

Uniformed Trial Courts Rules 202.12

Residential Mortgage Foreclosure Actions, Mandatory Settlement Conference

This procedure shall be applicable to residential mortgage foreclosure actions brought on or after September 1, 2008, involving one- to four-family dwellings owned and occupied by the defendant where the underlying loan is high-cost, subprime or non-traditional, as defined in section 6-1 of the Banking Law and section 1304.5(c) and (e) of the Real Property Actions and Proceedings Law, and was entered into between January 1, 2003, and September 1, 2008.

The filing of the new request for judicial intervention (RJI) will cause this new procedure to be effective.. The RJI shall contain the name, address, telephone number and e-mail address, if available, of the defendant in the action and shall request that a settlement conference be scheduled.

(c) Settlement conference

(1) The court shall promptly send to the parties a Notice scheduling a settlement conference to be held within 60 days after the date of the filing of the RJI. The Notice shall be mailed to all parties or their attorneys, which must include mailing to the address of the property subject to the mortgage. The Notice shall be on a form prescribed by the Chief Administrator, and it shall set forth the purpose of the conference, instructions to the parties on how to prepare for the conference, and what information and documents to bring to the conference. The Notice shall further provide that the defendant contact the court by telephone, no later than seven days before the conference is scheduled, to advise whether the defendant will be able to attend the scheduled conference.

(2) The conference shall include settlement discussions pertaining to the relative rights and obligations of the parties under the mortgage loan documents, including determining whether the parties can reach a unilaterally agreeable resolution to help the defendant avoid losing his or her home, and evaluating the potential for a resolution in which payment schedules or amounts may be modified or other workout options may be agreed to. The court may also use the conference for whatever other purposes the court deems appropriate. Where appropriate, the court may permit a representative of the plaintiff to attend the conference telephonically or by video-conference.

(3) If the parties appear by counsel, such counsel must be fully authorized to dispose of the case. If the defendant appears at the conference without counsel, the court shall treat the defendant as having made a motion to proceed as a poor person and shall determine whether permission to so appear shall be granted pursuant to the standards set forth in CPLR 1101.

(4) The court may schedule such other conferences as may be necessary to help resolve the action.

Added 202.12a on Sept. 24, 2008 [previous version]