

US BANK NATIONAL ASSOCIATION,
AS TRUSTEE FOR CSAB MORTGAGE-
BACKED PASS-THROUGH
CERTIFICATES, SERIES 2006-3,

PLAINTIFF-RESPONDENT,

vs.

MARYSE GUILLAUME AND
EMILIO GUILLAUME,

DEFENDANTS-PETITIONERS.

SUPREME COURT OF NEW JERSEY
DOCKET NO. 068176
A-11-11

Civil Action

Sat below: FISHER, J.A.D.
FASCIALE, J.A.D.

**BRIEF AND APPENDIX OF AMICUS CURIAE FEDERAL
NATIONAL MORTGAGE ASSOCIATION**

SCARINCI & HOLLENBECK, LLC
ATTORNEYS AT LAW
1100 Valley Brook Avenue
P.O. BOX 790
LYNDHURST, NEW JERSEY 07071-0790
Telephone: (201) 896-4100
Attorneys for Amicus Curiae
Federal National Mortgage
Association

On the Brief:

Douglas S. Brierley, Esq.

Frank P. Kapusinski, Esq.

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PRELIMINARY STATEMENT

With an estimated "30,000 homes stuck at different points in the foreclosure 'pipeline'," see A. Martin, "Many Foreclosures, Few Listings," N.Y. Times, October 16, 2011, at RE8, the importance of moving failed loans through the judicial foreclosure process cannot be overstated. The longer the uncontested foreclosure process takes or remains static, the longer the time needed to work through the supply of homes to be sold and to restore some degree of stability to the housing market and the economy. As Court Appointed Counsel Edward J. Dauber, Esq., recognized, "an efficient, fully functional, accurate, transparent, and normalized foreclosure process is in the interests of the Judiciary, New Jersey citizens and communities, the residential housing market, and the broader economy." Letter Report of Edward J. Dauber, Esq., March 18, 2011, at 8a [hereinafter "Dauber Report"]. It is within this context that the high court considers the foreclosure issues arising in the appeal by the Guillaumes.

STATEMENT OF INTEREST OF AMICUS CURIAE

Amicus curiae Federal National Mortgage Association is colloquially known as "Fannie Mae" (hereinafter "Fannie Mae"). Fannie Mae is a government-sponsored entity possessing significant holdings in residential mortgage loans in New Jersey and throughout the United States. See Brierley Certif. ¶3, accompanying Fannie Mae's amicus application. Fannie Mae is a corporation chartered by the United States government, 12 U.S.C. §1451 & 1716 (2011), and was established for the express purpose of (a) providing stability to the secondary market for residential mortgage loans and (b) enhancing the liquidity of mortgage investments in the effort to increase the capital available for mortgage financing. Id. ¶3.

As more fully set forth infra, the very structure of Fannie Mae's mortgage loan practices demonstrates its interest in a sound resolution of inconsistent rulings regarding issuances of "notices of intent to foreclose" (hereinafter "NOI") and related remedy issues now before New Jersey's high court. Fannie Mae does not originate loans, but purchases loans originated by other banks and lenders. Many of these loans are then pooled, and interests therein sold to third-party investors. This process frees capital for lenders to finance the purchase of additional new homes. Fannie Mae's portfolio of mortgage loans,

and the mortgage-backed securities and other instruments it guarantees, represent trillions of dollars in investments in mortgage loans throughout the country. Id. ¶5.

Fannie Mae's procedures use the natural liquidity of negotiable instruments to further the Congressional purposes of facilitating an efficient national secondary market for mortgage loans. Id. ¶9. Fannie Mae accordingly has a strong interest in resolving the issues before the court because it owns a significant number of residential mortgage loans that could become substantially more difficult to service and enforce in New Jersey should the Appellate Division ruling in Guillaume be reversed in favor of the draconian dismissal-and-recommencement approach for uncontested residential foreclosures found in Bank of New York v. Laks, 2011 WL 3424983 (App. Div. Aug. 8, 2011). Id. ¶10.

Fannie Mae is concerned about the conflict between Guillaume and Laks relating to (a) the remedies available to cure any alleged deficiencies in the mortgage foreclosure process and (b) the detrimental impact on the housing market that continued extended delays in the foreclosure process would cause. Fannie Mae's participation in this appeal will impact the public interest as it attempts to assist revitalization of the housing market. Fannie Mae has a special interest in the issues raised herein, as it owns thousands of residential

mortgage loans on New Jersey residential properties. Id. ¶¶11 to
12.

PROCEDURAL HISTORY & STATEMENT OF FACTS

Although Fannie Mae accepts as true the factual recital in the Appellate Division opinion below, Fannie Mae submits that there exist certain additional facts and information in New Jersey foreclosure actions that are relevant to the appeal of the instant case.

The first key fact relevant to all New Jersey mortgage foreclosures is that approximately ninety-four percent of residential New Jersey foreclosures are uncontested for court year 2010. See In the Matter of Residential Mortgage Foreclosure Pleading and Document Irregularities, Administrative Order 01-2010, at 3 (Acting Admin. Dir. of Cts. G. Grant Dec. 20, 2010).

A second key fact is the extended delays attendant in prosecuting residential foreclosures. New Jersey foreclosure plaintiffs "typically face" "long delays." BAC Home Loans Servicing, LP v. Rothweiler, Docket No. F-26617-10, slip op. at 3 (Ch. Div. Sept. 15, 2011), at 21a attached hereto. Currently, and as previously stated, there are approximately 30,000 New Jersey homes "stuck at different points in the foreclosure 'pipeline.'" See A. Martin, "Many Foreclosures, Few Listings," N.Y. Times, October 16, 2011, at RE8. At this time, very few foreclosures are actually proceeding and returning of foreclosed homes to the market; instead, homes in foreclosure

are generally being lived in by borrowers who are not paying their mortgages. Id.

USFN, the nation's largest association of attorneys representing the mortgage servicing industry, issues reports on how long foreclosure actions should be expected to take within each of the fifty states. New Jersey ranks last in the nation within these reports. See USFN 2011 Foreclosure Timelines Matrix, at 24a to 91a attached hereto. USFN estimates that the "optimum time" for an uncontested New Jersey foreclosure, "assuming no delays," is 560 days. 66a. USFN further advises that a "realistic time frame from referral [to counsel] to sale is 18-24 months, excluding mediation, litigation, and other possible delays." Id. As of the fourth quarter 2010, the average time of a New Jersey foreclosure was 849 days from filing of the initial complaint to repossession of the property. See K. Post, "Bottom Line: Foreclosures in New Jersey Now Take an Average 849 Days," Press of Atlantic City, February 12, 2011, at 2 (quoting Daren Blomquist, spokesman for RealtyTrac). The earlier de facto moratorium on foreclosures occasioned by the December 20, 2010 Administrative Order surely extended this time period, but the fact remains that New Jersey's foreclosure timeline ranks dead last nationwide.

ARGUMENT

POINT I

FANNIE MAE FORECLOSURE PRACTICE IS BY NECESSITY TIED TO SERVICERS THAT IN- TERACT DIRECTLY WITH MORTGAGORS

The present appeal involves an uncontested foreclosure. The homeowners in this matter did not file any answer, let alone a contesting one. This matter is thus part of the approximately ninety-five percent of New Jersey's residential mortgage foreclosures that are also uncontested.

In this context, Fannie Mae respectfully asserts that justice is fostered by uniformity and certainty in the foreclosure process, wherein all parties - lenders, mortgagees, servicers, and homeowners - understand their respective rights, obligations, and liabilities before foreclosure is instituted. Fannie Mae believes that the Appellate Division's opinion in *Guillaume* best fulfills this observation.

Although Fannie Mae could raise those issues relative to, inter alia, interpretation of New Jersey's Fair Foreclosure Act, codified as N.J.S.A. §2A:50-53 et seq. (the "FFA"), it respectfully declines to do so, inasmuch as it anticipates that the parties themselves will address these issues.

Fannie Mae notes the enormous role servicers play - and, in fact, must play - in the mortgage foreclosure process. Fannie

Mae does not originate loans, but purchases loans originated by other banks and lenders. As stated earlier, Fannie Mae is a government-sponsored entity with significant holdings in residential mortgage loans in New Jersey and throughout the United States. Many of these loans are then pooled, and interests therein sold to third-party investors. Fannie Mae maximizes fluidity, both for investors and for homeowners, by contracting with independent mortgage loan servicers to conduct virtually all interaction with homeowners. The relationships between it and sellers and servicers of mortgage loans are prescribed by Fannie Mae's Mortgage Selling and Servicing Contracts, as well as communications provided by Fannie Mae, such as guides, announcements, and letters to servicers. Brierley Certif. ¶¶3 to 6.

When Fannie Mae purchases mortgage loans, the realities of the mortgage market require that the notes be indorsed in blank by the sellers before it takes possession of the notes. Fannie Mae retains ownership of the note. Should a payment default occur, Fannie Mae's guidelines call for foreclosure actions to be generally carried out in the name of the servicer. Fannie Mae's guidelines provide for possession of the note by the servicer to allow the servicer, acting in its own name, to represent Fannie Mae's interests in legal proceedings. Thus, servicers proceed with foreclosure as holders of the notes on

behalf of the beneficial owners - in this instance, Fannie Mae.
Id. at ¶¶7 to 8.

These procedures also create stability for homeowners, who may interact only with a servicing company that has the systems and infrastructure to account for payments, maintain escrow accounts for the payment of taxes and insurance, and respond to homeowner inquiries. Id. at ¶9.

On a practical level, the foregoing means that Fannie Mae must rely upon servicers to send NOIs to delinquent borrowers; to interact with the borrowers; and to serve as repositories for written communications from borrowers who receive NOIs. Absent these relationships, Fannie Mae would be seriously hampered in its efforts to carry out its government-mandated charter. For example, many borrowers, for whom Fannie Mae owns or guarantees their loans, have only dealt with loan servicers, and Fannie Mae's involvement in their loans' servicing would merely confuse the homeowners. Costs would also rise as a result of the need for servicers to transmit documents, data, and the like to Fannie Mae. Against this backdrop, Fannie Mae thus believes the intermediate appellate court below correctly reasoned on pages 5 to 6 of the Guillaume slip opinion that a notice of intent directing the homeowners to the servicer "fulfilled the purpose" of the FFA's notice provision.

POINT II

THE PROPER REMEDY FOR A DEFICIENT NOI SHOULD ALLOW FOR A CURE IN THE FORECLOSURE ACTION RATHER THAN THE DISMISSAL AND RECOMMENCEMENT OF THAT FORECLOSURE ACTION

The FFA was designed to help borrowers "have every opportunity to pay their home mortgages, and thus keep their homes." N.J.S.A. §2A:50-54. However, "the term 'fair' in Fair Foreclosure Act is, no doubt, derived from the fact that the act is meant to be fair to both the debtor (homeowner) and the lender." Weinstein, 30 N.J. Practice §24.3 (2000). "On the lender's side, the act was also meant to expedite, shorten, and reduce delays and expense in New Jersey's residential foreclosure process." Id. The FFA should be read to achieve its stated goals.

Such goals have clearly not been achieved, however. There are approximately 30,000 homes in foreclosure in New Jersey. Uncontested foreclosures may take two years to prosecute. This is longer than any other state in the nation.

Significantly, the FFA does not specify any particular remedy if an NOI is found to be deficient. Certain courts, such as Laks, have judicially created the remedy of dismissal without prejudice to rectify any deficiency in an NOI. Nevertheless, if an NOI is defective, Fannie Mae suggests that the appropriate

remedy is the resending of a corrected NOI while the foreclosure is pending, rather than dismissal. Such a corrected NOI would allow the borrower to cure any default by paying the mortgage delinquency absent payment of counsel fees or other costs to the lender. If the borrower, for example, pays the loan off or cures the arrears, the foreclosure would then be dismissed. Compare GE Capital Mortgage Services v. Weisman, 339 N.J. Super. 590, 595 (Ch. Div. 2001) ("in the event that the defendants exercise their right to cure, defendants should submit a certification to that effect, and the foreclosure action should be dismissed"), with EMC Mtge. Corp. v. Chaudri, 400 N.J. Super. 126, 139 (App. Div. 2008) (disapproving of the Weisman remedy when the lender apparently failed to send any NOI prior to suit as required by the FFA).

If a stated purpose of the FFA is to help homeowners "have every opportunity to pay their mortgages," such a goal is fostered by sending a revised NOI as circumstances may warrant rather than dismissing the complaint. An accurate NOI will provide all information to the borrower to allow that borrower to protect his or her rights. An NOI should assist the borrower to become "aware of the situation." See 2A:50-56(c). The terms of an NOI should be informative; they should not instead simply provide additional grounds to prolong the already lengthy foreclosure process in this state.

Certain New Jersey courts have allowed mortgagees to cure defective NOIs by serving new NOIs while the foreclosures were pending. For example, in Weisman, 339 N.J. Super. 590, plaintiff could not prove that it ever sent a NOI. When faced with the choice of dismissing the foreclosure action or directing plaintiff to send a new NOI while the foreclosure was pending, the Weisman court chose the latter relief option. The Weisman court found that such a notice would afford the homeowners:

... all that they would have been entitled to prior to the commencement of the case. The plaintiff would not be prejudiced by having to bear the cost and time of having to reinstate the foreclosure action, nor would valuable court resources be wasted through this repetitive action.

* * *

This procedure provides the defendants that which they were entitled to prior to the commencement of the foreclosure action without unduly prejudicing plaintiff by requiring that the foreclosure action be recommenced.

[Id. at 594-595.]

See also Cho Hung Bank v. Ki Sung Kim, 361 N.J. Super. 331, 346 (App. Div. 2003) (allowing a cure in different circumstances and approving use of a revised NOI as in Weisman).

Cure of a defective NOI, rather than dismissal, was also allowed in BAC Home Loans v. Rothweiler, Docket No. F-26617-10, slip op. (Ch. Div. Sept. 15, 2011), at 19a to 23a. Writing

after the Laks and Guillaume decisions, Presiding Chancery Court Judge Todd ruled recently:

While I must conclude that the [NOI] was defective, I am not necessarily required to conclude that the Complaint should be dismissed. Again, Laks is the only published Appellate Division opinion dealing with the 'defect' issue. It is not, however, the only published Appellate Division Opinion dealing with the issue of a cure. The Laks panel did conclude a cure was not permitted. On the other hand, a separate [p]anel in Kim concluded that a cure was appropriate, albeit in somewhat different circumstances. There is a conflict in the published Appellate Division Opinions dealing with the 'cure' issue. Considering all the circumstances, I do not consider myself bound by the portion of the Laks opinion dealing with that question. I am still convinced that [it] is entirely appropriate to permit a cure in a pending foreclosure proceeding. Such a cure presumably preserves all of the defendant homeowners substantive rights. In this case, for example, [the homeowner] can be given the opportunity to cure the existing default without being required to make any payment toward the plaintiff's attorneys' fees and costs. That is the precise remedy that would be available to her if the complaint was dismissed and a new Notice of Intention was issued. It seems to me **such a cure is particularly appropriate given the long delays that plaintiffs typically face in the processing of foreclosure actions in this State.**

[Rothweiler, at 21a (emphasis added).]

