

First Judicial District of Pennsylvania
Court of Common Pleas of Philadelphia County
Trial Division - Civil



***Residential Mortgage Foreclosure
Diversion Program***

MAACM 2008 NEUFELD AWARD WINNER

JOINT GENERAL COURT REGULATION NO. 2008-01

Honorable Pamela Pryor Dembe
President Judge
Court of Common Pleas

Honorable D. Webster Keogh
Administrative Judge, Trial Division
Court of Common Pleas

Honorable Esther R. Sylvester
Supervising Judge,
Trial Division – Civil
Court of Common Pleas

Honorable Annette M. Rizzo
Court of Common Pleas

David C. Lawrence, Court Administrator
First Judicial District of Pennsylvania

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First Judicial District of Pennsylvania PHILADELPHIA COURT OF COMMON PLEAS

FOR IMMEDIATE RELEASE

<http://courts.phila.gov>

NEWS RELEASE

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**President Judge C. Darnell Jones announces adoption of
*Residential Mortgage Foreclosure Diversion Pilot Program***

Philadelphia, PA, April 16, 2008 – In announcing the adoption of a novel *Pilot Program* addressing residential mortgage foreclosures, Judicial leaders acknowledged today that Philadelphia, like many large metropolitan areas, has fallen prey to the current national mortgage foreclosure crisis.

In 1983 and 2004, the Philadelphia Court of Common Pleas was called upon to issue stop-gap relief to a large number of residential homeowners who were facing the loss of their homes due to their inability to pay their mortgages. Relief was granted in the form of a temporary stay and postponements in the Sheriff Sale of foreclosed residential properties.

Reliable data reveal that the current crisis is due in part to “subprime” and “predatory lending” practices as well as rising interest rates, unemployment and underemployment, unforeseen circumstances beyond the control of the owner/occupier and has negatively impacted not only homeowners hovering at the poverty level but also a larger percentage of middle class homeowners. The anticipated increase in residential mortgage foreclosure actions filed in the Court of Common Pleas will not only require the further expenditure of limited judicial resources, but will also have a devastating effect on the residential homeowners who have lost or will lose their homes, as well as the lenders and investors, and the City of Philadelphia which will suffer a reduction of tax revenues making it more difficult to provide necessary services.

President Judge C. Darnell Jones, II noted that “a systemic solution is needed to address this recurring problem.”

“Today, D. Webster Keogh, the Administrative Judge of the Trial Division, and I have issued a General Court Regulation establishing a *Residential Mortgage Foreclosure Diversion Pilot Program*,” President Judge Jones stated, “implementing tried-and-tested case management tools which have been successful in other types of Civil actions, and will be modified for residential, owner-occupied Mortgage Foreclosure cases.”

The *Pilot Program* authorizes the Sheriff Sale of non-residential and non-owner occupied premises as previously scheduled, but requires owner occupied residential premises to be scheduled for a Conciliation Conference before the Sheriff Sale can occur.

The *Pilot Program* will be implemented in phases.

Phase I addresses cases which were scheduled for Sheriff Sale on April 1, 2008 which were unilaterally postponed by the Sheriff, as well as properties which are scheduled for Sheriff Sale on May 6, 2008. A Certification process will identify all owner occupied residential properties, which will be postponed to the July 2, 2008 Sheriff Sale list and, most importantly, scheduled for a Conciliation Conference in late May and June 2008.

The main goal of the Conciliation Conference, both in Phase I and overall, is to insure early intervention in determining eligibility under various federal, state and local programs established to facilitate loan work-out and other solutions to permit residential homeowners to retain their properties.

“The *Pilot Program* will assist the Court and litigants to better resolve these cases and, most importantly, may result in many homeowners keeping their homes,” remarked President Judge Jones.

The remaining case inventory will also be scheduled for Conciliation Conferences at the end of Phase I.

In formulating the *Pilot Program*, President Judge Jones requested the assistance of a *Mortgage Foreclosure Steering Committee* which was created to address long-term foreclosure issues and disputes as a result of similar action taken by the Sheriff in March 2004 and which remains active under the jurisdiction of the Honorable Annette M. Rizzo. The Committee is Chaired by Lesia C. Kuzma, Esquire, a Senior Attorney with the City of Philadelphia Law Department, and includes representatives of lender and borrower groups, the City, governmental agencies such as OHCD, Philly VIP, the Philadelphia Bar Association, and housing counseling agencies. A listing of current members of the Committee is attached. This Committee has been successful in working to reduce Sheriff's costs and in implementing the *Petition to Postpone Sheriff's Sales* in the Court of Common Pleas. The Committee has been working to provide valuable input in designing and implementing the *Pilot Program* and Conciliation Conference Guidelines. President Judge Jones and Judge Rizzo extend their appreciation to all members of the Committee who expended a substantial amount of time and effort in assisting with the Program.

The Court wishes to acknowledge the Council of the City of Philadelphia which foresaw this Crisis and on March 27, 2008 unanimously adopted Resolution No. 080331, which was a motivating factor in the adoption of this *Pilot Program*. The Court also looks forward to the continued cooperation of Philadelphia Sheriff John Green's office as the *Pilot Program* is implemented.

Finally, the Court wishes to thank the *Philadelphia Bar Association* for its assistance in securing competent *pro bono* representation of unrepresented Defendants who cannot afford to retain counsel.

The General Court Regulation and Order issued today are posted on the Website of the First Judicial District at <http://courts.phila.gov>.

###

MORTGAGE FORECLOSURE STEERING COMMITTEE

Lesia C. Kuzma, Senior Attorney, City of Philadelphia Law Department

Rob Saltzman, Esq., Pleuse, Becker, and Saltzman (lender representative)

Michael McKeever, Goldbeck, McCafferty, and McKeever (lender representative)

Lorraine Doyle, Esq., Udren Law Offices (lender representative)

Hiram Carmona, Assistant Contract Administrator, Office of Housing and Community Development

George Gould, Esquire, Community Legal Services (housing advocate)

Barbara Fein, Esq., Law Offices of Barbara Fein (lender representative)

David Fein, Esq., Goldbeck, McCafferty, and McKeever (lender representative)

Michael Balent, Esq., Chief Counsel - PNC Realty Services (Phila. Bar Assoc.)

Stephanie Seldin, Esq., Managing Attorney, Philadelphia VIP/LawWorks

Irwin Trauss, Esq., Philadelphia Legal Assistance (housing advocate)

John Dodds, Director, Philadelphia Unemployment Project

Chris DeNardo, Esq., Shapiro and Kreisman (lender representative)

Michele Bradford, Esq., Phelan, Hallinan, and Schmieg

Allison Hughes, Director, Housing Counseling Association of Delaware Valley

Edward Chew, Esq., Director of Legal Services, Sheriff's Office

Kevin Diskin, Esq., McCabe, Weisberg and Conway (lender representative)

Keri Claeys, Esq., Martha E. Von Rosenstiel, P.C. (lender representative)

Thomas Puleo, Esq., Goldbeck, McCafferty, and McKeever (lender representative)

Steve Foxman, Esq., Eckert, Seamans Cherin & Mellott, LLC. (Phila. Bar Assoc. Business Section)

Beth Goodell, Esq., Community Legal Services

Devon Sanders, Esq., Community Legal Services

Harper Dimmerman, Esq., Harper Law Group (Phila. Bar Association).



First Judicial District of Pennsylvania
Court Of Common Pleas of Philadelphia County
Trial Division – Civil

Residential Mortgage Foreclosure Diversion Pilot Program

1. Introduction

Objective

The *Residential Mortgage Foreclosure Diversion Pilot Program* is designed to provide early Court intervention in residential owner occupied mortgage foreclosure cases which will assure timely determination of eligibility under various federal, state and local programs established to facilitate loan work-out and other solutions to permit residential homeowners, where possible, to retain their properties and permit lenders to move forward to the Sheriff Sale of the properties upon conclusion of the process established in Joint General Court Regulation No. 2008-01 and orders issued to further implement its terms.

Cases Subject to the Diversion Pilot Program

Mortgage Foreclosure cases involving owner-occupied residential properties which are subject to execution to enforce a residential mortgage are subject to the Mortgage Foreclosure Diversion Program and must be scheduled for a Conciliation Conference before the Sheriff can sell a property at Sheriff Sale. See **JGCR 2008-01 Section 1 (a)**.

The term “residential premises” means real property located within the City and County of Philadelphia containing not more than four residential units and shall include a residential condominium unit or a residential co-op unit, occupied by an owner as the owner’s principal residence.

Cases Not Subject to the Diversion Pilot Program

Mortgage Foreclosure cases involving premises which are not owner occupied, which are not residential, or which are not exposed to judicial sale to enforce a residential mortgage are not subject to the Mortgage Foreclosure Diversion Program and may be sold by the Sheriff. See **JGCR 2008-01 Section 1 (b)**.

2. Date of Implementation and Process to Ascertain Cases Subject to the Pilot Program

Joint General Court Regulation No. 2008-01 was issued on April 16, 2008 and is applicable to all Sheriff Sales held after that date. The *Pilot Program* will terminate on December 31, 2009 unless otherwise ordered.

JGCR 2008-01 provides that the Court will issue orders from time to time designed to identify owner-occupied residential properties subject to execution to enforce a residential mortgage which need to be scheduled for a Conciliation Conference (and may need to be postponed by the Court from one Sheriff Sale date to a subsequent Sheriff Sale Date) as well as identifying those properties which are not subject to the terms of the Pilot Program and can be sold by the Sheriff as scheduled.

Orders Issued Concerning Specific Sheriff Sales

- *April 16, 2008.* Applicable to cases originally scheduled for Sheriff Sale in April and May, as well as to cases postponed to the April and May Sheriff Sale

- *May 15, 2008.* Applicable to cases originally scheduled for Sheriff Sale in June and July, as well as to cases postponed to the June and July Sheriff Sale

- *July 17, 2008. New Process Established:*
 - (1) Cases originally scheduled for Sheriff Sale in August and September, as well as to cases postponed to the August and September Sheriff Sale;
 - (2) Cases commenced on and after September 8, 2008;
 - (3) Cases commenced before September 8, 2008 *and scheduled for Sheriff Sale on or after October 7, 2008.*

3) Identifying Residential Owner Occupied Premises

- **Cases subject to the April 16, 2008 Order.** The Plaintiff's attorney was required to file and serve on the homeowner a Certification certifying whether the property was Owner Occupied Residential Premises exposed to judicial sale to enforce a residential mortgage. If so, the Court postponed the sale and scheduled a Conciliation Conference.

If the property was certified to be not owner occupied, not residential, or not exposed to judicial sale to enforce a residential mortgage it was ordered sold at Sheriff Sale unless the homeowner filed an Objection to the Plaintiff's Certification.

If an Objection to Plaintiff's Certification was filed, a Conciliation Conference was scheduled.

- **Cases subject to the May 15, 2008 Order.**

The protocol utilized for the cases subject for the April 16, 2008 order was followed.

- **Cases subject to the July 17, 2008 Order.**
 - ***Cases scheduled for Sheriff Sale in August and September.***

The protocol utilized for the cases subject for the April 16, 2008 order was followed.

 - ***Cases commenced on and after September 8, 2008.***

At the time of Commencement, the Plaintiff must identify owner-occupied residential properties subject to execution to enforce a residential mortgage and the Court will issue a Case Management Order scheduling a Conciliation

Conference which is provided to the Plaintiff for service on the Defendant(s) together with the Complaint or other initial process.

● ***Cases commenced before September 8, 2008 and scheduled for Sheriff Sale on or after October 7, 2008.***

Are scheduled for a Conciliation Conference if the homeowner files with the Prothonotary no later than ten (10) days before the date of the Sheriff Sale for the premises at issue, a form named ***Defendant's Certification of Premises As Residential - Owner Occupied and Request For Conciliation Conference.***

If the homeowner does not file the required Certification, the property is sold at the Sheriff Sale as scheduled.

4) Conciliation Conference Lists

Lists of cases scheduled for a Conciliation Conference are available online through the First Judicial District's website, <http://courts.phila.gov>, by selecting the ***Civil Court Listings Menu Bar***, and the ***Residential Owner Occupied Mortgage Foreclosure Hearing Type***.

5) Issues to be Addressed by the JPT at the Conciliation Conference

The *Judge Pro Tem* shall address the following issues:

1. whether the Defendant is represented and if not represented, whether volunteer counsel may be available and appointed;
2. whether Defendant(s) met with a Housing Counseling Agency, as required;
3. whether the Housing Counseling Agency has prepared an assessment or report providing available loan work-out for the defendant;
4. Defendant's income and expense information;
5. Defendant's employment status;
6. Defendant's qualifications for any of the available work-out programs, upon review and application of guidelines established pursuant to this General Court Regulation;
7. assistance with preparation of work-out plans and required Court Orders, as appropriate;
8. the necessity of a subsequent Conciliation Conference;
9. whether the case may proceed to Sheriff Sale since there is no prospect of an amicable resolution; and
10. any other relevant issue.

**FIRST JUDICIAL DISTRICT OF PHILADELPHIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY**

JOINT GENERAL COURT REGULATION No. 2008-01
Residential Mortgage Foreclosure Diversion Pilot Program

The Court takes judicial notice that in 1983 and 2004, the Philadelphia Court of Common Pleas was called upon to issue stop-gap relief to a large number of residential homeowners who were facing the loss of their homes due to their inability to pay their mortgages. Relief was granted in the form of a temporary stay and postponements in the Sheriff Sale of foreclosed residential properties.

Mortgage Foreclosure actions recently filed in the Court of Common Pleas, as well as reliable data, establish that a mortgage foreclosure crisis, caused in part by “subprime” and “predatory lending” practices as well as rising interest rates, unemployment and underemployment, have negatively impacted a substantial number of homeowners causing an increasing number of residential mortgage foreclosures actions which are being filed and will be filed in the Court of Common Pleas requiring the expenditure of substantial judicial resources.

Pennsylvania Rules of Civil Procedures authorize the Court to implement case management programs designed to assist the Court and the litigants in the simplification of the issues involved, and to address such other matters which may aid in the timely and efficient disposition of the action. The within General Court Regulation adopts a *Residential Mortgage Foreclosure Diversion Pilot Program* which is designed to provide early Court intervention in residential owner occupied mortgage foreclosure cases which will assure timely determination of eligibility under various federal, state and local programs established to facilitate loan work-out and other solutions to permit residential homeowners, where possible, to retain their properties and permit lenders to move forward to the Sheriff Sale of the properties upon conclusion of the process established pursuant to this General Court Regulation.

1. Cases Subject to Residential Mortgage Foreclosure Diversion Pilot Program.

(a) All Mortgage Foreclosure cases involving owner-occupied residential properties which are subject to execution to enforce a residential mortgage must be scheduled for a Conciliation Conference, as provided in this General Court Regulation, before a real property can be sold at Sheriff Sale,. The term “residential premises” means real property located within the City and County of Philadelphia containing not more than four residential units and shall include a residential condominium unit or a residential co-op unit, occupied by an owner as the owner’s principal residence.

(b) Cases involving premises which are not owner occupied, which are not residential, or which are not exposed to judicial sale to enforce a residential mortgage are not subject to the Conciliation Conference and may be sold by the Sheriff of Philadelphia as scheduled and advertised unless the sales are otherwise individually stayed or postponed.

2. **Conciliation Conference and Sheriff Sale.** Owner-occupied residential properties which are subject to execution to enforce a residential mortgage cannot proceed to Sheriff Sale unless a conciliation conference is held as provided in this General Court Regulation.

3. **Scheduling of the Conciliation Conference.** The Conciliation Conference shall be scheduled as follows:

(a) **Cases on the April 2008 and May 2008 Mortgage Foreclosure Sheriff Sale List.**

The sale of all *owner occupied residential premises* exposed to judicial sale on April 1, 2008 to enforce a residential mortgage whose sale was postponed by the Sheriff of Philadelphia, as well as the sale of all *owner occupied residential premises* which are scheduled to be exposed to judicial sale to enforce a residential mortgage at the Sheriff Sale on May 6, 2008 are postponed until the Sheriff Sale scheduled for July 1, 2008 so that the Conciliation Conference required by this General Court Regulation can be held.

The Court will issue orders designed to identify owner-occupied residential properties, subject to execution to enforce a residential mortgage, which were listed for Sheriff Sale in April 2008 and May 2008 which are to be postponed to a specific date pending the scheduling of a Conciliation Conference and those cases which can proceed to Sheriff Sale on May 6, 2008.

When the owner-occupied residential properties subject to execution to enforce a residential mortgage have been identified, a case specific Case Management Order will be issued, scheduling a Conciliation Conference, as provided in this Regulation.

(b) **Cases Filed but not yet scheduled for Sheriff Sale.** The Court will issue orders designed to identify owner-occupied residential properties, subject to execution to enforce a residential mortgage.

When the owner-occupied residential properties subject to execution to enforce a residential mortgage have been identified, a case specific Case Management Order will be issued, scheduling a Conciliation Conference, as provided in this Regulation.

(c) **New Mortgage Foreclosure cases filed on or after July 7, 2008.** Any Mortgage Foreclosure Case commenced on or after July 7, 2008 which involves owner-occupied residential properties subject to execution to enforce a residential mortgage must be identified as Case Type “**3D – Mortgage Foreclosure – Owner Occupied Residential Premises**” on the Civil Cover Sheet. A Case Management Order will be administratively issued and provided to the Plaintiff upon the filing of the Mortgage Foreclosure action which must be served on the Defendant(s) as provided in Section 5. below.

