

**THE ELEVENTH JUDICIAL CIRCUIT
MIAMI-DADE COUNTY, FLORIDA**

**ADMINISTRATIVE MEMORANDUM
CIV10-B**

**IN RE: CANCELLATION OF
SCHEDULED FORECLOSURE
SALES AND MOTIONS TO CANCEL
SALE, VACATE FINAL JUDGMENT
AND DISMISS IN RESIDENTIAL
MORTGAGE FORECLOSURE
CASES**

WHEREAS, based upon the high volume of motions filed to cancel foreclosure sales in the Eleventh Judicial Circuit, it has been determined that the implementation of standardized procedures is necessary to achieve judicial efficiency in the management of residential mortgage foreclosure cases; and

WHEREAS, it has been determined that in the interest of judicial administration and economy, a concerted effort to promote uniformity and establish guidelines to be followed by the judges in the Civil Division ("Division Judges") in connection with motions to cancel sale and emergency motions to cancel sale needs to be implemented; and

WHEREAS, in an effort to alleviate the overwhelming judicial and court clerk workload resulting from the volume of last-minute sales cancellations and in order to assure the cost-effective and efficient utilization of limited court resources; and

WHEREAS, over the past two years the Eleventh Judicial Circuit has experienced a 55% sales cancellation rate which exponentially delays the sale of real properties in this Circuit.

NOW, THEREFORE, pursuant to the authority vested in me as Administrative Judge of the General Jurisdiction Division in the Eleventh Judicial Circuit of Florida, under Rule 2.215, Florida Rules of Judicial Administration, in an effort to carry out this effort in an effective, fair and efficient manner and in a manner calculated to effectively utilize available sales date resources, the following procedural requirements are hereby implemented:

1. All Motions to Cancel Foreclosure Sales, emergency and regular, shall be heard on a walk-in basis at 9 A.M. before the Presiding Judge of the Foreclosure Master Calendar, in Courtroom 3-3 of the Miami-Dade County Courthouse, 73 W. Flagler St., Miami, Florida. This includes all foreclosures: residential mortgages, condominium liens, mechanics and construction liens and commercial.

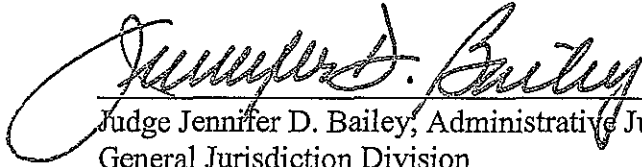
2. The Calendar will commence at 9 A.M. and will continue until all motions are resolved. In order to be heard on the walk-in calendar, your motion must be filed with the Clerk of the Courts and a copy of said motion submitted to the **Court Coordinator** by 9:45 A.M.
3. Parties must make every attempt to notice the opposing parties on emergency motions, including borrowers and condominium and homeowner's associations. Regular motions shall be noticed in the same manner as open calendar hearings.
4. Hearings permitting oral argument will be provided in the following cases:
 - a. Cases in which a party appears prepared to give testimony in support of the motion, for example, in which the borrower or Plaintiff's representative appears in court.
 - b. Cases in which it appears that supporting documentation is attached to the motion providing evidence in support of the grounds asserted.
 - c. Cases in which Counsel is willing to testify, from personal knowledge as an officer of the court, as to the grounds of the motion. In this instance, Counsel's ability and willingness to testify should appear Bold print at the beginning of the motion identifying the attorney testifying by name, his/her bar number, and the substance of his/her testimony.
5. If the motion is submitted to the **Courtroom Coordinator** and does not appear to meet the criteria for oral argument hearing, the Motion will be ruled upon by the Court based upon the written grounds provided and no additional hearing will occur. To clarify, if a motion is submitted with vague grounds, without testimonial support or documentation, oral argument of the motion will be denied. The Court will consider the grounds stated in the written motion and rule upon those grounds. Sales shall proceed as scheduled, so motions presented at 9 A.M. or later on the day of sale run the risk that the sale will occur prior to consideration of the motion, in which case the motion will be not be heard as it is moot.
6. The Eleventh Judicial Circuit encourages the use of factual detail, precise language, and supporting documentation in the Motions to Cancel Sale presented to its judges. Prior cancellations, including dates and reasons given in the prior motions for cancellation, should also be included in the current motion.
7. The Eleventh Judicial Circuit also directs Plaintiffs who are engaged in loss mitigation with borrowers to file a Motion to Stay/Abate their actions pending resolution of those efforts so as to avoid confusion and squandering of scarce court resources, so that the status of their case and their efforts may be accurately reflected in the Court file. The Court may, in its discretion, treat any Motion to Cancel Sale as a Motion to Stay/Abate the action based on loss mitigation depending on the grounds provided by the parties.
8. Ex-Parte Motions to Cancel Sale which are encompassed in an Ex-Parte Order to Vacate Final Judgment, Dismiss Case, Cancel Lis Pendens and Release Documents must reflect an agreement with the defendants to the entry of the order. Unilateral motions to vacate which reflect a decision by the Plaintiff to abandon its prosecution of the foreclosure case after final judgment will not be entertained absent notice to all parties and a motion which qualifies under Rule

1.540, Fla. Rules of Civ. P. (2010). Motions lacking grounds will not be entitled to oral argument and will be ruled upon based upon the written motion.

9. All Orders on Motion to Cancel Sale shall utilize the form available on the Court's website at www.jud11.flcourts.org, unless otherwise determined by the Presiding Judge.

This Administrative Memorandum shall take effect on July 26, 2010 and shall remain in effect until further order of the Court.

19th **DONE AND ORDERED** in Chambers at Miami-Dade County, Florida, this day of July, 2010.



Judge Jennifer D. Bailey, Administrative Judge
General Jurisdiction Division
Eleventh Judicial Circuit of Florida

7/13/10 JDB