If the purpose of the FFA is to protect borrowers' rights by, for example, making them "aware of the situation" and facilitating communication with the lenders' representatives, those purposes are best served by simply sending revised NOIs during a pending action. Dismissing and restarting foreclosures in response to a supposedly deficient notice needlessly prolongs

the foreclosure process, wastes scarce judicial resources in these difficult times, and delays the rekindling of New Jersey's housing market.

POINT III

**EVEN IF THIS COURT ENDORSES THE LAKS
REMEDY OF DISMISSAL AND RE-FILING OF
THE FORECLOSURE ACTION, SUCH HOLDING
SHOULD ONLY BE APPLIED PROSPECTIVELY
TO NEW FORECLOSURE CASES FILED AFTER
THE DECISION DATE**

Were this court to accept the Laks rationale favoring dismissal of the foreclosure action as a result of a defective NOI, Fannie Mae respectfully urges the high court to require prospective application only of such holding to foreclosures filed after the Laks decision date.

As this court has previously confirmed in State v. Burstein, 85 N.J. 394, 402-03 (1981), citing State v. Nash, 64 N.J. 464, 468-70 (1974), there are four common approaches to the potential retroactivity of decisional precedent:

(1) make the new rule of law purely prospective, applying it only to cases whose operative facts arise after the new rule is announced; (2) apply the new rule to future cases and to the parties in the case announcing the new rule, while applying the old rule to all other pending and past litigation; (3) grant the new rule limited retroactivity, applying it to cases in (1) and (2) as well as to pending cases where the parties have not yet exhausted all avenues of direct review; and, finally, (4) give the new rule complete retroactive effect, applying it to all cases, even those where final judgments have been entered and all avenues of direct review exhausted.

Fannie Mae respectfully posits that if any relief is afforded here, such relief should be afforded only prospectively.

Although the general rule may require judicial decisions to be applied retroactively, Tax Authority, Inc. v. Jackson Hewitt, Inc., 187 N.J. 4 (2006), “[s]ound policy grounds may justify limiting the retroactive effect of overruling precedent.” Mirza v. Filmore Corp., 92 N.J. 390, 397 (1983). As the Mizra court explained in pertinent part:

The most significant ground [to justify limiting retroactive effect of overruling precedent] is the avoidance of the unfair surprise that may be visited upon persons who had justifiably relied upon prior decisions. Substantial justice might be achieved only by respecting these expectations. A second reason supportive of a rule of only prospective application is the adverse effect retrospectivity may have on the administration of justice. A third factor requires identification of the purposes of the new rule and their relationship to retrospectivity: will those purposes be advanced by retroactive application of the new principle? We have applied the same reasoning when considering the retrospective application of a new interpretation of a statute.

[Id. at 397.]

“Prospective application is appropriate when a decision establishes a new principle of law by overruling past precedent or deciding an issue of first impression.” Sasco 1997 NI, LLC v. Zudkewich, 166 N.J. 579, 594 (2001); Montells v. Haynes, 133 N.J. 282, 295, 298 (1993). Moreover, courts will generally try to avoid retroactive application of a new rule of law if many cases will be impacted. State v. Feal, 194 N.J. 293 (2008).

For many reasons, the Laks decision, even if accepted, should not apply retroactively. First, the FFA does not specify a remedy for noncompliance with the NOI requirements. Sanctioning dismissal under the FFA would constitute announcement of a new rule of law that, Fannie Mae asserts, could severely disrupts thousands of uncontested foreclosures that have been pending for a year or more. If Laks is adopted, it should only be applied prospectively.

Second, retroactive application of Laks can be expected to have widespread and uniformly negative public policy implications. The courts may well become awash with motions to dismiss foreclosure actions claiming NOIs are defective. The significance of the impact on New Jersey courts—where there are already 30,000 homes in foreclosure—cannot be overstated. If cases are dismissed, they will almost surely be swiftly re-filed and reprocessed, actions that waste substantial private and judicial resources without addressing the substantive mortgage defaults underlying the cases.

Fannie Mae suggests that the most important public policy consideration for this court is to fashion a remedy that balances the language in the FFA with the public interest in fostering a recovery of the housing market by resolving the 30,000 pending—and mostly uncontested—residential foreclosures. This cannot occur if servicers are precluded from

resending any corrected NOIs in pending cases and the courts are flooded with motions to dismiss and restart foreclosures on the ground that prior NOIs were procedurally defective.

Additionally, even limited retroactivity would apply Laks to those cases awaiting final judgments, i.e., pending cases. The vast majority of these pending cases remain uncontested, and likely involve defendants who have already been validly served with process and defaulted pursuant to Rule 4:43-1.

Yet, under the court's new foreclosure rules, counsel-denied by Laks the ability to cure a deficient NOI—would be precluded from certifying the complaint in these uncontested cases if there remains some issue with the adequacy of the NOI. That could force the dismissal of thousands of pending uncontested foreclosures even though the court in Laks tried to limit its retroactive application, observing that its "opinion should not be understood to provide an avenue for setting aside a judgment of foreclosure where [the notice issue] was not raised prior to entry of judgment." 2011 WL 3429983, at *6. None of the foregoing is consistent with the sound or prompt administration of justice.

As observed by Court Appointed Counsel Dauber in his March 18, 2011 letter report:

an efficient and normalized mortgage foreclosure process is essential to the health of the New Jersey housing market.

Properties tied up in a lengthy and protracted uncontested foreclosure process can potentially remain off the market for well over a year or even longer. This is particularly problematic considering that as much as a quarter of properties in uncontested residential mortgage foreclosure are unoccupied and are thus contributing to blight in New Jersey communities. Thus, it is as important for New Jersey's residential mortgage foreclosure process to function as it is for that process to be based on accurate and legally compliant documents.

[at 16a.]

Any retroactive application of Laks fails that objective.

CONCLUSION

Based upon the foregoing, Federal National Mortgage Association respectfully requests that the court affirm the Guillaume decision of the Appellate Division and overrule Laks, or, alternatively, apply the dismissal-the-restart remedy of Laks prospectively.

Respectfully submitted,

SCARINCI & HOLLENBECK, LLC
Attorneys for Amicus Curiae
FEDERAL NATIONAL MORTGAGE
ASSOCIATION

Dated: October 21, 2011

By: 

Douglas S. Brierley, Esq.

On the brief:
Frank P. Kapusinski, Esq.

APPENDIX



EDWARD J. DAUBER

March 18, 2011

VIA E-MAIL AND REGULAR MAIL

Hon. Mary C. Jacobson, P.J. Ch.
Mercer County Civil Courthouse
210 South Broad Street, 5th Floor
P.O. Box 8068
Trenton, New Jersey 08650

Re: In the Matter of Residential Mortgage Foreclosure
Pleading and Document Irregularities
Docket No.: E-059553-10

Dear Judge Jacobson:

Pursuant to Your Honor's Order to Show Cause, entered in the above-referenced matter on December 20, 2010, this office was appointed "to respond to the submissions made to the court by the Foreclosure Plaintiffs and to appear before the court on the return date" of the Order to Show Cause "to present argument supporting the appointment of a Special Master and the suspension of foreclosure processing for complaints filed by the Foreclosure Plaintiffs." Please accept this letter brief and the enclosed Recommended Stipulation in lieu of our response to the Respondents'¹ written oppositions to the Order to Show Cause, since we have been able to reach agreement with Respondents on a proposed stipulation to resolve this matter.

¹ While Your Honor's December 20, 2010 Order to Show Cause refers to the six entities to which it is directed as the "Foreclosure Plaintiffs," we shall refer to them in the instant submission as the "Respondents," since the entities are Respondents to the Order to Show Cause.

BACKGROUND AND PROCEDURAL HISTORY

The December 20th Order to Show Cause

On December 20, 2010, this Court entered an Order to Show Cause directed at: Bank of America, d/b/a BAC Home Loan Servicing, LP; Citibank, N.A. and Citi Residential Lending, Inc ; GMAC Mortgage, LLC; JPMorgan Chase Bank, N.A. and Chase Home Finance LLC, OneWest Bank, FSB; and Wells Fargo Bank, N.A. (collectively, "Respondents").

The Order to Show Cause was a response to growing concern that documents submitted by foreclosure plaintiffs, and relied upon by the Judiciary, in uncontested foreclosure proceedings did not comply with New Jersey law requiring affiants to possess personal knowledge of the facts to which they attest. This practice has been generally labeled "robo-signing."²

As described by the Honorable Glenn A. Grant, J.A.D., Administrative Director of the Courts, "[r]obo-signers' are mortgage lender/services employees who sign hundreds – in some cases thousands – of affidavits submitted in support of foreclosure claims without any personal knowledge of the information contained in the affidavits. 'Robo-signing' may also refer to improper notarizing practices or document backdating." Admin Order 01-2010 at 3 n 1

² Contemporaneously, the Supreme Court adopted emergency amendments to Rules 4:64-1 and 4:64-2 concerning filings in uncontested residential mortgage foreclosure actions, designed to address the "robo-signing" problem. The emergency amendments to Rules 4:64-1 and 4:64-2 require additional certifications and affidavits of diligent inquiry by the attorney handling the uncontested residential mortgage foreclosure action to ensure that filings to the Superior Court at both the complaint and final judgment stage are accurate ("the Rule Amendments"). The Court later opened a public comment period concerning these emergency Rule Amendments, which closed on February 28, 2011. As of the date of this letter, no further revision to Rules 4:64-1 or 4:64-2 has issued as a result of the public comment period.

On November 4, 2010, Legal Services of New Jersey submitted a Report and Recommendations to the New Jersey Supreme Court Concerning False Statements and Swearing in Foreclosure Procedures ("LSNJ Report").³ The LSNJ Report documented a variety of execution and notarization irregularities in the foreclosure process nationwide, providing a wealth of materials documenting that these irregularities had occurred. Among the irregularities described by the LSNJ Report, and identified as part of the "robo-signing" problem, were:

- Lack of personal knowledge of an affiant whose certification states that s/he has personal knowledge;
- Failure to review documents or other evidence on which the certification is based and which it may generally reference;
- ...
- False identification of signatory (e.g., an employee of a servicer will be identified as a vice president, or similar title, of the foreclosing mortgagee);
- Forged signatures; [and]
- Execution outside the presence of a notary, who nevertheless notarizes the signature

LSNJ Report at 2.

The Six Respondents were selected specifically for the Order to Show Cause for two reasons. First, the Six Respondents account for a large majority of the foreclosure actions in the New Jersey courts. Any Judiciary-wide correction of the "robo-signing" issue in the State of New Jersey must logically begin with these Six Respondents. Second, the Six Respondents were selected for inclusion in the Order to Show Cause because there has been deposition testimony and/or other materials forming a public record in various jurisdictions across the United States indicating that each of the Six Respondents have encountered "robo-signing" problems concerning their foreclosures in the past. See Order to Show Cause at 2-3. Using this public record as a starting

³ <http://www.lsnj.org/keyRecentDevelopments/Foreclosure/materials/LSNJReport.pdf>

point, the Judiciary entered the Order to Show Cause directed at the specific Six Respondents as a means of beginning the process of reestablishing integrity and confidence in the submissions made in all uncontested residential mortgage foreclosure actions

As noted above, the Order to Show Cause appointed this office to respond to Respondents' opposition, if any, to the Order to Show Cause and to argue in support of the proposed relief and procedures contained in the Order to Show Cause in any subsequent proceedings.

The Six Respondents' January 5th Submissions

Each of the Six Respondents submitted papers in opposition to the Order to Show Cause on January 5, 2011. In their opposition papers, the Respondents made various procedural arguments against the Order to Show Cause itself, as well as against the proposed substantive relief outlined in the Order to Show Cause. Specifically, five of the Six Respondents argued that this Court could not appoint a Special Master for one of several posited reasons. First, several Respondents argued that the appointment of a Special Master to review Respondents' mortgage foreclosure practices exceeded this Court's jurisdiction and was preempted by federal banking laws. Further, Respondents argued that the federal Office of the Comptroller of the Currency ("OCC") has exclusive oversight authority over federally chartered financial institutions as their primary regulator. Respondents also argued that appointment of a Special Master exceeded the Court's authority under the New Jersey Court Rules and case law concerning such appointments

Additionally, all Six Respondents argued in their January 5th submissions that the appointment of a Special Master, the suspension of Respondents' foreclosure proceedings, and the levying of sanctions against Respondents would all be Constitutionally problematic. Specifically,

Respondents argued that the appointment of a Special Master would violate the Supremacy Clause of the U.S. Constitution. Respondents argued that the suspension of foreclosure proceedings would constitute unconstitutional takings and interference with the right of contract. Finally, Respondents argued that the fact that the Order to Show Cause singles out these specific banks and mortgage loan servicers is a violation of the Six Respondents' due process and equal protection rights.

Finally, and significantly, all Six Respondents provided affidavits and certifications attesting that Respondents have undertaken substantial efforts to correct document execution and notarization irregularities and describing those efforts. In short, while Respondents acknowledged that there had been document irregularities in the past, Respondents stated that such problems were corrected and safeguards are now in place to ensure that such irregularities and "robo-signing" would not occur again.

Other Efforts Nationwide to Address the "Robo-Signing" Issue

As noted above, in preparing its report, LSNJ described reports of document signing irregularities nationwide. Because the "robo-signing" issue and the mortgage crisis generally are national issues, they are being addressed on many fronts. Numerous executive agencies across the country, including all fifty state Attorneys General, numerous United States Attorney's Offices, as well as the investigative branches of various federal regulatory agencies, are investigating all aspects of the nation's current mortgage crisis.

Specifically, in Fall 2010, the Attorneys General of all fifty states announced a joint investigation, led by Iowa Attorney General Tom Miller, into home foreclosures and the practices of mortgage lenders and mortgage loan servicers. Similarly, since Fall 2010 and the revelation of

the "robo-signing" problem, a task force of federal bank regulators led by the Office of the Comptroller of the Currency has been reviewing the foreclosure practices and internal controls of the fourteen largest mortgage servicers, including all six of the Respondents in this matter. Similarly, the Consumer Financial Protection Bureau, newly created by the July 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act, is also currently undertaking a comprehensive investigation concerning all aspects of the mortgage process, both lending and foreclosure. These investigations are wide-ranging in scope and could result in a variety of remedies, both remedial and punitive.