4. **Case Management Order.** The Case Management Order shall schedule a conference within thirty (30) to forty-five (45) days after the filing of the Complaint for cases subject to Section 3.(c), and as soon as practicable for cases subject to Section 3. (a) and (b). As applicable, the Case Management Order shall, *inter alia*:

- a. schedule a Conciliation Conference for a specific date, place and time;
 - b. require the attendance of the Defendant and the Plaintiff-Lender's Servicer (who may appear telephonically);
 - c. require the Defendant to call immediately upon receipt of the Case Management Order the **SAVE YOUR HOME PHILLY HOTLINE at (215) 334-HOME** and the Defendant-homeowner will be directed to a housing counseling agency;
 - d. require the Defendant to cooperate with the housing counseling agency, provide financial and employment information and complete loan resolution proposals and applications, as appropriate;
 - e. require the exchange of the information provided as required by subsection 4. d. to the Plaintiff – Lender representative;
 - f. authorize the Plaintiff to send the ten (10) day notice required by Pa.R. C. P. 237.1, if service is effectuated as permitted under the Civil Procedural Rules, but delay the request for the entry of a judgment by default until after the date of the Conciliation Conference; and
 - g. provide such other terms as may be necessary and appropriate.
5. **Service of the Case Management Order.** The Court shall serve the Case Management Order on all parties for cases subject to Section 3. (a) and (b). The Plaintiff shall serve the Case Management Order together with the Complaint or other initial process for cases subject to Section 3. (c).
6. **Conciliation Conference.**
- a. **Presiding Officer:** As appropriate, the Conciliation Conference shall be conducted by a Civil Case Manager or other person designated by the Court, a *Judge Pro Tem* who possesses experience in the subject matter, or a judge of the Court of Common Pleas.
 - b. **Issues to be Addressed:** The following issues shall be addressed at the Conciliation Conference:
 - 1. whether the Defendant is represented and if not represented, whether volunteer counsel may be available and appointed;
 - 2. whether Defendant(s) met with a Housing Counseling Agency, as required;
 - 3. whether the Housing Counseling Agency has prepared an assessment or report providing available loan work-out for the defendant;

4. Defendant's income and expense information;
5. Defendant's employment status;
6. Defendant's qualifications for any of the available work-out programs, upon review and application of guidelines established pursuant to this General Court Regulation;
7. assistance with preparation of work-out plans and required Court Orders, as appropriate;
8. the necessity of a subsequent Conciliation Conference;
9. whether the case may proceed to Sheriff Sale since there is no prospect of an amicable resolution; and
10. any other relevant issue.

c. **Defendant's Failure to Attend The Conference:** If a Defendant fails to appear for the mandatory Conciliation Conference, the requirement for a Conciliation Conference imposed by this Regulation may be deemed satisfied upon verification that the required notice was sent, and if so, an order will be issued authorizing the Plaintiff to proceed with the action.

7. **Case Management Order:** At the conclusion of the Case Management Conference, an appropriate Order shall issue memorializing the result of the Conciliation Conference.
8. **Duration of the Residential Mortgage Foreclosure Diversion Pilot Program.** Unless otherwise ordered the **Residential Mortgage Foreclosure Diversion Pilot Program** shall terminate on December 31, 2009.

This General Court Regulation is promulgated in accordance with the April 11, 1986 Order of the Supreme Court of Pennsylvania, Eastern District, No. 55, Judicial Administration, Docket No. 1, Phila. Civ. R. *51 and Pa.R.C.P. 212.3 and 239, and shall become effective immediately. As required by Pa.R.C.P. 239, the original regulation shall be filed with the Prothonotary in a docket maintained for General Court Regulations; and copies shall be submitted to the Supreme Court Civil Procedural Rules Committee, the Administrative Offices of Pennsylvania Courts, the Legislative Reference Bureau and the Legal Communications, Ltd., *The Legal Intelligencer*, Jenkins Memorial Law Library and the Law Library for the First Judicial District.

BY THE COURT:
/s/ Honorable C. Darnell Jones, II
 HONORABLE C. DARNELL JONES, II
 President Judge, Court of Common Pleas
 Date: April 16, 2008

BY THE COURT:
/s/ Honorable D. Webster Keogh
 HONORABLE D. WEBSTER KEOGH,
 Administrative Judge, Trial Division
 Date: April 16, 2008

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY**

**In Re: Joint General Court Regulation No. 2008-01
Residential Mortgage Foreclosure Diversion Pilot Program
*April 1, 2008 and May 6, 2008 Sheriff Sales***

ORDER

AND NOW, this 16th day of April, 2008, in order to permit the implementation of the *Residential Mortgage Foreclosure Diversion Pilot Program* adopted by Joint General Court Regulation 2008-01, the sale of all *owner occupied residential premises* exposed to judicial sale on April 1, 2008 to enforce a residential mortgage whose sale was postponed by the Sheriff of Philadelphia, as well as the sale of all *owner occupied residential premises* which are scheduled to be exposed to judicial sale to enforce a residential mortgage at the Sheriff Sale on May 6, 2008 are, subject to further order of this Court, postponed until the Sheriff Sale scheduled for July 1, 2008 so that the Conciliation Conference required by Joint General Court Regulation No. 2008-01 can be held.

It is further ORDERED, ADJUDGED and DECREED that:

(a) unless the sales are otherwise individually stayed or postponed, the Sheriff of Philadelphia shall proceed to sell on May 6, 2008, as scheduled and advertised, all premises which are not owner occupied, which are not residential, or which are not exposed to judicial sale to enforce a residential mortgage, (these properties shall hereinafter be collectively referred to as "Non Owner Occupied Non Residential Properties" including those Non Owner Occupied Non Residential Properties which were scheduled to be sold at the previously postponed April 1, 2008 Sheriff Sale;

(b) because of the difficulty involved in determining whether or not a Writ of Execution comes within the scope of this Order, all real estate scheduled for sale by the Sheriff of the City of Philadelphia on May 6, 2008, including the sales postponed from April 1, 2008, shall be postponed to the Sheriff Sale scheduled for July 1, 2008 unless:

(1) counsel for the Plaintiff on the Writ of Execution, on or before April 21, 2008, files, with the Prothonotary, and serves on the defendant (as provided in subsection 3) a copy of this Order and a Certificate, substantially in the format attached hereto as Exhibit "A", certifying whether the property on the Sheriff Sale list is or is not an Owner Occupied Residential Premises Exposed to Judicial Sale to Enforce a Residential Mortgage within the meaning of this Order;

(2) if Counsel for the Plaintiff certifies that a specific property is not a residential property within the meaning of this Order, is not owner occupied as of this date, is not exposed to judicial sale to enforce a residential mortgage, or is vacant, counsel shall mail to defendant(s) a copy of the Certificate, and the *Important Notice* substantially in the format attached hereto as Exhibit "B" and *Defendant's Objection to Plaintiff's Certification And Request For Postponement Of Sale* substantially in the format attached hereto as Exhibit "C;"

(3) a copy of the Certificate and other documentation, as appropriate, shall be served on the Defendant by regular mail to the last known address of the Defendant(s) and to the address of the premises scheduled for sale;

(4) an Affidavit of Service, substantially in the format attached hereto as Exhibit "D" shall be filed with the Prothonotary along with a copy of the documents served upon the defendants;

(5) any Defendant who disagrees with the Certification filed by the Plaintiff which stated that the premises are not residential, or are not owner occupied, or are not exposed to judicial sale to enforce a residential mortgage must file an Objection, substantially in the format attached hereto as Exhibit "C", on or before April 30, 2008; and

(6) this Court shall issue an order before the May 6, 2008 Sheriff Sale identifying which owner occupied residential premises subject to this Order are postponed to the July 1, 2008 Sheriff Sale;

(c) the term "Residential Premises" means real property located within the City and County of Philadelphia containing not more than four residential units and shall include a residential condominium unit or a residential co-op unit;

(d) as authorized by Pa.R.C.P. 3129.3 (a), any writ of execution which scheduled premises for judicial sale on April 1, 2008 which was postponed by the Sheriff, and any writ of execution which scheduled premises for judicial sale on May 6, 2008 which is being postponed as required by this Order, shall be permitted to proceed to judicial sale on July 1, 2008, or thereafter, without further posting, notice, advertisement or affidavit pursuant to Pa.R.Civ.P. 3129.1 to 3129.3. Moreover, the April 1, 2008 postponement and the postponement provided in this Order shall not affect the Plaintiffs right to postpone the sale twice further up to 130 days as permitted by Pa.R.C.P. 3129.3(b).

(e) This Order shall be published in the *Pennsylvania Bulletin* and *The Legal Intelligencer*; and shall be posted on the website of the First Judicial District of Pennsylvania at <http://courts.phila.gov>.

(f) The Sheriff shall advertise the entry of this Order (without Exhibits) on April 21, 2008, April 28, 2008 and May 5, 2008 in the Philadelphia Inquirer.

(g) The Sheriff shall announce the Postponements at the time and place scheduled for the May sale.

BY THE COURT:

/s/ Honorable C. Darnell Jones, II

HONORABLE C. DARNELL JONES, II
President Judge, Court of Common Pleas

EXHIBIT A
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
CIVIL TRIAL DIVISION

	:		:	_____ TERM, 200__
Plaintiff,	:		:	
			:	NO. _____
v.	:			
	:	Book No.	:	_____
Defendant	:	Writ No.	:	_____
	:	Sale Date:	:	_____

Certification Regarding Status of Foreclosed Premises as Residential and Owner Occupied

Pursuant to the Order dated April 16, 2008 issued by President Judge C. Darnell Jones II and entered in connection with Joint General Court Regulation No. 2008-01, I hereby certify that the premises at issue in this action known and numbered as:

Premises Address: _____

Philadelphia, PA _____ Ward: _____

BRT Number: _____

(CHECK APPLICABLE BOX OR BOXES)

PROTHY CODE

- CEROC** is an owner occupied Residential Premises exposed to judicial sale to enforce a residential mortgage;
- CERNO** is not a Residential Premises within the meaning of the aforementioned order;
- CERNO** is not owner occupied as of this date;
- CERNO** is not exposed to judicial sale to enforce a residential mortgage;
- CERNO** is vacant.

The undersigned verifies that the statements made herein are true and correct. I understand that false statements are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

 Signature of Plaintiff or Counsel for Plaintiff

EXHIBIT B

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
CIVIL TRIAL DIVISION

	:	_____	TERM, 200__
Plaintiff,	:		
	:	:	NO. _____
v.	:		
	:	Book No.	_____
Defendant	:	Writ No.	_____
	:	Sale Date:	_____

IMPORTANT NOTICE

YOUR PROPERTY HAS BEEN LISTED FOR SHERIFF SALE ON MAY 6, 2008 (A SALE WHICH MAY HAVE BEEN POSTPONED FROM AN EARLIER DATE). IF YOU OWN AND LIVE IN THE PROPERTY LISTED FOR SALE AND IT HAS FOUR OR FEWER RESIDENTIAL UNITS, YOU CAN HAVE THE SHERIFF SALE OF YOUR PROPERTY POSTPONED FROM MAY 6, 2008 TO JULY 1, 2008, SO YOU CAN PARTICIPATE IN A CONFERENCE THAT MAY ENABLE YOU TO SAVE YOUR HOME. YOU CAN ENSURE YOUR ABILITY TO PARTICIPATE IN THE CONFERENCE BY FILING THE OBJECTION TO PLAINTIFF'S CERTIFICATION, ATTACHED TO THIS NOTICE, IN ROOM 278 CITY HALL, PHILADELPHIA, PA 19107 ON OR BEFORE 2:00 PM, APRIL 30, 2008. YOU MUST MAIL A COPY TO THE PLAINTIFF'S ATTORNEY AT THE FOLLOWING ADDRESS:

[Attorney name and address]

UNLESS THE OBJECTION TO PLAINTIFF'S CERTIFICATION IS RECEIVED BY THE PROTHONOTARY, IN ROOM 278 CITY HALL, PHILADELPHIA, PA 19107 ON OR BEFORE 2:00 PM, APRIL 30, 2008, THE PREMISES MAY BE SOLD ON MAY 6, 2008.

**YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER.
YOU SHOULD TAKE THIS PAPER TO THE LAWYER. IF YOU DO NOT HAVE A LAWYER
OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW
TO FIND OUT WHERE YOU CAN GET LEGAL ASSISTANCE.**

**Philadelphia Bar Association
Lawyer Referral and Information Service
One Reading Center
Philadelphia, PA 19107
Telephone: 215-238-1701**

**SAVE YOUR HOME PHILLY HOTLINE
(215) 334-HOME**

EXHIBIT C

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
CIVIL TRIAL DIVISION

Plaintiff,	:	_____ TERM, 200__
	:	
	:	NO. _____
v.	:	
	:	Book No. _____
Defendant	:	Writ No. _____
	:	Sale Date: _____

**DEFENDANT’S OBJECTION TO PLAINTIFF’S CERTIFICATION
AND REQUEST FOR POSTPONEMENT OF SALE**

I, the undersigned, object to Plaintiff’s Certification and in support thereof I certify that:

1. I am the owner or an owner or an heir to a deceased owner of the property identified above;
2. That I live in the property described above;
3. That the property is my principal residential property;
4. That the judgment entered against me in the case described above was entered against me to collect a mortgage debt on my home; and

I request that the Sheriff Sale of the above premises be postponed so that I can take part in the conciliatory conference required for owner occupied residential premises.

I verify that the statements made herein are true and correct. I understand that false statements are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Signature of Defendant

Address:

Philadelphia, PA _____

Phone Number:

Mobile Number:

Fax Number:

Email Address:

EXHIBIT D

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
CIVIL TRIAL DIVISION

Plaintiff, : _____ TERM, 200____
: :
: NO. _____
v. :
: **Book No.** _____
Defendant : **Writ No.** _____
: **Sale Date:** _____

CERTIFICATE OF SERVICE

The undersigned verifies, subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities, that the attached [*Certification was*] or [*Certification, Important Notice, and Defendant's Objection To Plaintiff's Certification And Request For Postponement of Sale* form were] mailed to the defendant(s) at their last known address and, if different, to the address of the premises subject to sale and to counsel of record, if any, and to the owners of the noted premises via first class mail, as noted below.

NAME(S)

ADDRESS(ES)

Date: _____

Counsel for Plaintiff

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY**

**In Re: Joint General Court Regulation No. 2008-01
Residential Mortgage Foreclosure Diversion Pilot Program
*April 1, 2008 and May 6, 2008 Sheriff Sales***

ORDER

AND NOW, this 2nd day of May, 2008 as provided in Joint General Court Regulation No. 2008-01 and pursuant to sections (a) and (d) of this Court's Order dated April 16, 2008, it is HEREBY ORDERED, ADJUDGED and DECREED that:

1) Unless the sales are otherwise individually stayed or postponed, the Sheriff of Philadelphia is authorized to proceed to sell on May 6, 2008 the properties identified in Exhibit A, attached hereto, which represent Non-Owner Occupied or Non-Residential properties (whose Certification as such has not been Objected to by the defendant-owners) determined as provided in this Court's April 16, 2008 order.

2) At the request of the defendants, the Sheriff of Philadelphia is authorized to proceed to sell on May 6, 2008 the properties which are the subject of the following cases:

- a) City Financial Services, Inc v. Hall, August Term, 2007, No. 02900
- b) Washington Mutual Bank v. Lassiter, November Term, 2007, No. 00226

3) The properties which are the subject of the following cases are postponed by the Court to the June 3, 2008 Sheriff Sale:

- a) Novastar v. Mallory, May Term, 2007, No. 182
- b) Novastar v. NcNasby, August Term, 2007, No. 3747
- c) Novastar v. Halsey and Johnson, September Term, 2007, No. 2616
- d) Novastar v. Grosso, October Term, 2007, No. 4955
- e) Novastar v. Dennis, October Term, 2007, No. 1241
- f) Citigroup v. Gerber, June Term, 2007, No. 411

4) Those properties which have been Certified pursuant to this Court's order of April 16, 2008 as Owner Occupied Residential Properties and properties which have been Certified as non-owner occupied or non-residential properties whose Certification as such has been Objected to by the defendant-owners are postponed by the Court to the July 1, 2008 Sheriff Sale to enable the Conciliation Conference mandated by Joint General Court Regulation No 2008-01 to be scheduled and held. The Prothonotary shall forthwith send an electronic list of all such cases to the Sheriff.

5) The remainder of the properties which are scheduled for Sheriff Sale on May 6, 2008 whose status cannot be readily ascertained by the Court but which include properties which may have been previously sold by the Sheriff, previously stayed, or postponed to a subsequent Sheriff Sale date shall not be subject to the May 6, 2008 sale unless otherwise specifically provided by an order issued after this date. Plaintiffs shall file a Praeceptum – Certification (substantially in the form attached as Exhibit B) as soon as possible, but in not later than May 9, 2008, to assist the Court in determining the current status of the previously listed Sheriff Sale. Thereafter, a Conciliation Conference mandated by Joint General Court Regulation No 2008-01 will be scheduled as appropriate.

BY THE COURT:
/s/ Honorable C. Darnell Jones, II
President Judge, Court of Common Pleas of
Philadelphia County

EXHIBIT "B"

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
CIVIL TRIAL DIVISION

Plaintiff,	:	_____ TERM, 200__
	:	
	:	NO. _____
v.	:	
	:	Book No. _____
Defendant	:	Writ No. _____
	:	Sale Date: _____

PRAECIPE - CERTIFICATION

TO THE PROTHONOTARY:

I hereby certify that the status of the Sheriff Sale of the premises at issue in this action known and numbered as:

Premises Address: _____

Philadelphia, PA _____

is as follows:

PROTHY CODE

- | | |
|---|--------------|
| <input type="checkbox"/> Sheriff Sale was Stayed. | CERST |
| <input type="checkbox"/> Postponed to Sheriff Sale of _____. | CERPP |
| Date | |
| <input type="checkbox"/> Sold at Sheriff Sale of _____. | CERSO |
| Date | |

The undersigned verifies that the statements made herein are true and correct. I understand that false statements are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Signature of Plaintiff or Counsel for Plaintiff

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY**

ORDER

AND NOW, this 12th day of May, 2008, pursuant to the terms of the *Residential Mortgage Foreclosure Diversion Pilot Program* adopted by Joint General Court Regulation 2008-01, it is hereby ORDERED and DECREED as follows:

1) A Conciliation Conference is scheduled for «SDATE» at «SAMPMTIME», in Courtroom 676, City Hall, Philadelphia, PA 19107.

