**FORECLOSURE CASES**

**TRIALS**

Notices of Foreclosure Trials must be filed with the Clerk's office.  The Notice shall include the specific matters to be tried and an estimate of time needed for the trial. See Rule 1.440(b), Fla.R.Civ.Pro. The number of witnesses for each side should be included in the notice. See Rule 1.440(b), Fla.R.Civ.Pro**.** The completed Trial Form must be attached to the courtesy copy. **If there is an opposing counsel, counsels must confer as to the amount of time needed for trial.  The agreement or lack of agreement as to the length of time shall be reflected on the Notice for Trial.**  Send a copy to the Judicial Assistant pursuant to the divisional instructions. The Judicial Assistant will forward all notices of trial requesting ninety (90) minutes or less to a case manager to issue a trial order for a docket to be heard by Senior Judges. Any requests for two hours or more shall be set for calendar call and heard by the Judge presiding in that division. Please review each trial order carefully.  All motions for continuances of the trial shall be filed and noticed pursuant to the instructions on the Order Setting Trial prior to the trial date. Motions for Continuance will be heard in the division in which they are assigned. Senior Judges will not entertain motions for continuances on the day of trial.

All evidence for trial should be pre-marked.

**UNCONTESTED SUMMARY JUDGMENT HEARINGS**

Plaintiff’s Uncontested/Default Motions for Summary Judgment are set for hearing in front of senior judges. Hearings lasting up to ten (10) minutes can be set via the Summary Judgment online scheduling system. These should not be set for UMC as a separate block of time is set aside specifically for these hearings.  **Motions for Deficiency Judgment, Re-foreclosure, Quiet Title and Defendant's Motions for Summary Judgment**are **not** appropriate for Uncontested Summary Judgment Hearings.

Once scheduled online (whether a Notice of Hearing has been issued or not), all summary judgment hearings must be cancelled by Court Order. YOU CAN NO LONGER CANCEL A SUMMARY JUDGMENT HEARING ONLINE.  To request a continuance or cancellation of a Summary Judgment hearing when the motion has not been resolved, you must appear at 8:45 Uniform Motion Calendar, prior to the hearing date to request the cancellation.  The Order Canceling Summary Judgment hearing must reflect the date and time the matter is set for hearing. If there is an Agreed/Consent Final Summary Judgment, it should be entered on the Summary Judgment hearing date at the appropriate time. IN THE ABSENCE OF EITHER PARTY, THE FAILURE TO APPEAR FOR A HEARING MAY RESULT IN THE COURT GRANTING OR DENYING THE MOTION FOR SUMMARY JUDGMENT.  No paperwork should be submitted prior to the hearing but must be presented as listed below at the hearing.

The following documents are required at an Uncontested Summary Judgment hearing:

* Summary Judgment Foreclosure Checklist with adding machine  tape attached
* Notice of Hearing
* Motion for Summary Judgment
* Payment History
* Affidavit of Indebtedness (including a loan payment history)
* Affidavit of Attorney's Fees
* Affidavit of Costs
* Opposing affidavits (if any – see FRCP 1.510)
* Original Note and Mortgage (or copies if already filed with the Clerk's office)
* Final Judgment and Copies (tab the original for Judge's signature)
* Final Disposition Form
* Four sets of self-addressed and stamped envelopes, sorted, with the return address of: Clerk & Comptroller Palm Beach County, P.O. Box 4667, West Palm Beach, Florida 33402-4667
* If the Final Judgment is entered, the Clerk's office will need the Certificate of Title.

Sale dates will be provided at the time of the hearing.  Plaintiff or Plaintiff's attorney must prepare a Notice of Sale and send a copy to all parties on the case.  This step is not required to be conducted in the courtroom. Notices of Sale may be emailed to the designated newspaper for publication.  The original must be filed with the Clerk of Court.  Notices should include sale date, billing information, signature of Plaintiff or Plaintiff's attorney, sale location (www.mypalmbeachclerk.clerkauction.com), time of sale (10:00 AM) and all other information as required by F.S. Section 45.031(2).

Any Summary Judgment hearings that are contested and will take more than ten (10) minutes shall be set as a special set hearing in the assigned division and titled as a Contested Final Summary Judgment.

**MOTIONS FOR DISBURSEMENT OF SURPLUS FUNDS**

The party that filed the motion must set motions for Surplus Funds for hearing with notice to all parties. Sixty days from the issuance of the Certificate of Disbursement must elapse prior to any hearing being set. Any contested evidentiary hearings taking more than 10 minutes (five (5) minutes each side) should be set for a special set hearing, otherwise most Motions for Surplus can be scheduled for Uniform Motion Calendar pursuant to the divisional instructions.

**MOTIONS FOR WRIT OF POSSESSION**

All motions for Writ of Possession (to vacate premises) must be set at Uniform Motion Calendar with proof of proper and timely notice to all parties, including unknown tenants.  Tenants who receive a Notice of Hearing for a Writ of Possession have the right to be present at the hearing and must attend if they are seeking an extension.