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How to File a Motion in a Foreclosure Case Before a Judge

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

Who Should Use This Packet?

You should use this packet if you want to ask for a specific ruling or order during the course of your foreclosure lawsuit. Any party to a case may submit a motion. The person submitting the motion is called the moving party. This packet explains how to file a motion directly with a judge in the county where you case is filed. The list below shows some examples of motions filed before a judge; however, please note this list is **NOT** all-inclusive:

- A Motion to vacate a default
- A Motion to vacate a final judgment
- A Motion to vacate a sale
- A Motion to amend an answer

All Motions must have an **original, ink signature**. Any motions submitted with copies of signatures will be returned.

With limited exceptions, any paper filed with the court can be looked at by the public. You may only file a motion on behalf of yourself. You may not 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 are to be submitted to:
Superior Court Clerk's Office
Foreclosure Processing Services
P.O. Box 971
Trenton, New Jersey 08625

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 may contact the legal services program in your county to see if you qualify for free legal services. Their telephone number can be found in your local yellow pages 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. That number can also be found in your local yellow pages. 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 may 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 in which 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 in which 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 being sued.

Discovery Motion - A *discovery motion* asks the court for a ruling on some phase of the discovery process such as a motion for more specific answers to interrogatories, a motion to compel depositions. Before filing a discovery motion, the moving party 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 on line from the judiciary website at: njcourts.gov. It is the litigant's 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.

Non-contesting Answer - A *non-contesting answer* is one that does not challenge with specificity 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 moving party 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).

Definitions of Words Used in This Packet (continued)

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 in a lawsuit.

Pro se - *Pro se* is a Latin term that means "on one's own behalf." A plaintiff or defendant in a law suit 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 obscuring 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 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 suit to the other parties in the case. Formal legal service requires that the service be made by an authorized person or by mail or, in limited situations, by publication in a newspaper.

Summary judgment - A motion for *summary judgment* asks the court to resolve the case in the moving party's favor without a trial because there is no dispute over the facts of the case and the law supports the moving party's position.

Venue - the *venue* is the particular county in which a court with jurisdiction may hear and determine a case.

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 ½" x 11" white paper only. Forms may not be filed on a different size or color paper.

Steps for Filing a Motion

STEP 1: Complete the *Notice of Motion* (Form A) and determine the Motion date.
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 type of ruling you want. In the Notice of Motion you must identify the courthouse where you want the motion to be heard (the courthouse located in the county where the case is filed).

All foreclosure documents must be filed at:

The Administrative Office of the Courts
Superior Court Clerk's Office
PO Box 971
Trenton, NJ 08625.

Foreclosure documents taken to the county for filing will not be accepted for filing.

Make sure that you have redacted (blacked out) any personal identifiers such as

- Social Security numbers,
- driver's license numbers,
- vehicle plate numbers,
- insurance policy numbers,
- active financial account numbers, or
- active credit card numbers,

from any paper filed with the court, unless any such personal identifier is required to be included by statute, rule, administrative directive or court order. If any active financial account is the subject of your case and cannot otherwise be identified, you may use the last four digits of the account to identify it.

Do not redact (black out) this information in the original papers that you are keeping (such as a bank statement) since you may have to show them to the court at some point.

Determining the Motion Date:

Motions are heard in court on specified days. You should obtain the motion schedule on line from the judiciary website at: njcourts.gov. It is the litigant's 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.

You should pick a motion day at least 3 weeks from the date you mail your motion papers in order to give your adversary the 16 days before the return date as required by the court rules. **Note: If you are filing a motion for summary judgment, you must file it no later than 28 days before the time specified for the return date.**

You must indicate whether you want to waive oral argument and let the judge decide the motion on the papers or not. You can ask the court for oral argument only if your adversary opposes the motion or you can ask for oral argument on your own. If you request oral argument you must tell the court why you think it is necessary. **Note: The judge makes the decision on whether there should be oral argument. The judge may request it even if neither party asked for it. Similarly, the judge may deny the request for oral argument**.

STEP 2: Complete the *Certification in Support of Motion* and the *Certification of Service* (Form B).
The *Certification in Support of Motion* tells the court the reasons why you want the ruling you have requested and the facts supporting why the court should grant your request. You must also complete the *Certification of Service* which tells the court the date on which you mailed copies of the documents to your adversary.

