



HON. ROBERT F. QUINLAN

SUPREME COURT of the
STATE OF NEW YORK
COUNTY OF SUFFOLK

Arthur M. Cromarty Court Complex
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**SUFFOLK COUNTY SUPREME COURT
RULES FOR
VACANT AND ABANDONED PROPERTIES (“VAP”) PART
(Dated: 3/2/2016)**

GENERAL PROVISIONS

This part has been instituted to expedite vacant and/ or abandoned properties identified by municipalities to assist in the removal of blight from Suffolk County communities.

● Participation by plaintiff in this part is voluntary. If a case has been identified by the court as eligible, but plaintiff does not wish to participate, plaintiff shall notify the court in writing of its decision to exempt the action from this part. Failure to do so after the first calendar appearance waives this option.

● Each plaintiff law firm is required to have a contact attorney responsible for coordinating their actions pending in this part and shall provide Justice Quinlan’s chambers (631-852-3482) with contact information for that attorney, to include phone number and e-mail address.

● Plaintiff contact attorneys are to be familiar with these rules.

● This part will be supervised by Justice Robert F. Quinlan. All motions on cases assigned to this part shall be made returnable to Justice Quinlan and shall contain a designation that they are VAP cases. Unless otherwise addressed herein or in

conflict with these rules, Justice Quinlan's Part 27 rules are applicable to this part.

● ALL MOTIONS SHOULD BE MADE RETURNABLE ON A THURSDAY, as that is Justice Quinlan's Motion Day.

ELIGIBILITY FOR PARTICIPATION IN VAP

0. Only residential foreclosure actions involving a home loan as defined by RPAPL § 1304 are eligible for inclusion in the part per Suffolk County Administrative Order No. 02-14.

“Reverse Mortgages” are **NOT** eligible.

0. The property MUST be identified by the municipality in which it lies as vacant and abandoned.

0. The defendant/homeowner must have defaulted by not appearing, answering or moving on the complaint; this requirement for eligibility is subject to waiver by consent of a defendant, or in the discretion of the court.

0. That, even though the home is vacant or abandoned and otherwise ineligible for a CPLR 3408 foreclosure settlement conference (“FSC”), defendant/homeowner has been offered the opportunity for a FSC, and the defendant/homeowner either did not appear or there was no resolution of the matter at the FSC and there is no further scheduled foreclosure settlement conferences.

0. That if no FSC was scheduled or held before the first VAP conference date, a defendant/homeowner who appears at that first VAP conference will be offered an opportunity for a FSC by the court.

0. That defendant/homeowner has no pending application for a modification filed with plaintiff.

0. Plaintiff must waive a deficiency judgment (RPAPL § 1371).

0. Plaintiff's application must meet all legal requirements and proof required for a default pursuant to RPAPL § 1321 and for a judgment of foreclosure pursuant to RPAPL § 1351, including but not limited to proof of service of the summons, complaint, notice of pendency and other statutory/contractual notices required; and the filing of any affirmation/affidavit required by the Administrative Order of the

Chief Administrative Judge.

0. If necessary, plaintiff will file a successive notice of pendency pursuant to RPAPL §1331, CPLR 6513; 6516[a] at least 20 days prior to submission of the combined application for computation and a judgment of foreclosure and sale, provide proof of the filing thereof.

VAP CONFERENCES AND MOTIONS

0. Upon a case being transferred to VAP a conference shall be scheduled by the court and counsel will be so notified.

0. No combined motion in the VAP Part shall be made prior to the first scheduled conference date. If a plaintiff had already obtained an order of reference pursuant to RPAPL § 1321 and had a pending motion for a judgment of foreclosure and sale, that motion will be adjourned to a motion day after the VAP conference.

0. On the conference date, counsel with eligible cases where no order of reference has previously been issued shall be directed to submit a combined motion for:

- default, computation and determination under RPAPL § 1321; and
- judgment of foreclosure under RPAPL §1351.

0. Combined motions shall be filed within 45 days of the conference. Failure to submit the motion within 45 days from the date of the conference may result in the action being discharged from this part.

