

**MORTGAGE FORECLOSURE REQUIREMENTS FOR ESCAMBIA
COUNTY INCLUDING CHANGES REGARDING ELECTRONIC FILING
(Effective May 1, 2017)**

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

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

**IT IS THE RESPONSIBILITY OF COUNSEL OF RECORD FOR THE PLAINTIFF TO
EXAMINE THE COURT FILE PRIOR TO THE SCHEDULED HEARING ENSURING
THAT ALL DOCUMENTS HAVE BEEN FILED (*see checklist page 3*) AND THAT THE
FILE IS READY FOR THE HEARING. IF THE PARTIES CANNOT PROCEED ON
THE MATTER SCHEDULED, A CASE MANAGEMENT CONFERENCE WILL BE
HELD.**

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

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

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

**TO ASSIST COUNSEL, COPIES OF THE ATTACHED FORMS IN WORD FORMAT
MAY BE REQUESTED FROM THE FORECLOSURE CASE MANAGER.**

¹ Notice of Limited Appearance is not acceptable. The only Rules that allow such is in Family Law cases. Civil Rules of Procedure do not provide for such an animal. Also, a Notice of Appearance including an automatic termination after a scheduled hearing is not permitted.

A. ELECTRONIC FILING

All filings (including affidavits and checklists) except for the original note, original mortgage or certified copy of the mortgage should be filed electronically. The original note and original mortgage or certified copy of the mortgage shall be filed with the Clerk at least ten (10) days before a dispositive hearing. Alternatively, the original note and original mortgage or certified copy of the mortgage may be brought to the hearing.

Proposed General Magistrate's Reports and Recommendations and proposed Orders/Final Judgments shall be submitted electronically at least ten (10) days before the hearing via the Florida E-Filing Portal – use the Proposed Order function.² When submitting, select the *Foreclosure, Escambia* option in the *Judicial Officer/Division* field. The Florida EPortal requires a cover letter in PDF format for all submissions, but the proposed orders themselves must be submitted in Microsoft Word format using a docx file extension. The submitted documents must be named in the *Document Title* field on the *Add/Edit Document* page in the following format: *Division, Case Number, Date of Hearing, Last Name of First Named Defendant, Title of Document*. For example: **WA 2017 CA 1134 4-5-17 Brown GM RR on Motion to Amend**; and **WB 2017 CA 1222 4-10-17 Smith FJ of Foreclosure**. The process listed above should not be used for general correspondence or inquiries to the foreclosure case manager.

To allow the attorneys to adapt to this transition, Proposed General Magistrate's Reports and Recommendations and proposed Orders/Final Judgments will still be accepted in paper form for any hearing occurring before **June 1, 2017**.

B. REQUIRED CONFORMED COPIES AND ENVELOPES

Even though reports, orders and final judgments will be signed electronically, unrepresented parties who have not opted in to e-service must receive paper conformed copies of all reports, orders and final judgments.

For hearings before the General Magistrate, one (1) paper copy of reports and recommendations, one (1) paper copy of the order incorporating the report and recommendations and two (2) stamped addressed envelopes must be provided for each unrepresented party who has not opted in to e-service. For hearings before a Circuit Judge, one copy of the order and one (1) stamped addressed envelope must be provided for each unrepresented party who has not opted in to e-service.

Florida Statute 45.031(1)(c) provides: A copy of the final judgment **shall be furnished by the clerk by first class mail** to the last known address of every party to the action or to the attorney of record for such party. Thus, even if an attorney or party is on the e-service list a copy

² For non-standard hearing issues such as motions to dismiss where it is unlikely counsel could draft a proposed report/order which would anticipate the pronouncement, reports/orders should be submitted electronically within ten (10) days of the pronouncement. Copies and envelopes must also be supplied as described above.

for conforming of the final judgment and a stamped addressed envelope must be provided for each party.

