



How to File a Motion Before a Judge to Stay Sheriff’s Sale to Apply for Relief Through the Homeowner Assistance Fund (HAF)

(Superior Court of New Jersey - Chancery Division - General Equity)

Who Should Use This Packet?

Use this packet before a sheriff’s sale is scheduled and after you have exhausted the two statutory stays that you can request from the sheriff. *N.J.S.A. 2A:17-36*. **Use this packet ONLY if you are a homeowner who is eligible for relief through the Homeowner Assistance Fund, a provision of the American Rescue Plan of 2021, and you are seeking a stay of sheriff’s sale to apply for this relief.**

You must file a WRITTEN request with the Chancery Division, General Equity in the county where your property is located for the court to consider a stay of a sheriff’s sale. Contact the Civil Division in your county to find out where to do this. That information is available on the Judiciary’s website njcourts.gov. **It is important that you file a motion requesting a stay as soon as possible after the sheriff stays are exhausted.**

With limited exceptions, any paper filed with the court can be looked at by the public. You can only file a motion on behalf of yourself. You cannot file a motion for anyone else. A Power of Attorney does not allow you to file on behalf of anyone else. Motions filed on behalf of anyone else will be returned.

Note: These materials have been prepared by the New Jersey Administrative Office of the Courts for use by self-represented litigants. The instructions and forms will be periodically updated as necessary to reflect current New Jersey statutes and court rules. The most recent version of the [forms](#) will be available on the Judiciary’s Internet site njcourts.gov. However, you are ultimately responsible for the content of your court papers.

Completed forms should be submitted electronically via the Judiciary Electronic Document Submission (JEDS) system. Learn more at njcourts.gov.

Things to Think About Before You Represent Yourself in Court

Try to Get a Lawyer

CAUTION: Some Foreclosure cases are very complex, and you should consider getting a lawyer. The court system can be confusing, and it is a good idea to get a lawyer if you can. The law, the proofs necessary to present your case, and the procedural rules governing cases in the Chancery Division, General Equity Part are complex. Most likely your opponent will be represented by a lawyer. It is recommended that you make every effort to obtain the assistance of a lawyer. If you cannot afford a lawyer, you can contact the legal services program in your county to see if you qualify for free legal services. Their telephone number can be found online under "Legal Aid" or "[Legal Services](#)."

If you do not qualify for free legal services and need help in locating an attorney, you can contact the bar association in your county. Most county bar associations have a [Lawyer Referral Service](#). The County Bar Lawyer Referral Service can supply you with the names of attorneys in your area willing to handle your particular type of case and will sometimes consult with you at a reduced fee.

There are also a variety of organizations of minority lawyers throughout New Jersey, as well as organizations of lawyers who handle specialized types of cases. Ask your county court staff for a list of lawyer referral services that include these organizations.

If you decide to proceed without an attorney, these materials explain the procedures that **must** be followed to have your papers properly filed and considered by the court. Failure to follow procedures can result in a delay with processing your documents.

These materials do not provide information on the law governing your claims or defenses; information on how to conduct pretrial discovery; information on alternative dispute resolution procedures, such as mediation, that might be available or required in your case; information on the kinds of evidence you need to prove your claims or defenses at trial; or information on other procedural and evidentiary rules governing foreclosure actions.

What You Should Expect If You Represent Yourself

While you have the right to represent yourself in court, you should not expect special treatment, help, or attention from the court. The following is a list of some things the court staff can and cannot do for you. Please read it carefully before asking the court staff for help.

- We *can* explain and answer questions about how the court works.
- We *can* tell you what the requirements are to have your case considered by the court.
- We *can* give you some information from your case file.
- We *can* provide you with samples of court forms that are available.
- We *can* provide you with guidance on how to fill out forms.

- We *can* usually answer questions about court deadlines.
- We *cannot* give you legal advice. Only your lawyer can give you legal advice.
- We *cannot* tell you whether or not you should bring your case to court.
- We *cannot* give you an opinion about what will happen if you bring your case to court.
- We *cannot* recommend a lawyer, but we can provide you with the telephone number of a local lawyer referral service.
- We *cannot* talk to the judge for you about what will happen in your case.
- We *cannot* let you talk to the judge outside of court.
- We *cannot* change an order issued by a judge.

Keep Copies of All Papers

Make and keep copies of all completed forms and documents related to your case.

