

## **NOTICE TO THE BAR**

### **MORTGAGE FORECLOSURES – RULE RELAXATIONS – (1) TIMELINESS OF AFFIDAVITS OF AMOUNT DUE (RULE 4:64-2(c)), (2) ADMINISTRATIVE DISMISSALS FOR FAILURE TO PROSECUTE (RULE 4:64-8)**

By order dated June 5, 2012, the Supreme Court has relaxed and supplemented the following Rules of Court relating to mortgage foreclosure matters, effective immediately:

- Rule 4:64-2(c) – so as to provide that the Affidavit of Amount Due required to be filed with each motion for entry of final judgment prescribed by Rule 4:64-2(a) shall be sworn to not more than 90 days prior to submission of that affidavit. This rule relaxation shall be in effect through December 31, 2013.
- Rule 4:64-8 – so as to provide that when a foreclosure matter has been pending for 12 months without any required action, the Superior Court Clerk shall send a notice of dismissal to the plaintiff. The plaintiff must file with the Superior Court Clerk one of the following: (a) an amended complaint, (b) a request for default, (c) a notice of motion to enter final judgment or other appropriate motion, or (d) an affidavit or certification asserting that the failure to take the next required action is due to an exceptional circumstance. If the plaintiff fails to make any such filing, the Superior Court Clerk shall enter an order of administrative dismissal of the matter as to all parties. Such administrative dismissal shall be without prejudice. This rule relaxation will be in effect until further order.

/s/ Glenn A. Grant

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

Dated: June 19, 2012

## SUPREME COURT OF NEW JERSEY

It is ORDERED, pursuant to N.J. Const. Art. VI, sec. 2 par. 3, that the provisions of Rule 4:64-2(c) (“Proof; Affidavit – Time; Signatory”) of the Rules Governing the Courts of the State of New Jersey are supplemented and relaxed so as to require that, for a period of 18 months following the effective date of this rule relaxation, the affidavit of amount due prescribed by Rule 4:64-2(a) shall be sworn to not more than 90 days prior to its presentation, rather than 60 days as set forth in the rule; this relaxation shall be effective immediately through December 31, 2013.

It is FURTHER ORDERED, pursuant to N.J. Const. Art. VI, sec. 2 par. 3, that the provisions of Rule 4:64-8 (“Dismissal of Foreclosure Actions for Lack of Prosecution”) of the Rules Governing the Courts of the State of New Jersey are supplemented and relaxed so as to require that the Clerk of the Superior Court send a notice to the plaintiff in foreclosure matters that have been pending for twelve months without any required action having been taken advising that the matter as to all defendants will be dismissed without prejudice 30 days following the date of the notice unless within that period plaintiff files with the Clerk an amended complaint, a request for default, a notice of motion to enter final judgment or other appropriate motion, or an affidavit or certification asserting that the failure of filing or taking the next required action is due to an exceptional circumstance. If the plaintiff fails make any such filing within the 30 day period, the Clerk of the Superior Court shall enter an administrative order of dismissal of the foreclosure matter without prejudice and shall furnish the plaintiff with a copy of such administrative dismissal order; this rule relaxation shall be effective immediately and until further order.

For the Court,

/s/ Stuart Rabner

Chief Justice

Dated: June 5, 2012