2) Upon receipt of this Order, the Homeowner-Defendant shall contact **SAVE YOUR HOME PHILLY HOTLINE** at 215-334-HOME (215-334-4663) (see enclosed information), shall complete the enclosed ***HOPE NOW ALLIANCE Work Out Options & Counseling Form***, obtain the required financial information and meet with a housing counselor to prepare a proposal in anticipation of the scheduled Conciliation Conference.

3) The Defendant, assisted by the housing counselor, will file with the Prothonotary (in Room 278 City Hall) a ***Certification of Participation*** form, as soon as possible after the Defendant has met with the counselor.

4) The housing counselor and the Defendant will explore available options which include: bringing the mortgage current, paying off the mortgage, proposing a repayment plan to bring the account current over time, agreeing to vacate in the near future in exchange for not contesting the matter and a monetary payment, offering the lender a deed in lieu of foreclosure, filing bankruptcy proceedings, paying the mortgage default over 60 months, request a loan modification, and filing an answer or motion to open or strike the judgment. At Defendant's request, the housing counselor shall promptly prepare and submit a written proposal for addressing the mortgage delinquency, a payment plan (together with the ***HOPE NOW ALLIANCE Work Out Options & Counseling Form*** and all available supporting financial information) or other resolution to Plaintiff's attorney, as soon as possible, but if practicable, at least ten (10) days before the date of the Conciliation Conference.

5) The Plaintiff shall evaluate and respond to Defendant's proposal prior to, or at the Conciliation Conference.

6) Unless an agreement has been reached prior to the Conciliation Conference, a representative of the Plaintiff or investor who has actual authority to modify mortgages, to enter into alternate payment agreements with the defendant, or otherwise resolve the action shall be present at the Conciliation Conference or shall be available telephonically. The failure of the Plaintiff or of a representative of the Plaintiff or investor with such authority to appear for the Conciliation Conference may result in the rescheduling of the Conciliation Conference, and/or the further postponement of the Sheriff Sale of the property.

7) The failure of the Defendant to attend the Conciliation Conference shall result in an Order permitting the sale of the Defendant's property at the July 1, 2008 sheriff sale, unless otherwise postponed or stayed by separate order of this or another Court or by instruction of the Plaintiff.

8) At the conclusion of the Conciliation Conference, the presiding officer shall complete an informational summary. Unless an agreement is reached, the sale of the Defendant's property shall proceed at the July 1, 2008 Sheriff Sale or other scheduled Sheriff Sale date, unless the sale is otherwise postponed or stayed by separate order of this or another Court or by instruction of the Plaintiff.

BY THE COURT:
HONORABLE C. DARNELL JONES, II, P.J.
HONORABLE D. WEBSTER KEOGH, A.J.



First Judicial District Of Pennsylvania

Court Of Common Pleas Of Philadelphia County

Under a new Pilot Project of the Court of Common Pleas:

**You may be able to get help with
Your Mortgage.**

**Call the
Save Your Home Philly Hotline
at 215-334-HOME
(215-334- 4663)**

You will be put in touch with a non-profit Housing Counselor who will help you try to work out arrangements with your mortgage company.

You will have the right to go to a conference under the court's supervision where a reasonable work out can be arranged.

To get this help you must call the Hotline and go to a Housing Counselor. They will tell you what to do next.

Call the Hotline immediately. **Call 215-334-HOME (215-334-4663).**

Make this call to save your home!

For Additional Information about the *Residential Mortgage Foreclosure Diversion Pilot Program* go to: <http://fjd.phila.gov/regs/> and select General Court Regulation No. 2008-01

Date: _____

Tracking #: _____

HOPE NOW Alliance Work Out Options & Counseling Form

BORROWER REQUEST FOR HARDSHIP ASSISTANCE

To complete your request for hardship assistance, your lender must consider your circumstances to determine possible options while working with your counseling agency. Please provide the following information to the best of your knowledge:

CUSTOMER / PRIMARY APPLICANT

Please Print Clearly

Borrower name(s) _____
Loan Number _____
Property Address _____
City _____ State _____ Zip Code _____
Is the property for sale? _____ Listing date _____ Price \$ _____
Realtor name _____ Realtor phone _____
Borrower occupied? Yes / No

Mailing address (if different) _____
City _____ State _____ Zip Code _____
Phone Numbers Home _____ Office _____
Cell _____ Other _____
E-mail _____
Number of people in household _____ How long? _____

CO-BORROWER

Mailing address _____
Phone Numbers Home _____ Office _____
Cell _____ Other _____
E-mail _____
Number of people in household _____ How long? _____

COUNSELING INFORMATION

First Mortgage Lender: _____ Type of Loan: _____
Loan Number: _____ Date You Closed Your Loan _____
Second Mortgage Lender: _____ Type of Loan: _____
Loan Number: _____
Total Mortgage payments amount: \$ _____ Includes Taxes & Insurance: _____
Date of last payment: _____

Primary Reason for Default:

Is the loan in Bankruptcy? Y / N If yes, provide names, location of court, case number and attorney:

<u>Assets:</u>	Amount owed	Value
Home	\$	\$
Other Real Estate	\$	\$
Retirement Funds	\$	\$
Investments	\$	\$
Checking	\$	\$
Savings	\$	\$
Other	\$	\$

Automobile #1 Model _____ Year _____ Amount owed _____ Value _____

Automobile #2 Model _____ Year _____ Amount owed _____ Value _____

Other transportation (automobiles, boats, motorcycles...)

Model _____ Year _____ Amount owed _____ Value _____

Monthly Income:

Name of Employers

Net Monthly Wage

- 1.
- 2.
- 3.

Additional Income Description (not wages)

Monthly Amount

- 1.
- 2.

Borrower Pay Days _____

Co-Borrower Pay Days _____

Monthly Expenses: (Please only include expenses you are currently paying)

EXPENSE	AMOUNT	EXPENSE	AMOUNT
Mortgage		Food	
2 nd Mortgage		Utilities	
Automobile Payment(s)		Condominium/ Neighborhood Fees	
Auto Insurance		Medical (not covered by insurance)	
Auto Fuel/repairs		Other property payments	
Credit Card Payments		Telephone / Cell Phone	
Installment loan Payments		Cable TV	
Child support / Alimony		Spending Money	
Day Care / Child Care / Tuition		Other Expenses	

Counseling agency: _____ **Counselor:** _____

Office: _____ **Fax:** _____ **E-mail:** _____

Amount Available for Monthly Mortgage Payments Based on Income and Expenses _____

AUTHORIZATION

I/We, _____, authorize the above named agency to use/refer this information to my lender/servicer for the sole purpose of evaluating my financial situation for possible mortgage options. I/We understand that I/we am/are under no obligation to use the counseling services provided by the above named agency.

Borrower Signature

Date

Co-Borrower Signature

Date

Please forward this page along with the following information to lender: _____

- ✓ **Proof of income**
- ✓ **Past 2 bank statements**
- ✓ **Proof of any expected income for the last forty-five days**
- ✓ **Copy of a current utility bill**
- ✓ **Letter explaining reason for delinquency and any supporting documentation**
- ✓ **Listing agreement (if property is currently on the market)**

In an effort to evaluate all of the workout options available to you, a counselor/lender staff will work with your lender(s) and servicing company to determine eligibility.

Lender's Contact:

Phone _____

Non Profit Counselor Contact: _____

Phone _____

Housing Affordability Worksheet

Borrower Name _____	
Property Address _____	
Lender _____	Loan number: _____
Arrears: _____ Unpaid Loan Balance: _____ (principal, interest, escrows, no late fees)	
Interest Rate Now: _____	Type of loan: _____

Current financials:

Current P & I \$ _____

Property Taxes \$ _____

HO Insurance \$ _____

PMI \$ _____

Total Housing Debt: \$ _____

Total Monthly Debt: \$ _____
(from credit report)

Total Debt: \$ _____

Current Back End Ratio

Total Gross Income \$ _____
(monthly)

Back End Ratio = _____
(total monthly debt/gross income)

Proposed resolution:

Future debt to income ratio: _____%

Total allowable debt \$ _____
(.45 x gross income)

Total allowable housing debt \$ _____
(subtract other debt on credit report)

Total allowable P & I \$ _____
(subtract taxes, HOI, PMI)

Proposed interest rate = _____%

Fixed Rate for remaining term of loan.

Other proposed terms _____

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
CIVIL TRIAL DIVISION

Plaintiff : _____ TERM, 200
: :
: NO. _____
v. : :
: **Book No.** _____
: **Writ No.** _____
Defendant : **Sheriff Sale Date:** _____

Certification of Participation

(Defendant Must file in Room 278 City Hall and MUST send a copy to Plaintiff's Attorney)

I represent that I am the owner of the property listed below, which is my primary residence, and certify that as required by the *Residential Mortgage Foreclosure Diversion Pilot Program* adopted by Joint General Court Regulation 2008-01, I have met with the housing counselor identified below and a proposal will be submitted on my behalf before the date of the Conciliation Conference:

Premises Address: _____

Philadelphia, PA _____

Name of Housing Counselor – Agency

Date(s) of Meeting(s): _____

I verify that the statements made herein are true and correct. I understand that false statements are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Signature of Defendant

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY**

**In Re: President Judge General Court Regulation No. 2008-01
Residential Mortgage Foreclosure Diversion Pilot Program
*June 3, 2008 and July 1, 2008 Sheriff Sales***

ORDER

AND NOW, this 15th day of May, 2008, in order to further permit the implementation of the *Residential Mortgage Foreclosure Diversion Pilot Program* adopted by President Judge General Court Regulation 2008-01, the sale of all *owner occupied residential premises* originally scheduled to be exposed to judicial sale on June 3, 2008 to enforce a residential mortgage, as well as the sale of all *owner occupied residential premises* which were originally scheduled to be exposed to judicial sale to enforce a residential mortgage at the Sheriff Sale on July 1, 2008 are, subject to further order of this court, postponed until the Sheriff Sale scheduled for September 9, 2008 and until the Sheriff Sale scheduled for October 7, 2008, respectively, in order that the Conciliation Conference required by President Judge General Court Regulation No. 2008-01 can be held.

It is further ORDERED, ADJUDGED and DECREED that:

(a) unless the sales are otherwise individually stayed or postponed, the Sheriff of Philadelphia shall proceed to sell on June 3, 2008 and July 1, 2008 as scheduled and advertised, all premises which are not owner occupied, which are not residential, or which are not exposed to judicial sale to enforce a residential mortgage, (these properties shall hereinafter be collectively referred to as "Non Owner Occupied Non Residential Properties").

(b) because of the difficulty involved in determining whether or not a Writ of Execution comes within the scope of this Order, all real estate scheduled for sale by the Sheriff of the City of Philadelphia on June 3, 2008, or on July 1, 2008 shall be postponed to the Sheriff Sale scheduled for September 9, 2008 and October 7, 2008 respectively unless:

(1) counsel for the Plaintiff on the Writ of Execution, on or before May 21, 2008, for the properties scheduled for sale on June 3, 2008 and on or before June 6, 2008 for properties scheduled for sale July 1, 2008, files, with the Prothonotary, and serves on the defendant (as provided in subsection 3) a copy of this Order and a Certificate, substantially in the format attached hereto as Exhibit "A", certifying whether the property on the Sheriff Sale list is or is not an Owner Occupied Residential Premises Exposed to Judicial Sale to Enforce a Residential Mortgage within the meaning of this Order;

(2) if Counsel for the Plaintiff certifies that a specific property is not a residential property within the meaning of this Order, is not owner occupied as of this date, is not exposed to judicial sale to enforce a residential mortgage, or is vacant, counsel shall mail to defendant(s) a copy of the Certificate, and the *Important Notice* substantially in the format attached hereto as Exhibit "B" and *Defendant's Objection to Plaintiff's Certification And Request For Postponement Of Sale* substantially in the format attached hereto as Exhibit "C" and

properly completed by Plaintiff's attorney to reflect the correct dates for the respective sheriff sales;

(3) a copy of the Certificate and other documentation, as appropriate, shall be served on the Defendant by regular mail to the last known address of the Defendant(s) and to the address of the premises scheduled for sale;

(4) an Affidavit of Service, substantially in the format attached hereto as Exhibit "D" shall be filed with the Prothonotary along with a copy of the documents served upon the defendants;

(5) any Defendant who disagrees with the Certification filed by the Plaintiff which stated that the premises are not residential, or are not owner occupied, or are not exposed to judicial sale to enforce a residential mortgage must file an Objection, substantially in the format attached hereto as Exhibit "C", on or before May 29, 2008 for the properties listed for sale on June 3, 2008 and on or before June 23, 2008 for the properties listed for sale July 1, 2008; and

(6) based upon the information requested in item (1), this Court shall issue an order no later than May 30, 2008 identifying which owner occupied residential premises subject to this Order are postponed to the September 9, 2008 Sheriff Sale, with respect to the June sales and shall issue an order before the July 1, 2008 Sheriff Sale identifying which owner occupied residential premises subject to this Order are postponed to the October 7, 2008 Sheriff Sale;

(c) the term "Residential Premises" means real property located within the City and County of Philadelphia containing not more than four residential units and shall include a residential condominium unit or a residential co-op unit;

(d) as authorized by Pa.R.C.P. 3129.3(a), any writ of execution which scheduled premises for judicial sale on June 3, 2008 or July 1, 2008 which is being postponed as required by this Order, shall be permitted to proceed to judicial sale on September 9, 2008 or October 7, 2008 respectively, or thereafter, without further posting, notice, advertisement or affidavit pursuant to Pa.R.Civ.P. 3129.1 to 3129.3. Moreover, the postponement provided in this Order shall not affect the Plaintiffs right to postpone the sale twice further up to 130 days as permitted by Pa.R.C.P. 3129.3(b).

(e) This Order shall be published in the *Pennsylvania Bulletin* and *The Legal Intelligencer*; and shall be posted on the website of the First Judicial District of Pennsylvania at <http://courts.phila.gov>.

(f) The Sheriff shall advertise the entry of this Order (without Exhibits) on May 19, 2008, May 26, 2008, June 2, 2008, and June 30, 2008 in the *Philadelphia Inquirer*.

(g) The Sheriff shall announce the Postponements at the time and place scheduled for the June and July sales.

(h) Notwithstanding the foregoing, Sheriff's Sales postponed from April 1, 2008 and May 6, 2008, until July 1, 2008 by Order dated April 16, 2008 shall proceed to sale absent the entry of

individual orders addressing and further postponing the same, as warranted by their particular circumstances.

BY THE COURT:

/s/ Honorable C. Darnell Jones, II

HONORABLE C. DARNELL JONES, II
President Judge
Court of Common Pleas

BY THE COURT:

/s/ Honorable D. Webster Keogh

HONORABLE D. WEBSTER KEOGH
Administrative Judge, Trial Division
Court of Common Pleas

EXHIBIT A
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
CIVIL TRIAL DIVISION

	:	_____ TERM, 200__	
Plaintiff,	:		
	:	:	NO. _____
v.	:		
	:	Book No.	_____
Defendant	:	Writ No.	_____
	:	Sale Date:	_____

Certification Regarding Status of Foreclosed Premises as Residential and Owner Occupied

Pursuant to the Order dated May 15, 2008, issued by President Judge C. Darnell Jones II and entered in connection with the President Judge General Court Regulation No. 2008-01, I hereby certify that the premises at issue in this action known and numbered as:

Premises Address: _____
Philadelphia, PA _____ Ward: _____
BRT Number: _____

(CHECK APPLICABLE BOX OR BOXES)

PROTHY CODE

- CEROC** is an owner occupied Residential Premises exposed to judicial sale to enforce a residential mortgage;
- CERNO** is not a Residential Premises within the meaning of the aforementioned order;
- CERNO** is not owner occupied as of this date;
- CERNO** is not exposed to judicial sale to enforce a residential mortgage;
- CERNO** is vacant.

The undersigned verifies that the statements made herein are true and correct. I understand that false statements are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Signature of Plaintiff or Counsel for Plaintiff

EXHIBIT B

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
CIVIL TRIAL DIVISION

	:	_____	TERM, 200__
Plaintiff,	:		
	:	:	NO. _____
v.	:		
	:	Book No.	_____
Defendant	:	Writ No.	_____
	:	Sale Date:	_____

IMPORTANT NOTICE

YOUR PROPERTY HAS BEEN LISTED FOR SHERIFF SALE ON (JUNE 3, 2008) or (July 1, 2008) (select one) (A SALE WHICH MAY HAVE BEEN POSTPONED FROM AN EARLIER DATE). IF YOU OWN AND LIVE IN THE PROPERTY LISTED FOR SALE AND IT HAS FOUR OR FEWER RESIDENTIAL UNITS, YOU CAN HAVE THE SHERIFF SALE OF YOUR PROPERTY POSTPONED FROM (June 3, 2008 to September 9, 2008) (July 1, 2008 to October 7, 2008), SO YOU CAN PARTICIPATE IN A CONFERENCE THAT MAY ENABLE YOU TO SAVE YOUR HOME. YOU CAN INSURE YOUR ABILITY TO PARTICIPATE IN THE CONFERENCE BY FILING THE OBJECTION TO PLAINTIFF'S CERTIFICATION, ATTACHED TO THIS NOTICE, IN ROOM 278 CITY HALL, PHILADELPHIA, PA 19107 ON OR BEFORE 2:00 PM, (May 29, 3008) (June 23, 2008). YOU MUST MAIL A COPY TO THE PLAINTIFF'S ATTORNEY AT THE FOLLOWING ADDRESS:

[Attorney name and address]

UNLESS THE OBJECTION TO PLAINTIFF'S CERTIFICATION IS RECEIVED BY THE PROTHONOTARY, IN ROOM 278 CITY HALL, PHILADELPHIA, PA 19107 ON OR BEFORE 2:00 PM, (May 29, 2008) (June 23, 2008) THE PREMISES MAY BE SOLD ON (June 3, 2008) (July 1, 2008).

**YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER.
YOU SHOULD TAKE THIS PAPER TO THE LAWYER. IF YOU DO NOT HAVE A LAWYER
OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW
TO FIND OUT WHERE YOU CAN GET LEGAL ASSISTANCE.**

**Philadelphia Bar Association
Lawyer Referral and Information Service
One Reading Center
Philadelphia, PA 19107
Telephone: 215-238-1701**

**SAVE YOUR HOME PHILLY HOTLINE
(215) 334-HOME**

EXHIBIT C

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
CIVIL TRIAL DIVISION

Plaintiff,	:	_____ TERM, 200__
	:	
	:	: NO. _____
v.	:	
	:	Book No. _____
Defendant	:	Writ No. _____
	:	Sale Date: _____

**DEFENDANT’S OBJECTION TO PLAINTIFF’S CERTIFICATION
AND REQUEST FOR POSTPONEMENT OF SALE**

I, the undersigned, object to Plaintiff’s Certification and in support thereof I certify that:

1. I am the owner or an owner or an heir to a deceased owner of the property identified above;
2. That I live in the property described above;
3. That the property is my principal residential property;
4. That the judgment entered against me in the case described above was entered against me to collect a mortgage debt on my home; and
5. I request that the Sheriff Sale of the above premises be postponed so that I can take part in the conciliatory conference required for owner occupied residential premises.

I verify that the statements made herein are true and correct. I understand that false statements are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Signature of Defendant
Address:
Philadelphia, PA _____
Phone Number:
Fax Number:
Email Address:

EXHIBIT D

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
CIVIL TRIAL DIVISION

Plaintiff, : _____ TERM, 200____
: :
: NO. _____
v. :
: **Book No.** _____
Defendant : **Writ No.** _____
: **Sale Date:** _____

CERTIFICATE OF SERVICE

The undersigned verifies, subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities, that the attached [*Certification was*] or [*Certification, Important Notice, and Defendant's Objection To Plaintiff's Certification And Request For Postponement of Sale* form were] mailed to the defendant(s) at their last known address and, if different, to the address of the premises subject to sale and to counsel of record, if any, and to the owners of the noted premises via first class mail, as noted below.

NAME(S)

ADDRESS(ES)

Date: _____

Counsel for Plaintiff

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
 COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
 CIVIL TRIAL DIVISION

	:	_____ TERM, 200__
Plaintiff,	:	
	:	NO. _____
v.	:	
	:	Book No. _____ Writ No. _____
Defendant	:	Sale Date: _____

Certification Regarding Status of Foreclosed Premises as Residential and Owner Occupied and Status

Pursuant to the Order dated May 15, 2008 entered in connection with Joint General Court Regulation No. 2008-01, I hereby certify that the premises at issue in this action known and numbered as:

Premises Address: _____
 Philadelphia, PA _____ Ward: _____
 BRT Number: _____

(CHECK APPLICABLE BOX OR BOXES)

PROTHY CODE

CEROC is an owner occupied Residential Premises exposed to judicial sale to enforce a residential mortgage;

CERNO is not a Residential Premises within the meaning of the aforementioned order;

CERNO is not owner occupied as of this date;

CERNO is not exposed to judicial sale to enforce a residential mortgage;

CERNO is vacant.

and certify that the status is as follows:

- | | <u>PROTHY CODE</u> |
|--|---------------------------|
| <input type="checkbox"/> Sheriff Sale was Stayed. | CERST |
| <input type="checkbox"/> Postponed to Sheriff Sale of _____
Date | CERPP |
| <input type="checkbox"/> Sold at Sheriff Sale of _____
Date | CERSO |

The undersigned verifies that the statements made herein are true and correct. I understand that false statements are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

 Signature of Plaintiff or Counsel for Plaintiff

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY**

**In Re: Joint General Court Regulation No. 2008-01
*Residential Mortgage Foreclosure Diversion Pilot Program
June 3, 2008 Sheriff Sales***

ORDER

AND NOW, this 30th day of May, 2008 as provided in Joint General Court Regulation No. 2008-01 and this Court's Order dated May 15, 2008, it is HEREBY ORDERED, ADJUDGED and DECREED that as to properties listed for Sheriff Sale on June 3, 2008:

1) Unless the sales are otherwise individually stayed or postponed, the Sheriff of Philadelphia is authorized to proceed to sell on June 3, 2008 the properties identified in Exhibit A, attached hereto, which represent properties Certified by Plaintiff(s) pursuant to this Court's May 15, 2008 order as: not residential, not owner occupied, not exposed to judicial sale to enforce a residential mortgage, or vacant and the said Certification was not Objected to by the Defendant(s) as required by this Court's May 15, 2008 order.

2) The properties identified in Exhibit B, attached hereto, represent properties which have been Certified pursuant to this Court's order of May 15, 2008 as Owner Occupied Residential Premises exposed to judicial sale to enforce a residential mortgage as well as properties which were Certified as not residential, not owner occupied, not exposed to judicial sale to enforce a residential mortgage, or vacant and the said Certification was Objected to by the Defendant(s) are postponed by the Court to the September 9, 2008 Sheriff Sale to enable the Conciliation Conference mandated by Joint General Court Regulation No 2008-01 to be scheduled and held. A separate order will be issued scheduling each of the cases listed in Exhibit B for a Conciliation Conference.

3) The properties identified in Exhibit C, attached hereto, represent properties which are currently scheduled for Sheriff Sale on June 3, 2008 but for which a Certification as required by this Court's order of May 15, 2008 was not filed. These properties (which may have been previously stayed, postponed to a subsequent Sheriff Sale date, or sold by the Sheriff) shall not be sold at the June 3, 2008 Sheriff Sale but may be postponed by the Plaintiff(s) to a subsequent Sheriff Sale list. These properties may be sold as may be required by this Court in an order issued in connection with a subsequent Sheriff Sale date in compliance with Joint General Court Regulation No. 2008-01.

BY THE COURT:

/s/ Honorable C. Darnell Jones, II

HONORABLE C. DARNELL JONES, II
President Judge
Court of Common Pleas

BY THE COURT:

/s/ Honorable D. Webster Keogh

HONORABLE D. WEBSTER KEOGH
Administrative Judge, Trial Division
Court of Common Pleas

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY**

**In Re: Joint General Court Regulation No. 2008-01
Residential Mortgage Foreclosure Diversion Pilot Program
July 1, 2008 Sheriff Sales**

ORDER

AND NOW, this 26th day of June, 2008 as provided in Joint General Court Regulation No. 2008-01 and this Court's Orders dated April 16, 2008 and May 15, 2008, it is HEREBY ORDERED, ADJUDGED and DECREED that as to properties listed for Sheriff Sale on July 1, 2008:

1) Unless the sales are otherwise individually stayed or postponed, the Sheriff of Philadelphia is authorized to sell on July 1, 2008 the properties at issue in the 139 cases listed in Exhibit A, attached hereto, which represent properties Certified by Plaintiff(s) as: not residential, not owner occupied, not exposed to judicial sale to enforce a residential mortgage, or vacant and the said Certification was not Objected to by the Defendant(s) as required by this Court's May 15, 2008 order.

2) The sale of properties at issue in the 260 cases listed in Exhibit B, attached hereto, are postponed by the Court to the October 6, 2008 Sheriff Sale to enable the Conciliation Conference mandated by Joint General Court Regulation No 2008-01 to be scheduled and held. A separate order will be issued scheduling each of the cases listed in Exhibit B for a Conciliation Conference. These properties represent properties which have been Certified pursuant to this Court's order of May 15, 2008 as Owner Occupied Residential Premises exposed to judicial sale to enforce a residential mortgage, and properties which were Certified as not residential, not owner occupied, not exposed to judicial sale to enforce a residential mortgage, or vacant and the said Certification was Objected to by the Defendant(s).

3) The properties at issue in the 114 cases listed in Exhibit C, attached hereto, represent properties which are currently scheduled for Sheriff Sale on July 1, 2008 but for which a Certification as required by this Court's order of May 15, 2008 was not filed. These properties (which may have been previously stayed, postponed to a subsequent Sheriff Sale date, or sold by the Sheriff) shall not be sold at the July 1, 2008 Sheriff Sale but may be postponed by the Plaintiff(s) to a subsequent Sheriff Sale list. These properties may be sold as may be required by this Court in an order issued in compliance with Joint General Court Regulation No. 2008-01.

4) Unless the sales are otherwise individually stayed or postponed, the Sheriff of Philadelphia is authorized sell on July 1, 2008 the properties at issue in the 334 cases listed in Exhibit D, attached hereto, which is current as of orders docketed as of June 25, 2008. These properties represent properties whose April 1 or May 6, 2008 Sheriff Sales was postponed by order of this Court dated April 16, 2008 and which were scheduled for a Conciliation Conference between June 10 and June 13, 2008, which was not attended by the Defendant-homeowner(s).

5) As provided in the Court orders issued after the Conciliation Conference conducted by the assigned JPT, the following cases can be sold at the July 1, 2008 Sheriff Sale:

- (a) Banker's Trust Company vs. Gray, June Term, 2000, No. 01444
- (b) HSBC Bank v. Haines, September Term, 2007, No. 02310

BY THE COURT:
HONORABLE C. DARNELL JONES, II
President Judge
Court of Common Pleas

BY THE COURT:
HONORABLE D. WEBSTER KEOGH
Administrative Judge, Trial Division
Court of Common Pleas

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY**

**In Re: Joint General Court Regulation No. 2008-01
*Residential Mortgage Foreclosure Diversion Pilot Program***

ORDER

AND NOW, this 17th day of July, 2008, in order to facilitate implementation of the *Residential Mortgage Foreclosure Diversion Pilot Program* adopted by Joint General Court Regulation No. 2008-01 it is hereby ORDERED, ADJUDGED and DECREED as follows:

(A) Cases Scheduled for Sheriff Sale on August 5, 2008 and September 9, 2008. The sale of all *owner occupied residential premises* exposed to judicial sale to enforce a residential mortgage originally scheduled to be sold by the Sheriff on August 5, 2008 is postponed by the Court to the November 4, 2008 Sheriff Sale list, and the sale of all *owner occupied residential premises* exposed to judicial sale to enforce a residential mortgage originally scheduled to be sold by the Sheriff on September 9, 2008 is postponed by the Court to the December 2, 2008 Sheriff Sale list so that the Conciliation Conference required by President Judge General Court Regulation No. 2008-01 can be held.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that:

(1) Unless the sales are otherwise individually stayed or postponed, the Sheriff of Philadelphia shall proceed to sell on August 5, 2008 and September 9, 2008, as applicable, all premises which are not owner occupied, which are not residential, or which are not exposed to judicial sale to enforce a residential mortgage (these properties shall hereinafter be collectively referred to as "Non Owner Occupied Non Residential Properties").

(2) Because of the difficulty involved in determining whether or not a Writ of Execution comes within the scope of this Order, all premises scheduled for sale by the Sheriff of the City of Philadelphia on August 5, 2008, or on September 9, 2008 shall be postponed to the Sheriff Sale scheduled for November 4, 2008 and December 2, 2008 respectively unless:

(a) counsel for the Plaintiff on the Writ of Execution, on or before July 23, 2008, for the properties scheduled for sale on August 5, 2008 and on or before August 12, 2008 for properties scheduled for sale September 9, 2008, files with the Prothonotary, and serves on the defendant a Certificate, substantially in the format attached hereto as Exhibit "A," certifying whether the property on the Sheriff Sale list is an Owner Occupied Residential Premises exposed to judicial sale to enforce a residential mortgage within the meaning of this Order;

(b) if counsel for the Plaintiff certifies that a specific property is not a residential property within the meaning of this Order, is not owner occupied as of this date, is not exposed to judicial sale to enforce a residential mortgage, or is vacant, counsel for the Plaintiff shall mail to defendant(s) a copy of the Certificate, and the *Important Notice* substantially in the format attached hereto as Exhibit "B" and

Defendant's Objection to Plaintiff's Certification And Request For Postponement Of Sale substantially in the format attached hereto as Exhibit "C" and properly completed by Plaintiff's attorney to reflect the correct dates for the respective sheriff sales;

(c) a copy of the Certificate and other documentation, as appropriate, shall be served on the Defendant by regular mail to the last known address of the Defendant(s) and to the address of the premises scheduled for sale;

(d) an Affidavit of Service, substantially in the format attached hereto as Exhibit "D" shall be filed with the Prothonotary along with a copy of the documents served upon the defendants;

(e) any Defendant who disagrees with the Certification filed by the Plaintiff which stated that the premises are not residential, or are not owner occupied, or are not exposed to judicial sale to enforce a residential mortgage must file an Objection, substantially in the format attached hereto as Exhibit "C", on or before July 30, 2008 for the properties listed for sale on August 5, 2008 and on or before August 27, 2008 for the properties listed for sale on September 9, 2008; and

(f) this Court shall issue an order no later than August 1, 2008 with respect to the August 5, 2008 sales identifying which owner occupied residential premises subject to this Order are postponed to the November 4, 2008 Sheriff Sale; and shall issue an order no later than September 3, 2008 with respect to the September 9, 2008 sales Sheriff Sale identifying which owner occupied residential premises subject to this Order are postponed to the December 2, 2008 Sheriff Sale;

(3) as authorized by Pa.R.C.P. 3129.3(a), any writ of execution which scheduled premises for judicial sale on August 5, 2008 or September 9, 2008 which is being postponed as required by this Order, shall be permitted to proceed to judicial sale on November 4, 2008 or December 2, 2008 respectively, or thereafter, without further posting, notice, advertisement or affidavit pursuant to Pa.R.Civ.P. 3129.1 to 3129.3. Moreover, the postponement provided in this Order shall not affect the Plaintiffs right to postpone the sale twice further up to 130 days as permitted by Pa.R.C.P. 3129.3(b).

(4) The Sheriff shall announce the Postponements at the time and place scheduled for the August and September sales.

(B) Section 3. (c) of Joint General Court Regulation No. 2008-01 is amended to read as follows:

(1) Mortgage Foreclosure cases commenced on or after September 8, 2008.

(a) All Mortgage Foreclosure cases involving owner-occupied residential properties subject to execution to enforce a residential mortgage which are commenced on or after September 8, 2008 shall be designated as ***Case Type*** "3D

Mortgage Foreclosure – Residential-Owner Occupied” on the Civil Cover Sheet. Consistent with the provisions of Joint General Court Regulation No. 2008-01, a Case Management Order scheduling a Conciliation Conference will be issued at the time the action is commenced and will be provided to the Plaintiff for service on the Defendant(s) together with the Complaint or other initial process.

(b) Mortgage Foreclosure cases involving owner-occupied residential properties subject to execution to enforce a residential mortgage which are commenced on or after September 8, 2008 but not designated as *Case Type* “3D Mortgage Foreclosure – Residential-Owner Occupied” shall be scheduled for a Conciliation Conference if the Defendant-homeowner files with the Prothonotary as soon as possible, but no later than ten (10) days before the scheduled date of the Sheriff Sale for the premises at issue, a *Certification of Premises As Residential - Owner Occupied and Request For Conciliation Conference* form, substantially in the format attached hereto as “Exhibit E.” A copy of Defendant’s *Certification of Premises As Residential - Owner Occupied and Request For Conciliation Conference* form must also be served by the Defendant-homeowner on Plaintiff’s attorney. The Prothonotary shall not charge a filing fee for the filing of this Court-ordered form.

(C) Mortgage Foreclosure cases commenced before September 8, 2008. All Mortgage Foreclosure cases involving owner-occupied residential properties subject to execution to enforce a residential mortgage which were commenced before September 8, 2008 and are scheduled for Sheriff Sale on or after October 7, 2008 shall be scheduled for a Conciliation Conference required by Joint General Court Regulation No. 2008-01 if the Defendant-homeowner files with the Prothonotary as soon as possible, but no later than ten (10) days before the date of the Sheriff Sale for the premises at issue, a *Certification of Premises As Residential - Owner Occupied and Request For Conciliation Conference* form, substantially in the format attached hereto as “Exhibit E.” A copy of Defendant’s *Certification of Premises As Residential - Owner Occupied and Request For Conciliation Conference* form must also be served by the Defendant-homeowner on Plaintiff’s attorney. The Prothonotary shall not charge a filing fee for the filing of this Court-ordered form.

To insure that defendants-owners of properties subject to Sheriff Sale pursuant to this section are aware that they have a right to request a Conciliation Conference before their property is sold at Sheriff Sale, IT IS HEREBY ORDERED, ADJUDGED and DECREED as follows:

(1) Plaintiff shall file with the Prothonotary and mail to the defendant as soon as possible, but no later than thirty (30) days before the date of the premises’ Sheriff Sale, an *Important Notice* substantially in the format attached hereto as “Exhibit F.” Plaintiff shall enclose with the *Important Notice* a *Certification of Premises As Residential - Owner Occupied and Request For Conciliation Conference*, substantially in the format attached hereto as “Exhibit E.” Plaintiff shall file a *Certificate of Service*, substantially in the format attached hereto as “Exhibit D” with the Prothonotary.