These copies and envelopes should be brought to the hearing. They should not be sent to the foreclosure case manager before the hearing

C. REQUIRED FILING BEFORE REQUESTING THE SCHEDULING OF NON-JURY TRIAL, MOTION FOR SUMMARY JUDGMENT HEARING OR OTHER DISPOSITIVE HEARING

Pursuant to Florida Rule of Civil Procedure 1.491(b), a General Magistrate is not authorized to address any substantive issue when a party has been served by constructive service. Exceptions to this rule are when a party later files an answer or other responsive pleading, an attorney guardian ad litem is appointed for the party or when personal service is subsequently obtained. If one of these exceptions occurs, the Plaintiff is responsible for providing the party with the Order of Referral to General Magistrate and filing a Notice of Service of Order of Referral to General Magistrate. Also, the Hearing Request Form (*Attachment 1*) must be filed contemporaneously with the filing of a Notice for Non-Jury Trial or Notice of Hearing on Motion for Summary Judgment or other dispositive motion.

D. SERVICE OF SCHEDULING ORDERS

Orders Scheduling Non-Jury Trial, Orders Scheduling Case Management Conferences, Orders Continuing Hearings and Show Cause Orders are to be served by the Plaintiff on all parties not receiving e-service.

The last paragraph of any such order must provide in bold type: **The Plaintiff shall file proof of service of the order to any party who does not have an email address on file with the Clerk of the Court.**

The Plaintiff shall file a Notice of Service indicating on what date the order was provided to all parties not on e-service. **Failure to file this Notice of Service indicating such parties were served at least fourteen (14) days prior to the trial or hearing will result in the cancellation of the trial or hearing. If no Notice for Trial was served prior to the service of an Order Setting Non-Jury Trial, thirty (30) days prior notice must be provided pursuant to Rule 1.440(c).**

E. SERVICE OF ORDER OF REFERRAL TO GENERAL MAGISTRATE

The Order of Referral to General Magistrate is usually entered at the time of filing of an action and served with the initial process. If not served with initial process or if additional parties are later added to the case, the Plaintiff shall file a Notice of Service indicating on what date the Order of Referral to General Magistrate was served.

F. CHECKLIST OF DOCUMENTS (PROVIDED AS A GUIDE) THAT SHOULD BE FILED PRIOR TO NON-JURY TRIAL, MOTION FOR SUMMARY JUDGMENT HEARING OR OTHER DISPOSITIVE HEARING

- Value of Real Property/Mortgage Foreclosure Form
- Motion for Summary Judgment, if applicable
- Motion for Default Final Judgment, if applicable
- Affidavit of Indebtedness (with supporting attachments)
- Affidavit of Costs (with supporting attachments)
- Attorney’s Fee Affidavit (with supporting attachments)
- Supporting Attorney’s Fee Affidavit
- Attorney’s Affidavit of Filing Supporting Documents
- Original Note and Mortgage³ (filed with a Notice of Filing—Certified Copies of Mortgage(s) are acceptable only if certified true and correct copies by the Escambia County Clerk of Court).
- Assignment(s) of Mortgage, if applicable
- Affidavit of Lost Note and/or Mortgage, if applicable. Should the Affidavit of Lost Note/Mortgage be found to be in proper form, the Final Judgment shall reflect in the last paragraph the following: ***“Plaintiff herein agrees to indemnify and hold harmless Defendant (Borrower) from all loss, liability, costs, damages, reasonable attorney’s fees and expenses arising out of the representations made in the Affidavit of Lost Note/Mortgage.”***
- Copies of warranty deeds, as applicable
- Foreclosure Checklist for Final Hearing (Attachment 2)

G. CERTIFICATE OF SERVICE

General Magistrate’s Reports and Recommendations:

I HEREBY certify that this Report and Recommendation was filed with the Clerk of the Court and a copy of the Report and Recommendations was provided to those parties on the service list below by regular U.S. Mail if only a physical address is noted and by submission to the Florida Court’s E-filing Portal if an email address is noted.⁴

[Service List]

³ May be brought to the hearing.

⁴ As a signature and service date and time is generated when e-signed, do not include a date or signature line.

Orders:

I HEREBY certify that this Order was filed with the Clerk of the Court and a copy of the Order was provided to those parties on the below service list by regular U.S. Mail if only a physical address is noted and by submission to the Florida Court's E-filing Portal if an email address is noted.

[Service List]

Final Judgments:

Final judgments should **not** include a service list. The Clerk of the Court will generate a service list.

