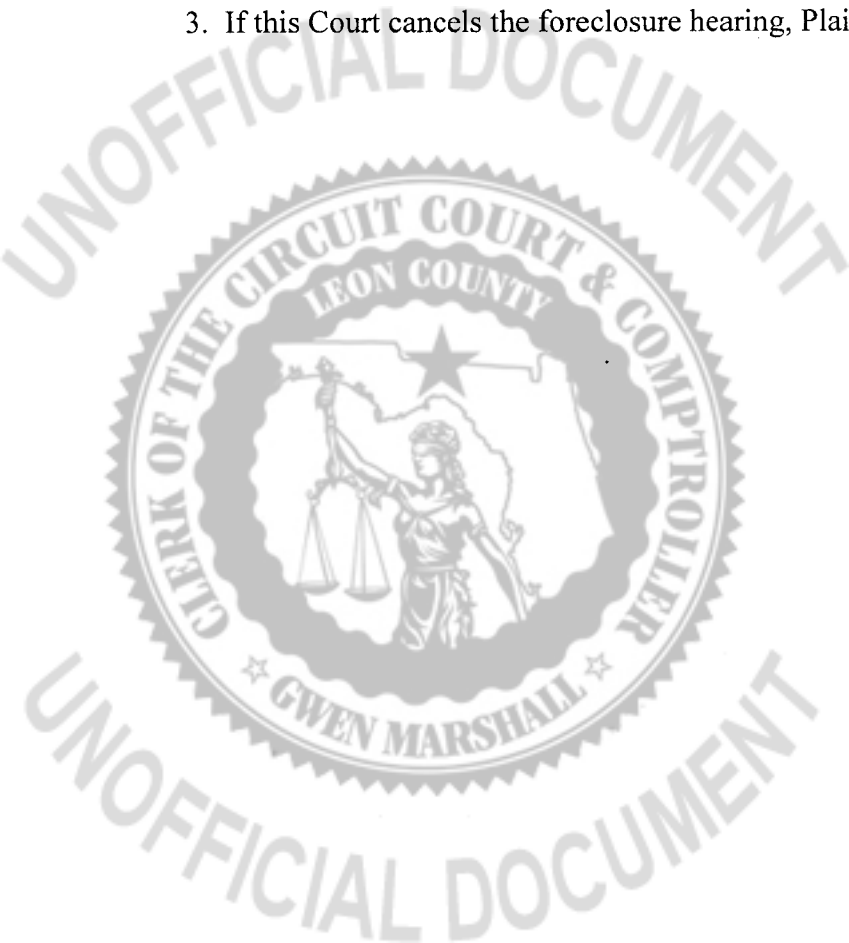
d. _____ Defendant has filed a Chapter ____ Petition under the Federal Bankruptcy Code;

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 hearing, Plaintiff moves that it be rescheduled.



I hereby certify that a copy of the foregoing Motion has been furnished by U.S. mail postage prepaid, facsimile or hand delivery to _____ this _____ day of _____, 20__.

Dated: _____

Signature of Plaintiff
Printed Name: _____
Address: _____
City, State, Zip: _____
Phone: _____
Telefacsimile: _____