If you are filing a motion for summary judgment, you must also include a legal brief in which you state the facts of your case and the law that supports your position.

STEP 3: Complete the *proposed form of Order* (Form C)
Fill in the information up to the line for the date of the order for all motions except motions in which you are asking the court to extend the time to completed discovery. Leave the line for the date of the Order and the rest of the form blank. The terms of the Order will be completed by the judge when the motion is decided.

STEP 4: Attach the Filing Fee
The fee for filing a motion is $50. Make a check or money order payable to the ***Treasurer, State of New Jersey*.**

STEP 5: Check Your Completed Forms and make copies.
Checklist - You must have all of the following items:

___ The original *Notice of Motion, Certifications,* and *proposed form of Order,* (Forms A, B and C). If this motion is for Summary Judgment, you must also include a brief in support of a motion for Summary Judgment.

___ Filing fee of $50 in the form of a check or money order, made payable to the ***Treasurer, State of New Jersey*. Do not mail cash.**

___ Review the motion papers to ensure all personal identifiers are redacted, (unless such personal identifies are required to be included).

___ Sign the Motion and make copies to be sent to your adversary and any other party.

STEP 6: Mail or Deliver the Original *Notice of Motion, Certifications* and *Proposed Form of Order* to the Clerk's Office for Filing, and Mail Copies to Your Adversary and Any Other Party to the Lawsuit.
You must serve your adversary no later than 16 days before the specific return date on your notice of motion. If you are filing a motion for summary judgment, you must file it not later than 28 days before the time specified for the return date.

While the court rules do not require you to use certified mail to an attorney, 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.

STEP 7: Mail or Deliver the Forms to the Court
Mail the original *Notice of Motion, Certifications* and *Proposed Form of Order* (and brief, if applicable) to the Superior Court Clerk's Office at the address below. All motions sent to the Clerk's Office must have a have an **original, ink signature**.

Superior Court Clerk's Office
Foreclosure Processing Services
P.O. Box 971
Trenton, New Jersey 08625

If you mail the papers, we recommend that you use certified mail, return receipt requested.

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. Keep copies of any certified mail return receipt cards as proof of service.

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 the relief you are requesting from the court.

10. Under *Pursuant to R. 1:6-2(d), the undersigned*, select one of the three checkboxes regarding oral arguments. If you select *Requests oral argument for the following reasons,* state your reasons for doing so in the space following the checkbox.

11. Date and sign the form, and print your name under the signature.

Print All Forms | Clear All Forms

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, or active credit card number.

Name _____
Address _____
Daytime Telephone _____
Email Address _____
Attorney ID _____

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

_____
Plaintiff(s)

v.

_____
Defendant(s)

Civil Action

Notice of Motion

To:

TAKE NOTICE that the undersigned will apply to the above named Court located at _____, on _____, at 9:00 a.m. for an **Order** to (describe relief requested):

I will rely on the attached certification (and brief, if applicable) which contains the grounds for the relief sought.

Pursuant to *R.* 1:6-2(d), the undersigned: (check one)

- ☐ Waives oral argument and consents to disposition on the papers.
- ☐ Requests oral argument if this matter is contested.
- ☐ Requests oral argument for the following reasons:

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, _____, am the defendant in the above-captioned matter.*

7. In the space after *I make this certification in support of my motion to:* describe what you want the court to do. Attach additional sheets if necessary.

8. 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.

9. 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

Name _____
Address _____
Daytime Telephone _____
Email Address _____
Attorney ID _____

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

_____
Plaintiff(s)

v.

_____
Defendant(s)

Civil Action

Certification in Support of Motion

I, _____, am the defendant in the above-captioned matter. I make this certification in support of my motion to:

This motion should be granted because:

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

Date _____

_____
Signature

_____
Print Name

Form B (continued)

Certification of Service

I, certify that on _____, I sent a copy of the Notice of Motion, Certification, 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 the 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

Name _____
Address _____
Daytime Telephone _____
Email Address _____
Attorney ID _____

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

_____
Plaintiff(s)

v.

_____
Defendant(s)

Civil Action

Order

This matter having been brought before the Court on Motion of defendant for an **Order** (describe relief requested)

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

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

It is on this _____ day of _____, 20_____, **ORDERED** that:

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