

TGEGKGF."34B84235"38-55-5:."Lqj p"C0Vqo culpq."Ergtm"Uwr tgo g'Eqwtv

APPENDIX A

RULE 1.110. GENERAL RULES OF PLEADING

(a) Forms of Pleadings. Forms of action and technical forms for seeking relief and of pleas, pleadings, or motions are abolished.

(b) Claims for Relief. A pleading which sets forth a claim for relief, whether an original claim, counterclaim, crossclaim, or third-party claim must state a cause of action and shall contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends, unless the court already has jurisdiction and the claim needs no new grounds of jurisdiction to support it, (2) a short and plain statement of the ultimate facts showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief to which the pleader deems himself or herself entitled. Relief in the alternative or of several different types may be demanded. Every complaint shall be considered to pray for general relief.

~~When filing an action for foreclosure of a mortgage on residential real property the complaint shall be verified. When verification of a document is required, the document filed shall include an oath, affirmation, or the following statement:~~

~~“Under penalty of perjury, I declare that I have read the foregoing, and the facts alleged therein are true and correct to the best of my knowledge and belief.”~~

(c) The Answer. In the answer a pleader shall state in short and plain terms the pleader's defenses to each claim asserted and shall admit or deny the averments on which the adverse party relies. If the defendant is without knowledge, the defendant shall so state and such statement shall operate as a denial. Denial shall fairly meet the substance of the averments denied. When a pleader intends in good faith to deny only a part of an averment, the pleader shall specify so much of it as is true and shall deny the remainder. Unless the pleader intends in good faith to controvert all of the averments of the preceding pleading, the pleader may make denials as specific denials of designated averments or may generally deny all of the averments except such designated averments as the pleader expressly admits, but when the pleader does so intend to controvert all of its averments, including averments of the grounds upon which the court's jurisdiction depends, the pleader may do so by general denial.

(d) Affirmative Defenses. In pleading to a preceding pleading a party shall set forth affirmatively accord and satisfaction, arbitration and award, assumption of risk, contributory negligence, discharge in bankruptcy, duress, estoppel, failure of consideration, fraud, illegality, injury by fellow servant, laches,

license, payment, release, res judicata, statute of frauds, statute of limitations, waiver, and any other matter constituting an avoidance or affirmative defense. When a party has mistakenly designated a defense as a counterclaim or a counterclaim as a defense, the court, on terms if justice so requires, shall treat the pleading as if there had been a proper designation. Affirmative defenses appearing on the face of a prior pleading may be asserted as grounds for a motion or defense under rule 1.140(b); provided this shall not limit amendments under rule 1.190 even if such ground is sustained.

(e) Effect of Failure to Deny. Averments in a pleading to which a responsive pleading is required, other than those as to the amount of damages, are admitted when not denied in the responsive pleading. Averments in a pleading to which no responsive pleading is required or permitted shall be taken as denied or avoided.

(f) Separate Statements. All averments of claim or defense shall be made in consecutively numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances, and a paragraph may be referred to by number in all subsequent pleadings. Each claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense when a separation facilitates the clear presentation of the matter set forth.

(g) Joinder of Causes of Action; Consistency. A pleader may set up in the same action as many claims or causes of action or defenses in the same right as the pleader has, and claims for relief may be stated in the alternative if separate items make up the cause of action, or if 2 or more causes of action are joined. A party may also set forth 2 or more statements of a claim or defense alternatively, either in 1 count or defense or in separate counts or defenses. When 2 or more statements are made in the alternative and 1 of them, if made independently, would be sufficient, the pleading is not made insufficient by the insufficiency of 1 or more of the alternative statements. A party may also state as many separate claims or defenses as that party has, regardless of consistency and whether based on legal or equitable grounds or both. All pleadings shall be construed so as to do substantial justice.

(h) Subsequent Pleadings. When the nature of an action permits pleadings subsequent to final judgment and the jurisdiction of the court over the parties has not terminated, the initial pleading subsequent to final judgment shall be designated a supplemental complaint or petition. The action shall then proceed

in the same manner and time as though the supplemental complaint or petition were the initial pleading in the action, including the issuance of any needed process. This subdivision shall not apply to proceedings that may be initiated by motion under these rules.