(2) Upon the timely receipt of Defendant’s *Certification of Premises As Residential - Owner Occupied and Request For Conciliation Conference* the Court shall postpone

the Sheriff Sale as appropriate and shall schedule a Conciliation Conference as provided in Joint General Court Regulation No. 2008-01. After the date of the Conciliation Conference, the Court shall enter an order which shall provide, *inter alia*, whether the premises shall be postponed to a subsequent Sheriff Sale date, or may be sold on a subsequent Sheriff Sale date.

(3) Should Plaintiff disagree with the averments contained in Defendant's *Certification of Premises As Residential - Owner Occupied and Request For Conciliation Conference* and Defendant's entitlement to postponement of the Sheriff Sale and the scheduling of a Conciliation Conference, Plaintiff may file an appropriate motion as required by rules of court.

(4) The Sheriff of Philadelphia shall post a Notice on the Sheriff's website (<http://www.phillysheriff.com/>) substantially as follows:

NOTICE

Residential Mortgage Foreclosure Diversion Pilot Program **Joint General Court Regulation No. 2008-01**

Owners of residential properties which are subject to Sheriff Sale to enforce a residential mortgage who live in the property may be eligible to have the Sheriff Sale postponed and may receive help to save their home.

Qualified homeowners MUST file a *Certification of Premises As Residential - Owner Occupied and Request For Conciliation Conference* form (*Click here for the Form*) with the Prothonotary (Room 278 City Hall) as soon as possible, but no later than *ten days* before the date of the Sheriff Sale to have the Sheriff Sale of their home postponed.

To find out whether you qualify, and for more information, please call the **SAVE YOUR HOME PHILLY HOTLINE** at **215-334-HOME** (215-334-4663).

More information is also available on the website of the First Judicial District of Pennsylvania (the Court) at: <http://courts.phila.gov/reg>.

D. Cases Scheduled for Sheriff Sale in April, May, June and July 2008. Cases which were scheduled for Sheriff Sale on April 1, May 6, June 3, or July 1, 2008 and which have been postponed to subsequent Sheriff Sale dates and have not been scheduled for a Conciliation Conference shall be scheduled for a Conciliation Conference upon compliance with the terms of the orders dated April 16, 2008 and May 15, 2008, or upon compliance with the terms of Section (A) of this Order, or upon compliance with the terms of Section (C) of this Order.

E. Residential Premises. The term "Residential Premises" for purposes of Joint General Court Regulation No. 2008-01 means real property located within the City and County of Philadelphia containing not more than four residential units and shall include a residential condominium unit or a residential co-op unit.

F. Notification to the Sheriff. Unless otherwise provided or necessary, no later than the Friday immediately preceding the date of any Sheriff Sale, the Court shall issue an Order, substantially in the format attached hereto as “Exhibit G,” referencing all cases in which a *Certification of Premises As Residential - Owner Occupied and Request For Conciliation Conference* form was filed which has been (or is being) scheduled for a Conciliation Conference, in which the Conciliation Conference has not been concluded. These cases must be postponed by the Sheriff to a subsequent Sheriff Sale list. The Order shall be served on the Sheriff and shall be posted on the Court’s website.

G. Publication of this Order. The Sheriff shall advertise the entry of this Order (without Exhibits) in the *Philadelphia Inquirer* on or about July 22, 2008, July 29, 2008, August 15, 2008, and September 1, 2008.

This Order is issued in accordance with the April 11, 1986 Order of the Supreme Court of Pennsylvania, Eastern District, No. 55, Judicial Administration, Docket No. 1 and Phila. Civ. R. *51. As required by Pa.R.C.P. 239, the original regulation shall be filed with the Prothonotary in a docket maintained for Administrative Orders; and copies shall be submitted to the Supreme Court Civil Procedural Rules Committee, the Administrative Offices of Pennsylvania Courts, the Legislative Reference Bureau and American Legal Communications, Ltd., *The Legal Intelligencer*, Jenkins Memorial Law Library and the Law Library for the First Judicial District. This order shall also be posted on the website of the First Judicial District of Pennsylvania, at <http://courts.phila.gov/regs>.

BY THE COURT:

/s/ Honorable C. Darnell Jones, II

HONORABLE C. DARNELL JONES, II
President Judge
Court of Common Pleas

BY THE COURT:

/s/ Honorable D. Webster Keogh

HONORABLE D. WEBSTER KEOGH
Administrative Judge, Trial Division
Court of Common Pleas

EXHIBIT A
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
CIVIL TRIAL DIVISION

	:	_____ TERM, 20__
Plaintiff,	:	
	:	NO. _____
v.	:	
	:	Sheriff Book _____ Writ _____
	:	
Defendant	:	Date of Sheriff Sale: _____

Certification Regarding Status of Foreclosed Premises as Residential and Owner Occupied

Pursuant to the Order issued by President Judge C. Darnell Jones II and Administrative Judge D. Webster Keogh on July 17, 2008, I hereby certify that the premises at issue in this action known and numbered as:

Premises Address: _____
Philadelphia, PA _____

(CHECK APPLICABLE BOX OR BOXES)

PROTHY CODE

- CEROC** are owner occupied Residential Premises exposed to judicial sale to enforce a residential mortgage. The above Sheriff Sale is postponed. You will receive an Order from the Court scheduling a Conciliation Conference;
- CERNO** are not Residential Premises within the meaning of the aforementioned order;
- CERNO** are not owner occupied as of this date;
- CERNO** are not exposed to judicial sale to enforce a residential mortgage;
- CERNO** are vacant.

The undersigned verifies that the statements made herein are true and correct. I understand that false statements are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Signature of Plaintiff or Counsel for Plaintiff

EXHIBIT B

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
CIVIL TRIAL DIVISION

Plaintiff, : _____ TERM, 20____
: :
: NO. _____
v. : :
: **Sheriff Book** _____ **Writ** _____
: :
Defendant : **Date of Sheriff Sale:** _____

IMPORTANT NOTICE:

Call the Save Your Home Philly Hotline at

215-334-HOME

Your property has been listed for Sheriff Sale on [AUGUST 5, 2008] or [SEPTEMBER 9, 2008] (select one)

BUT, you can have the Sheriff Sale **postponed** to [August 5, 2008 to November 4, 2008] [September 9, 2008 to December 2, 2008] so that you can participate in a conference that may let you save your home. You must own and live in the property and it must have four or fewer residential units to be eligible for a conference.

You must file the form attached to this Notice, Objection to Plaintiff's Certification, before 2:00 PM, [July 30, 3008] [August 27, 2008] in order to postpone the Sheriff Sale and participate in a conference.

You must file the form in **Room 278 of City Hall**, Philadelphia, PA 19107. You must also mail a copy to the Plaintiff's Attorney at the following address:

[Attorney name and address]

Unless the Objection to Plaintiff's Certification is filed in Room 278 City Hall before 2:00 PM, [July 30, 2008] [August 27, 2008] **your property may be sold by the Sheriff on** [August 5, 2008] [September 9, 2008].

For help, or if you have questions, call:

Save Your Home Philly Hotline at 215-334-HOME (4663)

EXHIBIT C

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
CIVIL TRIAL DIVISION

Plaintiff, : _____ TERM, 20__
:
: NO. _____
v. :
: Sheriff Book _____ Writ _____
:
Defendant : Date of Sheriff Sale: _____

**DEFENDANT’S OBJECTION TO PLAINTIFF’S CERTIFICATION
AND REQUEST FOR POSTPONEMENT OF SALE**

I, the undersigned, object to Plaintiff’s Certification and in support thereof I certify that:

- 5. I am the owner or an owner or an heir to a deceased owner of the property identified above;
- 6. I live in the property described above;
- 7. The property is my principal residential property;
- 8. The judgment entered against me in the case described above was entered against me to collect a mortgage debt on my home; and

I request that the Sheriff Sale of the above premises be postponed so that I can take part in the conciliatory conference required for owner occupied residential premises.

I verify that the statements made herein are true and correct. I understand that false statements are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Signature of Defendant
Address:
Philadelphia, PA _____
Phone Number:
Fax Number:
Email Address:

EXHIBIT D

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
CIVIL TRIAL DIVISION

Plaintiff, : _____ TERM, 20____
:
: NO. _____
v. :
: **Sheriff Book** _____ **Writ** _____
:
Defendant : **Date of Sheriff Sale:** _____

CERTIFICATE OF SERVICE

The undersigned verifies, subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities, that the attached [*Certification was*] or [*Certification, Important Notice, and Defendant's Objection To Plaintiff's Certification And Request For Postponement of Sale* form were] mailed to the defendant(s) at their last known address and, if different, to the address of the premises subject to sale and to counsel of record, if any, and to the owners of the noted premises via first class mail, as noted below.

NAME(S)

ADDRESS(ES)

Date: _____

Counsel for Plaintiff

EXHIBIT E

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
CIVIL TRIAL DIVISION

Plaintiff, : _____ TERM, 20____
: _____
: NO. _____
v. : _____
: **Sheriff Book** _____ **Writ** _____
: _____
Defendant : **Date of Sheriff Sale:** _____

Joint General Court Regulation No. 2008-01: Residential Mortgage Foreclosure Diversion Pilot Program

**DEFENDANT’S CERTIFICATION THAT PREMISES ARE
RESIDENTIAL and OWNER OCCUPIED
and
REQUEST FOR CONCILIATION CONFERENCE
(Prothonotary Code: CERDO)**

Pursuant to the Order issued by President Judge C. Darnell Jones II and Administrative Judge D. Webster Keogh on July 17, 2008, I hereby certify as follows:

1. I am the owner or an owner or an heir to a deceased owner of the property known as:

Premises Address: _____
Philadelphia, PA _____

2. I live in the property identified above;

3. This property is my principal residential property;

4. The judgment entered against me in this case was entered against me to collect a mortgage debt on my home;

5. The above property is scheduled to be sold at Sheriff Sale on _____
and I request that the Sheriff Sale be postponed to enable the Court to schedule a Conciliation Conference pursuant to Joint General Court Regulation No. 2008-01.

The undersigned verifies that the statements made herein are true and correct. I understand that false statements are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Signature of Defendant(s)
Phone Number:
Mobile Number:
Fax Number:
Email Address:

NOTE: Defendant must file in Room 278 City Hall at least 10 days before the date of the Sheriff Sale and MUST mail a copy to Plaintiff’s Attorney

EXHIBIT F

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
CIVIL TRIAL DIVISION

Plaintiff, : _____ TERM, 20__
: _____
: NO. _____
v. : _____
: **Sheriff Book** _____ **Writ** _____
: _____
Defendant : **Date of Sheriff Sale:** _____

IMPORTANT NOTICE

Call the Save Your Home Philly Hotline at

215-334-HOME (4663)

Your property has been listed for Sheriff Sale on _____.

BUT, you can have the Sheriff Sale **postponed** so that you can participate in a conference that may let you save your home. You must own and live in the property and it must have four or fewer residential units to be eligible for a conference.

You must file the form attached to this notice, Certification of Premises as Residential-Owner Occupied and Request for Conciliation Conference, at least 10 days before the date of the Sheriff Sale in order to postpone the Sheriff sale and participate in a conference.

You must file the form in **Room 278 City Hall**, Philadelphia, PA 19107.

You must also mail a copy to the Plaintiff's Attorney at the following address:

[Attorney name and address]

Unless the Certification of Premises as Residential – Owner Occupied and Request for Conciliation Conference is filed in Room 278 City Hall at least 10 days before the date of the Sheriff Sale, **your property may be sold on the date of the Sheriff Sale.**

For help, or if you have questions, call:

Save Your Home Philly Hotline at 215-334-HOME (4663)

LOAN RESOLUTION OPTIONS

BENEFITS AND DETRIMENTS

Generally, the greater the age of the first missed payment, the more difficulty the homeowner experiences in bringing the loan current.

The homeowner would be required to select an option to either remain in the home or to agree to vacate the home, depending on their circumstances.

FOR SHORT-TERM, LESS SEVERE FINANCIAL PROBLEMS

▪ **REPAYMENT PLAN**

- **Description:** A formal, written agreement between the homeowner, law firm and the mortgage servicer, often in the format of Court Approved Payment Stipulation/Consent Agreement/Consent Judgment
- Temporary increase in monthly payments until the loan is brought current.
- Homeowner provides cash as a down payment, and makes a payment each month which is compromised of: 1.) regular monthly payment and 2.) portion of arrearages.

▪ **Benefit:**

- Homeowner has the opportunity to “make up” missed payments, rather than all at once AND remains in the home.

▪ **Detriment:**

- Payments are higher than normal for the homeowner, and will be unaffordable unless the homeowner has a lump sum up-front.

▪ **HOME SAVER ADVANCE**

▪ **Fannie Mae Insured Loans only**

- **Description:** The lender agrees to advance funds to allow the homeowner to reinstate the mortgage.
- Homeowner signs a note at 5% interest payable over 15 years with no payments for first 6 months for the amount advanced to bring the account current.

▪ **Benefit:**

- Homeowner has the opportunity to “make up” missed payments, all at once AND remain in the home.
- Monthly payments average \$35.00 to \$50.00 per month for 14.5 years
-

▪ **Detriment:**

- Payments are higher than normal for the homeowner after first 6 months.
-

- A similar program (HUD PARTIAL CLAIM) is available on HUD insured mortgages.

▪ **FORBEARANCE**

- **Description:** A formal, written agreement between the homeowner, law firm and the mortgage servicer, often in the format of Court Approved Payment Stipulation/Consent Agreement/Consent Judgment
 - Under the terms of the agreement, monthly payments are reduced or suspended for a specific period of time.
 - During that time, the homeowner pays either a lower monthly payment or no payment at all.
 - At the end of the agreed-upon period, the homeowner resumes making regular monthly payment as well as additional funds to make up for the past-due amount OR another workout alternative, ie. Modification may be warranted.
- **Benefit:**
 - During period of forbearance, homeowner has the opportunity to resolve the financial hardship AND remain in the home.
- **Detriment:**
 - Typically, the last forbearance is a large lump sum, which can be unaffordable for the homeowner, unless the homeowner is waiting on a specified lump sum of income.

FOR LONGER-TERM, MORE SEVERE FINANCIAL PROBLEMS

- **MODIFICATION**
 - **Description:**
 - One or more of the terms of the mortgage may be changed to bring the loan current. For example, the modification might involve extending the term OR temporarily reducing the interest rate.
 - Delinquent interest, escrow, fees, and other costs may be added to the principal balance that is owed.
 - **Benefit:**
 - The homeowner is offered a fresh start and the loan remains a performing asset.
 - **Detriment:**
 - Modifications take time to be reviewed by the various investors or mortgage insurance companies that may have an interest in the loan and may not be affordable in every situation.
 - Some loans are not eligible based on investor decisions. For instance, an investor may be more inclined to accept the current re-sale value today and reinvest those funds into a different asset than be tied to the existing mortgage and modified terms.
 - Affordability of modified loan is dependent on a variety of factors that are individualized for each homeowner, making quick decisions difficult. Continuing cooperation and communication is required from all parties.
- **PRE FORECLOSURE SALE/SHORT SALE/SHORT PAYOFF**
 - **Description:**
 - If sale of the property at current fair market value would result in proceeds less than the total debt
 - Property is listed for sale at “as is” appraised value

- The lender and servicer agree to accept the proceeds of the sale in satisfaction of the mortgage
 - Homeowners may be asked to make a cash contribution or sign an interest-free promissory note for the all or part of the difference between the proceeds from the sale of the property and the amount owed on the mortgage
 - **Benefit:**
 - The homeowner is relieved of the debt and avoids the stigma of foreclosure. Lender is not required to take the property into reo inventory and carry the property until re-sold.
 - **Detriment:**
 - Lender is not satisfied in full for the mortgage and note obligation.
- **DEED-IN-LIEU OF FORECLOSURE or Consent Judgment with Waiver of Deficiency Judgment Rights**
 - **Description:**
 - The homeowner voluntarily deeds the property to the servicer
 - Generally viewed as an option only after all other alternatives have been explored
 - Only available if there are no junior liens (or junior lien holders agree to release) and the property is vacant at the time the deed is executed
 - Some lenders may offer cash for keys to facilitate junior lien clearing or relocation.
 - **Benefit:**
 - The homeowner is relieved of the debt and avoids a Sheriff's Sale.
 - For credit repair in the future, is a little bit better than a completed foreclosure sale.
 - **Detriment:**
 - Significant title issues may arise, especially in "gap" period from time deed is signed until it is recorded.
 - Actually duplicates costs to lenders with very little benefit to the homeowner.
 - Viewed only as a "last resort" and properties have preferably been listed for public sale for at least 90 days.
 - Once judgment is entered and a sale is scheduled, the lender gains very little benefit from a deed in lieu.
 - The preferred method is a Consent Judgment with waiver of Deficiency judgment Rights.
- **CONSENT JUDGMENT TO VACATE**
 - **Description:** The homeowner agrees to vacate by a date certain
 - Generally viewed as an option only after all other alternatives have been explored
 - Some lenders may offer cash for keys to facilitate relocation
 - May be useful in certain circumstance where family circumstances require extended move out arrangements, such as school, day care, job, commuting concerns.

- **REVERSE MORTGAGE**
- Description: Available to homeowner 62 or older
 - Homeowner applies for a reverse mortgage which provides loan proceeds up to 60% of the value of the home.
 - Reverse mortgage is used to payoff existing mortgage and homeowner may remain in property until they vacate.
 - Application process is lengthy (4-8 weeks) and approval is dependent upon substantial equity in the property.

