

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION  
MORTGAGE FORECLOSURE/ MECHANICS LIEN SECTION**

**STANDING ORDER**

**Judge Marian E. Perkins  
Calendar 62, Courtroom # 2808**

This is the Standing Order for practice before Calendar 62 of the Mortgage Foreclosure/ Mechanics Lien Call in Courtroom #2808 of the Richard J. Daley Center. It supplements the Mortgage Foreclosure/ Mechanics Lien Courtroom Procedures, which apply to all mortgage foreclosure/ mechanics lien cases. Parties should obtain a copy of the Mortgage Foreclosure/ Mechanics Lien Courtroom Procedures from the reception desk on the 28<sup>th</sup> floor of the Richard J. Daley Center or online at [www.cookcountycourt.org](http://www.cookcountycourt.org).

**Filing and Scheduling Motions in Calendar 62**

With the exception of Emergency Motions, Motions to Appoint Receiver/ Mortgagee-in-Possession, and “Off Call” Motions (addressed below), all motions must be filed and scheduled for presentment with the Clerk of the Circuit Court in Room 802 or electronically with the Clerk of the Circuit Court. All motions filed and scheduled must bear the file stamp of the Clerk of the Circuit Court of Cook County. Copies may be dropped off at the reception area on the 28<sup>th</sup> floor of the Richard J. Daley Center between 8:30 a.m. and 4:00 p.m. The court may, in its discretion, rule on a motion from chambers based on a review of the written pleadings, if it determines oral argument and/ or briefing are not necessary.

**Appearance Required**

Except for a Petition to Intervene, no motion, including, Emergency Motions may be presented, unless the movant has filed an Appearance electronically with the Clerk of the Circuit Court or in Room 802 of the Clerk of the Circuit Court of Cook County. See Ill. Sup. Ct. R. 13 © (1); Ill. R. Cir. Ct. Cook Co. R. 1.4 (a).

**Page Limits**

No motion or brief submitted to the Court shall exceed fifteen (15) pages, excluding exhibits, without prior leave of Court.

**Courtesy Copies**

Movants must supply the court with copies of all documents relevant to the hearing of any particular matter, including, pleadings. With the exception of emergency motions, the documents must be delivered to the court no later than four (4) court days prior to the scheduled date of presentment. Courtesy copies are to be delivered to the 28<sup>th</sup> floor reception desk before 4:30 p.m. Courtesy copies of motions must contain a cover sheet and a copy of the notice of motion.

The proposed order must be placed together at the back of the packet. The proposed order must not place judge’s name on a stand-alone page.

### **Court Interpreters**

The court staff at the Richard J. Daley Center includes Spanish-speaking and Polish-speaking interpreters, who are called to Courtroom # 2808, when needed, by judicial chambers staff or the litigants. Interpreters for other languages can be obtained, with prior notification to the court staff by calling (312) 603-7554.

### **Court Reporters**

The court does not provide an official court reporter. Parties wishing a record of oral arguments or testimony by witnesses must secure private court reporting services.

### **Deceased Mortgages/ Motion to Appoint a Special Representative**

In the case, ABN AMRO Mortgage Group, Inc. v. McGahan, 237 Ill. 2d 526, 931 N.E. 2d 1190 (2010), the Illinois Appellate Court held that appointing a Special Representative under 735 ILCS 5/13-209 of the Code of Civil Procedure was “necessary in order to obtain subject matter jurisdiction in mortgage foreclosure cases, where the mortgagor was deceased.”

### **“Pro Se” / Self-Represented Litigants**

A party who represents oneself, without an attorney, is a pro se litigant, also, referred to as a self-represented litigant. Self-Represented or pro se litigants must comply with the Illinois Code of Civil Procedure, the Illinois Mortgage Foreclosure Act, Illinois Supreme Court Rules, the Circuit Court of Cook County Rules and Standing Orders. These rules can be found on line at [www.ilga.gov](http://www.ilga.gov), [www.state.il.us/court/Supreme](http://www.state.il.us/court/Supreme) Court Rules, and are available in book form in the Cook County Law Library on the 29<sup>th</sup> floor of the Richard J. Daley Center. Self-Represented litigants or pro se litigants are directed for assistance to the **Chancery Division Mortgage Foreclosure “Help Desk”** located on the Concourse Level, CL-16 of the Richard J. Daley Center and to the **“Resource Guide for Self-Represented Litigants in Mortgage Foreclosure Cases.”**

