

NOTICE TO THE BAR

RESIDENTIAL MORTGAGE FORECLOSURES -- CERTIFICATIONS OF DILIGENT INQUIRY

Accompanying this Notice to the Bar are the standardized form certifications that must be annexed to residential mortgage foreclosure complaints pursuant to Rule 1:5-6(c)(1)(E) and Rules 4:64-1(a)(2) and (3) (Attachment A), and that must be annexed to notices of motion for judgment in residential mortgage foreclosure actions pursuant to Rule 4:64-2(d) and that must be filed in pending mortgage foreclosure actions pursuant to the Supreme Court's December 20, 2010 order (Attachment B).

The December 20, 2010 amendments to Rule 1:5-6(c)(1)(E) and Rules 4:64-1(a)(2) and (3) require that plaintiffs' attorneys affix to foreclosure complaints a certification of diligent inquiry as to the accuracy of foreclosure documents and factual assertions, specifically, (1) that the attorney has communicated with employee(s) of the plaintiff who (a) personally reviewed the documents being submitted and (b) confirmed their accuracy, (2) the name(s), title(s) and responsibilities in those titles of the plaintiff's employee(s) with whom the attorney communicated, and (3) that the complaint and all annexed documents comport with the provisions of Rule 1:4-8(a). Please note that the Court was specific in requiring the communication to be with "employee(s)" of plaintiff rather than "representative(s)" of plaintiff. This certification is required on any new residential mortgage foreclosure complaint filed after the December 20, 2010 effective date of the amended rules.

Similarly, Rule 4:64-2(d) requires that counsel for plaintiffs annex to every motion to enter judgment in a residential mortgage foreclosure action an affidavit or certification of diligent inquiry as to the accuracy of foreclosure documents and factual assertions, specifically, (1) that the attorney has communicated with employee(s) of the plaintiff who (a) personally reviewed the documents being submitted and (b) confirmed their accuracy, (2) the name(s), title(s) and responsibilities in those titles of the plaintiff's employee(s) with whom the attorney communicated, and (3) that the documents

comport with the requirements of Rule 1:4-8(a). Again, as above, the Court was specific in requiring the communication to be with “employee(s)” of plaintiff rather than “representative(s)” of plaintiff. The accompanying standardized form Rule 4:64-2(d) certification is in lieu of an affidavit or oath pursuant to Rule 1:4-4(b).

Additionally, the December 20, 2010 Supreme Court rule amendment order requires plaintiff’s counsel in all uncontested residential mortgage foreclosure actions pending and awaiting judgment as of that date to file and serve on all defendants a certification of diligent inquiry containing the same information as the Rule 4:64-2(d) form certification no later than February 18, 2011. Similarly, for all residential mortgage foreclosure actions in which judgment was entered but no sale of the property had yet occurred as of that date, plaintiff’s counsel must file and serve on all defendants a certification of diligent inquiry containing the same information as the Rule 4:64-2(d) form certification no later than February 3, 2011. The required service “on all defendants” shall be on all defendants who are required to be served with a notice of motion for judgment pursuant to Rule 4:64-1(d)(1).

Questions regarding this notice or the attached standardized form certifications may be directed to Kevin M. Wolfe, Esq., in the AOC’s Civil Practice Division, by phone at 609-292-8470 or by e-mail at Kevin.Wolfe@judiciary.state.nj.us.

/s/ Glenn A. Grant

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: January 7, 2011

ATTACHMENT A

CERTIFICATION OF DILIGENT INQUIRY TO BE ANNEXED TO
RESIDENTIAL MORTGAGE FORECLOSURE COMPLAINTS PURSUANT
TO RULE 1:5-6(c)(1)(E) AND RULES 4:64-1(a) (2) AND (3)

_____, Esq., of full age, hereby certifies and says:

1. I communicated by [*insert communication medium, e.g., telephone, e-mail*] with the following named employee(s) of [*insert the Plaintiff's name*], who stated that he/she personally reviewed the documents submitted to the court and that he/she confirmed their accuracy.

2. The name, title and responsibilities of the plaintiff's employee(s) with whom I communicated are: [*insert the employee's name*] [*insert the employee's title*] [*insert the employee's responsibilities*].

3. Based on my communication with the above-named employee(s) of plaintiff, as well as my own inspection of the loan information supplied by plaintiff and other diligent inquiry, I execute this certification to comply with the requirements of Rules 1:4-8(a), 1:5-6(c)(1)(E), and 4:64-1(a)(2) and (3).

4. I am aware that I have a continuing obligation under Rule 1:4-8 to amend this certification if a reasonable opportunity for further investigation or discovery indicates insufficient evidentiary support for any factual assertions proffered by plaintiff in any court filings or documents in this case.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

[Insert Name of Law Firm]

By: _____

[Attorney sign above and type/ print name below]

ATTACHMENT B

CERTIFICATION OF DILIGENT INQUIRY TO BE ANNEXED TO NOTICES OF MOTION FOR JUDGMENT IN RESIDENTIAL MORTGAGE FORECLOSURE ACTIONS PURSUANT TO RULE 4:64-2 AND THAT MUST BE SUBMITTED PURSUANT TO THE DECEMBER 20, 2010 SUPREME COURT ORDER IN CASES PENDING JUDGMENT OR SALE AS OF THAT DATE

Name of Law Firm
Law Firm Address
Telephone Number
Attorney for Plaintiff

Superior Court of New Jersey
Chancery Division [Insert County Name] County
General Equity

[Insert Plaintiff's Name]

Plaintiff,

Docket No: F-

v.

[Insert First Defendant's Name], et al,

Defendant.

CIVIL ACTION
RULE 4:64-2(d) CERTIFICATION OF
DILIGENT INQUIRY AND ACCURACY OF
FORECLOSURE DOCUMENTS AND
FACTUAL ASSERTIONS

_____, Esq., of full age, hereby certifies and says:

1. I am an attorney at law duly licensed to practice in the state of New Jersey and am affiliated with the law firm of _____, the attorneys of record for the plaintiff in the above-captioned residential mortgage foreclosure action. I am responsible for this mortgage foreclosure action and am fully familiar with the pleadings and documents filed in this action and the facts set forth in this certification.

2. On [insert date(s)], I communicated by [insert communication medium, e.g., telephone, e-mail] with the following named employee(s) of the plaintiff, who informed

me that he/she personally reviewed the documents submitted to the court and that he/she confirmed the accuracy of all documents:

Name of Plaintiff's employee(s):

Title of Plaintiff's employee(s):

Responsibilities of Plaintiff's employee(s):

3. Based on my communication with the above-named employee(s) of plaintiff, as well as my own inspection of the documents filed with the court and other diligent inquiry, I execute this certification to comply with the requirements of Rule 4:64-2(d) and Rule 1:4-8(a).

4. I am aware that I have a continuing obligation under Rule 1:4-8 to amend this certification if a reasonable opportunity for further investigation or discovery indicates insufficient evidentiary support for any factual assertion proffered by the plaintiff in any court filings and documents in this case.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

[Insert Name of Law Firm]

By: _____

[Attorney sign above and type/print name below]