Definitions of Words Used in This Packet

Adversary - Your *adversary* in a lawsuit is the person or persons whose position is opposite to you. In a case where there is only a plaintiff and a defendant and you are the plaintiff, your adversary is the defendant. Likewise, if you are the defendant, your adversary is the plaintiff. In this packet, service on your adversary means service on the attorney(s) representing your adversary or adversaries and/or on any party(ies) not represented by counsel.

Brief - A *brief* is a written argument submitted to the court where you present the facts and the history of your case and the legal argument supporting the request you have made to the court in your motion.

Caption - A *caption* is the name of the case; it lists the name of both the plaintiff(s) and the defendant(s). For example: ABC Mortgage Company, Plaintiff v. Mary Smith, Defendant.

Certification - A *certification* is statement that certain facts are true to the best of the knowledge of the person making the statement. It is like an affidavit but is not sworn before a notary or other authorized person.

Contesting Answer - A *contesting answer* is one that challenges the right of the lender to foreclose on the defendant's property. A contesting answer will be sent to a judge for a determination on the lender's right to foreclose.

Defendant - The *defendant* is the person against whom the complaint or legal action is filed.

Discovery Motion - A *discovery motion* asks the court for a ruling on some point of the discovery process such as a motion for more specific answers to interrogatories or a motion to require depositions. Before filing a discovery motion, the person who is bringing the motion must try to resolve the matter with the other party(ies) in the case.

Docket Number - A *docket number* is the number the court assigns to a case so that it may be identified and located easily. You **must** include the docket number on all your communications regarding your case. **Note: Documents without a docket number cannot be filed.**

File - To *file* means to give the court the appropriate documents, forms and fees.

Motion - A *motion* is an application to the court for a specific order or ruling to be made in favor of the person making the motion (the movant).

Motion Day - Courts hear motions on specified days (usually Fridays) on the court calendar called *motion days*. You should obtain the motion schedule online from the judiciary website at njcourts.gov. It is your responsibility to contact the courthouse in the county where the case is filed to inquire about the motion day and to confirm if a case is scheduled for a hearing.

Movant or moving party - The *movant or moving party* is the person who is bringing the motion.

Definitions of Words Used in This Packet (continued)

Non-contesting Answer - A *non-contesting answer* is one that does not disagree with the lender's right to foreclose on the defendant's property. A case with a non-contesting answer will not be sent to a judge for resolution but will be handled by the Office of Foreclosure in Trenton.

Notice of Motion - A *Notice of Motion* is the form used to inform the court and all opposing parties that the person filing the motion is seeking a specific ruling or order from the court. A Notice of Motion must identify the courthouse where the motion will be heard (the courthouse in the county where the case is filed).

Oral Argument - *Oral argument* refers to the appearance in court by the parties to present their positions to the judge in person. Either side may request oral argument, but the decision on whether there will be oral argument is up to the judge. If oral argument is not requested by either of the parties or the judge, the motion will be decided "on the papers."

Plaintiff - The *plaintiff* is the person who files a complaint or brings a legal action.

Pro se - *Pro se* is a Latin term that means "on one's own behalf." A plaintiff or defendant in a court case who does not have an attorney is said to be appearing *pro se*.

Proof of Mailing - *Proof of mailing* is the form in which you provide the dates and method you used to give the other parties copies of the papers that you filed in court.

Proposed Form of Order - A *proposed order* is a form that the judge can use to either grant or deny the relief sought in the motion. Every motion must be accompanied by a proposed form of order.

Redaction - the censoring or "blacking out" of part of a text for legal or security purposes is called *redaction*. **Note:** Any documents received by the Clerk's office will be processed and placed in the online case jacket which, with limited exceptions, is available for public view.

Relief - *Relief* is the assistance or remedy sought by a complainant from a judge.

Return date - The *return date* is the date on which the court will consider the motion. If you request oral argument, you must appear before the judge. If no oral argument is requested, the matter will be decided "on the papers." That is, the judge will decide the motion on what has been submitted in the moving papers and in the opposition papers, without having anyone appear in court.

Service - *Service* refers to the delivery of the complaint or any other paper in a case to the other parties in the case. Formal legal service requires that the service be made by an officially authorized person or by mail.

Summary judgment - A motion for *summary judgment* asks the court to make a decision in favor of the person filing the motion based on statements and evidence without going to trial.