- **PENNSYLVANIA FORECLOSURE AVOIDANCE PROGRAMS**
 - HEMAP- Homeowner Emergency Pennsylvania's Act 91 of 1983, 35.P.S. 1680.401 et seq., the Homeowners Emergency Mortgage Assistance Act ("Act 91") permits a state agency, the Pennsylvania Housing Finance Agency (PHFA) to make loans secured by liens to Homeowners facing foreclosure. The Homeowners must prove that a hardship exists which caused the mortgage default and the Homeowners have a reasonable prospect of curing the default within 2 years.
 - **IT IS NEVER TOO LATE FOR A HOUSING COUNSELOR TO APPLY FOR HEMAP ASSISTANCE**
 - HERO Program - The HERO program provides for up to 100% financing but, instead of refinancing your current mortgage into a new loan, PHFA purchases your loan directly from your current lender (usually at a discount) and then sets you up on an affordable repayment agreement.

Prepared by:

Michael McKeever
GOLDBECK MCCAFFERTY & MCKEEVER
215-825-6303

Additional resources:

Loss mitigation training on efanniema.com
www.efanniema.com/lc/sir/websem/index.jsp.
www.efanniema.com
www.hud.gov
www.dontborrowtrouble.com
www.phfa.org

CASE CAPTION

STIPULATION (LENDER SAMPLE FORMAT)

IT IS HEREBY STIPULATED by and between the Plaintiff and the Defendant as follows:

WHEREAS, the Defendant acknowledges that the mortgage and note held by Plaintiff are in default and that Plaintiff has filed the above captioned Action of Mortgage Foreclosure. WHEREAS, the Defendant desires to reinstate the terms of the mortgage and note to good standing and demonstrate the ability to maintain regular monthly payments,

THEREFORE, in consideration of the mutual benefits to be derived thereby, the parties agree as follows:

1. Judgment was granted in favor of Plaintiff and against Defendant on

2. If Defendant makes payments in accordance with the following schedule, Plaintiff will postpone the Sheriff's Sale _____. If the _____, _____ and _____, payments are timely made, the Sheriff's Sale of

DUE DATE OF PAYMENTS	PAYMENT AMOUNTS*
	\$
	\$

*** The payment amount of \$ consists of the regular payment of \$ and the amount of \$ towards the arrearages. The total amount to bring the account current as of is \$. See the Reinstatement Amount attached to this Stipulation.**

PLEASE NOTE: WHILE IN THIS PROGRAM THERE IS NO GRACE PERIOD ALL PAYMENTS ARE DUE ON OR BEFORE THE DATES INDICATED.

3. If Defendant defaults under this Stipulation, the Defendant will nevertheless retain the right to reinstate and/or payoff the mortgage in question at anytime prior to a Sheriff's Sale, if any, in accordance with the mortgage documents;

4. Plaintiff and Defendant agree that any sums advanced by Plaintiff after the entry of this judgment in mortgage foreclosure shall become a part of the judgment lien. Plaintiff reserves the right to amend the judgment amount to include any of the sums advanced after the entry of judgment by way of a petition to reassess its damages prior to any Sheriff's Sale and Defendant will not contest Plaintiff's request;

5. In the event of changes in taxes or insurance, it is understood that the regular monthly payment may be changed accordingly.

6. The first forbearance payment as specified herein shall be paid by way of **certified or bank check** to the offices of GOLDBECK McCAFFERTY & McKEEVER at the address on the enclosed letter. All subsequent payments shall be made by **certified or bank check** to” as specified herein and mailed to the following address:

ATTN:

7. It is expressly understood and agreed that should the Defendant convey title to the mortgaged premises or move from the premises, Plaintiff may proceed with its Action of Mortgage Foreclosure even if payments are made as the conveyance of title without the Plaintiff’s consent is a default under the note and mortgage.

8. It is expressly understood and agreed that the default is not cured or waived by acceptance of any monies paid under the terms of this Stipulation.

9. It is expressly understood and agreed that time is and shall be of the essence as to each payment required to be made by the Defendant pursuant to the Stipulation.

10. Defendant consents and agrees that in making this Stipulation, the pending foreclosure proceedings will not be waived or terminated, but may proceed unabated if Defendant fails to adhere to the above schedule, and that any monies paid to Plaintiff hereunder may be retained by Plaintiff should Defendant default under the terms of this Agreement, and in such event, Plaintiff shall have no obligation to refund all or any part of such funds to Defendant.

11. Any payments received by Plaintiff from the Defendant shall be applied on attorney's fees, trustees' fees, foreclosure expenses, delinquent payments, and late charges, in such order and amounts as Plaintiff shall, in its sole discretion, determine.

12. Defendant has no defenses to this action and does not intend to interpose any answer herein and specifically waives the right to do so and any and all defenses, which might otherwise have been contained therein.

13. Defendant acknowledges the right to retain counsel to review this litigation and Stipulation and waives the right to do so.

14. This Stipulation may be executed in counterparts, each of which shall constitute an original. A facsimile signature shall be considered an original signature.

15. This Stipulation represents the whole agreement of the parties, who intend to be legally bound.

Goldbeck McCafferty & McKeever

Basic Considerations for the Mortgage Foreclosure Diversion Pilot Project

It is important to the Foreclosure Diversion Pilot Project and the Conciliation Conferences to understand that investors lose a good deal of money on a foreclosure and that homeowners need workouts that are affordable so that the loans will perform over time. Lenders can lose up to 50% of the loan amount when they are forced to foreclosure according to a February Wall St. Journal article. As a result loans are being modified in fairly significant numbers at this point. The Hope Now Alliance, an industry sponsored group, reported on May 30, 2008 that 42 % of their workouts are loan modifications, up from 19% in the third quarter of 2007. Loan modifications are win-win situations for homeowners and investors, as well as the communities in which the homes are located, many of which will be hard hit by large scale foreclosures.

Unfortunately, many mortgage companies have not developed an infrastructure that will allow them to handle the volume of delinquencies and consider homeowners for affordable workouts. Homeowners and housing counselors are often frustrated by bureaucracies that are difficult to navigate. Homeowners who could have their foreclosure prevented are not being assisted. This was verified by the State Foreclosure Prevention Working Group, made up of banking regulators and attorneys general in 11 states in a report released on April 22, 2008. They found that workouts have increased along with loan modifications, but 70% of seriously delinquent homeowners are not on track to receive any kind of help with their problem, according to the April 23 Wall St. Journal. The report suggests that mortgage servicers have been overwhelmed by the flood of delinquent loans and that seriously delinquent loans--those 60 days or more past due—are “stacking up” on their way to foreclosure. These seriously delinquent loans are the ones that will be found in the Foreclosure Diversion Pilot Project. Even local lender attorney Lawrence Phelen said in the March 24 Philadelphia Inquirer “Under the current climate, the servicers are besieged. This is a volume that no one anticipated.”

As preventing foreclosures, where possible, is the goal of the Mortgage Foreclosure Diversion Pilot Project we believe that it is appropriate that the Conciliation Conferences should be used to assist homeowners and investors to reach loan modifications and work outs that result in a performing loan and a family able to remain in their home, where possible. If such a work out effort has not occurred it is inappropriate for the home to go to Sheriff’s Sale. If no solution has been offered, the servicer should explain how they considered the mortgage for modification or other resolution to show that a serious attempt was made to secure a performing loan.

The goal of securing a performing loan and preventing a foreclosure means that there must be some way to judge if terms being offered are affordable for the homeowner. The mortgage industry uses debt to income ratios (monthly housing costs and monthly long term obligations divided by total gross salary or other income) to determine what an affordable loan is at origination. The FHA debt to income standard is 43%. The VA uses 41% with a possible higher debt to income ratio in some cases. Some subprime loans and second mortgages use a 45% ratio. In determining what is a reasonable offer to save a mortgage, work outs should fall somewhere in the range of 41% to 45% debt to income ratio. These percentages will give the court a way to judge if workouts being offered will actually result in the prevention of a foreclosure and a long term resolution for the investor.

These considerations provide a broad frame work for ensuring that the Foreclosure Diversion Pilot Project reaches the potential it has to be a national model for reducing foreclosures. The subprime

problem has continued to elude a solution. The numbers of foreclosures continue to soar, up 65% in April 2008 compared to April of last year. The head of consumer and community affairs at the Federal Reserve Board said on May 29 that the mortgage crisis “is bad and it’s getting worse. A plan that allows us to slow the stampede to foreclosure and make sure that all steps are taken to secure an affordable, performing loan before a Sheriff’s Sales takes place could be a beacon of hope in this country.

John Dodds
Director
Philadelphia Unemployment Project

Residential Mortgage Foreclosure Diversion Program Settlement Options

Materials Prepared By:

Beth Goodell & Nanina Takla
Community Legal Services of Philadelphia, Inc.

Settlement Possibilities

- Key to homeowner = affordability
- Most common measure of affordability = debt to income ratio
- Programs with expertise in expanding homeownership: Affordability = no more than 45% (all) debt to income
- Financial/proposal form will include ratio of proposed resolution

Loan Types

- *FHA*
- *Conventional prime*
 - Fixed or adjustable
- *Conventional subprime*
 - Some fixed
 - Of late, almost always adjustable

Settlement Types

- Home Retention
- “Liquidation”

FHA: 24 C.F.R. 203.501 Loss mitigation. Mortgagees must consider . . . (not limited to):

- recasting of mortgages under Sec. 203.616
- partial claims under Sec. 203.371, 414
- assumptions under Sec. 203.512
- special forbearance under Secs. 203.471 and 203.614
- deeds in lieu of foreclosure under Sec. 24 C.F.R. 203.357
- pre-foreclosure sales under Sec. 203.370

Contract:

- Paragraph 9, Mortgage

9. Grounds for Acceleration of Debt.

(a) Default. Lender may, except as limited by regulations issued by the Secretary, in the case of payment defaults, require immediate payment in full of all sums secured by the Security Instrument if:

- (i) Borrower defaults by failing to pay in full any monthly payment required by this Security Instrument prior to or on the due date of the next monthly payment, or
- (ii) Borrower defaults by failing, for a period of thirty days, to perform any other obligation in this Security Instrument.

Case Law

- *Mortgage company's failure to comply with the federal FHA servicing rules is a defense to a foreclosure. Commonwealth of PA School Employees Retirement Fund v. Terrell, 582 A. 2d 367 (Pa. Super 1990).*

Conventional

Prime (Retention)

- *HEMAP*
- *Repayment plan*
- *Forbearance*
- *Modification*
- *Special Refinance Programs:*
 - REAL
 - HERO
 - FHA Select

Sub-Prime (Retention)

- *Modification*
- *Special Refinance Programs:*
 - REAL
 - HERO
 - FHA Select
 - Reverse Mortgage

HERO (PHFA)

- Fixed rate for up to 30 years
- Up to 100 percent of value.
- Currently 7.95%
- PHFA services the loan
- PHFA may be able to negotiate the payoff
- Must have sufficient and stable income to support timely repayment

- Must have made effort to meet financial obligations to the best of ability
- Must agree to direct payment from bank account

FHA Secure

- If there's a default, must have been due to interest rate reset

Local Assistance Programs

- **Housing Retention Program**
 - Grants up to \$1,500
 - Select zip codes
- **Philadelphia Neighborhood Housing Services Foreclosure Prevention Loan**
 - Loans up to \$5,000
- **Liquidation**
 - Straight Sale
 - Short Sale
 - Deed in Lieu/No Deficiency
 - “Cash for Keys”

Securitization & Barriers to Settlement

- *Compartmentalization of roles in foreclosure process*
- *Servicer vs. Trust – who has authority & what's motivation?*
 - Trustee is plaintiff – fiduciary duty to investors
 - Servicer (or its subcontractor) brings foreclosure action:
 - Scope of servicer's authority set out in pooling & servicing agreement with Trust
 - Foreclosure process generates fees for servicer
 - Traditionally acted as debt collector – cultural shift?
 - “Investors (or Trustee) won't allow us to”

Sample Outcomes

1:

- Original loan terms: \$39,000, 11.95% note rate, mo P&I \$428, PITI \$575
- Balance at foreclosure: \$39,500
- Homeowner: 80 years old, income \$1,400/mo
- Settlement terms: Debt of \$18,000, client had saved \$2,000, so \$16,000, 7.5%, PITI \$248

2

- Original loan terms: \$22,500, 12.8% note rate, mo P&I \$374
- Balance at foreclosure: \$25,800
- Homeowner: 59 yrs old, income \$900/mo
- Settlement terms: Debt of \$21,000, 6.0%, P&I \$150.45

3

- Original loan terms: \$27,000, 11.9% note rate, mo P&I \$278
- Balance at foreclosure: \$30,600
- Homeowner: 72 yrs old, income \$675/mo
- Settlement terms: Debt of \$10,000, 8.0%, P&I \$77.18

4

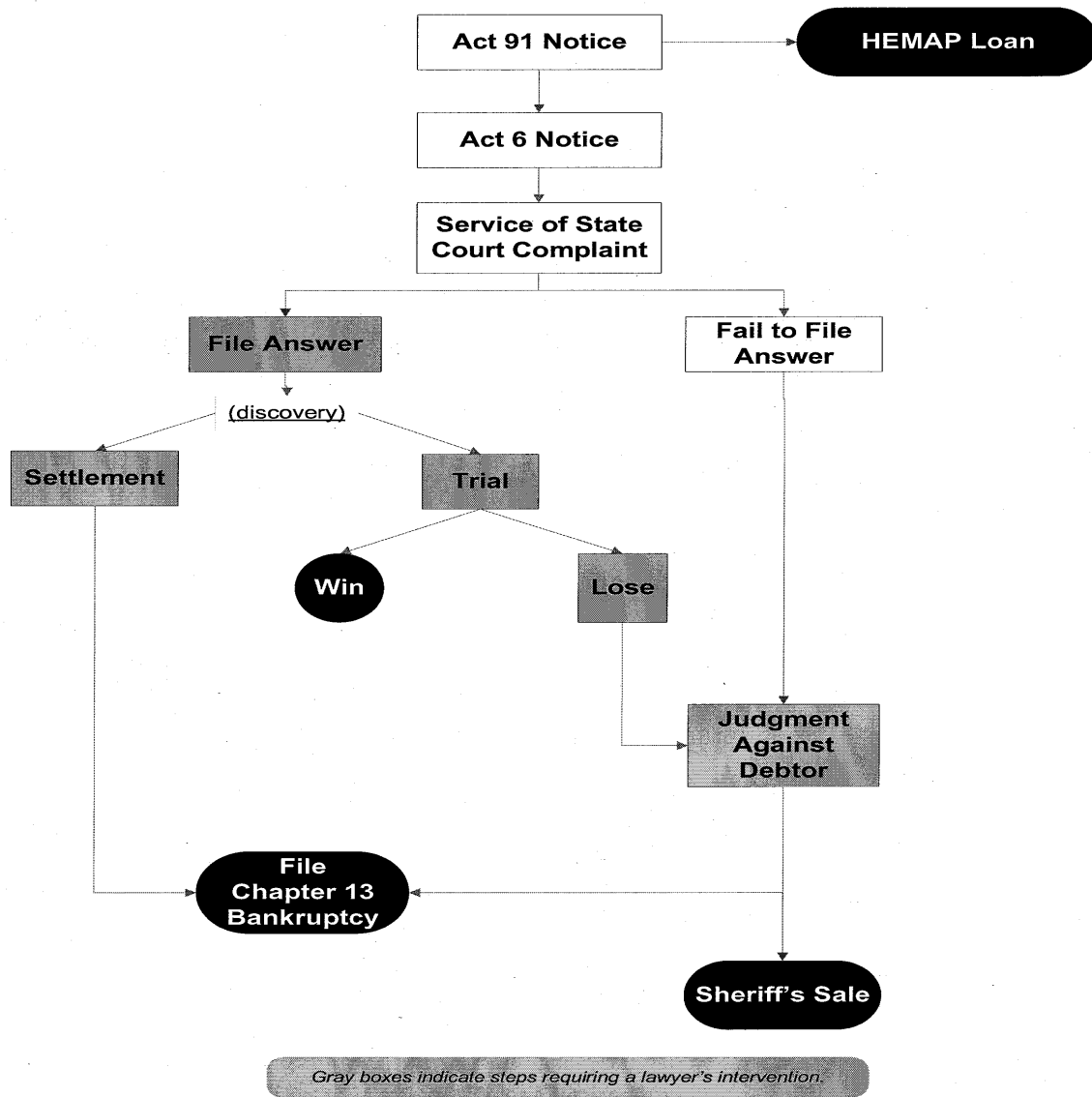
- Original loan terms: \$56,000, 12.9% note rate
- Balance at foreclosure: \$68,000
- Homeowner: 49 yrs old, income \$1,100
- Settlement terms: Debt of \$50,000, 5.0%

5

- Original loan terms: FHA loan, market rate
- Arrears: \$5,700 missed payments, late fees; \$5,122 fees & costs
- Settlement terms: Fees & costs reduced to \$1,500

Foreclosure

The Legal Process of Mortgage Foreclosure



Court's Equitable Power to Stay Execution of a Judgment

- **Pa Rule of Civil Procedure 3183(b)(2)** -- execution of foreclosure judgment:

Execution may be stayed by the court as to or any part of the property of the defendant upon its own motion or application of any party in interest showing any . . . legal or equitable ground.

- **Common law:**

“We have held from time immemorial that judges in common law courts may stay execution for causes which are sufficient and that their orders will not be disturbed unless there is a clear abuse of discretion.” Commissioners of Sinking Fund v. Philadelphia, 324 Pa. 129, 135-136 (Pa. 1936).