0. If plaintiff had a motion for an order of reference pursuant pending in another part before the VAP first conference, and plaintiff intends to participate in the VAP Part, plaintiff shall make a combined motion as described above, and withdraw the prior motion.

0. If plaintiff had previously been granted an order of reference before transfer to the VAP Part, but has not yet received the referee's report, and plaintiff intends to participate in the expedited procedures of the VAP Part, plaintiff shall make a combined motion as described above, include therein an application to vacate the prior order of reference and include a copy of that order in its papers.

0. No ex parte combined motions may be made. All combined motions must be made on notice to defendants with proof of mailing pursuant to CPLR 2103 (f).

0. Referees appointed to conduct a sale under a combined motion shall be authorized a fee of \$750.

0. Any proposed judgment must comply with Suffolk County Administrative Order #41-13 and contain the following language:

ORDERED that plaintiff shall serve the notice of the foreclosure sale and any adjournments upon the Supreme Court Calendar Clerk; and it is further

ORDERED that the referee complete and file the Suffolk County Foreclosure Action Surplus Monies form with the Supreme Court Calendar Clerk and the Suffolk County Clerk within thirty (30) days of the foreclosure sale; and it is further

ORDERED that the referee submit proof of deposit of any surplus monies with the Suffolk County Comptroller with the Supreme Court Calendar Clerk and the Suffolk County Clerk within thirty (30) days of the date of closing of title.

0. Additionally, Suffolk County has its own Foreclosure Action Surplus Monies form, which can be found at www.nycourts.gov/courts/10jd/suffolk/Forms/Surplus-Money.pdf. It is to be filed with the Supreme Court Calendar Clerk and the Suffolk County Clerk, not the chambers of the justice issuing the judgment.

0. In addition to that language generally included in separate motions for an order of reference or a judgment of foreclosure, the papers submitted in support of the combined motion shall indicate the following:

- The captioned relief requested is a “Fixing Default and Judgment of Foreclosure and Sale.” It is not just a “Judgment of Foreclosure and Sale;”
- If the application for a default is more than one year after the date of default, provide a reasonable explanation for the delay in seeking the default (CPLR 3215 [c]);
- All exhibits to the motion are to have tabs on the right hand side or bottom of the page so that they can be easily referenced;
- A breakdown of interest and charges, and a computation sheet (as would be submitted to a referee to compute) are to be included in the motion.

12. The preamble to the “ORDERED” paragraphs any proposed order must include the following:

- a. if a combined motion, that plaintiff is making a combined application for a default and for a judgment of foreclosure and sale, and upon determining the default, the court pursuant to RPAPL §1321, will ascertain and determine the amounts due and whether the premises shall be sold in parcels;
 - b. that the property has been identified by the Town of _____ (town where it is located) as vacant and abandoned and the action has been placed in the Suffolk County Supreme Court's Vacant and Abandoned Properties Part;
 - c. an acknowledgment that by submitting the motion, the plaintiff is waiving its right to a deficiency judgment and accepts the sale of the property in full satisfaction of the mortgage debt;
 - d. list those sections of the CPLR and RPAPL that plaintiff has complied with to be entitled to the default and judgement of foreclosure;
 - e. that there is an unexpired notice of pendency filed.
13. The "ORDERED" paragraphs of any proposed order shall include language that addresses the following:
- a. if a combined motion, that the Court, having considered the application for a default, has found the non-appearing, non-answering defendants in default, and pursuant to RPAPL §1321 the court has ascertained and determined the amounts due and owing (identify the amounts and the documents upon which it is based) and has determined that the premises/property should be sold in one parcel;
 - b. that plaintiff shall accept the proceeds of the sale in satisfaction of the mortgage debt and that plaintiff shall not seek a deficiency judgment pursuant to RPAPL §1371.
14. Only ONE "WORKING COPY" shall be sent to chambers, which shall have tabs on the right hand side or bottom of the page of all exhibits so that they can be easily referenced, none shall be sent to the Clerk's Office.