Likewise, legislative bodies around the nation, both state and federal, are considering various issues and concerns relating to the mortgage industry and foreclosure process generally. On February 25, 2011, the House Committee on Oversight and Government Reform requested various information from eleven mortgage servicers and foreclosure specialists, five of which are among the Six Respondents in this matter, including information concerning a special review of servicer abuse claims and the actions of law firms that specialize in foreclosures. Similarly, the U.S. Senate Committee on Banking, Housing, and Urban Affairs has been holding hearings investigating problems in the mortgage servicing industry since November 2010.

Thus, it was with an awareness of these other efforts to address the "robo-signing" issues that this office commenced discussions with the Respondents to determine whether the primary concern of the Judiciary - ensuring the integrity and transparency of its processes and the submissions to it - could be met without the necessity of protracted litigation of the legal and factual issues raised by Respondents in opposition to the Order to Show Cause. Put another way, the issue addressed in this

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March 18, 2011
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office's negotiations was what could be done to provide comfort that once uncontested residential mortgage foreclosure proceedings recommenced, the certifications and affidavits that are being submitted are going to be executed and notarized by affiants with personal knowledge of the facts they contain

Settlement Negotiations with Court Appointed Counsel

Acting as court appointed counsel in this matter, this office began by meeting with each of the Six Respondents individually to discuss each Respondent's individual situation vis-a-vis the Order to Show Cause. This office also held several settlement meetings and negotiation sessions with counsel for all Six Respondents collectively through January and early February 2011.

During this same time period, this office also met with personnel at the Office of Foreclosure, the Administrative Office of the Courts, and the Superior Court Clerk's Office to gain an understanding of the procedural and logistical mechanics of New Jersey's foreclosure process.

Throughout this settlement process, this office's position with the Six Respondents was to find a way to ensure the accuracy and transparency of the foreclosure process that had been called into question by the revelation of the "robo-signing" practices, both with respect to Respondents' pending uncontested residential mortgage foreclosure filings and new residential mortgage foreclosures to be filed in 2011 and beyond.

While the Order to Show Cause did not order an immediate suspension of foreclosure processing for the Respondents, *de facto* there has been such a suspension, either because Respondents or some of them had earlier ceased processing foreclosures in New Jersey on their own while attempting to address the "robo-signing" issue or because the effect of the Rule Amendments.

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as worded in the December 20th emergency revisions, was to make it impractical or unfeasible for Respondents to pursue foreclosures. The result of this *de facto* suspension has been that tens of thousands of properties as to which there are uncontested foreclosure proceedings in New Jersey are in limbo. All concerned recognized that an efficient, fully functional, accurate, transparent, and normalized foreclosure process is in the interests of the Judiciary, New Jersey citizens and communities, the residential housing market, and the broader economy.

These considerations undergirded the settlement discussions as this office and Respondents sought to find a practical process that would both satisfy the Judiciary's concerns regarding document execution practices while at the same time permit the residential mortgage foreclosure process to function efficiently in the State of New Jersey. The result of these negotiations is the attached Recommended Stipulation, agreed to by all parties. The centerpiece of the Recommended Stipulation is the now agreed to appointment of a Special Master, who will have to be satisfied that an adequate *prima facie* showing has been made that Respondents have in place a process that will ensure that information set forth in affidavits submitted to the Judiciary is based on both the personal knowledge of the signatory and on the accurate business records of the appropriate entity before Respondents are allowed to resume processing of their pending portfolios which they are servicing. The Special Master will also have the further power, for a period of twelve months, to verify that the Respondents continue to adhere to the processes they described in order to satisfy the *prima facie* showing.

I. THE RECOMMENDED STIPULATION

The crux of the Recommended Stipulation is the appointment of a Special Master. Respondents consent to the appointment of a Special Master to perform the services described in the Recommended Stipulation. *See* Rec. Stip. ¶ 2. In addition, Respondents have agreed to bear the costs of the Special Master as well as the costs of court appointed counsel, who will continue as Special Counsel to the Special Master. *See* Rec. Sup. ¶ 14.

A. The Appointment of the Special Master

Rule 4:41 permits a judge of the Superior Court, with the approval of the Assignment Judge, to refer the hearing of a matter or portion of a matter to a Special Master. The State Supreme Court has noted the utility of a *Rule 4:41* reference, stating that “[t]he use of such Special Masters, sometimes called ‘hybrid’ masters, is not uncommon in litigation resulting in some form of institutional change.” *So. Burlington Cty. N.A.A.C.P. v. Mount Laurel Twp.*, 92 N.J. 158, 281-82 (1983) (setting forth process for appointing Special Master to assist municipal officials in developing constitutional land use and zoning regulations).

“These impartial experts use their skills to help the parties formulate a remedy that will comply with the trial court’s order and supply information that the parties may not have available to them.” *Id.* at 282. “They differ from traditional masters, whose roles are usually limited to serving as fact-finders and supervising procedural tasks in that Special Masters work with the parties to devise a remedy that will meet with the court’s approval.” *Id.*; *see also* *Abbott v. Burke*, 199 N.J. 140 (2008) (Special Master appointed to develop an evidential record concerning the constitutionality of provisions of the New Jersey School Funding Reform Act of 2008); *State v.*

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March 18, 2011
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Chun, 194 N.J. 54 (2008) (Special Master appointed to conduct a plenary hearing on the reliability of Alcotest breath test instruments).

This office understands that the person being considered to be appointed as Special Master in this matter is the Honorable Richard J. Williams, retired Superior Court Judge and former Administrative Director of the Courts. Judge Williams has served the State of New Jersey for nearly forty years. Beginning in 1972, Judge Williams served in the Atlantic County Prosecutor's Office until 1981, when Judge Williams was appointed to the Superior Court. From 1983 until 1985, Judge Williams served as Presiding Judge of the Family Division in the Atlantic and Cape May Vicinage and from 1985 until 1999, Judge Williams served as Assignment Judge in that same vicinage. On August 1999, Judge Williams was assigned to the Appellate Division and appointed the Acting Administrative Director of the Courts, which position he held until September 2004.

As Administrative Director of the Courts, Judge Williams obtained extensive experience in the workings and mechanics of the New Jersey State Judiciary, including the Office of Foreclosure. Thus, Judge Williams has a keen understanding of the practical difficulties facing the New Jersey court system in the face of an increasing volume of uncontested residential mortgage foreclosure cases. These difficulties are significantly compounded when, as caused by the "robo-signing" crisis, the Judiciary can no longer rely on the integrity of the documents submitted to it. Judge Williams's decades of experience on the bench and as a judicial administrator make him eminently suited for tasks charged to the Special Master in this case. This office strongly recommends Judge Williams's appointment as Special Master.

B. The Special Master's Recommended Role and Scope of Inquiry

The Recommended Stipulation envisions a two-step inquiry by the Special Master which will consist of: (1) a preliminary prima facie showing by the Respondents concerning their respective document execution processes; and (2) a subsequent performance review by the Special Master to ensure that those processes are in fact being employed (collectively, "the Special Master Process")

Importantly, the Special Master Process will concern the respective Respondents' participation in the residential mortgage foreclosure process in their capacity as servicer. This office and the Judiciary recognize that in most cases, it is the servicer that either has the information or has direct access to the information that is required to be provided under the Rules of Court governing residential mortgage foreclosures. Servicers manage, maintain, and handle the accounting for the mortgages that they service and, as such, in the case of default or non-payment on the part of a mortgagor, it is the servicer, and not necessarily the mortgagee or named plaintiff in the resulting mortgage foreclosure action, that either has the information or has direct access to the information concerning the default or non-payment.

The Six Respondents, acting as servicers, account for a majority of the residential mortgage foreclosure matters pending in the Courts of the State of New Jersey, both contested and uncontested. Thus, the Respondents' participation in the Special Master Process as servicers will both: (1) ensure that the entity with the most knowledge is reviewed by the Special Master; and (2) actively address a large majority of the foreclosures in the State Judiciary.

We provide the following description of the two-step Special Master Process, which this office recommends as the means by which the Judiciary can most effectively address the issues

raised in the December 20th Order to Show Cause.

1. A Prima Facie Showing

The Special Master Process envisions two steps, the first of which requires each Respondent to make a Prima Facie Showing in answer to the following two questions:

A. Does the servicer have processes and procedures in place which, if adhered to, will ensure that the information set forth in affidavits/certification submitted in foreclosure proceedings is personally reviewed by an affiant authorized to act on behalf of the plaintiff in the foreclosure action and that each affidavit or certification submitted is properly executed and is based upon knowledge gained through a personal review of records made in the regular course of business and it was the regular practice of that business to make it?,

and

B Is the Respondent prepared to follow these processes and procedures upon the resumption of residential mortgage foreclosure activities in New Jersey?

Rec Stip. ¶ 4

In summary, what the Prima Facie Showing is designed to do is have the Respondent present evidence and information which on its face satisfies the Special Master that the Respondent's processes are designed to prevent any current or future "robo-signing" or other activity that does not ensure the reliability of its sworn submissions to the Judiciary. The sort of information the Special Master will look for during the Prima Facie Showing stage will include information concerning Respondents' authority to act for the mortgagee, an accurate and up-to-date record keeping system; case processing steps that include personal review of documents and records; training programs of Respondents' employees; quality assurance procedures; and processes for effective communication between Respondent and the attorneys handling the foreclosure action. See Rec. Stip ¶ 4(a)-(g).

It is envisioned that this Prima Facie Showing will be made primarily via written submissions to the Special Master, by way of certifications or affidavits. If needed, however, the Special Master will be able to request additional information beyond that initially submitted by each Respondent. The Special Master will also be able to request an in-person presentation by any Respondent if the Special Master deems such necessary. Rec. Stip. ¶ 6.

Once the Special Master determines that any individual Respondent has made the required Prima Facie Showing, the Special Master will convey the same to Your Honor and recommend that Your Honor permit that individual Respondent to resume prosecution of its pending uncontested residential mortgage foreclosure proceedings.⁴ At that time, Respondent will also be required to submit to the Special Master a certification that all uncontested residential mortgage foreclosures prosecution of which are to resume will be prosecuted under the processes outlined in the Prima Facie Showing. Upon approval by Your Honor, the Respondent will then be permitted to resume prosecution of its pending uncontested residential mortgage foreclosure actions. See Rec. Stip. ¶ 6.

2. Subsequent Performance Review

The second step of the recommended Special Master Process is a performance review. See Rec. Stip. ¶ 7. After the resumption of each Respondents' prosecution of its pending uncontested residential mortgage foreclosure actions, the Special Master will be able to review a reasonable sample of files from the Respondents' foreclosure actions, either those pending or newly filed, as

⁴ As part of the Prima Facie Showing, each Respondent will submit a "Servicer Portfolio," which shall list by docket number all of that Respondent's residential mortgage foreclosure matters pending in the Superior Court as of December 20, 2010. Rec. Stip. ¶ 5. The Servicer Portfolio shall indicate whether each matter is contested or uncontested, as defined by Rule 4:64-1(c). See *id*

the Special Master deems necessary ("the Performance Review"). See Rec. Stip. ¶ 7. It is recommended that the Special Master's Performance Review last for twelve (12) months from the date of the respective Respondents' resumption of prosecuting its pending uncontested residential mortgage foreclosure actions

The purpose of the Special Master's Performance Review will be to confirm that the processes described by each Respondent in its Prima Facie Showing are being followed. If the Performance Review gives the Special Master a reasonable concern that the processes outlined in the Prima Facie Showing are not being followed, the Special Master shall ask Respondent to address those concerns and may, if needed, request additional information from the Respondent. Ultimately, if the Special Master determines that the processes outlined in the Prima Facie Showing are not being followed, the Special Master may recommend to Your Honor that the Court suspend the particular Respondent's prosecution of uncontested residential mortgage foreclosure matters until the Respondent confirms to the Special Master's satisfaction that the processes are in place and operational.

This office believes that this recommended two-step Special Master Process, as described in detail in Paragraphs 4 through 7 of the Recommended Stipulation, serves the goals of the December 20, 2010 Order to Show Cause, while at the same time also permitting the efficient functioning of the foreclosure process, a process necessary for a healthy housing market and the broader economy. First, as outlined above, the Prima Facie Showing will ensure that the Respondents have appropriate processes and checks and balances in place to prevent any future "robo-signing" or other document execution irregularities. Second, the Performance Review will

allow the Judiciary, through the Special Master, to ensure that those processes are being followed. Thus, this office recommends that Your Honor approve the attached Recommended Stipulation and the Special Master Process set forth therein.

II. FURTHER RELIEF OUTLINED IN THE DECEMBER 20TH ORDER TO SHOW CAUSE IS NOT NEEDED AT THIS TIME

Your Honor's December 20, 2010 Order to Show Cause envisioned the possibility of several additional modes of relief beyond the appointment of a Special Master and the payment of fees. Specifically, the Order to Show Cause requested response as to a potential blanket suspension of the processing of pending uncontested residential mortgage foreclosure actions, suspension of the issuance of writs of execution or writs of possession, and the blanket stay of all pending Sheriff's sales of properties where one of the Six Respondents was involved in the mortgage or foreclosure. Dec 20, 2010 Order to Show Cause at ¶ 1 A - 1 C. Additionally, the Order to Show Cause included the possibility of broad-based sanctions on the Six Respondents. *Id.* ¶ 1 D.v As described below, this office recommends against these additional measures as part of this Order to Show Cause proceeding.

A. A Blanket Suspension of Uncontested Residential Mortgage Foreclosure Proceedings is Not Necessary

This office recommends against the necessity of imposing a blanket suspension of Respondents' uncontested residential mortgage foreclosure proceedings, either those pre-final judgment or those post-final judgment and awaiting Sheriff's sale. As noted above, there has been a *de facto* suspension with regard to Respondents by virtue of their own actions and the Rule Amendments. Going forward, the resumption of processing of the Respondents' pending mortgage

foreclosure portfolios will be governed by the Special Master Process described above. New foreclosures will be subject to the requirements of the Rule Amendments. Additionally, both pending and new foreclosures of the Respondents will be subject to the Special Master's Performance Review as well.

Given these protections, any further order of suspension for these Respondents will serve no purpose. To the contrary, an efficient and normalized mortgage foreclosure process is essential to the health of the New Jersey housing market. Properties tied up in a lengthy and protracted uncontested foreclosure process can potentially remain off the market for well over a year or even longer. This is particularly problematic considering that as much as a quarter of properties in uncontested residential mortgage foreclosure are unoccupied and are thus contributing to blight in New Jersey communities. Thus, it is as important for New Jersey's residential mortgage foreclosure process to function as it is for that process to be based on accurate and legally compliant documents.

B. Broad-based Sanctions Targeted at the Six Respondents Are Unneeded

This office recommends against the imposition of broad-based sanctions on the Six Respondents at this time. First, as noted above, numerous executive and legislative investigations into the residential mortgage foreclosure system are taking place all over the country. If any monetary penalties or other sanctions are appropriate, they are best left to these comprehensive investigations.