Committee Notes

1971 Amendment. Subdivision (h) is added to cover a situation usually arising in divorce judgment modifications, supplemental declaratory relief actions, or trust supervision. When any subsequent proceeding results in a pleading in the strict technical sense under rule 1.100(a), response by opposing parties will follow in the same course as though the new pleading were the initial pleading in the action. The time for answering and authority for defenses under rule 1.140 will apply. The last sentence exempts post judgment motions under rules 1.480(c), 1.530, and 1.540, and similar proceedings from its purview.

20—Amendment. The last two paragraphs of rule 1.110(b) regarding pleading requirements for certain mortgage foreclosure actions were deleted and incorporated in new rule 1.115.

RULE 1.115. PLEADING MORTGAGE FORECLOSURES

(a) Claim for Relief. A claim for relief that seeks to foreclose a mortgage or other lien on residential real property, including individual units of condominiums and cooperatives designed principally for occupation by one to four families which secures a promissory note, must: (1) contain affirmative allegations expressly made by the claimant at the time the proceeding is commenced that the claimant is the holder of the original note secured by the mortgage; or (2) allege with specificity the factual basis by which the claimant is a person entitled to enforce the note under section 673.3011, Florida Statutes.

(b) Delegated Claim for Relief. If a claimant has been delegated the authority to institute a mortgage foreclosure action on behalf of the person entitled to enforce the note, the claim for relief shall describe the authority of the claimant and identify with specificity the document that grants the claimant the authority to act on behalf of the person entitled to enforce the note. The term “original note” or “original promissory note” means the signed or executed promissory note rather than a copy of it. The term includes any renewal, replacement, consolidation, or amended and restated note or instrument given in renewal, replacement, or substitution for a previous promissory note. The term also includes a transferrable record, as defined by the Uniform Electronic Transaction Act in section 668.50(16), Florida Statutes.

(c) Possession of Original Promissory Note. If the claimant is in possession of the original promissory note, the claimant must file under penalty of perjury a certification contemporaneously with the filing of the claim for relief for foreclosure that the claimant is in possession of the original promissory note. The certification must set forth the location of the note, the name and title of the individual giving the certification, the name of the person who personally verified such possession, and the time and date on which the possession was verified. Correct copies of the note and all allonges to the note must be attached to the certification. The original note and the allonges must be filed with the court before the entry of any judgment of foreclosure or judgment on the note.

(d) Lost, Destroyed, or Stolen Instrument. If the claimant seeks to enforce a lost, destroyed, or stolen instrument, an affidavit executed under penalty of perjury must be attached to the claim for relief. The affidavit must: (1) detail a clear chain of all endorsements, transfers, or assignments of the promissory note that is the subject of the action; (2) set forth facts showing that the claimant is entitled to enforce a lost, destroyed, or stolen instrument pursuant to section

673.3091, Florida Statutes; and (3) include as exhibits to the affidavit such copies of the note and the allonges to the note, audit reports showing receipt of the original note, or other evidence of the acquisition, ownership, and possession of the note as may be available to the claimant. Adequate protection as required under section 673.3091(2), Florida Statutes, shall be provided before the entry of final judgment.

(e) Verification. When filing an action for foreclosure on a mortgage for residential real property the claim for relief shall be verified by the claimant seeking to foreclose the mortgage. When verification of a document is required, the document filed shall include an oath, affirmation, or the following statement:

“Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged therein are true and correct to the best of my knowledge and belief.”

FORM 1.944(a). MORTGAGE FORECLOSURE

(When location of original note known)

COMPLAINT

Plaintiff, A. B., sues defendant, C. D., and alleges:

1. This is an action to foreclose a mortgage on real property in County, Florida.
2. On(date)....., defendant executed and delivered a promissory note and a mortgage securing payment of the note to [plaintiff or plaintiff's predecessor]. The mortgage was recorded on(date)....., in Official Records Book at page of the public records of County, Florida, and mortgaged the property described in the mortgage then owned by and in possession of the mortgagor, a copy of the mortgage ~~containing a copy of~~ and the note being attached.
3. Plaintiff holds the note secured by the mortgage.

OR

3. Plaintiff has been delegated the authority to institute a mortgage foreclosure action on behalf of the person entitled to enforce the note, and the document(s) that grant(s) plaintiff the authority to act on behalf of the person entitled to enforce the note is/are specifically identified as follows: [identify authority as required by section 702.015(3), Florida Statutes].

