

Residential Foreclosure Part Rules

Supreme Court, Queens County
88-11 Sutphin Boulevard
Jamaica, NY 11435
Room 22A
718-298-1092

Conference Days

The Residential Foreclosure Part (Part FC-E) shall sit on Mondays, Tuesdays, Wednesdays at 9:30 a.m. in Room 42A before Court Attorney-Referee [Cassandra Johnson](#) . Part FC shall sit on Thursdays and Fridays at 9:30 a.m. in Room 42A before Court Attorney-Referee Daniel Gordon.

Hearings (Tolling, Lack of Good Faith, etc.) from the Residential Foreclosure Parts will be referred to Hon. Mojgan C. Lancman for determination.

Servicer calendars (FC-S) will be held on Wednesdays at 9:30 a.m. in Room 42A before Court Attorney-Referee Cassandra Johnson .

Status conferences (Status Conference Part F) will be held on Tuesdays at 2:15 p.m. in Room 45 before Hon. Mojgan C. Lancman .

Status conferences (Residential Foreclosure Status Conference Part) will be held on Wednesdays at 9:30 a.m. in Courtroom 67A before Justice Martin J. Schulman.

Status conferences (Foreclosure Master Status Calendar) will be held on Mondays at 9:30 a.m. in Room 45 before Hon. Mojgan C. Lancman.

Preliminary conferences (Referee PC Calendar) will be held on Thursdays at 11:30 a.m. in Room 314 before Court Attorney-Referee Richard Lazarus.

Part Rules

These rules apply to those actions that are subject to CPLR 3408 and other residential foreclosure legislation.

1. All residential foreclosure actions that are filed should include the following language in the Complaint: whether this action involves a residential, one-to-four family, owner-occupied property upon which the mortgage is considered subprime, high-cost or nontraditional; whether plaintiff has served the homeowner with a 90 day notice as per legislation; and that plaintiff is the holder of the note and mortgage, or that it has a current, valid assignment of the note and mortgage.
2. When applicable, upon filing the affidavit of service of the summons and complaint with the County Clerk, plaintiff must submit a Request for Judicial Intervention for a Settlement Conference in Residential Foreclosure Actions.
3. Pursuant to CPLR 3408, this Part shall conduct a mandatory settlement conference for the purpose of holding settlement discussions pertaining to the relative rights and obligations of the parties under the mortgage loan documents, including, but not limited to: determining whether the parties can reach a mutually agreeable resolution to help the defendant avoid losing his or her

home; evaluating the potential for a resolution in which payment schedules or amounts may be modified or other workout options may be agreed to; and for whatever other purposes the court deems appropriate.

4. Poor Person Applications: At the initial conference, any defendant appearing pro se shall be deemed to have made a motion to proceed as a poor person, and the court shall determine whether such permission shall be granted. If the court appoints defendant counsel, the court will adjourn the conference to a date certain for appearance of counsel and settlement discussions pursuant to subdivision (a) of CPLR 3408, and otherwise proceed with the conference.

5. Appearance by the Parties: At any conference held pursuant to CPLR 3408, the plaintiff, in the absence of written permission of the Part permitting a representative to attend the settlement conference telephonically or by video-conference, shall appear in person or by counsel, and if appearing by counsel, such counsel shall be fully authorized to dispose of the case. The defendant shall appear in person or by counsel. If the defendant is appearing pro se, the court shall advise the defendant of the nature of the action and his or her rights and responsibilities as a defendant.

6. Defendant pro se does not waive his or her jurisdictional defenses by appearing at the foreclosure conference. Any and all statements made, whether oral or written, and any and all information exchanged at the conference, shall be solely for the purposes of resolution and settlement and shall not be deemed to be admissions of any party with respect to the underlying action.

7. Plaintiff should attend the conference prepared to discuss the servicer of the loan, loan amount, reinstatement amount, payoff amount, whether the lender is subject to the Making Homes Affordable program and whether there are any investor restrictions applicable to the loan. Plaintiff may be asked to provide evidence of the status of defendant's modification paperwork and should have telephone access to its client to address any of the Court's issues. Plaintiff should be aware that a case may be adjourned numerous times at the Court's discretion in order for plaintiff to demonstrate compliance with the above. Plaintiff must provide the court with the following information: whether the foreclosure affirmation or certificate of merit has been filed, whether an Answer has been served on plaintiff, whether a preliminary conference has been held, whether an order of reference has been signed, whether a judgment of foreclosure has been signed, and whether a previous action had been filed and discontinued or dismissed relating to this loan.

