

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY,
FLORIDA

ADMINISTRATIVE ORDER NO.:
13-10-B 2ND AMENDED
SUPERSEDES 13-10-B AMENDED

**IN RE: FORECLOSURE - RESIDENTIAL MORTGAGE FORECLOSURE DEPARTMENT,
BREVARD COUNTY**

The volume of residential mortgage foreclosures in Brevard County has risen to become one of the highest in the United States. The caseload presents unique problems of case management and organization. Accordingly, for reasons of judicial economy, the residential mortgage foreclosure cases are hereby assigned to one judge in a separate Mortgage Foreclosure Department.

A. ORGANIZATION

1. The Foreclosure Department is part of the Civil Division and subject to Civil Division administration.
2. A Senior Circuit Judge is primarily assigned as the presiding judge in the Residential Mortgage Foreclosure Department. Other judges may be assigned from time to time to preside over these cases.

B. MOTION PRACTICE

1. Unless otherwise ordered by the Court, all motion hearings in residential mortgage foreclosure cases shall be scheduled on-line using the JACS system under Brevard Foreclosures. Pro se defendants may schedule a hearing by calling the presiding judge's office at 321-637-5303. TELEPHONIC HEARINGS ARE NOT ALLOWED. No courtesy copies of any motions, memoranda, summary judgment packets, or other papers shall be sent to the judge prior to the scheduled hearing.
2. Evidentiary hearings (other than non-jury trials) must be scheduled by contacting the presiding judge's office at 321-637-5303.
3. Motions for summary judgment and other short or uncontested matters may be scheduled in the morning or the afternoon. Contested motions should be scheduled in the afternoon. Contested motions will be heard first in the afternoon.

4. Motions to dismiss filed pursuant to rule 1.140 may be ruled upon in chambers. Rule 1.140 motions shall state the grounds upon which they based and shall contain the substantial matters of law intended to be argued.
5. Motions for default, Motions to Confirm Assignments, Motions to Substitute Counsel, Motions to Withdraw, Unopposed Motions, Stipulated Orders, Dismissal Orders, Motions for Writ of Possession, Motions for Leave to Amend, Motions for Extension of Time, and Motions to Return Documents are normally determined in chambers without a hearing.
6. Motions to Substitute Party Plaintiff (Rule 1.260) shall be set for Thursday afternoons on a consent docket. Plaintiff's counsel need not appear for these motions. The order substituting party plaintiff will be entered if there is no objection. The court will notify the plaintiff's attorney if there is an objection to the motion and the plaintiff's attorney will set the motion for hearing at a later date.

C. SETTING CASES FOR TRIAL

Cases that have been noticed for trial will be set on the next available trial docket not less than thirty days from the date of service of the notice for trial. Contact the Foreclosure Trial Coordinator at 321-633-2128 for available dates.

D. JUDICIAL SALES

Except as provided herein, Judicial Sales shall be conducted pursuant to sec. 45.031, FLA. STAT. The Clerk of the Court shall schedule a sufficient number of judicial sale dates so that sales can be scheduled between 20 and 35 days from the date of the entry of final judgment. Sale dates may be scheduled beyond 35 days only upon the consent of the plaintiff in the case, or by order of the court.

E. CANCELLATION OF JUDICIAL SALES

1. Effective immediately, except when a satisfaction of judgment has been filed, and regardless of any language contained in a previously issued Final Judgment, a court order is required to cancel any foreclosure sale at the request of the plaintiff or any defendant.
2. The Clerk of the Court shall not cancel a foreclosure sale without a court order, except in cases where a suggestion of bankruptcy has been filed. The sale shall not be cancelled upon the filing of a suggestion of bankruptcy unless the suggestion is filed in the pending foreclosure action and contains the case name, the number of the bankruptcy case, and the date upon which the bankruptcy petition was filed.
3. The Clerk of the Court shall provide the presiding judge with a copy of any "Notice of Removal" to federal court which purports to be filed pursuant to 28 U.S.C. 1446. The filing of such a notice shall not cancel the sale without a court order.
4. Failure to publish the date of sale or to provide proof of publication of the sale is not grounds for cancelling a sale. Planitiffs have the responsibility to advertise the sale date contained in the Final Judgment. Publishing an incorrect sale date is not grounds for cancelling a sale. The Clerk of the Court shall issue a certificate of title after the sale as though the sale has been properly published.

5. Failure to provide proof of publication or pay the clerk's sale fee prior to the sale shall not be grounds for cancelling a sale. The certificate of title shall not be issued unless the clerk's sale fee has been paid.
6. Any party seeking to cancel a sale and reschedule a foreclosure sale shall file a written motion stating the specific reason why the sale should be cancelled. The motion shall state the number of times the sale has been previously cancelled. The motion shall be filed at least seven (7) business days prior to the sale and must be noticed for hearing. Documents relied upon to justify cancelling a sale must be brought to the hearing.
7. Vague or overly broad reasons such as "ongoing negotiations," "pursuing a short sale," or "seeking further loss mitigation" are insufficient reasons to cancel a sale.
8. Counsel for the plaintiff should bring an order dismissing the complaint and dissolving the lis pendens to the hearing on the motion to cancel the sale if the case is settled.

F. FINAL JUDGMENTS AND ORDERS

1. The title of orders shall reflect the content. Instead of the word "Order" for the title, it should read "Order Denying Motion to Dismiss" or Order Vacating Judicial Sale."
2. Blanks for sale dates and the date of the order must be long enough to contain the month and the date.
3. The date line of orders should be in the following form: ORDERED at Viera, Brevard County, Florida, this ____ day of _____, 20__.
4. The judge's signature line should be "Circuit Judge" and not "Circuit Court Judge," "Honorable Judge," or any other title. The name of the judge should not be included.
5. The form of orders and judgments should follow the forms contained in the Rules of Civil Procedure. Archaic forms that require the judge to date the order twice or contain language such as "Ordered, Adjudged, and Decreed" should be avoided.

Done and Ordered this 21st day of October, 2013

JOHN M. HARRIS
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CHIEF JUDGE

Distribution:
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