

Indian River County Civil & Mortgage Foreclosure Procedures as of 6/3/11

Effective immediately all judicial sales in Indian River County will be held electronically. The website address for online sales is:

www.indian-river.realforeclose.com

All sales shall be scheduled for **10:00 AM**.

PLEASE SEE ADMINISTRATIVE ORDER 10-08 FOR THE NEW FORM OF FINAL JUDGMENT REQUIRED IN THE 19TH CIRCUIT. THIS FORM IS AVAILABLE ONLINE AT www.circuit19.org

Procedures

1. Until June 24, 2011, all residential mortgage foreclosure summary judgment packets for Indian River County cases **MUST** be sent to:

Senior Judge
250 NW Country Club Dr., Ste. 217
Port St. Lucie, FL 34986

The complete packets must be received **at least 10 days** in advance of the summary judgment hearing. If the packets are not received timely, the summary judgment hearing will not go forward.

2. All hearings will be held at:

Indian River County Courthouse
2000 - 16th Avenue
Vero Beach, FL 32960

3. Until June 24, 2011, all residential foreclosure motion and summary judgment hearings in which counsel for the plaintiff wishes to appear by phone must be scheduled by calling CourtCall at **888-882-6878**. Generally there will be motion hearings on the 1st Friday of each month and if that docket is full, additional hearings will be scheduled on other Fridays. CourtCall will set 12 cases every ½ hour starting at 9:00 am, and the last 12 cases in the morning will be set at 11:30 am. In the afternoon hearings will start at 1:30 pm, and the last 12 hearings will be scheduled at 3:30 pm.

r 4. All other RESIDENTIAL matters to be heard after June 24, 2011 and NON-RESIDENTIAL foreclosure matters should be sent to:

Honorable Cynthia L. Cox
2000 - 16th Avenue, Suite 383
Vero Beach, FL 32960

Refer to Judge Cox's webpage at www.circuit19.org for information on scheduling all hearings. Cases in which plaintiff's counsel wishes to schedule a hearing and appear in person may be scheduled by e-mailing the request to lazard@circuit19.org and once scheduled plaintiff's counsel may not appear by phone at the hearing. *All summary judgment packets must be received by the Judge at least 10 days prior to the hearing or the hearing will be cancelled.*

NOTE: *Writs of Possession will only be entered after Motion and set for hearing (if residential foreclosures, they must be set before the Senior Judge on Fridays).*

NOTE: *All Notices for Sale and/or Publication will be returned. Attorneys must schedule all publications directly with the Newspaper.*

5. **Uniform Motion Calendar:** A Uniform Motion Calendar will normally be held Tuesday and Thursday from 8:45 a.m. to 9:15 a.m. All hearings must be scheduled to begin at 8:45 a.m. Please refer to the Judge Cox's calendar posted on our web site (www.circuit19.org) to confirm available dates. **You must give the opposing party notice of the hearing at least five (5) working days prior to the hearing unless otherwise agreed by the parties.** You must cancel your UMC with our office if you do not plan to attend.

Appearance by telephone: Telephone hearings are permitted in non-evidentiary hearings. *No motion or order is necessary.* All telephone appearances must be made through CourtCall. When you know the date and time of your hearing, you must call CourtCall directly at **1-888-882-6878** to arrange for your appearance by phone. **You must schedule your CourtCall appearance at least five (5) working days prior to the hearing**

Hearings at UMC are limited to 10 minutes per case (not per motion). When you attend UMC, you must sign up on the sign-in sheet inside the courtroom. Normally UMC will be heard on a "first come, first served" basis. After proper notice, failure of any party to appear at the hearing shall not prevent a

party from proceeding with the matter when the case is called. If the party noticing the matter for hearing chooses to wait for the absent party, the matter may be passed over until the end of the calendar. If the judge runs out of time on UMC, any remaining hearings will need to be rescheduled. **At least five (5) business days prior to the hearing, counsel who filed the motion must mail or email in advance a copy of the motion and a proposed order (generic orders granting/denying with at least five lines for additional provisions may be used) along with sufficient copies and self addressed, stamped envelopes for all parties.** If you are appearing by phone, you must email your proposed order to Judge Cox's office and mail the **self-addressed, stamped envelopes** at least 5 business days in advance. If you want the court file at the hearing, you must call the Clerk at least five business days prior to the hearing and request that the file be brought to the hearing. The subject line of all emails must contain the DATE and STYLE of the case. Emails shall be provided to Judge Cox's Judicial Assistant at: lazard@circuit19.org

Copies of all hearing notices and relevant motions must be sent to the court's Judicial Assistant five (5) working days prior to the hearing (either by email or mail). Any case law or statutes to be relied upon shall be submitted to the Court with the motion with relevant portions highlighted. Failure to comply with these rules and time deadlines will cancel your hearing.

Summary judgment and evidentiary motions will not be heard at UMC nor via Courtcall without prior written approval or order of the Court. The types of motions suitable for hearing on the Uniform Motion Calendar include simple motions to strike affirmative defenses, to amend pleadings, discovery motions, protective orders, objections to CME, etc.

UMC is available to pursue a summary final judgment for liquidated damages, including attorney's fees and costs after a default, based upon a proper motion with supporting documentation unless a party appears to contest it. If that occurs, the Court will set an evidentiary hearing/trial on such matters as may be necessary. You must request the file be brought to Court for the scheduled hearing by contacting the Clerk's office.

All Notices of Hearing for UMC shall contain a certification signed by the lawyer who set the hearing in substantially the following form:

I HEREBY CERTIFY that I have personally contacted opposing counsel in an effort to resolve the issue(s), however, the matter cannot be resolved and a hearing is necessary.

Please note that certifications containing language to the effect that an effort will be made to resolve the issue in the future is NOT sufficient. If personal communication is attempted but unsuccessful, written communication to opposing counsel will suffice. Failure to comply with this requirement may result in cancellation of the hearing by the Court. If it is determined that the certification is not true, other sanctions may be imposed, including a referral to the Florida Bar.

6. Motion to Dismiss and/or Motion for More Definite Statement:

The court will initially consider all Motions to Dismiss filed pursuant to Rule 1.140(b) and Motions for More Definite Statement filed pursuant to Rule 1.140(e), **without** a hearing. Motions to Dismiss must strictly comply with the requirements of the Rule in that the grounds on which they are based and the substantial matters of law intended to be argued shall be stated specifically and with particularity. Motions for More Definite Statement must strictly comply with the requirements of the Rule in that the motion must point out the defects complained of and the details desired.

The moving party shall furnish a copy of the Motion to the Court's Judicial Assistant by U.S. Mail or by email (lazard@circuit19.org). The copy shall be accompanied by a generic order granting/denying the motion with at least five lines for additional provision to be added by the Court; stamped, self addressed envelopes for all counsel of record and *pro se* parties; and a cover letter showing copies to all counsel of record and *pro se* parties. If the moving party fails to comply, any party may furnish a copy of the motion along with the required documents to the Court. The Court will hold the motion for ten (10) days to give the opposing side the opportunity to reply. If the Court determines that a hearing is necessary, the movant will be advised to schedule a hearing and file the appropriate notice. If a hearing is not required, an appropriate order will be entered. *No case dispositive ruling will be made without a hearing.*

Honorable Cynthia L. Cox
2000 - 16th Avenue, Suite 383
Vero Beach, FL 32960
772-770-5231 (phone)
lazard@circuit19.org