8. Defendant homeowner should attend the scheduled required housing counseling meeting. Defendant homeowners are strongly encouraged to go to a housing counseling agency and/or seek legal representation prior to attending the settlement conference.

9. Defendant must appear at the settlement conference prepared to discuss the following: whether the property is residential or commercial, defendant's financial status, the cause of defendant's default in paying the mortgage, whether this is defendant's primary residence, whether defendant desires to remain in the property, and provide documentation to the Court if requested, and to plaintiff to evaluate the possibility of a loan modification.

10. Adjournments: Either party may request one adjournment of a matter, which will generally be granted by the Court. After the first adjournment, all further requests are in the Court's discretion. The Part may be contacted via telephone or fax to advise that an action has been settled, discontinued or otherwise disposed of, but the matter will not be marked off unless there is consent of both parties or a signed stipulation of settlement or discontinuance. No adjournments will be granted via telephone.

11. If an issue arises re: tolling of interest, lack of good faith, etc. during the Residential Foreclosure Conferences, either party may make an application to the presiding Court Attorney Referee pursuant to CPLR §3408 and request the matter be referred to Hon. Mojgan C. Lancman for a determination of the issue. Upon completion, the case will be referred back to the Residential Foreclosure Conference part for further proceedings.

12. Further Proceedings: If the referee deems that a matter should proceed with litigation, an order will be issued indicating that the matter has not been settled and the parties may proceed with litigation. Any subsequent motions or applications will then be made to the assigned IAS judge and should contain as exhibits a separate statement from the moving party, detailing whether the action does or does not fit the criteria for inclusion in the Residential Foreclosure Program as well as a copy of the Attorney Affirmation pursuant to Administrative Order 431/11 or Certificate of Merit pursuant to Administrative Order 208/13. Additionally, any application submitted to the Court involving a foreclosure action, where a mandatory settlement conference was held pursuant to CPLR 3408 should contain a copy of the Residential Foreclosure Conference Order as an exhibit. If a party wishes to obtain information with regard to the status of the case, it may contact the Foreclosure Conference Part or access the computers in the County Clerk's Office.

13. Status Calendar Part F - Upon the release of a conference from the part, the foreclosure referee will schedule the matter either for a status conference or a preliminary conference. If the parties wish to litigate and seek significant discovery and an Answer is served, the referee will schedule the matter for a preliminary conference. In all other circumstances, the referee will direct the plaintiff to proceed with litigation and will schedule a final status conference for compliance with the directive. The referee will issue an order scheduling the matter for a final status conference, and indicating what documents, if any, must be filed by plaintiff. If plaintiff fails to comply with the order without good cause, the matter may be adjourned in the judge's discretion or dismissed without prejudice.

14. Settled cases- For all cases that are settled in the foreclosure settlement conference part, the referee will issue an order stating the matter is settled and directing the parties to file a stipulation of discontinuance with the County Clerk within 90 days of the conference order. Failure to file the stipulation may result in further conferences.

The Residential Foreclosure Status Conference Part before Justice Schulman and the Foreclosure Master Status Calendar before the Hon. Mojgan C. Lancman have been established to address the older foreclosure inventory.

Any questions should be directed to the Foreclosure Conference Part by telephone at 718-298-1092.

Settlement Conference

Courtroom 45

Master Foreclosure Judge
88-11 Sutphin Boulevard
Jamaica, NY 11435

Motions

All motions shall be made returnable and heard on **Mondays at 9:30 a.m.** at the Jamaica Courthouse located at 88-11 Sutphin Boulevard, Jamaica, New York 11435 in Courtroom 45. Failure to notice a motion in compliance with the designated day, time and location above may result in the motion being "Marked Off" calendar.

There will be only one calendar call at 9:30 a.m. In the event that counsel has other matters to attend to, counsel shall check-in with the Clerk of the Part no later than 9:15 a.m. and provide his or her contact information.

Oral Argument of all motions is required. Motions shall be argued in the order they are marked ready.