Second, court-imposed sanctions are generally designed to address specific misconduct in particular cases. *See, e.g., R. 1:10-1, 1:10-2* (sanctions for contempt of court), *R. 4:14-7* (sanctions for conducting or defending a deposition in bad faith); *R. 4:23-1* (sanctions for failure to make

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discovery) In this context, this office recommends that sanctions would be more tailored and more effective if imposed by individual judges in individual residential mortgage foreclosure cases, should they be warranted.

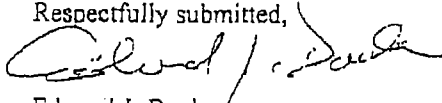
Finally, as provided in the Recommended Stipulation, the Six Respondents have agreed to pay for the services and expenses of the Special Master and this office during the course of the Special Master Process. *See* Rec Stip ¶¶ 2, 14. Thus, the Six Respondents will be paying the costs incurred in assuring the Judiciary of the integrity of Respondents' filings and the expense of the Judiciary's oversight of Respondents' document execution processes during the tenure of the Special Master. For these reasons, this office believes that further punitive sanctions are not needed and recommends against such broad-based sanctions.

CONCLUSION

In conclusion, this office submits the enclosed Recommended Stipulation for Your Honor's consideration and review. We believe that the process set forth in the Recommended Stipulation achieves the goals of the December 20th Order to Show Cause of ensuring the integrity and accuracy of documents filed with the Judiciary in uncontested residential mortgage foreclosure proceedings, while at the same time, permitting the efficient and normalized function of the residential mortgage foreclosure process. Your Honor has scheduled a hearing on the Order to Show Cause for March 29, 2011 at 2:00 p.m., at which I will be prepared to address any questions Your Honor should have about the foregoing or the enclosed Recommended Stipulation.

Hon Mary C. Jacobson, P.J. CH.
March 18, 2011
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Respectfully submitted,



Edward J. Dauber

EJD/tbs
Encls.

cc: Via Facsimile:

Thomas R. Curtin, Esq
Brian Boyle Esq
Gerald Krovatin, Esq
Theodore V. Wells, Jr, Esq
Joyce S. Huang, Esq.
Richard P Haber, Esq.
Jami Wintz McKeon, Esq.
Phillip R. Sellinger, Esq.

Brian P. Brooks. Esq
Elizabeth L. McKeen, Esq.
Andrew Frackman. Esq.
Mark Melodia, Esq
Ian S. Marx, Esq.
Diane Bettino, Esq
Rosemary Alito, Esq.
Robert R. Maddox, Esq.



SUPERIOR COURT OF NEW JERSEY
COUNTIES OF
ATLANTIC AND CAPE MAY

WILLIAM C. TODD, III
Presiding Judge
Chancery / General Equity Division

1201 Bacharach Boulevard
Atlantic City, NJ 08401-4527
(609) 594-3281

September 15, 2011

Vincent Ricigliano, Esquire
Stern, Lavinthal, Frankenberg
& Norgaard, LLC
105 Eisenhower Parkway, Suite 302
Roseland, NJ 07068

Selina Rothweiler, *pro se*
40 Franklin Avenue
Northfield, NJ 08225

LETTER OPINION

RE: BAC HOME LOANS SERVICING, LP ETC.
vs. SELINA ROTHWEILER, ET ALS
DOCKET NO: F-26617-10

DEFENDANT ROTHWEILER'S MOTION
TO DISMISS COMPLAINT

Dear Mr. Ricigliano and Ms. Rothweiler:

This letter will deal with defendant Rothweiler's Motion to dismiss plaintiff's Complaint based upon an apparent deficiency in the Notice of Intention. That application was opposed. I have reviewed defendant's Motion, Mr. Ricigliano's response of August 25, 2011 and defendant's response of September 9, 2011. I note the Motion is based upon the Appellate Division's recent Opinion in Bank of New York v. Laks, approved for publication for August 8, 2011. I have had occasion to deal with the issues raised in Laks repeatedly over the last month. Given all the circumstances, I was satisfied the matter could be resolved without oral argument. Accordingly, the matter has been resolved based upon the materials submitted, as noted above.

For the reasons noted below, I have denied the Motion to dismiss the Complaint, on terms requiring plaintiff to give the defendant an additional opportunity to cure the default in the mortgage without the payment of attorneys' fees and costs. The balance of this letter will outline my analysis of the specific issues presented.

There are two distinct issues presented as result of the Appellate Division's Opinion in Laks. The first issue relates to a potential defect in the Notice of Intention. The issue is simple. Is a Notice of Intention issued in the name of the servicer, without identifying the lender, deficient? The second question relates to the cure which is appropriate, assuming the Notice of Intention is deficient. Is it necessary to dismiss the Complaint, requiring the plaintiff to begin the foreclosure process anew? Alternatively, is it appropriate to permit the plaintiff to cure the deficiency in the Notice of Intention by permitting defendant to cure within the pending foreclosure process, without being required to pay attorneys fees and costs? Those issues have been dealt with by the Court system in a variety of contexts over the last year or so. Prior to the issuance of the Appellate Division's Opinion in Laks, I had concluded that a Notice of Intention issued in the name of the servicer was adequate. I had also opined, in a variety of circumstances, that if the Notice was deficient a cure could be permitted in the pending foreclosure proceeding.

Prior to the issuance of the Opinion in Laks, the law was not settled on either of the two points noted. Judge Berman's Trial Court Opinion in Bank of New York Mellon v. Elghossian, 419 N.J. Super at 336 (Ch. Div. 2010) indicated that a Notice which failed to identify the lender was defective, and that that defect required the dismissal of the Complaint. The Appellate Division, however, had reached a different conclusion with respect to the adequacy of the Notice in the Unpublished Opinion in U.S. Bank v. Guillame, docket A-376-10T3, issued in April of this year. (As an aside, I have been advised in another case that a Petition for Certification has been filed in Guillame.) In essence, there was a clear conflict in the Opinions dealing with the "defect" issue. Neither of the Opinions just noted, however, were binding on me. I found the Appellate Division's reasoning in Guillame persuasive. It on that basis that I had concluded that a notice issued in the name of servicer was not defective.

There was also a split in the case law dealing with the potential for a cure within the pending foreclosure. Judge Berman's Trial Court Opinion in Elghossian held that a cure within the existing foreclosure should not be permitted. That Opinion, however, was not binding on me. There were conflicting Appellate Division Opinions dealing with the issue, albeit in somewhat different contexts. See Cho Hung Bank v. Ki Sung Kim, 361 N.J. Super. 331 (App. Div. 2003) and GE Capital Mortgage Services v. Wisman, 339 N.J. Super 590 (Ch. Div. 2000), each allowing cures within a pending action, and EMC Mortgage Corp. v. Chaudhri, 400 N.J. Super. 126 (App. Div. 2008) requiring a dismissal of the pending proceeding and the filing of a new action to foreclose. Again, I found the reasoning in Kim and Wisman more appropriate. In that context, I had previously opined that if a Notice of Intention was defective, a cure should be permitted within the pending foreclosure proceeding.

That was the state of the law as of the time I addressed these issues as a part of the Motion for summary judgment filed by Mr. Ricigliano earlier this year. I dealt with the matter July 29, 2011. I dealt with these issues and a variety of other issues in a fairly detailed opinion that was issued from the bench. An Order was entered that same day deeming Ms. Rothweiler's Answer non-contesting and returning the matter to the Office of Foreclosure. The Opinion in Laks was issued within approximately two weeks. It is in that context that Ms. Rothweiler has filed the pending Motion to dismiss, essentially asking that I re-visit the issues based upon the Opinion in Laks. There is absolutely no question that it is appropriate for me to reconsider the matter. My prior determination was interlocutory. I am satisfied I am clearly bound by the portion of the Laks Opinion dealing with the "defect" issue. I am clearly bound to follow Laks, in the absence of any conflicting published Appellate Division Opinion. (Obviously, an entirely different situation would be presented had the Appellate Division Opinion in Guillaume been published.) For that reason, I am satisfied I must now conclude that the Notice of Intention issued in this matter was defective. I understand Mr. Ricigliano has attempted to distinguish this case from Laks. The distinctions offered are simply not viable.

Obviously, that does not end the inquiry. While I must conclude that the Notice was defective, I am not necessarily required to conclude that the Complaint should be dismissed. Again, Laks is the only published Appellate Division Opinion dealing with the "defect" issue. It is not, however, the only published Appellate Division Opinion dealing with the issue of a cure. The Laks Panel did conclude a cure was not permitted. On the other hand, a separate Panel in Kim concluded that a cure was appropriate, albeit in somewhat different circumstances. There is a conflict in the published Appellate Division Opinions dealing with the "cure" issue. Considering all the circumstances, I do not consider myself bound by the portion of the Laks Opinion dealing with that question. I am still convinced that is entirely appropriate to permit a cure in a pending foreclosure proceeding. Such a cure presumably preserves all of the defendant homeowners substantive rights. In this case, for example, Ms. Rothweiler can be given an opportunity to cure the existing default without being required to make any payment toward the plaintiff's attorneys' fees and costs. That is the precise remedy that would be available to her if the Complaint was dismissed and a new Notice of Intention was issued. It seems to me such a cure is particularly appropriate given the long delays that plaintiffs typically face in the processing of foreclosure actions in this State. It seems such a cure is all the more appropriate in cases where the parties have litigated other issues, as is the case here.

For all those reasons, I have concluded that the Notice of Intention issued in this case was defective but that the defect can be cured within the existing proceeding. That can be done by requiring the plaintiff to issue a new Notice of Intention on terms permitting Ms. Rothweiler to cure any deficiency based on that new Notice within the time contemplated by the Fair Foreclosure Act without being required to make any payment toward attorneys' fees or costs. Plaintiff would then be required to document the service of the new Notice of Intention and the defendant's failure to cure as a part of any application for the issuance of a Judgment of Foreclosure.

As noted, I have already dealt with this issue in a number of other proceedings. In at least one case I have entered a formal Order that required the new Notice of Intention to be served by a specific date. I see no reason to impose that type of a deadline here. Presumably the plaintiff will proceed promptly with the issuance of a new Notice of Intention. In any event, the Order that will now be entered will not permit the entry of judgment until the plaintiff has documented the issuance of the new Notice of Intention and the defendant's failure to cure within the time permitted by the Fair Foreclosure Act.

I have entered an Order accordingly. Copies of that Order will be forwarded with this letter. The matter will remain with the Office of Foreclosure.

Very truly yours,


WILLIAM C. TODD, III, P.J.Ch.

WCT:rb
Enc.

BAC HOME LOANS SERVICING
L.P., F/K/A COUNTRYWIDE
HOME LOANS SERVICING, L.P.

Plaintiff(s),

vs.

SELINA A. ROTHWEILER, MR.
ROTHWEILER, HUSBAND OF SELINA A.
ROTHWEILER, MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC. AS
NOMINEE FOR ATLANTIC COAST
MORTGAGE SERVICES, INC. and
UNKNOWN TENANTS/OCCUPANTS 1-5
Defendant(s).

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
CAPE MAY COUNTY

DOCKET NO. F-26617-10

Civil Action

ORDER RESOLVING MOTION
TO DISMISS BASED ON
DEFECTIVE NOTICE OF
INTENTION

THIS MATTER coming before the Court, September 15, 2011 as a result of a Motion filed on behalf of defendant Rothweiler, defendant Selina A. Rothweiler appearing *pro se*, and Vincent Ricigliano, Esquire appearing for plaintiff, and the Court having considered the materials submitted and having issued a Letter Opinion;

IT IS ON THIS 15th day of September, 2011, ORDERED:

1. Defendant Rothweiler's Motion to dismiss plaintiff's Complaint based upon the defective Notice of Intention is denied subject to the remaining provisions of this Order requiring the issuance of a new Notice of Intention with an additional opportunity to cure.
2. As a condition of proceeding with this action to foreclose, plaintiff is hereby required to issue a new Notice of Intention pursuant to the Fair Foreclosure Act, as if that Notice was being issued prior to the institution of suit. Defendant Rothweiler shall have the right to cure any deficiency based upon the new Notice of Intention within the time contemplated by the Fair Foreclosure Act, without being required to make any payment toward attorneys fees or costs incurred by plaintiff in filing the foreclosure action.

3. This matter will remain with the Office of Foreclosure where plaintiff may proceed to request the entry of judgment on a non-contesting basis, provided that judgment may not be entered until such time as plaintiff has provided a Certification to the Office of Foreclosure confirming the service of the new Notice of Intention and defendant's failure to cure within the time contemplated by the Fair Foreclosure Act and this Order.



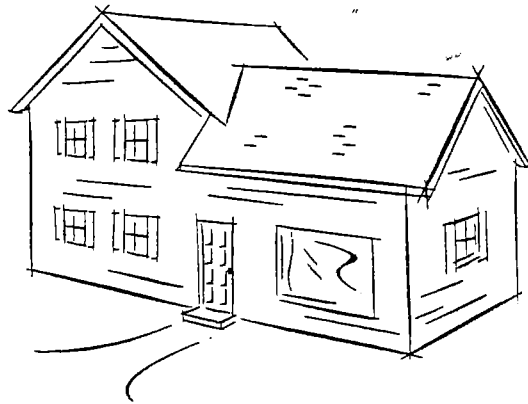
WILLIAM C. TODD, III, P.J.Ch.



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ACKNOWLEDGEMENTS

These estimated foreclosure timelines have been excerpted from the State Summaries chapter of *The National Mortgage Servicer's Reference Directory*™. **Be aware that many states are proposing (and passing) legislation affecting foreclosure procedures, and changes in the law are occurring frequently. For a list of states with recent updates to these timelines, please check www.usfn.org.** Another helpful resource is the online Article Library, also found at www.usfn.org. USFN member firms contributing to this chapter of the NMSRD are acknowledged below. Current contact information for the firms is in the Member Directory at www.usfn.org.

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Bendett & McHugh, P.C. (CT, ME, VT)	Susan C. Little & Associates, P.A. (NM)
Whittington & Aulgur (DE)	Rosicki, Rosicki & Associates, P.C. (NY)
Cohn, Goldberg & Deutsch, L.L.C. (DC)	Caudle & Parnell, PLLC (NC)
Florida Foreclosure Attorneys, PLLC (FL)	Reimer, Arnovitz, Chemek & Jeffrey Co., L.P.A. (OH)
McCalla Raymer, L.L.C. (GA)	Baer, Timberlake, Coulson & Cates, P.C. (OK)
Leu & Okuda (HI)	Routh Crabtree Olsen, P.S. (OR, WA)
Just Law, Inc. (ID)	Partridge Snow & Hahn LLP (RI)
Pierce & Associates, P.C. (IL)	Korn Law Firm (SC)
Feiwell & Hannoy, P.C. (IN)	Barrett Daffin Frappier Turner & Engel, L.L.P. (TX)
Metcalf, Conlon & Siering, P.L.C. (IA)	Lundberg & Associates (UT)
South & Associates, P.C. (KS)	Lobe & Fortin, PLC (VT)
Lerner, Sampson & Rothfuss (KY)	Samuel I. White, P.C. (VA)
Dean Morris, L.L.P. (LA)	Pill & Pill, P.L.L.C. (WV)
Covahey, Boozer, Devan & Dore, P.A. (MD)	Gray & Associates, LLP (WI)
Flagg Law, P.L.L.C. (ME)	
Harmon Law Offices, P.C. (MA)	
Trott & Trott, P.C. (MI)	
Wilford Geske & Cook, P.A. (MN)	

INTRODUCTION

USFN is the nation's largest association of lawyers who represent the mortgage servicing industry. Formed in 1988, USFN has grown to include approximately 100 law firms with hundreds of attorneys and related professionals. USFN maintains membership standards and a code of conduct that ensures its members are among the best in the profession. Additionally, the USFN offers training resources, seminars and other educational opportunities to over 1,500 mortgage servicers each year.