H. DISPOSITIVE HEARINGS

Form for Final Judgment: (*Attachment 3*) Any proposed final judgment ***must*** substantially conform to Form 1.996(a or b) (Final Judgment of Foreclosure), Florida Rules of Civil Procedure and Florida Statutes 45.031. The standard form must be revised to include the appropriate summary judgment language (and shall ensure all counts in the complaint are clearly addressed) and also language indicating that the General Magistrate's Report and Recommendation is hereby ratified, approved and incorporated herein. The form for a proposed General Magistrate's Report and Recommendation on Final Judgment of Foreclosure is supplied (*Attachment 4*). Further, the parties may believe other changes to the standard form are necessary either based upon the facts of a particular case or as a matter of practice. **To assist the Court in easily identifying any changes (deletions or additions) to the standard Form 1.996 (a or b) beyond those identified above, the party submitting the proposed Final Summary Judgment shall in cover letter (*Attachment 5*), identify and justify for the Court all changes to the standard form.**

Title Search Expenses: Based on the ordinary and reasonable charges prevailing in this area, the Court will award up to \$225.00 in aggregate for title search-related expenses. If more than \$225.00 is claimed, proof of the additional amounts must be submitted (i.e. copy of the invoice from the entity rendering service *and* proof of payment must be attached). Acceptable "proof of payment" includes, for example, a cancelled check or paid receipt. In addition, the movant shall file a cover letter justifying for the Court the expenses which exceed the ordinary and reasonable charges prevailing in this area.

Service of Process Expenses: Based on the ordinary and reasonable charges prevailing in this area, the Court will award **up to \$40.00** per person or entity, unless unusual circumstances. If more than \$40.00 per person or entity is claimed, proof of the additional amounts must be submitted (i.e. copy of invoices and documentation regarding service of process and proof of payment must be attached). Acceptable "proof of payment" includes, for example, a cancelled check or paid receipt. In addition, the movant shall file a cover letter

justifying for the Court the expenses which exceed the ordinary and reasonable charges prevailing in this area.

Other Filings: The Final Disposition Form, Notice of Sale and Proof of Publication shall be e-filed directly with the Clerk of the Court.

The Clerk will prepare the Certificate of Sale, Certificate of Disbursements and Certificate of Title. Envelopes for these documents may be provided to the foreclosure case manager at the hearing or provided directly to the Clerk.

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

I. DEFAULT FINAL JUDGMENTS

A Circuit Court Judge and not the General Magistrate will review and consider entering a Default Final Judgment, without the necessity of a hearing, if all parties have been properly defaulted.

J. FORMAT FOR GENERAL MAGISTRATE'S REPORTS AND RECOMMENDATIONS/ORDERS OTHER THAN FINAL JUDGMENT

See *Attachments 6 and 7*.

K. SUBSTITUTION OF PLAINTIFF/CASE STYLE

Plaintiffs are commonly substituted in foreclosure cases. Upon substitution of a plaintiff, the case style does not change. *Fink v. Holt*, 609 So.2d 1333 (Fla. 4th DCA 1993); Henry P. Trawick, Jr., *Florida Practice and Procedure* (2016 ed.), § 6.2.

L. CANCELLATION OF FORECLOSURE SALES

The Court requires a Motion and Order to cancel a foreclosure sale and the Clerk's reopen fee. (*Attachments 8 and 9*). Motions must be filed with the Clerk of Court and opposing counsel/party **five (5) days** prior to presenting to the Court.

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

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

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

d. The General Magistrate is not authorized to sign an Order Cancelling Sale.

M. WRIT OF POSSESSION

The Court requires a Motion and Order for the Clerk to issue a writ of possession.

a. Submission of a Motion for Writ of Possession and a copy of the certificate of title must be filed with the Clerk of Court and opposing counsel/party **five (5) days** prior to presenting to the Court. Counsel should be familiar with Florida Statute Section 83.561.

ATTACHMENT 1—HEARING REQUEST FORM

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

Plaintiff,
vs.
Defendant(s).

Case No.:
Division:

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

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

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

*Personal or Constructive

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

Signature of Attorney for Plaintiff

Date Signed

Printed Name of Attorney

ATTACHMENT 2—FORECLOSURE CHECKLIST

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

Plaintiff,

Case No.:

vs.

Division:

Defendant(s).

**FORECLOSURE CHECKLIST FOR
HEARING ON MOTION FOR SUMMARY JUDGMENT OR NON-JURY TRIAL**

DEFENDANT(S)	ANSWER (Date Filed)	RETURN OF SERVICE (Date Service/ Filed)	CONSTRUCTIVE SERVICE (Yes/No)	DEFAULT (Date)	PARTIES DROPPED (Date)

Have the following documents been filed?

