

Stay of Sheriff's Sale Notice of Motion Instructions

These instructions are for use if you have not had your requested mediation session before a sheriff's sale is scheduled and 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's 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, Certifications 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 overnight 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.

Plaintiff or Filing Attorney Information:

Name _____
NJ Attorney ID Number _____
Address _____

Telephone Number _____

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION _____ COUNTY
GENERAL EQUITY PART

Docket No F- _____

CIVIL ACTION

Notice of Motion To Stay Sheriff's Sale

Plaintiff,
v.
_____, *et al*
Defendant.

TO: _____
(Plaintiff's Attorney Name)

(Plaintiff's Attorney 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, and (b) 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

Signature

Type or Print Defendant's Name

Date

Signature

Type or Print Defendant's Name

Plaintiff or Filing Attorney Information:

Name _____
NJ Attorney ID Number _____
Address _____

Telephone Number _____

Plaintiff,
v. _____, *et al*
Defendant.

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION _____ COUNTY
GENERAL EQUITY
Docket No F- _____
CIVIL ACTION
**Certification In Support of Stay of Sheriff's
Sale**

hereby certifies and says:

[insert your name(s)]

1. I / We am / are the owner(s) of property known as _____,
(insert property address)
New Jersey.
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. Foreclosure mediation was timely requested, but a foreclosure mediation session has not been scheduled or is scheduled for _____.
(insert date)
7. The following additional information is essential for the court's consideration:
8. I / we request that the Sheriff's 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

Signature

Type or Print Defendant's Name

Date

Signature

Type or Print Defendant's Name

Certification of Service

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

Signature

Type or Print Defendant's Name

Date

Signature

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)

Plaintiff or Filing Attorney Information:

Name _____
NJ Attorney ID Number _____
Address _____

Telephone Number _____

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION _____ COUNTY
GENERAL EQUITY
Docket No F- _____
CIVIL ACTION
Order Staying Sheriff's Sale

Plaintiff,
v.
_____, *et al*
Defendant.

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 _____ day of _____, 20____ is stayed until _____ day of _____, 20____.

Alternative language: until further order of the court], upon the following conditions

2. 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. If a mediation session is not yet scheduled, the vicinage CDR point person shall notify the parties of the mediation date and arrange for a mediator from the foreclosure mediator roster.
 - c. Any party who fails to appear for a mediation session shall be subject to sanctions.
 - d. The defendant-homeowner(s) and the attorney for the plaintiff shall appear at the mediation. The plaintiff-lender shall participate either in person or by telephone. The participant of the plaintiff-lender shall have settlement authority.
3. 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.

4. 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