AND, if seeking to foreclose a mortgage or other lien on residential real property, including individual units of condominiums and cooperatives, designed principally for occupation by one to four families which secures a promissory note, the complaint must:

(a) contain affirmative allegations that plaintiff is the holder of the original note secured by the mortgage; or

(b) allege with specificity the factual basis by which the plaintiff is a person entitled to enforce the note under section 673.3011(2), Florida Statutes; or

(c) allege with specificity the factual basis by which the plaintiff is a person entitled to enforce the note under section 673.4181(4), Florida Statutes.

4. The property is now owned by defendant who holds possession.

5. Defendant has defaulted under the note and mortgage by failing to pay the payment due (date), and all subsequent payments(identify other defaults as applicable)......

6. Plaintiff declares the full amount payable under the note and mortgage to be due.

7. Defendant owes plaintiff \$..... that is due on principal on the note and mortgage, interest from(date)....., and title search expense for ascertaining necessary parties to this action.

8. Plaintiff is obligated to pay plaintiff's attorneys a reasonable fee for their services. Plaintiff is entitled to recover its attorneys' fees under(identify statutory and/or contractual bases, as applicable)......

WHEREFORE plaintiff demands judgment foreclosing the mortgage, for costs (and, when applicable, for attorneys' fees), and, if the proceeds of the sale are insufficient to pay plaintiff's claim, a deficiency judgment.

NOTE: An action for foreclosure of a mortgage on residential real property must contain an oath, affirmation, or the following statement as required by rule 1.115(e).

VERIFICATION

Under penalty of perjury, I declare that I have read the foregoing, and the facts alleged therein are true and correct to the best of my knowledge and belief.

Executed on this(date).....

[Person Signing Verification]

CERTIFICATION OF POSSESSION OF ORIGINAL NOTE

The undersigned hereby certifies:

1. That plaintiff is in possession of the original promissory note upon which this action is brought.

2. The location of the original promissory note is:(location).....

3. The name and title of the person giving the certification is:(name and title).....

4. The name of the person who personally verified such possession is:(name).....

5. The time and date on which possession was verified was:(time and date).....

6. Correct copies of the note (and, if applicable, all allonges to the note) are attached to this certification.

7. I give this statement based on my personal knowledge.

Under penalties of perjury, I declare that I have read the foregoing Certification of Possession of Original Note and that the facts stated in it are true.

Executed on(date).....

[Person Signing Certification]

NOTE: This form is for installment payments with acceleration. It omits allegations about junior encumbrances, unpaid taxes, unpaid insurance premiums, other non-monetary defaults, and for a receiver. They must be added when proper appropriate. ~~Copies~~ A copy of the note and mortgage must be attached. This form may require modification. This form is designed to incorporate the pleading requirements of section 702.015, Florida Statutes (2013) and rule 1.115. It is also designed to conform to section 673.3011, Florida Statutes (2013), except that part of section 673.3011, Florida Statutes, which defines a person entitled to enforce an instrument under section 673.3091, Florida Statutes. See form 1.944(b). Pursuant to section 702.015, Florida Statutes (2013), a certification of possession of the original promissory note must be filed contemporaneously with the Complaint (form 1.944(a)) or, in the event that the plaintiff seeks to enforce a lost, destroyed,

or stolen instrument, an affidavit setting forth the facts required by law must be attached to the complaint (form 1.944(b)).

FORM 1.944(b). MORTGAGE FORECLOSURE

(When location of original note unknown)

COMPLAINT

Plaintiff, ABC, sues defendant, XYZ, and states:

1. This is an action to foreclose a mortgage on real property in
County, Florida.

2. On(date)....., defendant executed and delivered a promissory
note and a mortgage securing the payment of said note to(plaintiff/plaintiff's
predecessor)..... The mortgage was recorded on(date)....., in Official Records
Book at page of the public records of County, Florida, and
mortgaged the property described therein which was then owned by and in
possession of the mortgagor, a copy of the mortgage and note being attached to the
Affidavit all of which is attached as Composite Exhibit "1", the contents of which
are specifically incorporated by reference.

NOTE: If Plaintiff has been delegated the authority to institute this mortgage
foreclosure action on behalf of the person entitled to enforce the note, the
Complaint must: (a) describe such authority of the plaintiff; (b) identify, with
specificity, the document or documents that grant plaintiff the authority to act on
behalf of the person entitled to enforce the note; and (c) attach copies of these
documents as exhibits.