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

b. Mortgage	YES	NO	N/A	Date filed: _____
7. Summary Judgment Motion	YES	NO	N/A	Date filed: _____
8. Affidavits				
a. Amounts Due:	YES	NO	N/A	Date filed: _____
b. Costs:	YES	NO	N/A	Date filed: _____
9. Attorney's Fees				
a. Expert Affidavit:	YES	NO	N/A	Date filed: _____
b. Plaintiff's Attorney's Affidavit (time and fee arrangement with client)	YES	NO	N/A	Date filed: _____
10. Notice of Summary Judgment Hearing	YES	NO	N/A	Date filed: _____
11. Notice of Service of Order Scheduling Trial	YES	NO	N/A	Date filed: _____

I, the undersigned, certify that I have reviewed the file and verified the information provided herein to be true and correct. I further understand that an incomplete checklist will not be accepted or corrected by the Case Manager.

Signature of Attorney for Plaintiff

Date Signed

Printed Name of Attorney

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

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

Plaintiff,
vs.
Defendant(s).

Case No.:
Division:

FINAL JUDGMENT OF FORECLOSURE

THIS CAUSE was before the Court [**for non-jury trial / on Plaintiff's Motion for Summary Judgment**]. The hearing or trial was heard by

- the undersigned Circuit Judge and on the evidence presented and the Court being otherwise fully advised in the premises, it is thereupon,
- the General Magistrate. The General Magistrate's Report and Recommendations on Final Judgment of Foreclosure signed by the General Magistrate on _____, 201__⁵, to which no timely exception was filed has been reviewed by the Court and it is hereby ratified, approved, and incorporated herein, it is thereupon,

ORDERED AND ADJUDGED as follows:

1. **Amounts Due.** Plaintiff, (name and address), is due

Principal
Interest to date of this judgment
Title search expenses
Taxes
Attorneys' fees total
Court costs, now taxed
Other:

Subtotal

LESS: Escrow balance

⁵ Do not fill in this date as the date the report is signed may not be the date of the hearing.

LESS: Other

TOTAL

That shall bear interest at a rate of% per year.

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

(describe property)

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

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

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

4. **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, 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. **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 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 further order of this court.

6. **Right of Redemption/Right of Possession.** On filing the certificate of sale, defendant(s) and all persons claiming under or against defendant(s) since the filing of the notice of lis pendens shall be foreclosed of all estate or claim in the property and defendant's right of redemption as

prescribed by [section 45.0315, Florida Statutes \(2013\)](#) shall be terminated, except as to claims or rights under chapter 718 or chapter 720, Florida Statutes, if any. Upon the filing of the certificate of title, the person named on the certificate of title shall be let into possession of the property.

7. Attorneys' Fees.

[If a default judgment has been entered against the mortgagor]

Because a default judgment has been entered against the mortgagor and because the fees requested do not exceed 3% of the principal amount owed at the time the complaint was filed, it is not necessary for the court to hold a hearing or adjudge the requested attorneys' fees to be reasonable.

[If no default judgment has been entered against the mortgagor]

The court finds, based upon the affidavits/testimony 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 attorneys' fees awarded does not exceed its contract fee with the plaintiff. The court finds that there is/are no reduction or enhancement factors for consideration by the court pursuant to [Florida Patients Compensation Fund v. Rowe, 472 So. 2d 1145 \(Fla. 1985\)](#). (If the court has found that there are reduction or enhancement factors to be applied, then such factors must be identified and explained herein).

[If the fees to be awarded are a flat fee]

The requested attorneys' fees are a flat rate fee that the firm's client has agreed to pay in this matter. Given the amount of the fee requested and the labor expended, the court finds that a lodestar analysis is not necessary and that the flat fee is reasonable.

[If lost note]

8. Re-establishment of Lost Note. The court finds that the plaintiff has re-established the terms of the lost note and established its right to enforce the instrument as required by law. Plaintiff shall hold the defendant(s) maker of the note harmless and shall indemnify defendant(s) for any loss defendant(s) may incur by reason of a claim by any other person to enforce the lost note. Adequate protection has been provided as required by law by the following means: (Identify means of security per applicable law: a written indemnification agreement, a surety bond, include specific detail)

Judgment is hereby entered in favor of the plaintiff as to its request to enforce the lost note.

