

FORECLOSURE CHECKLIST OF COMPLIANCE

PLEADING STAGE

- ___ The case has not been filed during a bankruptcy stay.

- ___ If the debt involves a promissory note, the complaint, counterclaim, or crossclaim has attached to it: (1) a legible copy of the promissory note, or (2) an affidavit of lost note that establishes the material terms of the unavailable note, or (3) a signed statement indicating when a copy of the note or the affidavit of lost note will be filed.

- ___ If the debt involves a mortgage, the complaint, counterclaim, or crossclaim has attached to it: (1) a legible copy of the mortgage, and (2) the mortgage is signed and properly acknowledged, and these names match the names in the granting clause, and (3) the mortgage is recorded.

- ___ A Preliminary Judicial Report (PJR) has been filed not more than 30 days after the Filing of the complaint or other pleading requiring a PJR.
 - ___ The PJR has an effective date current within 30 days prior to the filing of the complaint.
 - ___ The PJR covers the complete and correct property being foreclosed and includes the property's permanent parcel number.
 - ___ The legal description in the PJR is substantially identical to the legal description in the mortgage and the legal description makes sense (i.e. describes contiguous and connecting series of dimensions; identifies proper city, county and state).
 - ___ The PJR lists the plaintiff as the real party in interest by showing a complete chain of assignments, if any.
 - ___ The PJR lists lesser estates, leaseholds, and liens, if any.
 - ___ The PJR has a proper monetary guaranty and is guaranteed to the purchaser at judicial sale.
 - ___ The PJR lists debtors and creditors for each judgment lien.
 - ___ The PJR has been signed by an appropriate officer of the title company.
 - ___ There is an endorsement filed to the title work to correct deficiencies, if any.

In Conjunction with Any Dispositive Motion Filed by the Party Seeking Affirmative Relief

- ___ All persons listed on the PJR have been added as a party and have been properly served with service of process.

- ___ In support of any dispositive motion, an affidavit of damages has been filed establishing: (1) the principal balance owed; (2) the date of default on the note; and (3) the applicable interest rate, whether fixed or adjustable.

- ___ A Final Judicial Report (FJR) has been filed.
 - ___ The FJR has an effective date more recent than the date on which service has been perfected on named defendants.
 - ___ The FJR contains a statement that all parties have been served.
 - ___ The FJR covers the complete and correct property being foreclosed.
 - ___ The FJR lists the plaintiff as the real party in interest if the PJR did not.
 - ___ The FJR is signed by an appropriate officer of the title company.

- _____ The FJR shows the final disposition of any cases other than the present case that appear on earlier title reports unless those earlier title reports show the final disposition of said cases.
- _____ There is an endorsement filed to the title work, or amended FJR is filed, or supplemental FJR is filed to correct deficiencies, if any.

- _____ An affidavit regarding the Defendant(s) military status has been filed. Said affidavit must satisfy the Servicemembers Civil Relief Act, 50 U.S.C. App. Section 520, et seq.

- _____ There are no bankruptcies related to this case, or
 - _____ A Chapter 7 or 13 bankruptcy has been filed and closed, and proof that the bankruptcy has been closed has been filed or will be presented before judgment granted.
 - or
 - _____ A Chapter 13 bankruptcy has been filed and relief from stay has been granted to the party seeking judgment, and proof that relief has been granted has been filed or will be presented before judgment granted.
 - or
 - _____ A Chapter 7 bankruptcy has been filed and relief from stay has been granted to the party seeking judgment or the debtor has been discharged, and the trustee has abandoned the property subject to this case, and proof that relief has been granted or the debtor has been discharged and that the trustee has abandoned the property has been filed or will be presented before judgment granted.
- And
 - _____ Service has not been perfected during a bankruptcy stay.

If the above Checklist is not completed as of the date of a Default Hearing or as of the date a response is due to a motion for summary judgment, a magistrate may dismiss the case without prejudice, or in the alternative a magistrate may grant counsel an allotted amount of time to comply with the above referenced requirements as set forth by law.

- _____ A proposed judgment entry (Magistrate's Decision) granting a decree of foreclosure has been sent to the court.
 - _____ The entry accounts for all of the remaining parties in the case.
 - _____ The entry finds an amount of damages that matches the damages established in the above mentioned affidavit of damages.
 - _____ The entry covers the complete and correct property being foreclosed.
 - _____ The entry directs that the proceeds of the sale, if any, shall be held by the sheriff.
 - _____ The entry finds an amount of damages owing to any cross claimant matching the amount established by that cross claimant. However, the entry cannot make a finding for parties not requesting summary judgment or default judgment.
 - _____ All undetermined lien amounts in favor of other co-defendants are transferred to proceeds of sale.
 - _____ The entry finds that the mortgage being foreclosed upon is a good, valid and subsisting lien.
 - _____ The entry finds that the mortgage conditions have been broken, and the holder is entitled to foreclose.

- _____ A praecipe for order of sale

After the Sheriff's Sale

- _____ A motion for confirmation of sale has been filed, together with a proposed entry confirming the sale:
 - _____ The total distribution in the entry matches the amount from the Sheriff's return of sale.
 - _____ The name of the purchaser(s) in the entry is correct and complete according to the Sheriff's return of sale.
 - _____ The entry provides that all outstanding liens are cancelled.
 - _____ The entry has either the signature of all parties not in default or states that it has been submitted to all parties not in default.
 - _____ The entry does not seek a deficiency judgment against parties who have bankruptcy protection.
 - _____ The deficiency amount, if any, is correctly stated in the entry.
 - _____ The entry lists the priority of liens in the correct order.

The above Checklist for Compliance does not contemplate all situations that may arise in all cases and therefore, although the Checklist may be complete, the case may not be ready for judgment.