### **Citation to Discover Assets**

Citations to Discover Assets are heard in the Law Division (Tax Section) of the Circuit Court of Cook County. In order to properly transfer matters to the Law Division, Judge Perkins will sign a transfer order upon presentation of the proper motion. A hearing date may be obtained from the Clerk’s Office in Room # 802 and proper notice of hearing must be sent to all parties, of record. Courtesy copies should be provided to the court. Transfer requests will not be entertained or entered “off-call.”

### **Courtesy Call to Chambers Staff**

As a courtesy to the court, please contact chambers staff at (312) 603-3914, if any fully briefed matter has been resolved and will not be heard.

### **Labeling of Special Motions**

Joint, uncontested, and agreed motions should be so identified in the title and body of the motion. The caption must include the Plaintiff (s), Defendant(s), Case No. and Calendar No. and the judge’s name.

### **Division of the Court Call - Calendar 62**

The General Orders of the Mortgage Foreclosure/ Mechanics Lien Section classify all motions as either "Uncontested/Default or "Contested." Calendar 62 is in Courtroom # 2808. Default Motions are heard Monday, Tuesday, Wednesday, and Thursday at 9:30 a.m. Contested motions are heard Monday, Tuesday, Wednesday, and Thursday at 1:00 p.m. Emergency motions are heard Monday, Tuesday, Wednesday, and Thursday at 9:30 a.m.

- A. **Case Management Conferences** – The Clerk of the Circuit Court sets Case Management Conferences and sends postcards to the parties indicating the date and time that it will be heard. Conference Management Conferences are scheduled on the Default Call. Motions are not to be noticed or "piggy-backed" onto the Case Management Call. Forms for the Case Management Call are available on the Clerk of the Circuit Court website.
- B. **Default Call** – If no court appearance or answer to the complaint has been filed by a non-movant mortgagor, the following motions may be scheduled for presentment on the Default Call:
- To amend complaint
  - To substitute parties or attorneys
  - To add or dismiss a party
  - For an order of default
  - For judgment of foreclosure and sale
  - To shorten redemption period
  - To appoint a selling officer
  - To reinstate case
  - To prove up lien of junior lien holder
  - To amend judgement
  - To strike a case management date
  - For an order approving sale and for an order of possession

**Bankruptcy** – Plaintiff's Attorneys are required to include with Motions for Judgment of Foreclosure and Sale and Motions for Entry of Order Approving Sale and for an Order of Possession a printout that indicates evidence that the plaintiff's attorney has conducted an inquiry with the Clerk's Office to determine whether the mortgagor has filed a petition for bankruptcy in the U.S District Bankruptcy Court of the Northern District of Illinois – Eastern Division.

**Service by Publication Affidavit** – Proof of service by publication must be accompanied by a sworn affidavit and in compliance with Cook County Circuit Rule 7.3.

#### **"Off-Call" Motions**

If no court appearance, answer to the complaint, or other motion has been filed by any mortgagor, the following motions may be delivered to the court at any time with proposed orders for entry:

- 1. Motion to Appoint A Special Process Server**
- 2. Motion for Voluntary Dismissal of a Case in its entirety** - A motion to voluntarily dismiss that is presented "off" call must set forth the following: (1) make an affirmative statement that there are no pending cross-or counter-claims; (2) strike any future scheduled court dates; and (3) be properly filed with the Clerk of the Court.
- 3. Motion for A Receiver's Bond**

## **“Piggy-Backed” Motions**

“Piggybacking a motion onto a previously-scheduled court date in the same case, is only allowed with prior leave of court. Parties may request leave to piggyback a motion while in court for a hearing or by calling the Judge’s chamber staff at (312) 630-3914 at least four (4) days in advance of the requested date. Generally, Motions to Substitute a Party or Motions to Substitute an Attorney, Motions to Withdraw as Counsel, and Motions for Extension of Time may be piggybacked onto existing motion dates. No piggybacking is permitted on the case management conference call or Motions to Appoint Receiver.