USFN is pleased to offer this *Foreclosure Timelines Matrix*[™] (state by state). The publication was created in response to suggestions from lenders and servicers for an easy-to-read resource containing estimated foreclosure timelines for each state.

USFN's *Foreclosure Desk Guide*[™] is also available as a further learning and reference tool. Another helpful USFN publication for every servicer is *The National Mortgage Servicer's Reference Directory*[™], where a wealth of information is found in addition to these foreclosure timelines.

Be aware that many states are proposing (and passing) legislation affecting foreclosure procedures and timelines. These changes in the law are occurring frequently. For online updates to these timelines, please check www.usfn.org. Go to Industry Resources, and select NMSRD Links. Another helpful resource is the online Article Library, also found at www.usfn.org.

DISCLAIMER

USFN and its members have prepared the information contained in this *Foreclosure Timelines Matrix*[™] (state by state) as a public service and for general information purposes only. The information may or may not reflect the most current legal developments and under no circumstances should readers rely solely on this material.

Readers should seek independent and competent legal counsel before acting upon any information contained in this *Foreclosure Timelines Matrix*[™]. The information in this matrix is not provided in the course of an attorney-client relationship and is not intended to constitute legal advice or to substitute for obtaining legal advice from an attorney licensed in the relevant jurisdiction.

Foreclosure law is complex and dependent on state and county law as well as interpretations by the local judiciary. It is advisable that servicers and other readers contact local counsel familiar with the rules, practices and interpretations of the particular jurisdiction.

ALABAMA

ESTIMATED FORECLOSURE TIMELINES*

<u>NONJUDICIAL FORECLOSURE</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Loan Referred/File Received	1	1
2. Bankruptcy and Dept. of Defense Checks. Title Ordered.	1	2
3. Loan documents reviewed for Power of Sale and Notice Requirements.	<u>1</u>	3
4. Notice of Default Letter (a/k/a 30-Day Right to Cure Letter) Sent if Required by the Mortgage and not sent by lender prior to Foreclosure Referral. Loan Documents will Control.	30	33
5. Title Received (from date ordered) and Title Summary Report delivered to Lender	10-15	33
6. Acceleration Letter Sent. Acceleration Letter Sent upon Expiration of Notice of Default	1	34
7. Publication/Sale Date Set if No Title Issues (Publish Once a Week for Three Consecutive Weeks unless Mortgage Provides Otherwise)	30	64
8. Sale Held (At Least 19 Days from the First Publication Date and 31 Days from the Initial Communication with the Debtor)	1	65
9. Deed Recorded. (Sent for Recording shortly after sale.) The Recording Date will vary depending on the particular county.	7-30	72-95 (52-80 if NOD is not req'd)

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

ALASKA

ESTIMATED FORECLOSURE TIMELINES*

<u>NONJUDICIAL FORECLOSURE</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Loan Referred/File Received	1	1
2. Trustee Sale Guarantee Report Ordered	1	1
3. Trustee Sale Guarantee Report Received and Reviewed	5-6	6-7
4. Beneficiary's Declaration and Substitution of Trustee Prepared, and sent to client for execution	1	7-8
5. Sale Date set; Notice of Default sent to record (After return of executed documents by client)	1	8-9**
6. NOD recorded	2-4	10-13**
7. Publication/Posting of Sale Completed	65	75-78**
8. Sale Held	30	105-108**
9. Deed Recorded	3	108-111**

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances. In addition, delays will usually be encountered in getting documents recorded in certain parts of the state: the entire Second Judicial District (the Arctic coastal region), Ketchikan, and certain other remote communities.

**Plus days for return of document by client.

ARIZONA

ESTIMATED FORECLOSURE TIMELINES*

<u>NONJUDICIAL FORECLOSURE</u>	<u>TOTAL DAYS</u>
1. Open file; order Trustee's Sale Guarantee Report; prepare & send Statement of Breach and Notice of Substitution of Trustee to client if not received with FC file.	Day 1
2. Set Trustee's Sale; record Notices of Trustee's Sale and order title bring down. (a) This will be done within 5 working days if the law firm has a power of attorney from the lender/servicer to sign the necessary documents to commence the foreclosure, or (b) This can be 2 to 3 weeks, depending on how long it takes to get the signed documents from the lender/servicer.	Day 5-21
3. Mail Notices to required/interested person(s) (must be done within 5 days of recording of Notice of Trustee's Sale).	Day 8-21
4. Review of Trustee's Sale Guarantee Report (TSG) by processor and second review by attorney as soon as TSG is received from title company, and send additional notices as indicated in the TSG.	Day 21-28
5. Send Notice to publisher for publishing, and send Notice for posting.	Day 55
6. Request IRS bring down 30 days before scheduled Trustee's Sale.	Day 68
7. Send special notice to IRS, if necessary, for liens filed more than 30 days prior to Trustee's Sale.	Day 75
8. Send Grant Deed to client and request bid figures.	Day 80
9. Prepare for Trustee's Sale, and prepare bid for Trustee's Sale.	Day 92
10. Conduct Trustee's Sale; send Trustee's Deed to title company; order Title Policy and send copies and billing to client.	Day 102
11. Send Grant Deed to title company to record and order Title Policy when notified by client, if FHA or conventional loan.	Day 115
12. Prepare title package and deliver to VA or FHA, and send copies to client with title company billing for Title Policy.	Day 115

ARIZONA (cont'd.)

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances. Timeline can be shortened if client gives firm a limited power of attorney to sign the necessary documents, or if client pre-signs appropriate documents.

Special Note: A new law, H.B. 2626 (effective July 28, 2010), would not impact the timeline set forth here, as long as the 30-day demand goes out PRIOR to the referral for foreclosure. Specifically, the servicer has to initiate contact at least 30 days prior to the Notice of Trustee's Sale to explore options with the borrower to avoid foreclosure. Note that this new law applies only to those properties with a first deed of trust recorded between January 1, 2003, and December 31, 2008. There are other exceptions, as well: loans made, purchased, or serviced by a state or local public housing agency or authority; loans which are collateral for securities purchased by such agencies or authorities; and, most importantly, this does not apply to any lenders that are in compliance with the U.S. Department of Treasury Home Affordable Modification Program.

ARKANSAS

ESTIMATED FORECLOSURE TIMELINES*

<u>NONJUDICIAL FORECLOSURE</u>	<u>DATE RANGE FOR EACH STEP</u>
1. Loan referred/file received	0
2. Title ordered	1-5
3. Title received and reviewed	6-10
4. Notice of Default Filed	15-20
5. Request for bid	50-60
6. Sale held	70-80
7. Deed recorded	81-90
8. Redemption period expires	At sale

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

CALIFORNIA

ESTIMATED FORECLOSURE TIMELINES*

<u>NONJUDICIAL FORECLOSURES</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Initiate foreclosure by transmitting relevant documents	1 day	1 day
2. Record Notice of Default (NOD)	1 day	2 days
3. Send 10-day notices (business days)	1 day	12 days
4. Receive and review Trustee's Sale Guarantee; Send 1-month notices	1 day	32 days
5. Begin required postings and publishings of Notice of Sale; required Notice of Sale mailed to all entitled parties and recorded.	90 days	93 days
6. Loan may be reinstated up to 5 business days before sale		112 days
7. Sale is held	24 days	117 days
8. Trustee's Deed is prepared and sent to County for recording	3 days	120 days

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

COLORADO

ESTIMATED FORECLOSURE TIMELINES*

(Where NED is recorded on or after 1/1/08)

<u>NONJUDICIAL FORECLOSURE</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
Note: Some of the steps listed below occur concurrently. The "Total Days" column reflects a <u>cumulative</u> running of the estimated time period.		
1. Loan Referred/File Received (including all necessary documents)	1	1
2. Title Ordered	1	2
3. File Sent to Public Trustee	2	4
4. Title Received and Reviewed	14	18
5. Sale Scheduled/NED Recorded	14	18
6. Supplemental Mailing List Filed	60	78
7. Legal Notice Published in Newspaper	60	78
8. Rule 120 Hearing Date	35	115
9. Scheduled Sale Date	30	145
10. Sale Held	0	145
11. Redemption Expires	12	157
12. Deed Recorded	14	171

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

See next page for the CO timeline for cases where an expedited nonjudicial foreclosure process may be available.

COLORADO
ESTIMATED FORECLOSURE TIMELINES*

<u>EXPEDITED NONJUDICIAL FORECLOSURE**</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
Note: Some of the steps listed below occur concurrently. The "Total Days" column reflects a cumulative running of the estimated time period.		
1. Loan Referred/File Received	1	1
2. Title Ordered	1	2
3. File sent to Public Trustee	2	4
4. Title Received and Reviewed	14	18
5. Sale Scheduled/NED Recorded	14	18
6. Expedited Mailing List Filed	29	33
7. Commencement of Legal Notice Published in Newspaper	18	33
8. Rule 120 Hearing Date	35	39
9. Scheduled Sale Date	30	63-83
10. Sale Held	0	63-83
11. Redemption Expires	12	75-95
12. Deed Recorded	14	89-109

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents including the affidavit for the district court proceeding (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

** Effective August 1, 2010, Colorado law allows an expedited foreclosure procedure under certain circumstances. For more details, see "Expedited Foreclosure Procedures" in the Chapter 1, Colorado, State Summary section of the NMSRD.

See preceding page for the CO timeline concerning cases where NED is recorded on or after 1/1/08, and an expedited nonjudicial foreclosure process is inapplicable or otherwise not utilized.

CONNECTICUT
ESTIMATED FORECLOSURE TIMELINES*

<u>JUDICIAL FORECLOSURE DAYS</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. File Received	0	0
2. Service of Complaint Commenced	15	15
3. Service of Complaint Completed	5	20
4. Default Judgment Enters	70	90
5. Sale Held	-	-
6. Redemption Period Expires/Deed Recorded	90**	180**

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

** These figures contemplate a strict foreclosure. If the judgment of foreclosure is by sale, the expiration of the redemption period typically would be delayed at least another 75 days. Thus, total days from the date the file is received until redemption would be 235 days.

SPECIAL NOTE: If a borrower files for emergency mortgage assistance and/or requests mediation, the judgment and redemption period expiration dates could be extended by 30-60 days.

DELAWARE

ESTIMATED FORECLOSURE TIMELINES*

<u>JUDICIAL FORECLOSURE DAYS</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
File received, title search, obtain certified copies of all mortgages and assignments from Recorder of Deeds, prepare complaint and notice to lien holders		28
Complaint filed	2	30
Complaint served	20	50
Complaint <i>not</i> served, prepare second request for service and file with checks	5	55
Second attempt at personal service and constructive service (mailing and posting)	20-40	75-95
Required wait after constructive service and sheriff's return of service to file default judgment	21	96-116
Default judgment enters	3	99-119
Request sheriff's sale	11	110-130
Advertising complete and notice by mail and posting	60-90	170-210
Sale held	0	170-210
Confirmation of sale; deed recorded after payment of all costs and taxes	30-90	200-300

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances. **The mediation program (which became effective September 15, 2009) is likely to add an additional 75-100 days to the time between "Complaint filed" and "Judgment entered."**

DISTRICT OF COLUMBIA
ESTIMATED FORECLOSURE TIMELINES*

<u>NONJUDICIAL FORECLOSURE</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Loan Referred/File Received/Title Ordered	1	Day 1
2. Sale Scheduled (concurrent with step 1)	1	Day 1
3. Title Received and Reviewed	3	Day 4
4. Notice of Default Sent (30 days before sale)	—	Day 14
5. Substitution of Trustee Executed and Recorded	—	Day 14
6. Request for Bid	—	Day 14
7. Notice to Junior Lien Holders; Fax Request for Homestead Audit Lien; Title Update	—	Day 20-32
8. Legal Notice Sent to Newspaper (and notice runs)	—	Day 34-42
9. Sale Held	—	Day 36-47
10. Deed Sent for Recording	1	Day 46-57 (if funds available)

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

FLORIDA

ESTIMATED FORECLOSURE TIMELINES*

<u>JUDICIAL FORECLOSURE DAYS</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. File Received	1	1
2. Receive title work	4	5
3. Examine title work	2	7
4. Complaint filed	3	10
5. Service of Process completed on all defendants	25	35
6. Send Client Affidavit of Amount Due	5	40
7. Receive Affidavit of Amount Due and Original Note or Lost Note Affidavit	15	55
8. File Motion for Judgment, Notice of Hearing, Default any Defendants who have not filed answers.	10	65
9. Hearing held, Judgment Entered and Sale Set	35	100
10. Advertising complete	28	128
11. Receive Bid from Client	2	130
12. Sale Held	5	135
13. Certificate of Title Issued	15	150

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

GEORGIA

ESTIMATED FORECLOSURE TIMELINES*

<u>NONJUDICIAL FORECLOSURE</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Loan Referred/File Received/Title Ordered	1	1
2. Sale Scheduled/Sale Date Set/Demand Sent/Legal Notice Sent to Paper/Deed Under Power Sent to Lender	3	4
3. Title Exam Completed/Title Review Completed	15**	—
4. Days from Referral to First Publication (depends entirely on date of referral, thus wide range)	6-36	7-37***
5. Deed Under Power Sent to Lender and Request for Bid (concurrently with Step 4)	1	36
6. Sale Held	1 - 9	45
7. Post-Sale Bankruptcy Search	10	55
8. Deed Sent for Recording	1	56

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

**These steps involve differing times, but the total elapse of 32 days is running concurrently with steps 1-5.

***These days are running from the actual referral date.

HAWAII

ESTIMATED FORECLOSURE TIMELINES*

<u>JUDICIAL FORECLOSURE DAYS</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. File Received	0	0
2. Complaint Filed	30	30
3. Service	40	70
4. Entry of default	30	100
5. Summary judgment	30	130
6. Auction	90	220
7. Confirmation	40	260
8. Conveyance	60	320

<u>NONJUDICIAL FORECLOSURE**</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Referral/Title	0	20
2. Sale Scheduled	10	30
3. Publication	90	120
4. Posting	10	130
5. Auction	30	160
6. Conveyance	35	195

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

** **IMPORTANT NOTE RE NONJUDICIAL FORECLOSURES:** See S.B. No. 651, which was signed into law by the governor. This new law imposes a moratorium on new nonjudicial foreclosures, which will last at least until July 1, 2012. Among other provisions, the new law also addresses mandatory mediation; voids actions taken by a mortgage servicer not licensed by the state of Hawaii; addresses short sales, as well as prohibits nonjudicial foreclosure proceedings during bona fide loan modification negotiations with the mortgagor. Further, Section 667-AA of S.B. No. 651 requires that evidence of authority be recorded at the Bureau of Conveyances, and certain information be specifically disclosed in foreclosure notices regarding authority to foreclose. The servicer will also be required to maintain a physical office in the state of Hawaii, staffed with a live person. H.R.S. Sec. 454M-5(a) (5). Chapter 454 provisions concerning servicers are effective July 1, 2012, while the remainder of the new law became effective May 5, 2011.