3. Plaintiff is not in possession of the note but is entitled to enforce it.

4. Plaintiff cannot reasonably obtain possession of the note because

..... The note was destroyed.

..... The note is lost.

..... The note is in the wrongful possession of an unknown person.

..... The note is in the wrongful possession of a person that cannot
be found or is not amenable to service of process.

5. Plaintiff

..... was entitled to enforce the note when it lost possession of the note.

..... has directly or indirectly acquired ownership of the note from a person who was entitled to enforce the note when loss of possession occurred.

6. The loss of possession of the note was not the result of a transfer by plaintiff or a lawful seizure.

NOTE: Identify in chronological order all endorsements, transfers, and assignments of, or allonges to, the note; attach copies of these documents as exhibits.

7. Plaintiff's acquisition, ownership, and possession of the note is evidenced by [include all that may apply].

..... Audit reports showing plaintiff's receipt of the original note.

..... Other evidence as may be available.

8. Defendant has defaulted under the note and mortgage by failing to pay the payment due(date)....., all subsequent payments. [Identify other defaults as applicable.]

9. Plaintiff declares the full amount payable under the note and mortgage to be due.

10. Defendant owes plaintiff \$..... that is due on principal on the note and mortgage, interest from(date)....., and title search expense for ascertaining necessary parties to this action.

11. Plaintiff is obligated to pay its attorneys a reasonable fee for their services. Plaintiff is entitled to recover its attorneys' fees for prosecuting this claim pursuant to (identify statutory and/or contractual bases, as applicable).

WHEREFORE, Plaintiff demands judgment foreclosing the mortgage, for costs (and, where applicable, for attorneys' fees), and if the proceeds of the sale are insufficient to pay plaintiff's claim, a deficiency judgment.

NOTE: If an action for foreclosure of a mortgage on residential real property the complaint shall contain an oath, affirmation or the following statement as required by rule 1.115(e),

VERIFICATION

Under penalty of perjury, I declare that I have read the foregoing, and the facts alleged therein are true and correct to the best of my knowledge and belief.

Executed on(date).....

(Person Signing Verification)

**AFFIDAVIT OF COMPLIANCE WITH SECTION 702.015(5), FLORIDA
STATUTES**

STATE OF FLORIDA
COUNTY OF

BEFORE ME, the undersigned authority, personally appeared
.....(name)....., who, after being first duly sworn, deposes and states, under penalty
of perjury:

1. I am the plaintiff's [identify relationship to plaintiff].
2. I am executing this affidavit in support of plaintiff's Complaint
against defendant and I have personal knowledge of the matters set forth herein.
3. On(date)....., defendant executed and delivered a mortgage
securing the payment of a promissory note to plaintiff. The mortgage was
recorded on(date)....., in Official Records Book at page of the
public records of County, Florida, and mortgaged the property described

therein, which was then owned by and in possession of the mortgagor. A copy of the mortgage and promissory note are attached as Exhibits "A" and "B", respectively.

4. Plaintiff is not in possession of the original note and cannot reasonably obtain possession of it because

..... The note was destroyed.

..... The note is lost.

..... The note is in the wrongful possession of an unknown person.

..... The note is in the wrongful possession of a person that cannot be found or is not amenable to service of process.

5. Plaintiff

..... was entitled to enforce the note when it lost possession of the note.

..... has directly or indirectly acquired ownership of the note from a person who was entitled to enforce the note when loss of possession occurred.

6. The loss of possession of the note was not the result of a transfer by plaintiff or a lawful seizure.

7. Identify in chronological order all endorsements, transfers, and assignments of, or allonges to, the note, and attach copies of these documents as exhibits.

8. Plaintiff's acquisition, ownership, and possession of the note is evidenced by

..... Audit reports showing plaintiff's receipt of the original note.

..... Other evidence as may be available. Specify:

FURTHER, AFFIANT SAYETH NAUGHT.

[signature]

[typed or printed name of affiant]

STATE OF FLORIDA
COUNTY OF

BEFORE ME, the undersigned authority appeared(name of affiant)....., who is personally known to me or produced identification and acknowledged that he/she executed the foregoing instrument for the purposes expressed therein and who did take an oath.

WITNESS my hand and seal in the State and County aforesaid, this(date).....