The Court may administratively reschedule any application or motion noticed for a holiday or a day on which the part is closed. Information will be available on e-courts. Should the Part administratively

reschedule, the **movant** will be responsible for notifying all parties of the administratively rescheduled date and providing proof of same to the Part on the rescheduled adjournment date.

In any case where a motion is "Marked Off" for non-compliance with the Part Rules such as improper notice, failure to appear in court as required by the Part Rules, or failure to provide a working copy of an e-filed motion, a new timely motion for the original relief sought may be filed in accordance with the Part Rules. A motion to Restore, Renew or Reargue is NOT required.

Upon the settlement or discontinuance of an action, the parties shall contact the court **immediately** to withdraw any pending motion or application.

FORECLOSURE MASTER STATUS CALENDAR [FMSC]

Acting Supreme Court Judge, Civil Term – Eleventh Judicial District
Justice Mojgan C. Lancman
88-11 Sutphin Boulevard
Jamaica, NY 11435
Phone: (718) 298-1005

Appearances: The Foreclosure Master Status Calendar (FMSC) will be held on Mondays at 9:30 a.m. in Room 45 before Justice Mojgan C. Lancman.

Plaintiff shall file a foreclosure affirmation pursuant to Administrative Order 431/11 or Certificate of Merit pursuant to CPLR § 3012-b before the scheduled conference date, with exception to in rem tax proceedings. Additionally, Plaintiff shall file an application seeking an Order of Reference, or in cases where an Order of Reference has already been signed, Plaintiff shall file an application seeking a Judgment of Foreclosure and Sale, **before the scheduled conference date**. The parties shall present all prior court orders issued in the case on the scheduled conference date.

If an action or proceeding is stayed or should be stayed, the parties shall provide proof demonstrating the basis for the stay, such as proof of military status (Soldiers' and Sailors' Civil Relief Act of 1940, 50 USCA § 3901 et seq.; Military Law § 300 et seq.), proof of bankruptcy filing (11 USC § 362[a]), or court order (CPLR § 2201).

Failure to appear at the scheduled conference without court approval or good cause may result in an appropriate sanction pursuant to 22 NYCRR § 202.27
In addition, failure to comply with an order of this Court may be grounds for dismissal without prejudice.

Adjournments: Applications for adjournments on consent, or otherwise, will be entertained only at the call of the calendar, and will not be entertained by mail, facsimile, e-mail or by telephone. Calendar service or non-attorneys will not be permitted to make applications for adjournments. Applications for an adjournment will be granted as a matter of right for the first time but for no more than three weeks. No further applications will be granted without permission of the Court. Counsel must make every effort to notify their adversaries of their intention to seek an adjournment.

Motions: All motions noticed to be heard are returnable before the assigned IAS Judge on the day and time designated in the judge's part rules and shall include a copy of any orders issued by the FMSC Part. Motion papers sent to the FMSC Part after submission of the motion will not be considered.

All motions and ex-parte applications made shall be in compliance with the CPLR and 22 NYCRR § 202.5. In addition to these requirements, all pages and paragraphs must be numbered. All exhibits are to be proceeded by a numbered exhibit tab which protrudes from the stack of papers. All submissions are to be securely fastened so as to prevent the papers from being lost. **FAILURE TO**

COMPLY WITH THE REQUIREMENTS OF THIS SECTION MAY RESULT IN REJECTION OF THE OFFENDING SUBMISSION.

Parties utilizing NYS Courts Electronic Filing shall comply with 22 NYCRR § 202.5-b.

See www.nycourts.gov/efile.

Settle or Submit Orders and Judgments: If the Court directs that an order/judgment be settled or submitted pursuant to a Memorandum decision, the proposed order/judgment and any proposed counter-order/judgment shall be filed with the Motion Support Office, together with a copy of the Confirmation Notice received in accordance with 22 NYCRR § 202.5-b(d)(3)(ii), and proof of service, if applicable.

Settled and Discontinued Cases: Counsel must notify the Court of the settlement or withdrawal of any action or proceeding immediately upon such settlement or withdrawal. A copy of the fully executed Stipulation of Discontinuance which has been filed with the County Clerk shall be submitted to the FMSC Clerk at the call of the calendar. If an action or proceeding is discontinued due to the commencement of a new action or proceeding, the parties shall provide information on the new case, including the caption, index number, attorneys (if there be any) servicer, and status of

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