8. **Jurisdiction Retained.** Jurisdiction of this action is retained to enter further orders that are proper including, without limitation, a deficiency judgment.⁶

IF THIS PROPERTY IS SOLD AT PUBLIC AUCTION, THERE MAY BE ADDITIONAL MONEY FROM THE SALE AFTER PAYMENT OF PERSONS WHO ARE ENTITLED TO BE PAID FROM THE SALE PROCEEDS PURSUANT TO THE FINAL JUDGMENT.

IF YOU ARE A SUBORDINATE LIENHOLDER CLAIMING A RIGHT TO FUNDS REMAINING AFTER THE SALE, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN 60 DAYS AFTER THE SALE. IF YOU FAIL TO FILE A CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING FUNDS.

[If the property being foreclosed on has qualified for the homestead tax exemption in the most recent approved tax roll, the final judgment shall additionally contain the following statement in conspicuous type:]

IF YOU ARE THE PROPERTY OWNER, YOU MAY CLAIM THESE FUNDS YOURSELF. YOU ARE NOT REQUIRED TO HAVE A LAWYER OR ANY OTHER REPRESENTATION AND YOU DO NOT HAVE TO ASSIGN YOUR RIGHTS TO ANYONE ELSE IN ORDER FOR YOU TO CLAIM ANY MONEY TO WHICH YOU ARE ENTITLED. PLEASE CONTACT 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 LEGAL SERVICES OF NORTH FLORIDA (1741 N. PALAFOX STREET, PENSACOLA, FLORIDA 32501, (850) 432-8222, www.lsnf.org TO SEE IF YOU QUALIFY FINANCIALLY FOR THEIR SERVICES. IF THEY CANNOT ASSIST YOU, THEY MAY BE ABLE TO REFER YOU TO A LOCAL BAR REFERRAL AGENCY OR SUGGEST OTHER OPTIONS. IF YOU CHOOSE TO CONTACT LEGAL SERVICES OF NORTH FLORIDA, FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

DONE AND ORDERED at Pensacola, Escambia County, Florida.

Circuit Judge

⁶ If deficiency has been waived, this paragraph should be modified.

**ATTACHMENT 4—PROPOSED GENERAL MAGISTRATE’S REPORT AND
RECOMMENDATION ON FINAL JUDGMENT**

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

Plaintiff,
vs.
Defendant(s)

Case No.:
Division:

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

THIS CAUSE was before the undersigned General Magistrate on **[date] [for non-jury trial / on Plaintiff’s Motion for Summary Judgment]**. An Order of Referral to General Magistrate was entered on **[date]**. No timely objection was filed to the Order of Referral to General Magistrate.

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

1. The General Magistrate has received testimony and/or examined the affidavits filed herein and finds the Plaintiff is entitled to the entry of a Final Judgment of Foreclosure in accordance with the proposed Final Judgment attached hereto as Exhibit “A”. **[Counsel should attach a proposed Final Judgment labeled Exhibit “A”].**⁷
2. The Plaintiff requests a **[number of days]** sale date.
3. All parties have not waived the ten day period in which to file exceptions to the Report and Recommendations of the General Magistrate.⁸

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

DONE and RECOMMENDED in Pensacola, Escambia County, Florida.

KEITH A. McIVER
General Magistrate

⁷ This exhibit should be part of the same Word file as the Report.

⁸ It is rare that all parties were present to announce a waiver of the time period to file exceptions. However, if all parties waive, this paragraph may be modified.

ATTACHMENT 5—SAMPLE/FORM COVER LETTER TO COURT

[Date]

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

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

Dear Judge/General Magistrate _____:

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

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

- (1) At para. 5, the following words “” have been added after the words “” The reason for this change is: _____.
- (2) At para. 6, the last sentence which reads, “” has been added. The reason for this change is: _____.
- (3) At para. 9, the words “” have been deleted. The reason for this change is: _____.
- (4) Para. 14 is an additional paragraph and is necessary in this case for the following reason: _____.

Plaintiff claims title search expenses in the amount of [>\$225.00]. The expenses over \$225.00 are reasonable and necessary for the following reasons: _____.