NOTARY PUBLIC, State of Florida

Print Name:

Commission Expires:

Committee Note

20—Adoption. This form is for installment payments with acceleration. It omits allegations about junior encumbrances, unpaid taxes, unpaid insurance premiums, other nonmonetary defaults, and for a receiver. They must be added when appropriate. This form is designed to incorporate the pleading requirements of section 702.015, Florida Statutes (2013) and rule 1.115. It is also designed to comply with section 673.3091, Florida Statutes (2013). Adequate protection as required by sections 702.11 (2013) and 673.3091(2), Florida Statutes (2013) must be provided before the entry of final judgment.

FORM 1.944(c) MOTION FOR ORDER TO SHOW CAUSE

**PLAINTIFF'S MOTION FOR ORDER TO SHOW CAUSE
FOR ENTRY OF FINAL JUDGMENT OF FORECLOSURE
PURSUANT TO SECTION 702.10, FLORIDA STATUTES**

1. Plaintiff is a lienholder of real property located at(address)... or is aCondominium Association/Cooperative Association/Homeowner's Association.....

2. The plaintiff has filed a verified complaint in conformity with section 702.015, Florida Statutes, which is attached.

3. Pursuant to section 702.10(2), Florida Statutes, plaintiff requests this court issue an order requiring defendant(s) to appear before the court to show cause why a final judgment of foreclosure should not be entered against defendant(s).

4. To comply with the notice requirement of section 702.10, Florida Statutes, a hearing should be scheduled no sooner than 20 days after service on the defendant(s), and no later than 45 days after service of the initial complaint, if hearing dates are available.

OR

COMMENT: Use the following when service is by publication:

4. To comply with the notice requirement of section 702.10, Florida Statutes, a hearing should be scheduled no sooner 30 days after the first publication, if hearing dates are available.

5. The accompanying proposed Order To Show Cause affords defendant(s) all the rights and obligations as contemplated in section 702.10(1)(a), Florida Statutes.

6. Upon the entry of the Order To Show Cause, plaintiff shall serve a copy of the executed Order To Show Cause for Entry of Final Judgment as required by section 702.10(1)(a)9, Florida Statutes.

7. This is not a residential property for which a homestead exemption for taxation was granted according to the rolls of the latest assessment by the County Property Appraiser.

Plaintiff requests the court review this complaint and grant this Motion for Order to Show Cause for Entry of Final Judgment of Foreclosure, and grant such further relief as may be awarded at law or in equity.

Plaintiff

Certificate of Service

FORM 1.944(d) ORDER TO SHOW CAUSE

ORDER TO SHOW CAUSE

THIS CAUSE has come before the court onplaintiff's/lien holder's..... Motion for Order to Show Cause for Entry of Final Judgment of Mortgage Foreclosure under section 702.10, Florida Statutes, and the Court having reviewed the Motion and the Verified Complaint, and being otherwise fully advised in the circumstances, finds and it is

ORDERED AND ADJUDGED that:

1. The defendant(s) shall appear at a hearing on foreclosure on(date)..... at(time)..... before the undersigned judge, in the(named county)..... Courthouse at(address)....., to show cause why the attached Final Judgment of Foreclosure should not be entered against the defendant(s) in this cause. This hearing referred to in this Order is a "Show Cause Hearing."

2. This ORDER TO SHOW CAUSE shall be served on the defendant(s) in accordance with the Florida Rules of Civil Procedure and section 702.10(1)(a)9, Florida Statutes, as follows:

a. If the defendant(s) has/have been served under Chapter 48, Florida Statutes, with the Verified Complaint and original process has already been effectuated, service of this Order may be made in the manner provided in the Florida Rules of Civil Procedure; or, if the other party is the Plaintiff in the action, service of the ORDER TO SHOW CAUSE on that party may be made in the manner provided in the Florida Rules of Civil Procedure.

b. If the defendant(s) has/have not been served under Chapter 48, Florida Statutes, with the Verified Complaint and original process, the ORDER TO SHOW CAUSE, together with the Summons and a copy of the Verified Complaint, shall be served on the Party in the same manner as provided by law for original process.

3. The filing of defenses by a motion or verified answer at or before the Show Cause Hearing constitutes cause for which the Court may not enter the

attached final judgment.

4. Defendant(s) has/have the right to file affidavits or other papers at the time of the Show Cause Hearing and may appear at the hearing personally or by an attorney.