Venue - the *venue* is the location where a case is heard.

The numbered steps listed below tell you what forms you will need to fill out and what to do with them. Each form should be typed or printed clearly on 8.5" x 11" white paper only. Forms may not be filed on a different size or color paper.

Steps to File a Motion to Stay Sheriff's Sale

STEP 1: Complete the *Notice of Motion* (Form A)

In the *Notice of Motion*, you inform the court and all parties that you have asked for a specific ruling or order, and you specify the ruling you want – to stay the sheriff's sale, as well as any other relief requested.

Motions are heard in court on specified days. You should obtain the motion schedule either from the clerk's office or online from the judiciary website at njcourts.gov. If you have enough time before the sheriff's sale, you should pick a motion day at least 3 weeks from the date you mail your motion, in order to give your adversary 16 days before the return date as required by the court rules.

If the sheriff's sale is near, contact the judge's chambers to ask when your motion will be heard and how you should inform the lender's attorney that you are making the motion on short notice.

STEP 2: Complete the *Certification in Support of the Motion* and the *Certification of Service* (Form B)

The *Certification in Support of the Motion* tells the court the reasons why the court should grant your request. You must also complete the *Certification of Service* that tells the court the date you mailed (or delivered) copies of the documents to the lender's attorney.

STEP 3: Fill out the top portion of the *Proposed Form of Order*

Fill out the top portion of the Order. Do not fill out anything that appears under the text "**For Court Use Only.**" The judge will complete the bottom half of the Order when the motion is decided.

STEP 4: Mail or Deliver the *Notice of Motion*, *Certification in Support of the Motion*, *Certification of Service* and *Proposed Form of Order* to the Lender's Attorney

You must serve the lender's attorney no later than 16 days before the specified return date on your notice of motion. While the court rules do not require you to use certified mail, it is suggested that you send your motion and supporting papers by regular and certified mail, return receipt requested. You will then have the green card when it is returned to you as proof of service.

If the sheriff's sale is near and you must be heard before 16 days, deliver the motion, certification and order by hand, courier or overnight letter directly to the General Equity judge's chambers.

STEP 5: Mail, Deliver or electronically submit the forms to the court

You can file your *Notice of Motion*, *Certification* and *proposed Form of Order* electronically through JEDS, by mail or in person with the court. If the sheriff's sale is near, in-person delivery or electronic filing would be your best option.

To electronically submit your documents to the court, use the **Judiciary Electronic Document Submission (JEDS) system**. For more information about the JEDS system (including FAQs) and how to register to use the system go to njcourts.gov.

If you mail the papers, we recommend that you use certified mail, return receipt requested. Forms can be submitted via postal mail to: Superior Court Clerk's Office, Attention: Foreclosure Processing Services, P.O. Box 971, Trenton, New Jersey 08625. If you deliver the forms in-person, your local court address is available online at njcourts.gov.

If you want the court to send you back a copy of these papers stamped "filed," you must include an additional copy of each form and a self-addressed, stamped envelope.

Keep copies of all papers you provide to the court or any other party. Make and keep for yourself copies of all completed forms and any canceled checks, money orders, receipts, bills, contract estimates, letters, leases, photographs, and other important papers that relate to your case.

Step 6: Appear in Court (only if the judge has decided to hear oral argument)

On the scheduled motion date if the judge has decided to hear oral argument, appear before the General Equity judge and make your case for a stay of the sheriff's sale.

The Judiciary will provide reasonable accommodations to enable individuals with disabilities to access and participate in court events. Please contact the local ADA coordinator to request an accommodation. Contact information is available at njcourts.gov.

The New Jersey Judiciary provides court-interpreting services. If you need an interpreter, notify the court as soon as possible: njcourts.gov

Instructions for Completing the Notice of Motion (Form A)

1. At the top left of the form, enter your name, address, daytime phone number, and email address. If you are not an attorney, leave the *Attorney ID* field blank. **Note: the email address is required.**
2. On the line labeled *Plaintiff(s)*, type or print the plaintiff's name.
3. On the line labeled *Defendant(s)*, enter the name(s) of the defendants listed on the complaint.
4. On the line labeled *County*, enter the county where the case is filed.
5. On the line labeled *Docket Number*, enter the foreclosure docket number. This information can be found in the complaint that was served on you.
6. To the right of *To*, enter the names and addresses of all person who will be served with a copy of this motion. Attach additional sheets if necessary.
7. On the line labeled *Court located at*, enter the address of the court where you want your Motion to be heard.
8. After the word *on*, enter the return date of motion. A motion schedule is available online at njcourts.gov.
9. In the space after *for an Order to*, describe any additional relief you are requesting from the court.
10. Date and sign the form and print your name under the signature.