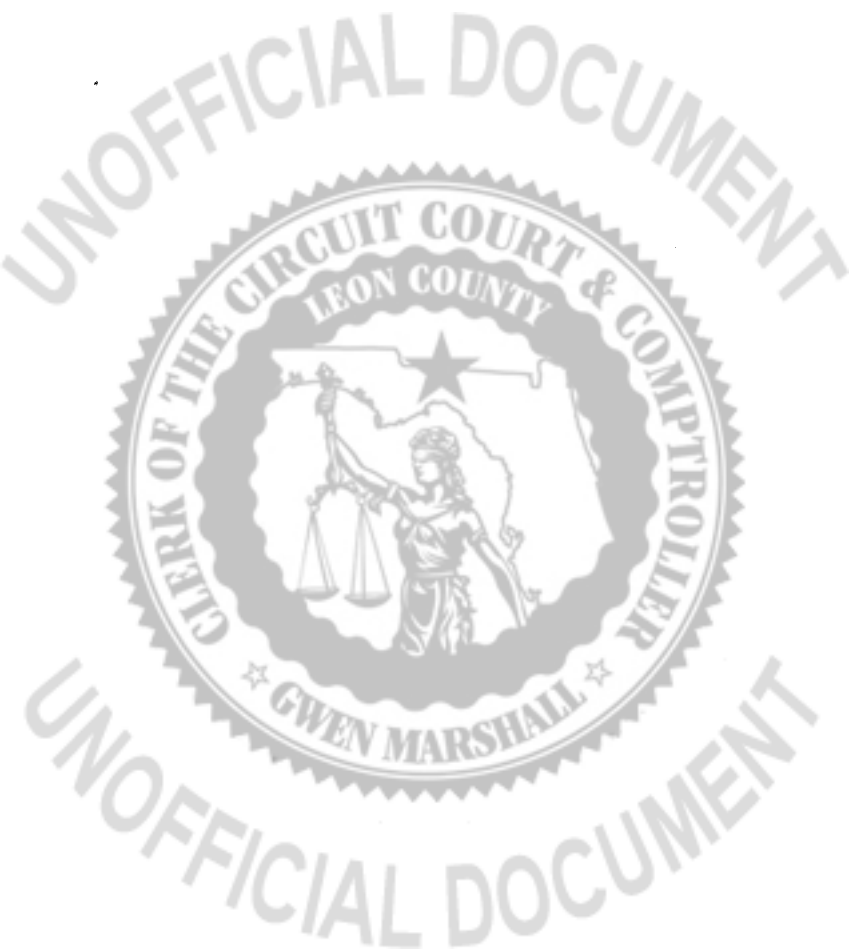


EXHIBIT D

**MOTION TO CANCEL AND
RESCHEDULE FORECLOSURE SALE**



IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
_____ COUNTY, STATE OF FLORIDA

_____,
Plaintiff,

vs.

Case No.: _____

_____,
Defendant.

_____ /

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.

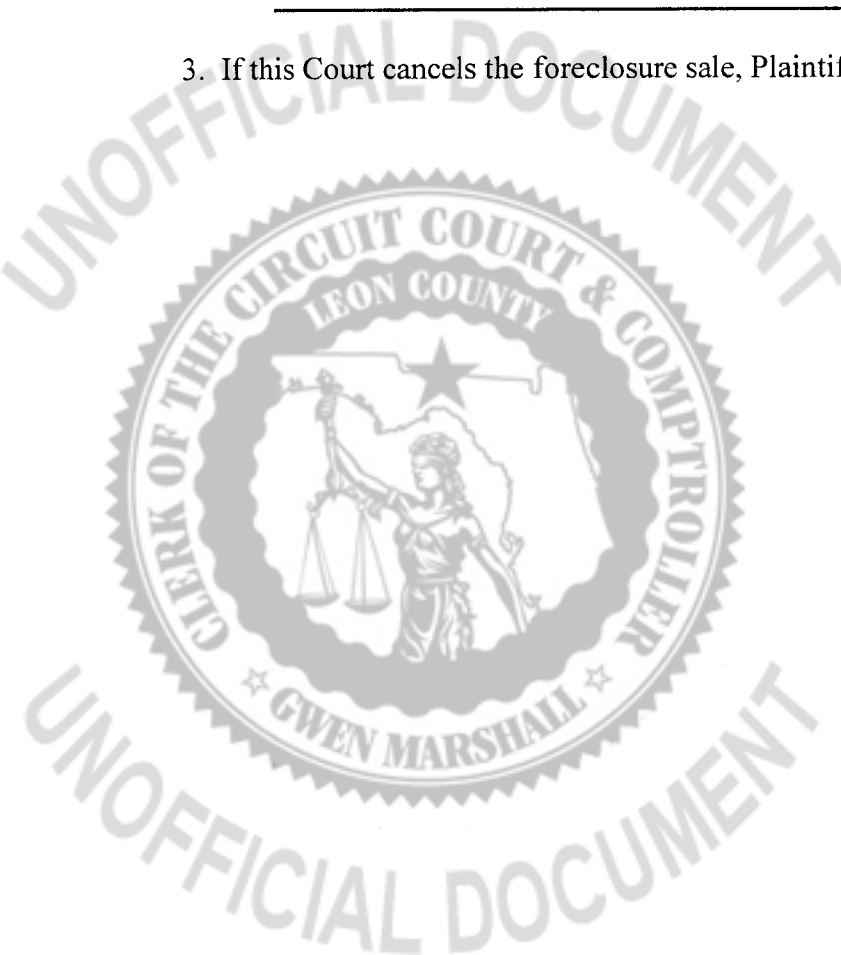
d. _____ Defendant has filed a Chapter ____ Petition under the Federal Bankruptcy Code;

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.



I hereby certify that a copy of the foregoing Motion has been furnished by U.S. mail postage prepaid, facsimile or hand delivery to _____ this _____ day of _____, 20__.

Dated: _____

Signature of Plaintiff
Printed Name: _____
Address: _____
City, State, Zip: _____
Phone: _____
Telefacsimile: _____