5. If defendant(s) file(s) motions, they may be considered at the time of the show cause hearing.

6. Defendant(s)' failure to appear either in person or by an attorney at the Show Cause Hearing or to file defenses by motion or by a verified or sworn answer, affidavits, or other papers which raise a genuine issue of material fact which would preclude entry of summary judgment or which would otherwise constitute a legal defense to foreclosure, after being served as provided by law with the Order To Show Cause, will be deemed presumptively a waiver of the right to a hearing. In such case, the Court may enter a final judgment of foreclosure ordering the Clerk of the Court to conduct a foreclosure sale. An order requiring defendant(s) to vacate the premises may also be entered.

7. If the mortgage provides for reasonable attorneys' fees and the requested fee does not exceed 3% of the principal amount owed at the time the complaint is filed, the Court may not need to hold a hearing to adjudge the requested fee to be reasonable.

8. Any final judgment of foreclosure entered under section 702.10(1) Florida Statutes, shall be only for in rem relief; however, entry of such final judgment of foreclosure shall not preclude entry of an in personam money damages judgment or deficiency judgment where otherwise allowed by law.

9. A copy of the proposed final judgment is attached and will be entered by the court if defendant(s) waive(s) the right to be heard at the show cause hearing.

10. The court finds that this is not a residential property for which a homestead exemption for taxation was granted according to the rolls of the

latest assessment by the County Property Appraiser.

DONE AND ORDERED at(county)....., Florida(date).....

CIRCUIT JUDGE

Copies Provided to:

FORM 1.996(a). FINAL JUDGMENT OF FORECLOSURE

FINAL JUDGMENT

This action was tried before the court. On the evidence presented

IT IS ADJUDGED that:

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

Principal \$.....

Interest to date of this
Judgment

Title search expenses

Taxes

Attorneys' fees

Finding as to
reasonable number
of hours:

Finding as to
reasonable hourly
rate:

Other*:

(*The requested attorney's fees is 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.)

Attorneys' fees total

Court costs, now taxed

	Other:
Subtotal		\$.....
	LESS: Escrow balance	
	LESS: Other
TOTAL		\$.....

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 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 this 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(street address of courthouse).... in County in(name of city)....., Florida, in accordance with section 45.031, Florida Statutes (2013), 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(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 45.031, 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.** The court finds that uponaffidavits/testimony..... presented hours were reasonably expended by plaintiff's counsel and that an hourly rate of \$..... was charged.Plaintiff's counsel represents that the attorneys' fees awarded does not exceed its contract fee with the plaintiff/Attorneys' fees do not exceed 3% of the total principal amount owed at the time of filing the complaint per section 702.065, Florida Statutes (2013).....

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

9. **NOTICE PURSUANT TO AMENDMENT TO SECTION 45.031, FLORIDA STATUTES (2013):**

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 CHECK WITH 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 (INSERT LOCAL OR NEAREST LEGAL AID OFFICE AND TELEPHONE NUMBER) 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 (NAME OF LOCAL OR NEAREST LEGAL AID OFFICE AND TELEPHONE NUMBER) FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

ORDERED at, Florida, on(date)..... .

Judge

NOTE: Paragraph 1 must be varied in accordance with the items unpaid, claimed, and proven. The form does not provide for an adjudication of junior lienors' claims nor for redemption by the United States of America if it is a defendant. The address of the person who claims a lien as a result of the judgment must be included in the judgment in order for the judgment to become a lien on real estate when a certified copy of the judgment is recorded. Alternatively, an affidavit with this information may be simultaneously recorded. For the specific requirements, see section 55.10(1), Florida Statutes; *Hott Interiors, Inc. v. Fostock*, 721 So. 2d 1236 (Fla. 4th DCA 1998).

Committee Notes

1980 Amendment. The reference to writs of assistance in paragraph 7 is changed to writs of possession to comply with the consolidation of the 2 writs.

2010 Amendment. Mandatory statements of the mortgagee/property owner's rights are included as required by the 2006 amendment to section 45.031, Florida Statutes. Changes are also made based on 2008 amendments to section 45.031, Florida Statutes, permitting courts to order sale by electronic means.

