

Stay of Sheriff Sale and Mediation Request Notice of Motion Instructions

These instructions are for use after you have exhausted the two statutory stays that you may request from the sheriff. *N.J.S.A. 2A:17-36.*

You must file a WRITTEN request with the Chancery Division, General Equity in the vicinage (county) in which your property is located in order for the court to consider a stay of a sheriff sale. Contact the Civil Division in your county to find out where to do this. Civil Division contact information is posted on the Judiciary's website under Forms and Kits for Pro Se Litigants at: www.njcourts.com. It is important that you request a stay as soon as possible after the sheriff stays are exhausted.

Following are instructions to complete the attached sample notice of motion, certification in support and form of order:

Step 1 - Complete the Notice of Motion

In the Notice of Motion, you inform the court and all parties that you have asked for a specific ruling or order and you specify the ruling you want – stay of the sheriff's sale to allow a foreclosure mediation session.

Motions are heard in court on specified days. You can obtain the motion schedule from the clerk's office (see link above). If the sheriff's sale is not imminent, you should pick a motion day at least 3 weeks from the date you mail your motion papers in order to give your adversary the 16 days before the return date as required by the court rules.

If the sheriff's sale is imminent, contact the Judge's chambers to ask when he or she can hear your motion and how he or she wants you to communicate to the lender's attorney that you are making the motion on short notice.

Step 2 - Complete the Certification in Support of the Motion and the Certification of Service

The certification in support of the motion tells the court the reasons why you want the ruling you have requested and the reasons why the court should grant your request. You must also complete the certification of service that tells the court the date on which you mailed (or delivered) the copies of the documents to the lender's attorney.

Step 3 - Complete the Proposed Form of Order

Fill in the information up to the line for the date of the order. Leave the date and the rest of the form blank. The judge will complete the terms of the Order when the motion is decided.

Step 4 - Attach the Filing Fee

The fee for filing a motion in Superior Court is \$30. Write a check in that amount payable to the *Treasurer, State of New Jersey*.

Step 5 - Mail (or Deliver) the Notice of Motion, Certification and Proposed Form of Order to the Lender's Attorney

You must serve the lender's attorney no later than 16 days before the specified return date on your notice of motion. While the court rules do not require you to use certified mail, it is suggested that you send your motion and supporting papers by regular and certified mail, return receipt requested. You will then have the green card when it is returned to you as proof of service.

If the sheriff's sale is imminent and you must be heard before 16 days, deliver the motion, certification and order by hand, courier or over night letter directly to the General Equity judge's chambers.

Step 6 - Mail or Deliver the Forms to the Court

You may deliver your papers to the court in person or you may mail them. If the sheriff's sale is imminent, delivery is, in all likelihood, required. The court address is available on line at www.njcourts.com. If you mail the papers, we recommend that you use certified mail, return receipt requested. Mail or deliver the original Notice of Motion, Certification and proposed form of Order to the court. Include a check for the \$30 filing fee.

If you wish the court to send you back a copy of these papers stamped "filed", you must include an additional copy and a self-addressed, stamped envelope. Keep copies of all papers you provide to the court or any other party. Make and keep for yourself copies of all completed forms and any canceled checks, money orders, receipts, bills, contract estimates, letters, leases, photographs and other important papers that relate to your case.

Step 7 - Appear in Court

On the scheduled motion date, appear before the General Equity judge and make your case for a stay of the sheriff's sale.

Name

Address

Telephone Number

Plaintiff,

v.

_____, *et al*
Defendant.

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION _____ COUNTY
GENERAL EQUITY

Docket No F- _____

CIVIL ACTION

**Notice of Motion To Stay Sheriff's Sale and
Referral To Mediation**

TO: _____
(Plaintiff's Attorney Name and Address)

General Equity Clerk

(Courthouse Address)

PLEASE TAKE NOTICE that on Friday, _____, 20____, at 9:00 o'clock in the forenoon, or as soon thereafter as I/we (or my/our counsel) may be heard, the undersigned,

_____ shall apply before the Superior Court of
[insert your name(s)]
New Jersey, Chancery Division, General Equity, at the County Court House for an order (a) staying the sheriff's sale, (b) directing court associated foreclosure mediation and (c) such other relief as the Court may deem equitable and just.

PLEASE TAKE FURTHER NOTICE that in support of the motion attached hereto is my/our certification.

Oral argument is requested.

Date: _____

Type or Print Defendant's Name

Date: _____

Type or Print Defendant's Name

Proof of Mailing

A copy of the notice of motion, certification in support and proposed form of order was mailed or served on the:

General Equity Clerk for _____ County; and

Plaintiff's Attorney (at the above stated address).

I / We certify that the above statements made by me / us are true. I / We am / are aware that if any of the statements made by me/us are willfully false, I / we am / are subject to punishment.

Date: _____
Type or Print Defendant's Name

Date: _____
Type or Print Defendant's Name

Language Interpreter

If oral argument is scheduled and an interpreter is required.

I / We need an interpreter for the _____ language to be present at the hearing.
(insert name of language)

Name

Address

Telephone Number

Plaintiff,

v.