Form A

NOTICE: This is a public document, which means the document as submitted will be available to the public upon request. Therefore, do not enter personal identifiers on it, such as Social Security number, driver's license number, vehicle plate number, insurance policy number, active financial account number, active credit card number or military status.

Plaintiff or Filing Attorney Information:

Name _____
NJ Attorney ID Number _____
Address _____

Email Address _____
Telephone Number _____

Superior Court of New Jersey
Chancery Division - General Equity
_____ County
Docket Number **F**- _____

_____,
Plaintiff(s)
v.
_____,
Defendant(s)

Civil Action

Notice of Motion to Stay Sheriff's Sale to Apply for Relief Through the Homeowner Assistance Fund

To: _____

TAKE NOTICE that the undersigned will apply to the above-named Court located at _____ on _____ at 9:00 a.m. for an Order staying the sheriff's sale, and (describe additional relief requested):

Form A

I will rely on the attached certification, which contains the grounds for the relief sought.

Oral argument is requested.

Date

Signature

Print Name

Instructions for Completing the Certification in Support of Motion (Form B)

1. At the top left of the form enter your name, address, daytime phone number, and email address. If you are not an attorney, leave the *Attorney ID* field blank. **Note: the email address is required.**
2. On the line labeled *Plaintiff(s)*, type or print the plaintiff's name.
3. On the line labeled *Defendant(s)*, enter the name(s) of the defendants listed on the complaint.
4. On the line labeled *County*, enter the county where the case is filed.
5. On the line labeled *Docket Number*, enter the foreclosure docket number. This information can be found in the complaint that was served on you.
6. Enter your name on the line that says *I/We, _____, am/are the defendant(s) in the above-captioned matter.*
7. Enter your property address on the line that says *I/We am/are the owner(s) of property known as _____.*
8. Certify that you have already used two available statutory adjournments and must now adjourn by Motion.
9. Enter the date your property is scheduled for sale on the line that says *A Sheriff's sale of my property is scheduled for _____.*
10. Certify that you intend to apply for relief through the Homeowner Assistance Fund (HAF). **If you do not intend to apply for HAF assistance, you should not use this form.** For more information, contact the New Jersey Housing and Mortgage Finance Agency (NJHMFA) at 609-278-7400.
11. Certify that the assistance available through HAF, a maximum of \$75,000, would be enough to bring your mortgage current and end the foreclosure process.
12. Certify that you attest to COVID-related financial hardship occurring after January 21, 2020. This is a requirement to apply for relief through HAF. **If you are not eligible for HAF assistance, you should not use this form.** For more information, contact NJHMFA at 609-278-7400.
13. Certify that your household income does not exceed 150% of the Area Median Income (AMI). To determine if you qualify, review this chart provided by NJHMFA: https://www.njhousing.gov/dca/hmfa/covid19/docs/HAF_Incom_%20Limit_SHEET_A.pdf. This is a requirement to apply for relief through HAF. **If you are not eligible for HAF assistance, you should not use this form.** For more information, contact NJHMFA at 609-278-7400.

14. In the space under where it says *This motion should be granted because*, state the facts supporting why your motion should be granted. Attach additional sheets if necessary.
15. Date and sign the form and print your name under the signature. **Note:** when you sign this form, you are certifying that the statements made on the form are true. If you willfully make false statements, you may be subject to punishment.

Instructions for Completing the Certification of Service (Form B)

1. Enter the date you mailed copies of the documents to your adversaries.
2. Select the mailing method you used (regular or certified mail). If you sent it by both regular and certified mail, return receipt requested, check both.
3. List the name and address for each party to the lawsuit. If the party is represented by an attorney, enter the attorney's name and address and enter which party the attorney represents.
4. Date and sign the form and print your name under the signature.

Form B

Plaintiff or Filing Attorney Information:

Name _____

NJ Attorney ID Number _____

Address _____

Email Address _____

Telephone Number _____

_____,
Plaintiff(s)

v.