IDAHO

ESTIMATED FORECLOSURE TIMELINES*

<u>NONJUDICIAL FORECLOSURE</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Loan Referred/File Received	1	1
2. Trustee Sale Guarantee Report Ordered	1	2
3. Trustee Sale Guarantee Report Received and Reviewed	5	7
4. Substitution of Trustee Prepared, Executed and Recorded	3	10
5. Notice of Default Recorded	20	30
6. Sale scheduled and Notice of Default sent to all interested parties	1	31
7. Legal Publication sent to newspaper	1	32
8. Publication and Service of Process completed	45	77
9. Deed sent to Lender for execution and request for bid	63	140
10. Sale Held, Deed Recorded	10	150

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

ILLINOIS

ESTIMATED FORECLOSURE TIMELINES*

<u>JUDICIAL FORECLOSURE DAYS</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. File Received	1	
2. Complaint Filed	30	30
3. Complaint Served	60	90
4. Default Judgment Enters	60	150
5. Sale Held	165	315
6. Redemption Period Expires/Deed Recorded	45	360

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

INDIANA

ESTIMATED FORECLOSURE TIMELINES*

<u>JUDICIAL FORECLOSURE DAYS</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. File Received		0
2. Complaint Filed	30	30
3. Complaint Served	35	65
4. Default Judgment Enters/Redemption Period Expires	55	120
5. Advertising Complete	115	235
6. Sale Held	20	255
7. Deed Recorded	11	266

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

IOWA

ESTIMATED FORECLOSURE TIMELINES*

<u>JUDICIAL FORECLOSURE DAYS</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. File Received	5	5
2. Complaint Filed (Assumes that the title report is quickly produced. Delays here will lengthen the timelines.)	20	25
3. Complaint Served	30	55
4. Default Judgment Entered	45	100
5. Advertising Complete	30	130
6. Sale Held**	30	160
7. Redemption Period Expires/Deed Recorded	15	175

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances. Servicers should be aware that because of increased likelihood of a contest and increased judicial resistance to foreclosure, these time limits may prove optimistic.

** In most foreclosures of SF/DF/OO property, the borrowers can demand a delay of sale, which will add approximately 120 extra days until the foreclosure is completed.

KANSAS

ESTIMATED FORECLOSURE TIMELINES

<u>JUDICIAL FORECLOSURE DAYS</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. File Received	0	0
2. Receive Title Work	5	5
3. Complaint Filed (1 st legal action)	5	10
4. Defendants Served (Service can be accomplished by several methods: personal, residential, certified mail, agent service (corporation) or by publication)	10	20
5. Service complete Answer/default (A defendant served personally in state has 20 days after the date of service to file an answer to the petition. A defendant served personally out of state has 30 days after the date of service to file an answer. A defendant served by publication has 41 days from the date of first publication to file an answer. If the USA is a defendant, it has 60 days from date of service to file an answer.)	40	60
6. Judgment entered	5	65
7. Stay of execution expires (Judgment becomes final 10 business days after it is filed, not counting weekends or holidays.)	15	80
8. Publication starts (Notice of Sale is published once a week for 3 consecutive weeks.)	10	90
9. Sale (Sale must occur within 7 to 14 days after the last day of publication) (<i>cont'd on next page</i>)	30	120

KANSAS (cont'd.)

<u>JUDICIAL FORECLOSURE DAYS</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
10. Redemption expires (It is estimated that about 95 percent of all foreclosure files have a 3-month redemption period. However, Kansas statutes provide for a 12-month redemption period if the borrower has paid more than 1/3 of the original principal balance of the note, or if the market value of the property is worth more than 3 times the total outstanding amount of all mortgages or liens on the property. If property is occupied after expiration of redemption period, an eviction will be necessary. The normal time frame to complete an eviction is 30 days.)	90	210-485
11. Deed sent for recording	5	215
12. Deed recorded	10	225
13. File closed	5	230

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and, with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

KENTUCKY

ESTIMATED FORECLOSURE TIMELINES*

<u>JUDICIAL FORECLOSURE DAYS</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Action Referred		1
2. Title Run, Complaint Filed	30	31
3. Motion for Judgment Filed (20 days after last Defendant served; 50 days after appointment of Warning Order Attorney for Defendants unable to be personally served)	60	91
4. Judgment Entered	21	112
5. Sale Held	35	147
6. Confirmation of Sale	30	177
7. Deed Recorded	21	198

* These timelines are considered as realistic timelines and do not contemplate all of the various delays present in certain counties due to backlog. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

LOUISIANA

ESTIMATED FORECLOSURE TIMELINES***

<u>JUDICIAL FORECLOSURE DAYS – EXECUTORY PROCESS</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. File Received	1	1
2. Petition for Executory Process Filed (Petition for Writ of Seizure and Sale)	14	15
3. Writ of Seizure and Sale Issues	30	45
4. Service of Writ of Seizure and Sale Complete and Advertising Commenced by the Sheriff	75	120*
5. Sale Held	60	180
6. Deed Recorded	29	209**

* If service cannot be completed, a curator must be appointed to receive service on behalf of the defendant and attempt notification to the defendant. This will cause significant delays.

** The sheriff's office for each parish (county) prepares and records the deed. Thus, additional delays may result depending on the parish (county) where the foreclosure is initiated.

*** These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

See next page for Judicial Foreclosure Days – Ordinary Process Uncontested.

LOUISIANA

ESTIMATED FORECLOSURE TIMELINES**

<u>JUDICIAL FORECLOSURE DAYS – ORDINARY PROCESS UNCONTESTED *</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. File Received	1	1
2. Complaint Filed (Suit on Note with Recognition of Mortgage)	14	15
3. Complaint Served	30	45
4. Judgment Confirming Default	40	85
5. Service of Judgment	30	115
6. Writ of <i>Fieri Facias</i> Issues	55	170
7. Service of Writ	30	200
8. Advertising Commenced (by sheriff)	30	230
9. Sale Held	10	240
10. Deed Recorded	29	269

* If service cannot be completed at any step in the process, a curator must be appointed to receive service on behalf of the defendant and to attempt notification to the defendant. If an answer is filed, whether by the curator or the defendant, a motion for summary judgment must be filed to obtain judgment. Any of the above will cause significant delays in the foreclosure proceeding.

** These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

See previous page for Judicial Foreclosure Days – Executory Process.

MAINE

ESTIMATED FORECLOSURE TIMELINES*

<u>JUDICIAL FORECLOSURE DAYS</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. File received and title report ordered	3	3
2. Title work completed and Complaint filed	10	13
3. Complaint served	13	26
4. Default entered if no Answer filed	25	51
5. Affidavit of Mortgagee sent to Servicer	10	61
6. Motion for Summary Judgment filed	10	71
7. Summary Judgment enters	35	106
8. Period of Redemption expires	90	196
9. Advertising complete	30	226
10. Sale held	14	240
11. Closing with high bidder/Deed recorded	30	270

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

MARYLAND

ESTIMATED FORECLOSURE TIMELINES*

Where the Order to Docket or Complaint to Foreclose includes the "Final Loss Mitigation Affidavit"

Times in this chart are for general information only.

The timing of specific events in an actual foreclosure action may vary as permitted by law.

Day 1	Missed mortgage payment.
Day 45	Notice of Intent to Foreclose must be mailed by regular and certified mail.
Day 90	Order to Docket or Complaint to Foreclose filed in circuit court.
Day 105	Last day for homeowner to request foreclosure mediation.*
	* If foreclosure mediation is not requested by Day 105, or if a motion to stay the sale has not been filed, the property may be sold on Day 135, and the remainder of this timeline is inapplicable.
Day 110	If foreclosure mediation is requested, circuit court sends the request to the Maryland Office of Administrative Hearings by this day.
Day 170	If requested, foreclosure mediation must take place by this day, unless postponement is requested.
Day 185	Foreclosure sale can be held unless a motion to stay the sale is filed.

* These timelines are optimum and assume no delays. This timeline does not take into account the post-sale process.

MASSACHUSETTS

ESTIMATED FORECLOSURE TIMELINES*

<u>JUDICIAL FORECLOSURE DAYS</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. File Received	1	1
2. Complaint Filed	15	16
3. Order of Notice Received from Land Court	10-140**	26-156
4. Deadline for Defendant's Answer	42	68-198
5. Default Judgment Enters	40***	108-238
6. Sale Date Set	5	113-243
7. Advertising Complete	25	138-268
8. Sale Held	5	143-273

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

** This number varies depending on the court's staffing levels and the number of complaints filed. Figures based on last year's turnaround times.

***This number is based upon existing time frames for the court's issuance of judgment. Recent changes in procedure by the court may result in changes to this time frame, but at the time this section was written (July 2011), insufficient data existed to make any estimate based on the new rules.

MICHIGAN

ESTIMATED FORECLOSURE TIMELINES

<u>FORECLOSURE BY ADVERTISEMENT (uncontested)</u>	<u>DAY</u>
1. Received by attorney	1
2. File opened, title ordered, fair debt letter sent, and file reviewed for complete documentation. File reviewed to determine if breach letter has been sent if a conventional mortgage and if the letter satisfies the requirements of the mortgage. If breach letter not sent, law firm will send the breach letter, if so directed, and the foreclosure will be delayed by 10-30 days.	1-2
3. File reviewed to determine if applicable exemption to new statutory requirements.	2-5
4. First new notice for mailing prepared as required pursuant to the statute. Notice reviewed by an attorney in addition to the fair debt letter.	2-5
5. Second new notice for publication prepared as required pursuant to statute. Publication notice reviewed and assurance obtained that it is scheduled to run within 7 days of the date mailed notice sent.	2-5
6. Notice mailed via regular mail and restricted certified mail and publication submitted to legal newspaper in county where property is located.	3-6
7. Publication runs one time. (This would be the new first legal action for Michigan.)	5-13
8. Period of time runs for borrower to notify housing counselor of a meeting request. (14 days from date of notice) It is also expected that the borrower may contact mortgagee's lawyer to request a meeting so increased calls from borrower and third parties are anticipated.	19-27
9. Period of time runs for housing counselor to notify mortgagee's lawyer in writing of meeting request.	29-37
10. Obtaining affidavit of new publication and preparation of affidavit of certified mail to attach to sheriff's deed.	29-37
11. If borrower requests a meeting, then entire foreclosure process delayed until 90 days after initial notice is mailed, and a meeting must be held with borrower at a mutually convenient place and time to review possibilities for loan modification. If meeting requested, law firm will send borrower financial worksheets and request supporting documentation be completed and returned prior to the meeting. Law firm will attend meeting on mortgagee-client's behalf. Law firm will also assist in loan analysis and statutory filter modification criteria to determine if foreclosure can continue judicially or nonjudicially.	30-96*
12. The third foreclosure notice is prepared and forwarded to the newspaper for publication. If the foreclosure involves property outside of Wayne, Oakland, and Macomb counties, publication will require approximately 8 additional days, as the notice will be mailed rather than hand-delivered to the newspaper.	30-38

13. MCL 600.3208 notice published; published once per week for 4 consecutive weeks.	30-38
14. Title commitment received and reviewed by the title department. A copy of the title commitment is sent to mortgagee-client and problems involving title or delinquent taxes are brought to mortgagee-client's attention (notice based on client specifics).	30-38
15. A copy of the MCL 600.3208 foreclosure notice is mailed to borrower(s).	32-40
16. A copy of the MCL 600.3208 foreclosure notice is posted on the property within 15 days of the date of first publication of the MCL 600.3208 foreclosure notice.	47-55
17. Bidding instructions should be received 10 days prior to the sheriff's sale. During this time the sheriff's deed, bid sheet, recording sheet, non-military affidavit and purchaser's affidavit are prepared. A military search is conducted and a non-military affidavit is signed on behalf of the mortgagee-client.	50-60
18. Sheriff's sale held. Sale results are reported to mortgagee-client on the day of the sale. A statement for services rendered is sent to mortgagee-client.	59-69
19. Sheriff's deed recorded and recording information is provided to mortgagee-client upon receipt of a copy from the register of deeds. An actual recorded copy of the sheriff's deed and related affidavits are forwarded in a post-redemption package unless requested earlier by the mortgagee-client.	90-100
20. On VA files, the VA accepts title to the property subject to the redemption period. The deed to VA is recorded immediately after the sheriff's sale. As soon as the owner's policy is received from the title company, final package is forwarded along with statement for services rendered. The mortgagee-client is then in a position to file a claim with VA. This concludes law firm's work on a VA mortgage foreclosure. (VA final package is due 180 days after sale)	110-145
21. If property is abandoned <u>prior</u> to the sale, redemption is shortened pursuant to the abandonment statute, and the redemption period will expire 30 days from the date of sale. If the property is found abandoned <u>after</u> the sheriff sale, an attempt to shorten redemption pursuant to the abandonment statute is made. This process may take 5-7 weeks to complete.	100-115
22. Approximately 60-90 days before the expiration of the redemption period occupied conveyance letters are sent as required by HUD if the foreclosure involves an FHA mortgage. Law firm will send the letters if requested by the mortgagee-client.	150-190
23. If foreclosure involves FHA mortgage, the file will be reviewed, after expiration of the redemption, for the executed HUD deed. If no deed is found, one will be forwarded to the mortgagee-client for execution and return to law firm to hold pending recording instructions.	210-220