### **C. Contested Motion Call**

#### **I. Motions for Judgment of Foreclosure**

##### **A. Scheduling for Presentment**

To obtain a date for presentment, movants must file, at the time of scheduling the motion, the following documents in Room 802 or electronically with the Clerk of the Circuit Court:

1. Notice of Motions (s)
2. Complaint, with Mortgage and Note
3. All motions noticed for presentment ( i.e. Motion for Default, Motion for Judgment of Foreclosure, Motion to Appoint Selling Officer, etc.) must be signed by an attorney as required by Supreme Court Rule 147 ( with the name readably printed, typed, or stamped to indent the signature)
4. Affidavit of Military Service, with attached U.S. Department of Defense website printout current within six (6) months
5. A signed affidavit of prove-up attached to and incorporated by express reference within the motion for default and/ or foreclosure and
6. Affidavit of attorney’s fees and costs (Attorney’s fees sought in excess of \$2,750.00 must be supported by a time and task affidavit)

**B. Hearing** – For hearing, movants must deliver to the court copies of the following documents, no later than four (4) court days prior to presentment:

1. Notice of Motion
2. Complaint (bearing the clerk’s file stamp showing the initial date of filing with the Note and the Mortgage, and, all exhibits attached);
3. Any and all assignments or merger/ successor documents, applicable, demonstrating the movant’s standing to foreclose;
4. Certificate of Service of Process with attached returns demonstrating proof of service on all defendants;
5. Any and all appearances and responsive pleadings;
6. Proposed orders. (Note: **The order of judgement of foreclosure must include a provision requiring that the movant mail a copy of the order within seven (7) days to the last known address of the mortgagor.**)
7. Illinois Supreme Court Rule 113/ 191 Affidavit
8. Loss Mitigation Affidavit, if applicable. (Note: An Ill. S. Ct. Rule 114 - Loss Mitigation Affidavit will not be required for a consent foreclosure or in a case where the defendant has not filed an appearance with the Clerk of the Circuit Court.

## **II. Motion for Order to Approve/ Confirm Judicial Sale**

### **A. Presentment and Hearing**

Movants must deliver to the court copies of the following documents, no later than four (4) court days prior to presentment:

1. Notice of Motion with Certificate of Service;
2. Motion for Order to Approve/ Confirm Judicial Sale (which must include a description of the property, date of last inspection, and certificate holder's contact information);
3. Motion for Immediate Possession, with vacancy affidavit and photographs that indicate vacancy, if seeking immediate possession;
4. Notice of Sale;
5. Judicial Selling Officer's Report of Sale and Distribution;
6. Affidavit of Proof of Notice of Sale by Publication, with publications attached;
7. Receipt of Sale;
8. Certificate of Sale; and
9. Proposed Order.

### **B. Terms to Be Included in the Proposed Order**

The following terms and provisions must be included, where applicable:

1. The movant shall mail a copy of the order within seven (7) days to the last known address of the mortgagor.
2. In the case of a surplus: (a.) the selling officer shall immediately turn over surplus funds to the Clerk of the Circuit; and (b.) that counsel for the movant shall notify the mortgagor, by letter, of the surplus, specifying that the funds may be obtained by petition and notifying the mortgagors as to the procedures for doing so. Counsel for the movant must include the official court surplus request form with the notification.

### **C. Personal Deficiency Judgment**

If the plaintiff is seeking a personal deficiency judgment, the court requires the following additional documents:

- A. Mortgage Foreclosure Complaint, with all exhibits;
- B. Judgment of Foreclosure;
- C. Affidavit of Service of Process on defendant claimed personally liable;
- D. Broker's Price Opinion ("BPO") or Appraisal;
- E. Memorandum of Judgment (if any); and
- F. Copies of all of these documents, including, the "BPO," must be filed with the Clerk of the Court and communicated to the parties.

## **III. Motions for Order of Possession**

All Motions for Order of Possession and proposed orders must include the following:

1. Complete Caption of the case;
2. Identify the type of property involved (i.e. single family residence, multi-unit, commercial, etc.);
3. State when the property was last inspected by the movant;
4. Identify the names of all parties personally named as defendants in the complaint; and

5. In the case of multi-unit property where the purchase is seeking possession of the building, specify that possession extends only to the building and not individual units.