_____,
Defendant(s)

Superior Court of New Jersey
Chancery Division - General Equity
_____ County

Docket Number **F**- _____

Civil Action

**Certification in Support of
Stay of Sheriff’s Sale**

1. I/We _____ am/are the defendant(s) in the above-captioned matter.
2. I/We am/are the owner(s) of property known as _____, New Jersey.
3. I/We have used our two available adjournments.
4. A Sheriff’s sale of my property is scheduled for _____.
5. I/We am/are the borrower(s) and mortgagor(s) on a loan secured by a mortgage on the above-described property, which is the subject of the above-captioned foreclosure action.
6. The above-described property is a one- to four-unit residential dwelling.
7. I/We request that the Sheriff’s Sale of the above premises be postponed so that I/we can apply for relief through the Homeowners Assistance Fund (HAF), a provision of the American Rescue Plan of 2021.
8. I/We certify that \$75,000 of relief would be enough to bring this mortgage current and prevent foreclosure.
9. I/We certify to a COVID-related financial hardship occurring after January 21, 2020.

Form B

10. The annual income of my/our household is \$_____. This amount that does not exceed 150% of the Area Median Income, as described by the New Jersey Housing and Mortgage Finance Agency (NJHMFA). In making this statement, I/we have reviewed the income levels published by NJHMFA:
https://www.njhousing.gov/dca/hmfa/covid19/docs/HAF_Incom_%20Limit_SHEET_A.pdf.

11. This motion should be granted because:

I/We certify that the above statements made by me/us are true and that if any of the statements are willfully false, I/We am/are subject to punishment.

Date

Signature

Print Name

Form B

Certification of Service

I certify that on _____, I sent a copy of the Notice of Motion, Certification in Support of Stay of Sheriff’s Sale, and Proposed Form of Order to the following parties by: (Check which mailing method you chose. If you sent it by both regular and certified mail, return receipt requested, check both.)

regular mail certified mail, return receipt requested

List each party to the lawsuit; use the attorney’s name and address if the party is represented by counsel.

Name _____ Name _____

Address _____ Address _____

Attorney for _____ Attorney for _____

Date _____

Signature

Print Name

Instructions for Completing the Proposed Form of Order (Form C)

1. At the top left of the form enter your name, address, daytime phone number, and email address. If you are not an attorney, leave the *Attorney ID* field blank. **Note: the email address is required.**
2. On the line labeled *Plaintiff(s)*, type or print the plaintiff's name.
3. On the line labeled *Defendant(s)*, enter the name(s) of the defendants listed on the complaint.
4. On the line labeled *County*, enter the county where the case is filed.
5. On the line labeled *Docket Number*, enter the foreclosure docket number. This information can be found in the complaint that was served on you.
6. In the space under the section that starts *This matter having been brought before the Court...* describe any additional relief you are requesting from the court.
7. **DO NOT** fill out anything that appears under the text "**For Court Use Only.**" The judge will complete the remaining information.

Form C

Plaintiff or Filing Attorney Information:

Name _____

NJ Attorney ID Number _____

Address _____

Email Address _____

Telephone Number _____

Superior Court of New Jersey
Chancery Division - General Equity

_____ County

Docket Number **F**- _____

_____,
Plaintiff(s)

v.

Civil Action

_____,
Defendant(s)

Order To Stay Sheriff's Sale

This matter having been brought before the Court on Motion of defendant for an **Order** staying the sheriff's sale, and (describe additional relief requested):

and the Court having considered the matter and for good cause appearing,

(Do not write below this line, For Court Use Only)

On this ____ day of _____, 20__, it is **ORDERED** that:

1. The Sheriff's Sale scheduled for the ____ day of _____, 20__, is stayed for 90 days until the ____ day of _____, 20__, to allow the defendant/defendants to apply for relief through the Homeowner Assistance Fund under the American Rescue Plan of 2021. The court will further review this matter on _____.
2. It is **FURTHER ORDERED** that the Superior Court Clerk is directed to provide a copy of this Order to New Jersey Housing and Mortgage Finance Agency. NJHFMA will contact the homeowner within 14 days of this Order to determine HAF eligibility.

Form C

3. Additional Relief:

It is **FURTHER ORDERED** that a copy of this Order be served by the moving party upon all other parties or their attorneys, if any, within ____ days of the date listed above.

This motion was:

Opposed

Unopposed

P.J. Ch.