Defendant. *, et al*

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION _____ COUNTY
GENERAL EQUITY

Docket No F- _____

CIVIL ACTION

**Certification In Support of Stay of Sheriff's
Sale and Referral To Mediation**

hereby certifies and says:

[insert your name(s)]

1. I / We am / are the owner(s) of property known as _____, New Jersey.
(insert property address)
2. I / We am / are the borrower(s) and mortgagor(s) on a loan secured by a mortgage on the above-described property, which is the subject of the above captioned foreclosure action.
3. I / We live in the above-described property and the property is my/our principal residence. The property is a one to three unit residential dwelling.
4. I / We have have not filed an answer to the foreclosure complaint filed by the plaintiff (lender).
5. A Sheriff's sale of my property is scheduled for _____ .
(insert date)
6. I / We am/are not in bankruptcy have filed for bankruptcy and the petition is discharged, dismissed or the bankruptcy stay has been lifted to allow the foreclosure to proceed.

Include and answer paragraphs 7 and 8 if the foreclosure docket number is 2008 or later:

7. I / We have have not called the HUD/NJHMFA-certified housing agency referral telephone number (888-989-5277).
8. I / We have have not contacted the HUD/NJHMFA-certified housing agency for a counseling session.

If applicable:

Foreclosure mortgage counseling was held on _____ OR
(insert date)

Foreclosure mortgage counseling is scheduled for _____
(insert date)

9. The following additional information is essential for the court's consideration:

10. I / we request that the Sheriff Sale of the above premises, be postponed, so that I / we can take part in court arranged foreclosure mediation.

I / We certify that the statements made above are true. I / We am / are aware that if any of the statements made by me / us are willfully false, I / we am / are subject to punishment.

Date: _____

Type or Print Defendant's Name

Date: _____

Type or Print Defendant's Name

Name

Address

Telephone Number

Plaintiff,

v.

Defendant. *et al*

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION _____ COUNTY
GENERAL EQUITY

Docket No F- _____

CIVIL ACTION

**Order Staying Sheriff's Sale and Directing
Mediation**

This matter having come before the court (on a notice of motion) (for a case management conference) and the New Jersey Supreme Court having initiated a mediation program for residential foreclosure actions and for good cause shown.

(JUDGE COMPLETES BELOW)

It is on this day _____ of _____, 20____, ORDERED that:

1. The Sheriff's Sale scheduled for _____ is stayed until _____, 20____.
[Alternative language: until further order of the court], upon the following conditions

If the foreclosure docket number is 2007 or earlier:

2. The defendant-homeowner(s) shall complete and return an original and two copies of the Foreclosure Mediation Financial Worksheet and all attachments required along with an original and two copies of the Request for Mediation form to the CDR point person _____ (insert name) at the _____ County Court House, _____, New Jersey, on or before _____, 20____, in which case the vicinage CDR point person shall schedule a mediation session and the stay herein entered shall continue until mediation is scheduled. The CDR point person shall mail a copy of the Foreclosure Mediation Financial Worksheet and all attachments required along with the Request for Mediation form to the plaintiff's attorney.

If the foreclosure docket number is 2008 or later:

2. The defendant-homeowner(s) shall report in writing to the below identified CDR point person on or before _____, 20____ that he/she/they have contacted a HUD/NJHMFA-certified

housing counseling agency through the hotline number 888-989-5277 and advise whether the defendant-homeowner(s) are qualified for free housing counseling.

In the event the defendant-homeowner(s) is/are qualified for HUD/NJHMFA-certified housing counseling, the defendant-homeowner(s) shall complete and return an original and two copies of the Foreclosure Mediation Financial Worksheet and attachments and an original and two copies of the HUD/NJHMFA-certified housing counselor mediation statement and recommendation to the vicinage CDR point person, _____ at the _____
(insert name)

County Court House, _____, New Jersey
on or before _____, 20____, in which case the vicinage CDR point person shall schedule a mediation session and the stay herein entered shall continue until mediation is scheduled. In the event the defendant-homeowner(s) is/are NOT qualified for HUD/NJHMFA-certified housing counseling, the defendant-homeowner(s) shall complete and return an original and two copies of the Foreclosure Mediation Financial Worksheet and all attachments required along with an original and two copies of the Request for Mediation form to the to the above CDR point person on or before _____, 20____, in which case the vicinage CDR point person shall schedule a mediation session and the stay herein entered shall continue until mediation is scheduled.

3. The following provisions are applicable for all cases stayed for mediation:
 - a. The plaintiff and defendant-homeowner(s) shall participate in the court associated foreclosure mediation process in good faith and with a sense of urgency.
 - b. The vicinage CDR point person will notify the parties of the scheduled mediation date and arrange for a mediator from the foreclosure mediator roster. Mediation shall take place in the courthouse.
 - c. Any party who fails to appear for a mediation session as ordered by the Court shall be subject to sanctions.
 - d. The defendant-homeowner(s) and the attorney for the plaintiff shall appear at the mediation. The defendant-homeowner(s) may be accompanied by an attorney or a HUD/NJHMFA-certified housing counselor, or both. The plaintiff-lender shall participate either in person or by telephone. The participant of the plaintiff-lender shall have settlement authority.

4. At the conclusion of the mediation session, the mediator shall file with the Court an appropriate mediation report concerning the mediation and, if mediation is successful, prepare a foreclosure mediation settlement memorandum to document the agreement of the parties.

5. Mediation shall be completed within _____ days.

6. Additional Relief:

P.J.Ch/ J.S.C.

Plaintiff: _____ Lender/Service's
Mortgage Workout Telephone: _____

Lender's Attorney: _____ Telephone: _____

Defendant-homeowner(s): _____

Residing at: _____ Telephone: _____

Defendant-homeowner(s) Attorney: _____ Telephone: _____