#### **IV. Motions to Appoint A Receiver or Place a Mortgagee in Possession**

Pursuant to Chancery Division General Administration Order No. 2014-01, Motions to Appoint a Receiver or Mortgagee in Possession will be heard on Calendar 62 at 1:00 p.m. Monday – through-Thursday. These motions must be scheduled with Judge Perkins’ law clerk in person or via phone at (312) 603-3914. After obtaining a date from the law clerk, the motion, and notice of motion must be filed with the clerk’s office. Notice must be given in accordance with Illinois Code of Civil Procedure. Only individual natural persons, as opposed to companies will be appointed as receivers. The movant must submit courtesy copies four (4) days in advance of the hearing date.

##### **Motions to Appoint a Receiver must include the following:**

1. The Complaint, with mortgage and note;
2. Resume of the proposed receiver, including his/ her rates of compensation
3. Specific reference to the complaint or to the mortgage provision authorizing appointment of a Receiver;
4. Proof of service of either the complaint or the motion on the defendants in the manner required pursuant to Section 15-1706 (d) of the Illinois Mortgage Foreclosure Act; and the
5. Proposed order.

##### **Receiver’s Presence Required**

The Court requires that either the Receiver or a representative from his or her office be present for the Motion to Appoint Receiver and all future court dates relating to the receivership. The Receiver must comply with the Instructions for Receivers in Mortgage Foreclosure Cases. A copy of the instructions is available in Courtroom 2801 as well as in electronic form through the Circuit Court of Cook County’s website at [www.cookcountycourt.org](http://www.cookcountycourt.org). The Court requires strict compliance with the Instructions for Receivers in Mortgage Foreclosure Cases.

##### **Receiver’s Bonds**

The order appointing the receiver will not become effective until the Court has approved the bond. The bond must be issued by a court-approved surety and signed by a court approved attorney-in-fact for that surety and a signature block for the judge.

#### **V. Scheduling Emergency Motions in Mortgage Foreclosure Cases**

The movant must comply with the General Administration Order No. 2018-05 regarding Mortgage Foreclosure Emergency Motion Procedures. Emergency Motions are heard on Calendar 62 Monday through Thursday at 9:30 a.m. in Courtroom 2808 of the Richard J. Daley Center.

A copy of the proposed Emergency Motion must be brought to the reception area of the 28<sup>th</sup> floor no later than 4:00 pm. the day before the desired presentment. The judicial law clerk will bring the proposed motion to the court who will determine if the motion will be placed on the emergency call. No Notice of Motion should be sent to any opposing party until the motion has been cleared for placement on the judge’s emergency call. Movant must have an Appearance on file with the Clerk of the Circuit Court before presenting the Emergency Motion to the Judge’s Law Clerk.

### **Emergency Motions in Mortgage Foreclosure Cases**

An Emergency Motion must involve some circumstances which could lead to irreparable damage to a party if relief is not obtained before the party can be heard on the regular motion call. See Nagel v. Gerald Deneen Co. 272 Ill. App. 3d 516, 519-20, 650 N.E. 2d 547, 550 (1<sup>st</sup> Dist. 1995) defining “emergencies.” The most common emergency motions in mortgage foreclosure cases are as follows:

- A. **Emergency Motions to Stay Judicial Sale** – This emergency motion should fully inform the court of all the relevant facts and circumstances, including the following: (1.) the property address; (2.) when the case was filed; (3.) when the defendants were served; (4.) when the foreclosure order was entered, (5.) the originally scheduled date of the sale; (6.) whether any previous stay orders were entered; and (7.) whether the sale will fall outside of the publication date. All documents relevant to the request should be attached to the motion: e.g. short sale contracts, loan modifications, etc.
- B. **Emergency Motion to Stay Possession** – This emergency motion must include the date of the entry of the judgement of foreclosure, the possession expiration date, and whether the party previously sought a stay.
- C. **Emergency Motion to Appoint Receiver/ Mortgagee in Possession** – This emergency motion will only be heard when the verified motion contains factual allegations indicating an immediate health or safety threat.
- D. **Emergency Petition to Intervene** – An Emergency Petition to Intervene will only be heard if the petitioner can establish he/ she is a “necessary” party as defined in the Illinois Mortgage Foreclosure Act.