Additional changes were made to bring the form into compliance with chapters 718 and 720 and section 45.0315, Florida Statutes, and to better align the form with existing practices of clerks and practitioners. The breakdown of the amounts due is now set out in column format to simplify calculations. The requirement that the form include the address and social security number of all defendants was eliminated to protect the privacy interests of those defendants and in recognition of the fact that this form of judgment does not create a personal final money judgment against the defendant borrower, but rather an in rem judgment against the property. The address and social security number of the defendant borrower should be included in any deficiency judgment later obtained against the defendant borrower.

20-- Amendment. These amendments added titles, updated statutory reference to time for right of redemption, and added a paragraph on attorneys' fees.

**FORM 1.996(b). FINAL JUDGMENT OF FORECLOSURE FOR RE-
ESTABLISHMENT OF LOST NOTE**

FINAL JUDGMENT

This action was tried before the court. On the evidence presented

IT IS ADJUDGED that:

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

Principal \$.....

Interest to date of this
judgment

Title search expenses

Taxes

Attorneys' fees

Finding as to
reasonable number of
hours:

Finding as to
reasonable hourly
rate:

Other*:

(*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.)

Attorneys' fees total

Court costs, now taxed

Other:

Subtotal \$.....

LESS: Escrow balance

LESS: Other

TOTAL \$.....

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
..... 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 this 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(street address of courthouse).... in County in(name of city)....., Florida, in accordance with section 45.031, Florida Statutes (2013), 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(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 45.031, 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.** The court finds that uponaffidavits/testimony..... presented hours were reasonably expended by Plaintiff's counsel and that an hourly rate of \$..... was charged. Plaintiff's counsel represents that the attorney fee awarded does not exceed its contract fee with the plaintiff. Nor does it exceed 3% of the total principal amount owed at the time of filing the complaint per section 702.065, Florida Statutes (2013).

8. **Re-establishment of Lost Note.** The court finds that the plaintiff has re-established the terms of the lost note and its right to enforce the instrument as required by section 673.3091, Florida Statutes (2013). 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 section 673.3091, Florida Statutes (2013) by the followings means:(Identify means of security per section 702.11, Florida Statutes (2013): 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.

9. **Jurisdiction Retained.** Jurisdiction of this action is retained to enforce the adequate protection ordered and to enter further orders that are proper including, without limitation, a deficiency judgment.

10. NOTICE PURSUANT TO SECTION 45.031, FLORIDA STATUTES (2013).

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 CHECK WITH 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 (INSERT LOCAL OR NEAREST LEGAL AID OFFICE AND TELEPHONE NUMBER) 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 (NAME OF LOCAL OR NEAREST LEGAL AID OFFICE AND TELEPHONE NUMBER) FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

ORDERED at, Florida, on(date).....

Judge

NOTE: Paragraph 1 must be varied in accordance with the items unpaid, claimed, and proven. The form does not provide for an adjudication of junior lienors' claims or for redemption by the United States of America if it is a defendant. The address of the person who claims a lien as a result of the judgment must be included in the judgment in order for the judgment to become a lien on real estate when a certified copy of the judgment is recorded. Alternatively, an affidavit with this information may be simultaneously recorded. For the specific requirements, see section 55.10(1), Florida Statutes; *Hott Interiors, Inc. v. Fostock*, 721 So. 2d 1236 (Fla. 4th DCA 1998).

Committee Note

2014 Amendment. This new form is to be used when the foreclosure judgment re-establishes a lost note.

**MOTION TO CANCEL AND RESCHEDULE
FORECLOSURE SALE**

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

1. On(date)..... this Court entered a Final Judgment of Foreclosure pursuant to which a foreclosure sale was scheduled for _____, 20(date)......

2. The sale needs to be canceled for the following reason(s):

a. Plaintiff and ~~D~~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 Pplaintiff wants to allow the ~~D~~defendant an opportunity to sell the property and pay off the debt that is due and owing to Pplaintiff.

c. Defendant has entered into a contract to sell the property that is the subject of this matter and Pplaintiff wants to give the ~~D~~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 ~~D~~defendant have entered into a Forbearance Agreement;

g. Other

3. If this Court cancels the foreclosure sale, Pplaintiff moves that it be rescheduled.

I hereby certify that a copy of the foregoing Motion has been furnished by
~~U.S. mail postage prepaid, facsimile or hand delivery~~.....(method of service).... to
~~.....(name(s))..... this day of , 20 on~~(date).....

NOTE. This form is used to move the court to cancel and reschedule a foreclosure sale.