24. Step 15 (see above) marks the expiration of the redemption period. The redemption period runs from the date of the sheriff's sale. The redemption will be 12 months if the property is more than 3 acres, or if the indebtedness as of the date of first publication is less than 2/3 of the original indebtedness. The redemption period will be 6 months if the property is less than 3 acres, and if the indebtedness as of the date of first publication is greater than 2/3 of the original indebtedness. (Note: The timelines assumes a 6-month redemption period since most foreclosures fall into this category. If there is a 12-month redemption period, please add 180 days to the tracking dates for steps 16-30.)	240-250
25. Mortgagee-client should obtain a property inspection to determine if the property is occupied or vacant. If property is occupied, continue to step 26. If the property is vacant, skip to step 34 if HUD loan.	250
26. If the foreclosure involves a conventional mortgage, law firm advises mortgagee-client of the redemption period expiring. Law firm will then await further instructions from mortgagee-client. If the property is occupied and an FHA loan, HUD will not accept an occupied conveyance. Mortgagee-client must instruct law firm to commence eviction proceedings if property is occupied.	270
27. Complaint and summons filed if property is occupied and law firm is advised by mortgagee-client to commence eviction proceedings. Personal property evictions are necessary in Michigan if personal property remains on the premises.	285-295
28. Hearing on eviction in district court and judgment entered, ordering the occupants of property to vacate and their possessions be removed. Mortgagee-client is advised of the date by which the occupants were ordered to vacate.	290-300
29. If the property was occupied, mortgagee-client should inspect to determine if the occupants have vacated and all personal property removed as required by the judgment entered in connection with the eviction. If the occupants have not vacated or personal property remains, mortgagee-client should advise law firm so that a writ of restitution can be ordered. The writ directs the bailiff to go out and remove the occupants and their belongings from the property.	305-330
30. The writ of restitution is ordered, if required.	306-331
31. The bailiff will contact law firm before going out to remove occupants and their possessions and will advise on which day the eviction will take place. Law firm contacts the mortgagee-client so arrangements can be made to have a securing crew at the property immediately after the eviction is completed.	310-335
32. Mortgagee-client is notified on the day the eviction is completed. The bailiff will send his bill.	315-340
33. After the eviction, mortgagee-client should have the property inspected and then advise law firm if vacant. If the property is vacant, mortgagee-client should advise law firm to record the deed to HUD. If foreclosure involves a conventional mortgage, the final bill for services rendered is forwarded and file is closed by law firm.	320-345

34. If the property is vacant and an FHA loan, mortgagee-client should advise law firm to record the deed to HUD on the foreclosure of an FHA mortgage. Mortgagee-client should forward the recording instructions to law firm once it has confirmed that the property is vacant and in conveyance condition. Upon receipt of the recording instructions, law firm will forward a copy of the recorder's letter to the mortgagee-client. The letter contains information needed for the HUD 27011 Part A claim; i.e., name of register of deeds and date sent for recording. 270-346

35. When deed from the recorder and the owner's policy are received, the final package is forwarded to HUD's M&M contractor and a copy is provided to the mortgagee-client, placing the client in a position to file a claim with HUD. Final statement for services rendered is forwarded. 300-380

*If meeting requested, all subsequent days would be adjusted (by up to an additional 90 days).

MINNESOTA

ESTIMATED FORECLOSURE TIMELINES*

<u>NONJUDICIAL FORECLOSURE</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Loan Referred/File Received, title ordered	2	2
2. Title reviewed, Sale set, Power of Attorney/Notice of Pendency recorded, Sale set/Notice to Publisher	28	30
3. First Publication of Notice of Foreclosure	7	37
4. Service complete	23	60
5. Foreclosure sale, Sheriff's Certificate recorded	30-40	90-100
6. Redemption expires	180	270-280

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

MISSISSIPPI

ESTIMATED FORECLOSURE TIMELINES

<u>NONJUDICIAL FORECLOSURE</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Loan Referred/File Received*		-
2. Notice Letter Sent to Mortgagor(s)	7	7
3. Title Reviewed	23	30
4. Substitution of Trustee Executed and Sent for Recording**	15	45
5. Publication Started/Notice of Sale Posted	30	60
6. Sale Held***	30	90

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances. A referral is not considered complete, and the timeline does not begin to run, until all necessary documents have been received by the foreclosing attorney.

**In Mississippi, the Substitution of Trustee must be recorded (spread at large) on the land records prior to posting and commencement of the first publication. Before the Substitution of Trustee may be recorded, any assignments must be recorded in proper sequence. If the Substitution of Trustee is executed by an attorney in fact, the power of attorney authorizing this action must first be duly recorded on the land records in the county in which the property is located. Any delay in perfecting and recording assignments and Substitutions of Trustee, or powers of attorney will have a corresponding impact on this step. Also, the 15 days allowed for recording the Substitution of Trustee is an average. Some counties may require as much as 4-6 weeks. Further, this timeline does not include any additional time necessary to prepare, execute, and record a power of attorney.

***Sales may only be continued from day-to-day if there is insufficient time to complete a sale. If a sale is stopped due to a bankruptcy, repayment agreement, or other reasons, the entire foreclosure process will have to be re-started from the beginning of the foreclosure timeline. In most instances, this will also require further title examination, new notices, and republication of the notice of sale, along with the expenses that result from these additional actions.

MISSOURI

ESTIMATED FORECLOSURE TIMELINES*

<u>NONJUDICIAL FORECLOSURE</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Loan Referred/File Received	1	1
2. Sale Scheduled and Notice of Default Sent, Legal notice sent to newspaper, title commitment ordered, Substitution of Trustee prepared and mailed to lender	5	6
3. Title Received and Reviewed	10	16
4. Substitution of Trustee Recorded	4	20
5. Publication is calculated backward from the sale date and varies by county from 21 to 30 days prior to sale		30
6. Sale Held		60
7. Deed recorded	1-5	61-65

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

MONTANA

ESTIMATED FORECLOSURE TIMELINES*

<u>NONJUDICIAL FORECLOSURE</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Loan Referred/File Received, including Substitution of Trustee	1	1
2. Trustee Sale Guarantee Report Ordered	2	3
3. Trustee Sale Guarantee Report Received and Reviewed. Sale Date Set, Notice of Trustee's Sale Sent for Recording.	7	10
4. Notice of Trustee's Sale served by certified mail	10	20
5. Publication/Posting of Sale Completed	76	96
6. Sale Held	44	140
7. Deed Recorded	3	143
8. Possession to property transferred	10	153

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

NEBRASKA

TYPICAL KEY STEPS AND TIME FRAMES*

<u>JUDICIAL FORECLOSURE</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Documents received.		1
2. Title report ordered. Complaint, <i>Lis Pendens</i> and <i>Praecipes</i> ordered.	11	11
3. Defendants served summons and petition. If unable to locate defendants, service of process is completed by publication (add 45 days)	7	18
4. Answer period expires.	30	48
5. If party answers, summary judgment hearing scheduled and decree of foreclosure obtained. Default decree obtained after notice and hearing if no answers filed.	30	78
6. 20-day statutory redemption period before sale may be scheduled (3-9 month stay of sale upon application of mortgagor). Notice of sale published for 4 consecutive weeks.	50	128
7. Sale conducted by Master Commissioner or Sheriff.	14	142
8. Hearing on confirmation of sale.	14	156
9. Master Commissioner's or Sheriff's Deed issued. Deed recorded and title policy forwarded to client.	20	176

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances

See next page for nonjudicial timeline.

NEBRASKA

TYPICAL KEY STEPS AND TIME FRAMES*

<u>NONJUDICIAL FORECLOSURE</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Documents received. Title report ordered.		1
2. Title report reviewed. Substitution of Trustee sent to client for execution.	10	11
3. Substitution of Trustee and Notice of Default filed and served on interested parties.	10	21
4. 30-day statutory reinstatement period expires.	30	51
5. Notice of sale published for 5 consecutive weeks.	40	91
6. Trustee's sale held.	20	111
7. Trustee's Deed recorded and title policy forwarded to client.	10	121

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

See previous page for judicial timeline.

NEVADA

ESTIMATED FORECLOSURE TIMELINES*

<u>NONJUDICIAL FORECLOSURE</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Loan Referred/File Received	1	1
2. Substitution of Trustee, Assignments, and Notice of Default prepared, executed and recorded	1	1
3. Assignments and Substitution of Trustee recorded. Affidavit of Authority prepared.	2	3
4. Notice of Default and Affidavit of Authority signed under penalty of perjury are recorded	2	3
5. Trustee Sale Guarantee report received and reviewed	6	9
6. 10-Day Mailings sent, includes Election/Waiver of Mediation	3	12
7. First Publication of Notice of Sale; Notice of Sale mailed, posted, and recorded.	80	92
8. Sale Held	24	116
9. Trustee's Deed Upon Sale recorded	2	118
10. Redemption	N/A	N/A

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

NEW HAMPSHIRE
ESTIMATED FORECLOSURE TIMELINES*

<u>NONJUDICIAL FORECLOSURE</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Loan Referred/File Received	1	1
2. Sale Scheduled and Notice of Default Sent	5	6
3. Legal Notice Sent To Newspaper	24	30
4. Title Reviewed and/or Service Completed	1	31
5. Sale Held	28	59
6. Deed Recorded	16	75

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

NEW JERSEY

ESTIMATED FORECLOSURE TIMELINES*

<u>JUDICIAL FORECLOSURE DAYS</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. File Received	0	0
2. Complaint Filed	45	45
3. Complaint Served	30	75
4. Final Judgment Enters	365	440
5. Sale Held	120	560
6. Redemption Period Expires/Deed Recorded	10	570
7. Redemption Expires to Deed Recorded	30	600**

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

** A realistic time frame from referral to sale is 18-24 months, excluding mediation, litigation and, other possible delays.

NEW MEXICO

ESTIMATED FORECLOSURE TIMELINES*

<u>JUDICIAL FORECLOSURE DAYS</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. File Received	0	0
2. Complaint Filed	30	30
3. Update Received/Sent for Service	15	45
4. Service Complete	30	75
5. Default Date	30	105
6. Judgment Entered	30	135
7. Sale Held	45	180
8. Sale Confirmed/Deed Recorded	15	195
9. Redemption Period Expires/Deed Recorded	30	225

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

NEW YORK

ESTIMATED FORECLOSURE TIMELINES* (New York City and Long Island)

<u>JUDICIAL FORECLOSURE DAYS</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Receipt of Complete Referral Package	0	0
2. Complaint Filed & Submitted for Service	20	20
3. Time to Answer Expires	60	80
4. Application for Order of Reference Filed	5	85
5. Order of Reference Entered, Referee Appointed	140	225
6. Oath & Report Submitted to Referee	5	230
7. Motion for Judgment Filed	20	250
8. Judgment of Foreclosure and Sale Entered	130	380
9. Sale Held	50	420

* These Fannie Mae timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type, the judge assigned, and the particular circumstances. Due to the recent increase in the number of mortgage foreclosures, it is taking longer to obtain signed and entered orders from the courts.

NEW YORK

ESTIMATED FORECLOSURE TIMELINES* (Standard — Outside of New York City and Long Island)

<u>JUDICIAL FORECLOSURE DAYS</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS**</u>
1. Receipt of Complete Referral Package	0	0
2. Complaint Filed & Submitted for Service	20	20
3. Time to Answer Expires	60	80
4. Application for Order of Reference Filed	5	85
5. Order of Reference Entered, Referee Appointed	80	165
6. Oath & Report Submitted to Referee	5	170
7. Motion for Judgment Filed	20	190
8. Judgment of Foreclosure and Sale entered	60	250
9. Sale Held	50	300

* These Fannie Mae timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances. Due to the recent increase in the number of mortgage foreclosures, it is taking longer to obtain signed and entered orders from the courts.

** A realistic total time frame is actually 18-24 months, and note that this timeline also does not include a settlement conference.

NORTH CAROLINA

ESTIMATED FORECLOSURE TIMELINES*

<u>NONJUDICIAL FORECLOSURE</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Loan Referred/File Received	1	1
2. Title Ordered & Reviewed, Documents Prepared, Notice of Default Sent, Appointment of Substitute Trustee Recorded	29	30
3. Notice of Hearing Set & Filed with Clerk of Superior Court and Served on All Interested Parties. Service is by Sheriff, Regular Mail and Certified Mail. Posting of Property is Allowed by the Sheriff as Effective Service if Owners Not Otherwise Located and must be Posted for at least 20 Days Prior to the Hearing Date to be Valid Service	25	55
4. Hearing before Clerk of Superior Court; Obtaining of Order of Sale from Clerk of Court; Posting Order of Sale at Courthouse For 20 Days Prior to Sale & Serving on Parties, Publishing Notice of Sale in County Newspaper Twice For 2 Successive Weeks Prior to Sale	25	80
5. Sale Held and Upset Period Runs 10 Days From Last and Highest Bidder	30	110
6. Deed Recorded after Upset Bid Period Expires	10	120

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

See next page for continued information on North Carolina.

NORTH CAROLINA (cont'd.)

**Effective November 1, 2008, NCGS 45-102 requires a Pre-foreclosure notice for Subprime Loans originated on or after January 1, 2005 but before December 31, 2007 to be sent to borrowers by the subprime mortgage servicers giving at least 45 days notice before filing a foreclosure with the court. NCGS 45-103 further requires the servicer to file a notice in electronic format with the N.C. Administrative Office of the Courts, containing the name and address of the borrower and the date the notice was mailed to the borrower. An internal database shall be established for this information in conjunction with the Commissioner of Banks. Pursuant to NCGS 45-105, the Commissioner of Banks shall review the information, determine which subprime loans are appropriate to seek solutions to avoid foreclosures, and shall have the authority to extend one time the allowable filing date for any foreclosure proceeding on a Primary Residence by up to 30 days beyond the earliest filing date established by the pre-foreclosure notice by notifying the loan servicer, the borrower, and the Administrative Office of the Courts.

*** Effective January 1, 2009, N.C.G.S. 53-243.11(21) requires a mortgage servicer to mail, at least 45 days before foreclosure is initiated, a notice addressed to the borrower at the borrower's last known address giving the borrower an itemization of all past-due amounts causing the loan to be in default, an itemization of any other charges that must be paid in order to bring the loan current, the servicer's or lender's contact information, HUD-approved counseling agencies, and other information. This pre-foreclosure letter is required for all mortgage loans (loans made to a natural person or persons primarily for personal, family, or household use, primarily secured by either a mortgage or a deed of trust on residential real property located in North Carolina).

NORTH DAKOTA

ESTIMATED FORECLOSURE TIMELINES*

<u>JUDICIAL FORECLOSURE DAYS</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Prep & Service of Notice Before Foreclosure (assumes receipt of complete referral, including copies of mortgage, note, assignments, loan modification agreements, original title policy, current detailed payoff and detailed reinstatement figures)	55-75	55-75
2. Summons & Complaint (includes filing, service, and 20-day answer period)	45	100-120
3. Application for Judgment to Entry of Judgment	35	135-155
4. Entry of Judgment to Sale	70	205-225

Total 205-225 days for North Dakota judicial foreclosure from receipt of complete referral to sale. Note: the above assumes no publication required for service of defendants.