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

Sincerely,

ATTORNEY'S SIGNATURE BLOCK

cc: (Opposing counsel/parties)

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

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

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

**GENERAL MAGISTRATE’S REPORT AND RECOMMENDATION ON
DEFENDANT’S, [name of party], MOTION TO DISMISS FILED [date]**

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

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

1. Defendants’ Motion to Dismiss is based on two grounds.

2. First, Defendant asserts that Plaintiff’s counsel possessing the note and Plaintiff’s counsel signing the certification required by Florida Statute §702.15 did not comply with the statute and thus Plaintiff does not have standing to pursue the foreclosure action. The Plaintiff asserts that its counsel, as its agent, possessing the note and executing the certification meets the requirement of the statute. The General Magistrate finds that in the circumstances described, counsel’s possession of the note and execution of the certification is in compliance with Florida Statute §702.15.

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

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

B. The General Magistrate recommends as follows:

1. The Motion to Dismiss filed by the Defendant, _____, on

_____, 201__ should be denied.

2. The Defendant should file an Answer within ten days of the entry of an Order approving this report.

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

DONE and RECOMMENDED at Pensacola, Escambia County, Florida.

KEITH A. McIVER
General Magistrate

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

CERTIFICATE OF SERVICE

I HEREBY certify that this Report and Recommendation was filed with the Clerk of the Court and a copy of the Report and Recommendations was provided to those parties on the service list below by regular U.S. Mail if only a physical address is noted and by submission to the Florida Court's E-filing Portal if an email address is noted.¹⁰

[Service List]

X Electronic reporting provided
 Court reporter present: _____

¹⁰ As a signature and service date and time is generated when e-signed, do not include a date or signature line.

ATTACHMENT 7—PROPOSED ORDER ON MAGISTRATE’S REPORT AND RECOMMENDATIONS ON PLAINTIFF’S/DEFENDANT’S MOTION

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

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

ORDER ON GENERAL MAGISTRATE’S REPORT AND RECOMMENDATION ON DEFENDANT’S, , MOTION TO DISMISS FILED

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

ORDERED AND ADJUDGED as follows:

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

DONE AND ORDERED at Pensacola, Escambia County, Florida

Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY certify that this Order was filed with the Clerk of the Court and a copy of the Order was provided to those parties on the below service list by regular U.S. Mail if only a physical address is noted and by submission to the Florida Court’s E-filing Portal if an email address is noted.

[Service List]

ATTACHMENT 8—MOTION TO CANCEL AND RESCHEDULE FORECLOSURE SALE

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

Plaintiff,
vs.
Defendant(s).

Case No.:
Division:

MOTION TO CANCEL AND RESCHEDULE FORECLOSURE SALE

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

1. On _____ this Court entered a Final Judgment of Foreclosure pursuant to which a foreclosure sale was scheduled for _____, 20__ .
2. The sale needs to be canceled for the following reason(s):
 - a. _____Plaintiff and Defendant are continuing to be involved in loss mitigation;
 - b. _____Defendant is negotiating for the sale of the property that is the subject of this matter and Plaintiff wants to allow the Defendant an opportunity to sell the property and pay off the debt that is due and owing to Plaintiff.
 - c. _____Defendant has entered into a contract to sell the property that is the subject of this matter and Plaintiff wants to give the Defendant an opportunity to consummate the sale and pay off the debt that is due and owing to Plaintiff.
 - d. _____Defendant has filed a Chapter ____Petition under the Federal Bankruptcy Code;
 - e. _____Plaintiff has ordered but has not received a statement of value/appraisal for the property;
 - f. _____Plaintiff and Defendant have entered into a Forbearance Agreement;
 - g. _____Other: _____
3. If this Court cancels the foreclosure sale, Plaintiff moves that it be rescheduled, and said rescheduled sale date be set no sooner than _____.

s/ Jane Doe

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

CERTIFICATE OF SERVICE

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

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

ATTACHMENT 9—ORDER TO CANCEL AND RESCHEDULE FORECLOSURE SALE

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

Plaintiff,
vs.
Defendant(s).

Case No.:
Division:

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

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

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

The foreclosure sale is reset for _____.

DONE AND ORDERED in Chambers at Pensacola, Escambia County, Florida.

Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY certify that this Order was filed with the Clerk of the Court and a copy of the Order was provided to those parties on the below service list by regular U.S. Mail if only a physical address is noted and by submission to the Florida Court’s E-filing Portal if an email address is noted.

[Service List]