Legal Issues

- ***Standing/Compliance with Rules***
 - Who owns the loan?
 - Who is the plaintiff?
 - Who is the assignee of record?
- ***Standing/Compliance with Rules***
 - **Real Party in Interest**
 - Pa. Rule 2002
 - Requires that all actions must be prosecuted by and in the name of the real party in interest
 - Plaintiff must establish that it has standing as a prerequisite to maintaining an action. William Penn Parking Garage, Inc. v. City of Pittsburgh, 464 Pa. 168, 192, 346 A.2d 269, 280-281 (1975).
 - In order to have standing, a party must have an immediate and substantial interest in the subject-matter of the litigation. *Id.* at 197, 283.
 - **Rule 1019. Contents of Pleadings. General and Specific Averments.** (i) When any claim or defense is based upon a writing, the pleader shall attach a copy of the writing, or the material part thereof, but if the writing or copy is not accessible to the pleader, it is sufficient so to state, together with the reason, and to set forth the substance in writing
 - **Rule 1147: Foreclosure/Complaint**
 - The plaintiff shall set forth in the complaint:

(1) *the parties to and the date of the mortgage, and of any assignments, and a statement of the place of record of the mortgage and assignments;*

- **Washington Mutual v. Carr, CCP Adams County (2007), 2006 WL 2568287 (Pa.Com.Pl.), 77 Pa. D. & C.4th 136. Because plaintiff failed to allege facts establishing the relationship between it and the original mortgagee in its mortgage-foreclosure complaint, the court granted defendant's preliminary objection based on plaintiff's lack of capacity to sue.**

- **Ohio Federal Court Cases:**

- *In re Foreclosure Cases, Nos. 07-CV-166 et al., 2007 WL 4589765 (S.D. Ohio Dec. 27, 2007) (Holschuh, J.) (15 consolidated cases)*
- *Midfirst Bank v. Davenport, No. 07-CV-405, 2007 WL 4246271 (S.D. Ohio Nov. 29, 2007) (Rose, J.)*
- *HBC Bank USA v. Rayford, No. 07-CV-428, 2007 WL 4190805 (S.D. Ohio Nov. 21, 2007) (Rose, J.)*
- *Novastar Mortgage, Inc. v. Riley, No. 07-CV-397, 2007 WL 4190802 (S.D. Ohio Nov. 21, 2007) (Rose, J.)*
- *Novastar Mortgage, Inc. v. Grooms, No. 07-CV-395, 2007 WL 4190796 (S.D. Ohio Nov. 21, 2007) (Rose, J.)*
- *Wells Fargo Bank, N.A. v. Abdulla, No. 07-CV-2176 (N.D. Ohio Nov. 20, 2007) (Gwin, J.)*[1]
- *In re Foreclosure Cases, ___ F. Supp. 2d ___, Nos. 07-CV-043 et al., 2007 WL 4056586 (S.D. Ohio Nov. 15, 2007) (Rose, J.) (20 consolidated cases)*
- *In re Foreclosure Cases, Nos. 07-CV-2282 et al., 2007 WL 3232430 (N.D. Ohio Oct. 31, 2007) (Boyko, J.) (14 consolidated cases)*
- *Deutsche Bank National Trust Co., Trustee v. McCarthy, Case No. 1:07 CV 3071 U.S.D.C. (N.D. OHIO), 10/30/07 (J. Dowd)*

In these cases, various federal judges dismissed foreclosure complaints brought pursuant to diversity jurisdiction without prejudice (typically in response to requests to enter default judgment) because the plaintiff submitted mortgage assignments that listed the date of assignment as later than the date when the action was commenced. Accordingly, the court held they lacked standing at the time of filing. The plaintiffs had submitted the assignments to comply with the proof requirements of the district's standing order or a court order to provide such information.

Judge Holschuh's December 27 decision is particularly useful because it rejects various counterarguments that the mortgage owners had used to try to stop the trend of dismissals. In particular, he refuses to credit affidavits alleging the owners' prior ownership interest when the submitted assignments indicate otherwise and no additional documentation demonstrating earlier ownership was offered.

- **Ohio state appeals court**

- *Everhome Mtge. Co. v. Rowland*, 2008-Ohio-1282, (Court of Appeals of Ohio) 3/20/08 (reversed summary judgment for Plaintiff)
- *DLJ Mtge. Capital, Inc. v. Parsons*, 2008-Ohio-1177 (7th District Court of Appeals of Ohio) 3/13/08 (same)

- **Standing/Compliance with Rules**

- **New York State Court Cases:**

- *Aurora Loan Servs., LLC v. Sattar*, No. 15208/07, 2007 WL 2917245 (N.Y. Sup. Ct. Kings Co. Oct. 9, 2007) (Schack, J.)
- *Deutsche Bank Nat'l Trust Co v. Clouden*, No. 277/07, 2007 WL 2709996 (N.Y. Sup. Ct. Kings Co. Sept. 18, 2007) (Schack, J.)

- Aurora Loan Servs. v. Grant, No. 35680/06, 2007 WL 2768915 (N.Y. Sup. Ct. Kings Co. Aug. 29, 2007) (Rothenberg, J.)
- EMC Mortgage Corp. v. Batista, No. 34145/06, 2007 WL 1599986 (N.Y. Sup. Ct. Kings Co. June 5, 2007) (Schack, J.)
- U.S. BANK, NA, Trustee v. Videjus, 2008 WL 1869725 (N.Y. Sup.), April 29, 2008 (Schack, J.)
- WELLS FARGO BANK, N.A., Trustee v. GUY, 2008 WL 1903535 (N.Y. Sup.), May 1, 2008 (Schack, J.)
- Deutsche Bank Nat. Trust Co. v. Maraj, Supreme Court, Kings County, New York, No. 25981/07, Jan. 31, 2008 (Schack, J.)

A pair of Brooklyn judges dismissed a handful of foreclosures against defaulting or pro se defendants after finding no evidence of a proper assignment of the mortgage to the foreclosing plaintiff. Judge Schack, apparently taking it upon himself to check the City Register's online records, dismissed cases in which he found the records contained no assignment of the mortgage to the plaintiff or the recorded assignment lacked evidence of the assignee's power of attorney to do so. Judge Rothenberg dismissed a case in which the assignment submitted by the plaintiff was dated after the action commenced. Both judges disregarded the foreclosing lawyers' affidavits attesting to the plaintiffs' ownership interests.

Fees & Costs

– Act 6, 41 P.S. 101 et seq.

- *Regarding mortgages, only if \$50,000 or less*
- *403: Notice of intent to foreclose*
 - *Must be sent in writing at least 30 days before acceleration/ commencing foreclosure*
 - *Must be sent by registered or certified mail to last known address and, if different, to the mortgaged property*
- *404: Right to cure a default*
- *Debtor can cure by paying in certified funds the amount due, including reasonable attorneys fees allowed under section 406 and the reasonable costs of proceeding to foreclosure as specified in writing actually incurred to the date of payment.*

Regarding inspection fees:

Mortgage company not entitled to pass through inspection costs to mortgagor, was not "cost of foreclosure" for which pass through is authorized by statute. [In re Burwell, Bkrcty.E.D.Pa.1989, 107 B.R. 62.](#) Bankruptcy.

But see:

Inspection fees could be collected absent showing that requested fee was unreasonable. [In re Cervantes, Bkrcty.E.D.Pa.1986, 67 B.R. 816.](#) [Mortgages 582](#)

•406: Attorneys Fees Payable

- No foreclosure attorney's fees to mortgage company except:
- Upon commencement of foreclosure or other legal action, attorney's fees that are reasonable and actually incurred
- Prior to commencement of foreclosure or other legal action, not more than \$50;

- No attorneys' fees for legal expenses incurred prior to or during the 30-day notice period provided in sec. 403.

In-re Gordon Brown, 340 B.R. 751 (Bankr. E.D. Pa. 2006)

- Mortgage company claimed \$1,250 for uncontested foreclosure
- Put on no evidence of hourly rate or hours spent.
- Based on Act 6, Court reduced fee to \$700 based on assumption of \$200/hour & 3.5 hours.

In re McMillan, Bkrcty.E.D.Pa.1995, 182 B.R. 11

- Reasonableness = lodestar
- Number of hours reasonably expended times reasonable hourly rate
- Bank failed to make evidentiary record regarding time and rate and actual services rendered, fees denied

In re Nickleberry, Bkrcty.E.D.Pa.1987, 76 B.R. 413

- Sec. 406 limits counsel fees to fees which were reasonable and actually incurred, irrespective of terms of mortgage contract

502: Usury and excess charges

- *Recoverable in legal action*
- *Four year SOL from the date of payment*
- *Payment required*

503: Reasonable attorneys fees must be awarded to a borrower/debt successful in a lawsuit under Act 6

- **Beckett v. Laux, 577 A.2d 1341, 395 Pa.Super. 563, Super.1990**
- **First Nat. Bank of Allentown v. Koneski, 573 A.2d 591, 392 Pa.Super. 533, Super.1990**

504: Individual actions permitted.

“Any person affected by a violation” has the right to “bring an action on behalf of himself individually for damages by reason of such conduct or violation, together with costs including reasonable attorney's fees and such other relief to which such person may be entitled under law.”

– **Act 91, 35 P.S. § 1680.103 et seq.**

- *Creates Home Owners Emergency Mortgage Assistance Program (HEMAP)*
- *Requires notice of default and opportunity to apply for HEMAP before foreclosure can commence on owner occupied property*
- *Not limited by \$ amount of the loan*
- *Does not apply to FHA loans*
 - Notice must include list of counseling agencies
 - Washington Mutual v. Carr, CCP Adams County (July 5, 2006), published in Adams Co Legal Journal, Vol. 49, No. 4, pp. 17-21, June 15, 2007. Act 91 notice defective, foreclosure complaint dismissed because notice included a list of all counseling agencies in Pennsylvania rather than list of agencies in the county in which the property was located.

Notice requirements of Act 6 & Act 91 are jurisdictional

- Philadelphia Housing Authority v. Barbour, 592 A.2d 47, 48 (Pa. Super 1991)
- Bankers Trust Co. v. Foust, 621 A.2d 1054 (Pa. Super. 1993), allocatur denied, 631 A.2d 1007 (Pa. 1993)
- Marra v. Stocker, 615 A.2d 326 (Pa. 1992) (sheriff sale must be set aside where it was based on a judgment that was void for failure to comply with Act 6 notice requirement).

Abusive Servicing, Excessive Fees

- *Article, cases re padding of fees by mortgage servicers. Misbehavior and Mistake in Bankruptcy Mortgage Claims; In re Jones, In re Stewart (Bankr. E.D. La. 2007 & 2008)*
 - “Countrywide Faces Foreclosure Probe”
 - Jones (2007): Court awarded \$67,000+ punitive damages vs. Wells Fargo for reckless, false claims for fees & costs in a bankr claim.
 - Stewart (2008): Awarded \$15,000 damages, \$12,000 atty fees vs. Wells for same, plus ordered audit of every proof of claim filed in the district

Contact Information for Law Firms
Representing Lenders in Foreclosure Proceedings
Home Retention/Loan Resolution/Loss Mitigation

Goldbeck McCafferty & McKeever
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Udren Law Offices, P.C.

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Woodcrest Corporate Center

111 Woodcrest Road, Suite 200

Cherry Hill, N.J. 08003-3620

(856) 669-5458

trich@udren.com



FORECLOSURE RESCUE EFFORT

VOLUNTEER ATTORNEY

INFORMATION FORM

Name: _____

1. Are you able to accept a mortgage foreclosure case sometime between now and June 6, for a conference that will occur June 10-13? _____ YES (If yes, check times below.) _____ NO

	Tues., 6/10	Weds., 6/11	Thurs., 6/12	Fri., 6/13
9 AM				
1 PM				

2. Are you able to appear for a half-day to assist unrepresented homeowners at conciliation conferences as an on-call attorney? There will be no formal conflicts checks; however, per Rule 6.5, when you know that you or your firm would be disqualified for conflict of interest, you will not be asked to assist that homeowner. Please see Rule 6.5 of the Rules of Professional Responsibility on the back.

_____ YES _____ NO

If yes: are you able to assist with this first round of conciliation conferences? If so, check times below.

	Tues., 6/10	Weds., 6/11	Thurs., 6/12	Fri., 6/13
9 AM – 1PM				
1PM – 5PM				

3. Are you interested in learning about representing low-income homeowners in mortgage foreclosure litigation (not just conciliation conferences)?

_____ YES, I would like to attend a training session on this topic.

_____ YES, I would like more information on this topic.

_____ NO

4. Are you interested in attending a training to help low-income clients save their homes through Chapter 13 bankruptcy?

_____ YES, I would like to attend a training session on this topic.

_____ YES, I would like more information on this topic.

_____ NO

5. Are you interested in learning more about other types of civil cases Philadelphia VIP refers to pro bono attorneys to assist low-income clients?

_____ YES _____ NO

CONFLICT CHECK: To help expedite the process of checking for conflicts of interest, if you know and can disclose the names of specific lenders or servicers that your firm represents, please indicate that information here:

Rule 6.5 Nonprofit and Court Appointed Limited Legal Services Programs

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

Comment:

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services – such as advice or the completion of legal forms – that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer’s representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9 and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client’s informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer’s firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer’s firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer’s firm is disqualified by Rule 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer’s participation in a short-term limited legal services program will not preclude the lawyer’s firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program’s auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY**

In Re: President Judge General Court Regulation No. 2008-01

**Order Appointing *Pro Bono Counsel for Unrepresented Defendants*
*In Mortgage Foreclosure Actions involving Owner Occupied Residential Properties***

ORDER

AND NOW, this 11th day of June, 2008, IT IS HEREBY ORDERED, ADJUDGED and DECREED that the following attorneys are designated *Pro Bono Counsel* and may be assigned from time to time by the Court to represent unrepresented Defendants in Mortgage Foreclosure Actions involving Owner Occupied Residential Properties solely at the *Conciliation Conferences* scheduled as required by the ***Residential Mortgage Foreclosure Diversion Pilot Program*** established by Joint General Court Regulation 2008-01, as supplemented by any order issued pursuant thereto:

M. May Afshar, Esquire
Melissa Albright, Esquire
Mahari Bailey, Esquire
Robert Balch, Esquire
Michael Balent, Esquire
Saul Behar, Esquire
Jessica Richman Birk, Esquire
Robert Carlton, Esquire
Ian Clement, Esquire
Gerald Cohen, Esquire
Harper Dimmerman, Esquire
Kevin Dunleavy, Esquire
Joseph A. Dworetzky, Esquire
Robert Ebby, Esquire
Leonard Fodera, Esquire
Jay Fulmer, Esquire
Richard Glazer, Esquire
Marjorie Greenfield, Esquire
Diana Hare, Esquire
Joseph L. Hassett, Esquire
Fredric Haye, Esquire
Arthur Haywood, Esquire
Carolyn Hochstadter Dicker, Esquire
Heather Holloway, Esquire
Harold Jacobs, Esquire
Eileen Keefe, Esquire
Kimberly Kupka, Esquire
Lesia Kuzma, Esquire
Rachel Labush, Esquire
Julie LaVan, Esquire
M. Erin Lavelle, Esquire

Anna Lesovitz, Esquire
Louis Levy, Esquire
Evan Liu, Esquire
Veronica Ludt, Esquire
Arnold Machles, Esquire
Andrew Miller, Esquire
Amy Miner, Esquire
Edward Morris, III, Esquire
David Neeren, Esquire
Peter Newman, Esquire
Brendan O'Rourke, Esquire
John Parapatt, Esquire
Donald Parman, Esquire
Karen Pearlman, Esquire
E. Nego Pile, Esquire
Alan Promer, Esquire
Stanley Sinowitz, Esquire
Maggie S. Soboleski, Esquire
Michael Stosic, Esquire
Francis Sullivan, Esquire
Nanina Takla, Esquire
John Trotman, Jr., Esquire
Eric Vath, Esquire
Kenneth Weinstein, Esquire
Matthew A. White, Esquire
Adam Wilf, Esquire
Raymond Williams, Esquire

The parties represented by the above designated *Pro Bono Counsel* shall acknowledge and agree to the limited nature of the representation by the execution of an Acknowledgment substantially in the form attached to this Order.

BY THE COURT:

/s/ Honorable C. Darnell Jones, II

HONORABLE C. DARNELL JONES, II
President Judge
Court of Common Pleas

BY THE COURT:

/s/ Honorable D. Webster Keogh

HONORABLE D. WEBSTER KEOGH
Administrative Judge, Trial Division
Court of Common Pleas

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

Plaintiff : _____ TERM, 200____
v. : No. _____ : **Book No.** _____ **Writ No.** _____
Defendant : **Sheriff Sale Date:** _____
: **Conciliation Conference Date:** _____
Premises Address: _____

ACKNOWLEDGMENT

I/we, _____,
am/are the Defendant(s) in connection with the within Mortgage Foreclosure case.

I/we understand and agree that _____, Esquire
has been appointed by the Court to represent me/us in connection with the *Conciliation Conference* scheduled
as required by the ***Residential Mortgage Foreclosure Diversion Pilot Program*** established by Joint General
Court Regulation 2008-01.

I/we understand and agree that the above named attorney does not and will not represent me/us in
connection with this case at the conclusion of the *Conciliation Conference*.