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

OHIO

ESTIMATED FORECLOSURE TIMELINES*

<u>JUDICIAL FORECLOSURE DAYS</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. File Received		1
2. Complaint Filed	7	8
3. Complaint Served	30	38
4. Default Judgment Enters	60	98
5. Sale Held	75	173
6. Redemption Period Expires/Deed Recorded	Expires when the sale is confirmed	

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and without court delays. If the court requires a hearing, the timelines need to be increased by the length of time it takes to obtain a hearing date. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

In the last several years, the number of cases filed in Ohio has more than tripled. Although this firm, as well as other firms, has expanded to handle foreclosures, the courts did not. The caseload increase, combined with economic conditions facing state and local governments and the failure of these governmental bodies to increase staff, resulted in a marked increase in time in having the sheriff's offices set sale dates. Fortunately, the court systems have either had their personnel adapt to the new workload or added additional staff. The result has been that the backlog has lessened and cases are starting to move faster through the court system. There are, however, still counties that have substantial delays, such as not being able to provide a cost bill so a sale can be confirmed and the deed recorded.

OKLAHOMA

ESTIMATED FORECLOSURE TIMELINES*

<u>JUDICIAL FORECLOSURE DAYS</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. File Received	1	1
2. Complaint Filed	35	36
3. Service Complete	30	66
4. Default Date	30	96
5. Judgment Entered	40	136
6. Sale Date	60	196
7. Sale Confirmed	30	226
8. Deed Recorded	15	241

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

OREGON

ESTIMATED FORECLOSURE TIMELINES*

<u>NONJUDICIAL FORECLOSURE</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Loan Referred/File Received	1	1
2. Trustee Sale Guarantee Report Ordered	1	2
3. Trustee Sale Guarantee Report Received and Reviewed, Substitution of Trustee Prepared and sent for execution by beneficiary	1 to 20	22
4. Substitution of Trustee received/recorded, Notice of Default recorded (no less than 120 days before the sale date). Trustee's Notice of Sale served and mailed	2 to 18	40
5. Publication completed (4 consecutive weeks) and Notice of Default expires after 120 days.	120	160
6. Sale Held	-	160
7. Trustee's Deed Recorded	5 to 10	170

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. They also assume prompt delivery of title reports from the title insurer. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances. Because of current volumes, title companies are taking an average of 20 days, statewide, in turning around foreclosure title report orders, slowing the process significantly.

PENNSYLVANIA

ESTIMATED FORECLOSURE TIMELINES*

<u>JUDICIAL FORECLOSURE DAYS</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. File Received	0	0
2. Complaint Filed	20	20
3. Complaint Served	30	50
4. Default Judgment Enters	30	80
5. Sale Held	90	170
6. Redemption Period Expires/Deed Recorded	60	230

* These timelines are optimum and assume no delays in service of the complaint, notice of sale, and sheriff's deed filing. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

RHODE ISLAND

ESTIMATED FORECLOSURE TIMELINES*

<u>NONJUDICIAL FORECLOSURE</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Loan Referred/File Received; Review Loan Documents; Order Title Rundown	1	1
2. Receive completed rundown/Review same	10	11
3. Attorney reviews, signs, and mails foreclosure notices	9	20
4. Expiration of 30-day statutory RI notice period	31	51
5. First publication appears in newspaper	1	52
6. Foreclosure sale held (3 advertisements only)	22	74*

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

* Please note that foreclosure deeds must be recorded within 45 days of the foreclosure sale for all foreclosure sales occurring on or after September 2, 2008. Prior to the recording of the foreclosure deed, the grantee/mortgagee is obligated to pay all municipal assessments, including taxes, water charges, interest and penalties that constitute a lien on the real estate as of the date of the recording of the deed. Grantees/mortgagees will not be deemed in violation of this section as long as they apply for a municipal lien certificate during the 45-day period and they pay the municipal charges within 30 days after the date the municipal lien certificate is mailed. The penalty for violation of Section 34-27-6 is \$40 per month.

SOUTH CAROLINA
ESTIMATED FORECLOSURE TIMELINES*

<u>JUDICIAL FORECLOSURE DAYS</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. File Received	1	1
2. Title Searched and <i>Lis Pendens</i> filed	4	5
3. Complaint Filed	20	25
4. Complaint Served	25	50
5. Service Default	40	90
6. Order of Reference filed	5	95
7. Hearing Held	25	120
8. Judgment Enters	0	120
9. Sale Complete	30	150
10. Redemption Period Expires/Deed Recorded	30	180

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

SOUTH DAKOTA
ESTIMATED FORECLOSURE TIMELINES*

<u>JUDICIAL FORECLOSURE DAYS</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. File Received	1	1
2. Complaint Filed	39	40
3. Complaint Served	50	90
4. Default Judgment Enters	41	131
5. Advertising Complete	23	154
6. Sale Held	7	161
7. Redemption Period Expires/Deed Recorded	190	351

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

TENNESSEE

ESTIMATED FORECLOSURE TIMELINES*

<u>NONJUDICIAL FORECLOSURE</u>	<u>DATE RANGE FOR EACH STEP</u>
1. Loan referred/file received	0
2. Title ordered	1-5
3. Title received	6-10
4. First publication of foreclosure sale	20-30
5. Request for bid	35-40
6. Sale held	45-50
7. Deed recorded	51-60
8. Redemption period expires	At sale

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

TEXAS

ESTIMATED FORECLOSURE TIMELINES*

<u>NONJUDICIAL FORECLOSURE</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Loan Referred/File Received/Sale Date Scheduled/Title Ordered	1	1
2. Title Examination Completed ⁵⁻	10	11
3. Notice to IRS 7425(c) IRC**	1	12
4. Acceleration Notice/Notice of Substitute Trustee's Sale/Filing Notice of Substitute Trustee's Sale with County Clerk***	1-6	18
5. Posting to Sale Held	21	39
6. Sale Held****	1	40

* This is an optimum timeline and assumes that the mortgagee sent a proper breach letter before the file was referred for foreclosure. It further assumes that the foreclosure is UNCONTESTED, the referral contained all of the necessary foreclosure documents, and all assignments of lien were previously recorded. Timelines vary from case to case depending on the quality of the loan origination file, foreclosure information provided, loan type, and issues raised by the borrower.

** Notice to the IRS of a pending foreclosure sale must be sent no later than 25 days before the scheduled foreclosure sale date.

*** Notice of Acceleration and the Notice of Substitute Trustee's Sale must be sent certified mail no later than 21 days prior to the scheduled foreclosure sale date. The Notice of Substitute Trustee's Sale must be filed with the County Clerk no later than 21 days prior to the scheduled foreclosure sale date. However, the notices may be mailed and filed with the County Clerk well in advance of the 21 days.

**** Foreclosure sales are held only on the first Tuesday of each month, so overall time frames will vary from month to month based upon the calendar date of the first Tuesday.

UTAH

ESTIMATED FORECLOSURE TIMELINES*

<u>NONJUDICIAL FORECLOSURE</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Loan Referred/File Received	1	1
2. Trustee Sale Guarantee Report Ordered; Substitution of Trustee Prepared and Sent for Execution, if needed; Notice of Default Prepared and Sent for Recording	1	2
3. Notice of Default Recorded	3	5
4. Expiration of 3-Month Reinstatement Period; Notice of Sale Prepared and Sent for Publication**, Posting and Mailing	92	97
5. Sale Held	31	128
6. Trustee's Deed Prepared and Sent for Recording	1	129

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with copies of all loan documents and assignments with recording information, and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

** Utah requires 30-day Internet publication prior to sale.

Note: Cases involving property in rural counties may take additional time because of unavoidable delays in obtaining title information and in meeting posting and publishing requirements.

VERMONT

ESTIMATED FORECLOSURE TIMELINES*

<u>JUDICIAL FORECLOSURE DAYS</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. File Received	1	1
2. Complaint Filed	14	15
3. Complaint Served	30	45
4. Answer Period Runs	20	65
5. Default Judgment Enters	30	95
6. Sale Held	N/A	
7. Redemption Period Expires/Deed Recorded	180	275
8. Sale Completed	30	305
9. Sale Confirmed	30	335

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

VIRGINIA

ESTIMATED FORECLOSURE TIMELINES*

<u>NONJUDICIAL FORECLOSURE</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Loan Referred/File Received; Review documents; Refer to FC Dept.	0-2	Day 1
2. Prepare Substitution of Trustee (SOT) and any necessary assignments; send to client** (Also prepare HUD occupancy letter or request VA appraisal if needed, and send lost note letter to borrower if applicable.)	0-2	Day 2
3. Order Title Report**	0-2	Day 2
4. Schedule Sale**, upon receipt of executed SOT and any necessary assignments from servicer	0-10	Day 10
5. Prepare notice of sale; forward to newspaper, property owner, and any subordinate lien holders	0-10	Day 20
6. Prepare for sale; request bidding instructions; complete bid sheet	0-10	Day 25
7. Completion of Publication/Posting of Sale	14-28	Day 30
8. Conduct Sale; report sales results to client	1	Day 40
9. Prepare Deed; Record Deed (Also see note on next page.)	1-15	Day 60
10. Redemption Period (N/A – There is no redemption period in Virginia.)	-	-

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

** Steps overlap

See next page for continued information on Virginia.

VIRGINIA (cont'd.)

Generally speaking, we can go to sale approximately 40 days from the date of referral, if all the necessary documents are provided and the title report is received in a timely fashion. The most important factor affecting this time frame is the advertising requirement listed in the deed of trust. If the deed of trust is silent regarding advertising requirements, the location of the property will determine how notice of sale will be published.

NOTE: If only a two-party deed of foreclosure is required from the trustee to the lender, the lender does not need to execute the deed and those deeds may be recorded immediately.

If a three-party deed of foreclosure is required, the deed of foreclosure is prepared and sent for execution by the lender following the date of the foreclosure sale. Once the executed deed is returned, it is sent to the court for recording. Therefore, the time to record the deed of foreclosure depends on two variables, the time it takes to receive the executed deed back from the lender and the time it takes for the court to record the deed, generally between 2-4 weeks. Recording times vary by jurisdiction.

On FHA loans, we await instructions from the lender to record the deed of foreclosure, as FHA will not record the deed until the property is inspected and reported vacant.

WASHINGTON

ESTIMATED FORECLOSURE TIMELINES*

<u>NONJUDICIAL FORECLOSURE</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Loan Referred/File Received	1	1
2. Trustee Sale Guarantee report ordered; Substitution of Trustee prepared and recorded.	14	15
3. Notice of Default mailed and posted on the property 30 days before Notice of Sale. Trustee Sale Guarantee report received and reviewed.	30	45
4. Expiration of 30-day statutory notice period	31	76
5. Notice of Sale recorded, posted and mailed 90 days prior to sale; sale date set; Warranty Deed sent to lender (HUD/VA)**	1 to 5	81
6. Publication Period	90	171
7. Publication (2 of 2) completed; request bidding instructions	1-5	176
8. Sale Held***	1	177
9. Deed Recorded	5-15	192

* These timelines are optimum and assume the servicer delivers all documentation necessary to proceed with foreclosure, including a loss mitigation declaration, the beneficiary declaration, sufficient information to confirm necessary assignment was recorded, and, if required under the Foreclosure Fairness Act, the mediator's certificate establishing the beneficiary acted in good faith. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances, including, but not limited to, loss mitigation status and whether the foreclosure has been contested.

See next page for continued information on Washington.

Washington (cont'd.)

** Recording, posting, and mailing the Notice of Sale might be delayed by a mediation referral, pursuant to the Foreclosure Fairness Act. This delay could be up to 60 days from the date of the mediation referral. A trustee cannot proceed with the notice of sale until the mediator certifies that mediation is complete.

*** For GSE loans, this timeline assumes prompt receipt of any required written certification confirming compliance with applicable delinquency management policies.

WEST VIRGINIA

ESTIMATED FORECLOSURE TIMELINES*

<u>NONJUDICIAL FORECLOSURE</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Receipt of loan referral, fair debt and right to cure letters mailed, title search ordered.	5	1-5
2. Title search reviewed, taxes checked, trust deed reviewed for notice of sale requirements, assignments and substitution of trust deed prepared and signed.	25	30
3. SOT, notice of sale mailed to borrower and subordinate lien holders, publication and trustee sale concluded.	30-60	60-90
4. Preparation of trustee's deed and report of sale, receipt of funds, preparation of any other documents necessary.	30	120

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

These timelines briefly describe the optimum timelines for foreclosures in West Virginia. In the event that the foreclosure is contested, these timelines may be substantially extended. Additionally, these timelines assume that all documents, including all assignments, have been properly recorded. In the event that the obligations secured by the deed of trust have been sold, it is critical that the assignment reflecting such sale be recorded in the county in which the original deed of trust is recorded. If the assignment has not been recorded, a foreclosure cannot proceed until such time as the assignment has been recorded.

WISCONSIN

ESTIMATED FORECLOSURE TIMELINES*

<u>JUDICIAL FORECLOSURE DAYS</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. File Received, Opened, and Title Ordered	1	1
2. Complaint Filed	10-15	16
3. Complaint Served	30-60	76
4. Title Reviewed (runs concurrently with Step 3)	15	76
5. Default Judgment Hearing and Entry of Judgment	40-60	136
6. Redemption Expires	60	196**
	90	226**
	180	316**
7. Sheriff's Sale	10	326
8. Confirmation of sale	30	356
9. Deeds	7-14	370
10. Final Title	10	380

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.

**Depending on occupancy, and generally assumes waiver of deficiency and parcel of less than 20 acres.

WYOMING

ESTIMATED FORECLOSURE TIMELINES*

There isn't a judicial foreclosure timeline in Wyoming. In a judicial foreclosure situation, a complaint is filed and either a trial is held or the case is disposed of through motions for summary judgment. Thereafter, a judgment and decree of foreclosure is received and the mortgagee proceeds under the timeline for the nonjudicial foreclosure.

<u>NONJUDICIAL FORECLOSURE</u>	<u>DAYS FOR EACH STEP</u>	<u>TOTAL DAYS</u>
1. Loan Referred/File Received; Request Foreclosure Guarantee and send default letter to Mortgagor, if needed	1	1
2. Sale Scheduled and Notice of Intent Sent	10	11
3. Notice of Sale Sent to Newspaper, Sheriff, Mortgagor and other lien holders	10	21
4. Publication/Posting of Sale Completed (from first publication to fourth publication)	30	51
5. Request bid instructions and Affidavit of Publication from newspaper	6	57
6. Sale Held	8	65
7. Certificate of Sale Recorded (Steps 6 & 7 take place on same day)	1	66
8. Redemption Period Expires; Record Sheriff's Deed	120	186

* These timelines are optimum and assume no delays. They are based upon UNCONTESTED foreclosure actions that are referred with all necessary documents (and with all necessary assignments previously recorded) and conducted under GSE guidelines. Accordingly, timelines will vary from case to case depending on loan type and the particular circumstances.



America's Mortgage Banking Attorneys®

625 The City Drive, Suite 310
Orange, CA 92868
Phone: 800.635.6128
Fax: 714.573.2650
www.usfn.org

