

## **NOTICE TO THE BAR**

### **FORECLOSURE FILING PRACTICES IN SUPERIOR COURT; FORECLOSURE MOTION PRACTICE.**

This notice to the bar sets forth changes in filing requirements and motion practice in foreclosure. The specific new provisions will (a) require attorneys or firms that represent clients in 25 or more filed foreclosure matters to electronically file using JEFIS, (b) require proof of service of the complaint for Rule 1:34-6 default motions, (c) require orders setting the time and place for redemption to be on motion, and (d) require a motion to substitute plaintiff or motion to correct the caption where the Plaintiff merges or changes its name. The effective dates of these new provisions are as indicated below.

#### **(a) Required Electronic Filing in Foreclosure**

Attorneys or law firms that represent clients in twenty-five (25) or more filed foreclosure matters are required to register and electronically file through the Judiciary Electronic Filing and Imaging System (JEFIS). Documents received on paper from attorneys or law firms required to electronically file through JEFIS will not be marked as received or accepted for filing and will be returned to the sender indicating that electronic submission is required. Please note that any duplicate pleadings that are submitted, whether filed on paper, electronically or both, will each be processed as an individually received document requiring the appropriate filing fee that document. Refunds of filing fees will not be issued for duplicate documents filed in a matter. This requirement regarding electronic filing will be effective as of February 1, 2016.

**(b) Motion for Default Filing Requirements**

Rule 1:34-6 authorizes the Office of Foreclosure to recommend entry of orders or judgments in uncontested foreclosure matters subject to the approval of a Superior Court judge designated by the Chief Justice, including motions to enter default. Attorneys filing a motion to enter default pursuant to Rule 1:34-6 must include the following required documents: (1) a Notice of Motion noticed to the Office of Foreclosure; (2) an attorney certification in support of the motion; (3) a proposed form of order; (4) a certification of service of the motion on the answering parties and parties to be defaulted; and (5) proof of service of the complaint for all defendants to be defaulted. The change, effective February 15, 2016, is to add the proof of service of the complaint to the list of documents required to be submitted as part of the motion to enter default. A filing party's failure to include all of the required documents shall result in the denial of the motion.

**(c) Motion Required for Orders Setting Time and Place for Redemption in Tax Foreclosure and Strict Foreclosure**

Pursuant to Rule 4:64-1(f), "[t]he Office of Foreclosure may, pursuant to [Rule] 1:34-6, recommend the entry of both the order for redemption and final judgment." Rule 1:34-6 was relaxed by order dated March 4, 2014 so as to require all orders recommended by the Office of Foreclosure to be made on motion noticed to the Office of Foreclosure. That 2014 rule relaxation regarding motions was temporarily delayed as to orders setting the time and place for redemption. However, effective February 1,

2016 that requirement will also apply to those orders as well, such that thereafter all applications before the Office of Foreclosure must be on motion. Thus, as of February 1, 2016, where a Plaintiff seeks to obtain an order setting the time and place for redemption in a tax foreclosure or a strict foreclosure, that application for relief must be made on motion pursuant to Rules 1:34-6 and 1:6-3, with notice to and service on all defendants who have a right of redemption. That motion is subject to a filing fee of \$50, which is a permissible taxed cost.

**(d) Motion Required for Plaintiff Merger or Name Change**

This notice clarifies the procedure to be followed when a plaintiff in a foreclosure matter either merges with another entity during the pendency of the litigation or changes its name during the pendency of the litigation. In each such instance, the plaintiff is required to file a motion to substitute the merged entity or the renamed entity as plaintiff, even if no interests are transferred during the pendency of litigation. This clarification is effective immediately.

Questions regarding the provisions of this notice may be directed to Michelle M. Smith, Clerk of the Superior Court, by email at [michelle.smith@judiciary.state.nj.us](mailto:michelle.smith@judiciary.state.nj.us) or by telephone at 609-421-6100.



Glenn A. Grant, J.A.D.  
Acting Administrative Director of the Courts

Dated: January 5, 2016