Name of Defendant
Date: _____

Name of Defendant
Date: _____

Name of Attorney
Attorney I.D. No. _____
Date: _____



**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
TRIAL DIVISION - CIVIL**

Residential Mortgage Foreclosure Diversion Pilot Program
Application for Judge Pro Tempore

NAME _____

FIRM NAME _____

ADDRESS _____ CITY _____ STATE _____ ZIP CODE _____

PHONE NUMBER	EMAIL ADDRESS
--------------	---------------

YEARS IN PRACTICE	AREA OF EXPERTISE
-------------------	-------------------

Any experience with residential foreclosure matters? Yes No

If Yes, explain: _____

Are you available to serve on an emergency basis? Yes No

Please attach your Curriculum Vitae and return completed form to:

Peter J. Divon, Manager
Dispute Resolution Center
691 City Hall
Philadelphia, PA 19107
Phone: 215-686-7914
Email: peter.divon@courts.phila.gov

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
In Re: President Judge General Court Regulation No. 2008-01**

**Order Designating *Judges Pro Tem*
In Mortgage Foreclosure Actions involving Owner Occupied Residential Properties**

ORDER

AND NOW, this 11th day of June, 2008, upon review and consideration of the qualifications of the attorneys listed below, IT IS HEREBY ORDERED, ADJUDGED and DECREED that the following attorneys are designated *Judges Pro Tem*:

Gaetan Alfano, Esquire
Gabriel L. Bevilacqua, Esquire
Leonard A. Busby, Esquire
Edward F. Chacker, Esquire
E. David Chanin, Esquire
Judge Mary Collins
A. Roy DeCaro, Esquire
William H. Ewing, Esquire
Kenneth J. Fleisher, Esquire
Louis W. Fryman, Esquire
Russell Henkin, Esquire
Mayer Horwitz, Esquire
Sayde J. Ladov, Esquire
Eugene Mattioni, Esquire
John R. Padova, Jr., Esquire
Lionel A. Prince, Esquire
Angeles Roca, Esquire
Steven Rothberg, Esquire
Nicholas J. Scafidi, Esquire
Steven M. Schain, Esquire
Frank J. Sullivan, Esquire
Michael W. Untermeyer, Esquire
Richard Vanderslice, Esquire

The above designated *Judges Pro Tem* shall be assigned from time to time by the Court to conduct *Conciliation Conferences* in connection with the *Residential Mortgage Foreclosure Diversion Pilot Program* established by Joint General Court Regulation 2008-01 as supplemented by any order issued pursuant thereto.

BY THE COURT:

/s/ Honorable C. Darnell Jones, II

HONORABLE C. DARNELL JONES, II
President Judge
Court of Common Pleas

BY THE COURT:

/s/ Honorable D. Webster Keogh

HONORABLE D. WEBSTER KEOGH
Administrative Judge, Trial Division
Court of Common Pleas

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION – CIVIL**

[DATE]

Name and Address of Defendant :
: **Date of Sheriff Sale:** _____
:
Case Caption and Case ID : **Book #** _____ **Writ #** _____

ORDER

Pursuant to the terms of the *Residential Mortgage Foreclosure Diversion Pilot Program* adopted by Joint General Court Regulation 2008-01, it is hereby ORDERED as follows:

- 1) A Conciliation Conference is scheduled for [DATE] at [TIME], in Courtroom 676, City Hall, Philadelphia, PA 19107.
- 2) The Homeowner-Defendant shall immediately call the **SAVE YOUR HOME PHILLY HOTLINE** at 215-334-HOME (215-334-4663), schedule an appointment and meet with a housing counselor to explore available options for resolution of the Mortgage Foreclosure action. The housing counselor shall prepare a proposal and submit it to Plaintiff’s attorney at least ten (10) days before the date of the Conciliation Conference.
- 3) Before the date of the Conciliation Conference, the Plaintiff shall evaluate and respond to Defendant’s proposal, and shall inform the Court in the event an agreement is reached before the date of the Conciliation Conference.
- 4) A representative of the Plaintiff or investor who has actual authority to modify mortgages, to enter into alternate payment agreements with the defendant, or otherwise resolve the action shall be present at the Conciliation Conference or shall be available telephonically. The failure of the Plaintiff or of a representative of the Plaintiff or investor with such authority to appear for the Conciliation Conference may result in the rescheduling of the Conciliation Conference, and/or the further postponement of the Sheriff Sale of the property.
- 5) The failure of the Defendant to contact the **SAVE YOUR HOME PHILLY HOTLINE** or to attend the Conciliation Conference shall result in an Order permitting the sale of the Defendant’s property at a subsequent Sheriff Sale, as ordered by the Court.
- 6) At the conclusion of the Conciliation Conference, unless an agreement is reached or the Conference is re-scheduled, an Order permitting the sale of the Defendant’s property at a subsequent Sheriff Sale will be entered, and the premises will be sold unless the sale is otherwise postponed or stayed at the direction of the Plaintiff or by order of this or another Court.

Date: _____

BY THE COURT:
HONORABLE PAMELA PRYOR DEMBE, P.J.
HONORABLE D. WEBSTER KEOGH, A.J.



First Judicial District Of Pennsylvania
Court Of Common Pleas of Philadelphia County

Under a new Pilot Project of the Court of Common Pleas:

**You may be able to get help
with Your Mortgage.**

**YOU MUST Call the
Save Your Home Philly Hotline
at 215-334-HOME
(215-334- 4663)**

1) You will be put in touch with a non-profit Housing Counselor who will help you prepare a proposal to send to your mortgage company to try to save your home.

2) In addition, you **MUST** attend the Conference as scheduled in the enclosed order where under the court's supervision a reasonable work out can be arranged. If you do not appear, your house could be sold.

To get this help you must call the Hotline and go to a Housing Counselor. They will tell you what to do next.

Call the Hotline immediately. **Call 215-334-HOME (215-334-4663).**

Make this call to save your home!

For Additional Information about the *Residential Mortgage Foreclosure Diversion Pilot Program* go to: <http://fjd.phila.gov/regs/> and select General Court Regulation No. 2008-01

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

«CASEDESCFMT»

«CASEIDFMT»

CASE MANAGEMENT ORDER
RESIDENTIAL MORTGAGE FORECLOSURE DIVERSION PILOT PROGRAM

AND NOW, this day of, 20____, pursuant to the terms of the **Residential Mortgage Foreclosure Diversion Pilot Program** adopted by Joint General Court Regulation 2008-01, it is hereby ORDERED and DECREED as follows:

1) **SCHEDULING OF CONCILIATION CONFERENCE:** A Conciliation Conference is scheduled for «SDATE - 30 TO 45 DAYS AFTER FILING OF COMPLAINT» at «SAMPMTIME», in Courtroom XXX, City Hall, Philadelphia, PA 19107.

2) **SERVICE:** Plaintiff shall serve a copy of this order on Defendant(s) together with the Complaint as required by P.R.C.P. No. 400.1.

3) **JUDGMENT BY DEFAULT.** As provided by Section 4 (f) of Joint General Court Regulation No. 2008-01, if the Complaint is served on defendant(s) as required by rules of court but a responsive pleading or preliminary objections are not filed as required by Pa.R.C.P. No. 1026 and 1028, the Plaintiff may, as appropriate, serve a “ten-day notice” as authorized by Pa.R.C.P. No. 237.1 on defendant(s) but may not obtain judgment by default until after the Conciliation Conference is held. Plaintiff may seek relief from this provision, as may be appropriate, by filing a motion.

4) **MEETING WITH HOUSING COUNSELOR:** The Homeowner-Defendant shall immediately call the **SAVE YOUR HOME PHILLY HOTLINE** at 215-334-HOME (215-334-4663), schedule an appointment and meet with a housing counselor to explore available options for resolution of the Mortgage Foreclosure action. The housing counselor shall prepare a proposal and submit it to Plaintiff’s attorney at least ten (10) days before the date of the Conciliation Conference.

5) **CONCILIATION CONFERENCE:** All parties shall attend the Conciliation Conference. A representative of the Plaintiff or investor who has actual authority to modify mortgages, to enter into alternate payment agreements with the defendant, or to otherwise resolve the action shall be present at the Conciliation Conference or shall be available telephonically. A Conference shall be conducted as provided by Joint General Court Regulation 2008-01 and a status order will be issued after the Conference is concluded.

6) **DEFENDANT(S)’ FAILURE TO MEET WITH A HOUSING COUNSELOR OR TO ATTEND THE CONCILIATION CONFERENCE:** The defendant(s)’ failure to meet with a housing counselor or attend the Conciliation Conference may result in the entry of an order authorizing the plaintiff to proceed with the action and the ultimate sale of the premises at Sheriff Sale.

BY THE COURT:

HONORABLE PAMELA PRYOR DEMBE
President Judge
Court of Common Pleas

HONORABLE D. WEBSTER KEOGH
Administrative Judge, Trial Division
Court of Common Pleas



First Judicial District Of Pennsylvania
Court Of Common Pleas of Philadelphia County

Under a new Pilot Program of the Court of Common Pleas:

**You may be able to get help with
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215-334-HOME
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2) In addition, you **MUST** attend the Conference as scheduled in the enclosed order where under the court's supervision a reasonable work out can be arranged. If you do not appear, your house could be sold.

To get this help you must call the Hotline and go to a Housing Counselor. They will tell you what to do next.

Call the Hotline immediately. **Call 215-334-HOME (215-334-4663).**

Make this call to save your home!

For Additional Information about the *Residential Mortgage Foreclosure Diversion Pilot Program* go to: <http://fjd.phila.gov/regs/> and select General Court Regulation No. 2008-01

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
CIVIL TRIAL DIVISION

Plaintiff,	:	_____ TERM, 20__
	:	
v.	:	
	:	
Defendant	:	NO. _____

IMPORTANT NOTICE

Call the Save Your Home Philly Hotline at
215-334-HOME (4663)

A Mortgage Foreclosure Action has been filed against you. The Plaintiff has alleged that this action does NOT involve an owner-occupied residential property subject to execution to enforce a residential mortgage.

If you believe that this action does involve an owner-occupied residential property subject to execution to enforce a residential mortgage, you may be able to participate in a conference that may let you save your home.

To be eligible for a conference, you must own and live in the property (and it must have four or fewer residential units) and the Mortgage Foreclosure Action must have been filed to enforce a residential mortgage.

If the Mortgage Foreclosure Complaint does involve an owner-occupied residential property subject to execution to enforce a residential mortgage, you may be able to participate in a conference if you file the form attached to this notice, *Certification That Premises Are Residential and Owner Occupied and Request For Conciliation Conference* within twenty (20) days after service of the Complaint on you.

The form must be filed in **Room 278 City Hall**, Philadelphia, PA 19107, or can be filed electronically through the Civil Electronic Filing System at <http://courts.phila.gov>.

You must also mail a copy to the Plaintiff’s Attorney.

For help, or if you have questions, call:

Save Your Home Philly Hotline at 215-334-HOME (4663)

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
CIVIL TRIAL DIVISION

Plaintiff, : _____ TERM, 20__
: :
v. : :
: :
Defendant : NO. _____

Joint General Court Regulation No. 2008-01: Residential Mortgage Foreclosure Diversion Pilot Program

**DEFENDANT’S CERTIFICATION THAT PREMISES ARE
RESIDENTIAL and OWNER OCCUPIED
and
REQUEST FOR CONCILIATION CONFERENCE
(Prothonotary Code: CERDO)**

Pursuant to the Order issued by President Judge C. Darnell Jones II and Administrative Judge D. Webster Keogh on July 17, 2008, I hereby certify as follows:

1. I am the owner or an owner or an heir to a deceased owner of the property known as:

Premises Address: _____
Philadelphia, PA _____

2. I live in the property identified above;

3. This property is my principal residential property;

4. The judgment entered against me in this case was entered against me to collect a mortgage debt on my home;

5. I request that the Court schedule a Conciliation Conference pursuant to Joint General Court Regulation No. 2008-01.

The undersigned verifies that the statements made herein are true and correct. I understand that false statements are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Signature of Defendant(s)
Phone Number:
Mobile Number:
Fax Number:
Email Address:

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
CIVIL TRIAL DIVISION

	:	
	:	_____ TERM, 200__
Plaintiff,	:	NO. _____
v.	:	Book No. _____
	:	Writ No. _____
Defendant	:	Sheriff Sale Date: _____

JPT INFORMATIONAL SUMMARY

Name of JPT: _____

Premises Address: _____

PARTIES WHO ATTENDED THE CONCILIATION CONFERENCE
<u>FOR PLAINTIFF</u> <u>FOR DEFENDANT</u>

RECOMMENDATION:

_____ Recommend delay in entry of default judgment until _____.

_____ Recommend that Conciliation Conference be continued to _____ at _____
in Courtroom _____. Recommend Sheriff sale be postponed by the Court to _____.

_____ An additional Conference is recommended.

_____ A Partial Claim is recommended.

_____ Other/Comments:

Date: _____

Signature of Judge Pro Tem

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

Plaintiff : _____ TERM, 200__
: :
: : No. _____
: :
v. : **Sheriff Book** _____ **Writ** _____
: :
: : **Sheriff Sale Date:**
: :
: : **Conciliation Conference Date: October** _____, 2009
: :
: : **Housing Counseling Agency:** _____
: :
Defendant : **Day Back Case No.** _____

ORDER

AND NOW, this _____ day of October, 2009, upon consideration of the information provided to the Court, it is hereby ORDERED that:

- The defendant having failed to meet with a housing counselor and/or having failed to appear for the Conciliation Conference, the above premises shall proceed to Sheriff Sale on _____, 2009 unless otherwise postponed by Plaintiff's attorney or by court order.**

- The Sheriff Sale is stayed. [ORSTY]
Please Detail Basis for Stay:**

- A bankruptcy has been filed and the plaintiff may direct the Sheriff to postpone the sale, in accordance with Pa.R.Civ.P. 3129.3; otherwise the sale shall be stayed. Upon plaintiff securing relief from the automatic stay or an order is entered dismissing the bankruptcy, in the case of any continued or postponed Sheriff sale, the plaintiff shall file a Praecipe requesting that the Conciliation Conference be scheduled, before such postponed sale shall take place.**

- The Sheriff Sale is Postponed to _____, 2009 due to forbearance agreement or _____.**

- The Underlying Action is Settled. The Sheriff Sale is Cancelled. [ORSET] Please explain basis for resolution:**

- A Conciliation Conference is scheduled for _____, 2009 at _____ AM/PM in Courtroom 676 City Hall, Philadelphia, PA. The Sheriff Sale is scheduled for _____, 2009.**

- The Sheriff Sale remains at _____, 2009.**

- Property is not owner-occupied. Reason: _____.**

BY THE COURT:

LEAVE SPACE BLANK FOR E-FILING BAR CODE

Judge

rev. July 27, 2009

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

Plaintiff : _____ TERM, 2009
: :
: No. _____
: :
v. : Conciliation Conference Date: October _____, 2009
: :
: Housing Counseling Agency: _____
Defendant : :
: Day Forward Case No. _____

ORDER

AND NOW, this _____ day of October, 2009, upon consideration of the information provided to the Court, it is hereby ORDERED that:

- The Complaint and Case Management Order issued as required by Joint General Court Regulation No. 2008-01 having been served on the Defendant(s) on _____, and the Defendant(s) having failed to appear for the Conciliation Conference as ordered, the Plaintiff is authorized to obtain a judgment by default pursuant to and in compliance with Pa.R.C.P. No. 237.1 and to otherwise proceed with the action as provided by rules of court.
- The Complaint and Case Management Order issued as required by Joint General Court Regulation No. 2008-01 not having been served on the Defendant(s), the Conciliation Conference is cancelled. Plaintiff shall serve the Complaint on Defendant(s) and thereafter file a Praecipe with the Prothonotary requesting that the Conciliation Conference be re-scheduled. Until the Conciliation Conference is held, Plaintiff may, as appropriate, serve a "ten-day notice" as authorized by Pa.R.C.P. No. 237.1 on defendant(s) but may not obtain judgment by default.
- The Conciliation Conference having been concluded, and it appearing to the Judge Pro Tem that an agreement is not possible, the Plaintiff is authorized to obtain a judgment by default pursuant to and in compliance with Pa.R.C.P. No. 237.1 and to otherwise proceed with the action as provided by rules of court.
- An agreement has been reached, and termination of the foreclosure action is appropriate. Plaintiff(s) shall file the appropriate Praecipe or pleading, as necessary.
- An agreement has been reached. The foreclosure case shall remain open. If defendant defaults under the terms of the Agreement, Plaintiff may proceed with the foreclosure action.
- Action withdrawn; case not settled. Specify:
- A bankruptcy petition has been filed. Immediately upon termination of the automatic stay and/or upon release of the subject property from the jurisdiction of the U.S. Bankruptcy Court, the Plaintiff shall file a Praecipe requesting that a Conciliation Conference be scheduled. The premises at issue in this case cannot be sold at Sheriff Sale until a Conciliation Conference is scheduled and held as required by Joint General Court Regulation No. 2008-01.
- The parties are attempting to reach an agreement. A Conciliation Conference is scheduled for _____, 2009 at _____ AM/PM in Courtroom 676 City Hall, Philadelphia. By their signatures below, the parties agree that the entry of a judgment by default pursuant to Pa.R.C.P. No. 237.1 is delayed pending further attempts by the parties to reach or finalize an agreement. If no agreement is reached by _____ the Plaintiff is authorized to obtain a judgment by default pursuant to and in compliance with Pa.R.C.P. No. 237.1 and to otherwise proceed with the action as provided by rules of court.

Plaintiff

Date

Defendant

- An agreement was reached via a forbearance plan.
- Sheriff Sale is scheduled for _____. Follow-up Conference/status call date and time: _____.
Sheriff Sale is postponed to _____.
- Property is not owner-occupied. Reason: _____.

BY THE COURT:

LEAVE SPACE BLANK FOR E-FILING BAR CODE

Judge

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
CIVIL TRIAL DIVISION

Plaintiff, : _____ TERM, 20__
: :
v. : :
Defendant : NO. _____

Joint General Court Regulation No. 2008-01: Residential Mortgage Foreclosure Diversion Pilot Program

**DEFENDANT'S CERTIFICATION THAT PREMISES ARE
RESIDENTIAL and OWNER OCCUPIED
and
REQUEST FOR CONCILIATION CONFERENCE
(Prothonotary Code: CERDO)**

Pursuant to the Order issued by President Judge C. Darnell Jones II and Administrative Judge D. Webster Keogh on July 17, 2008, I hereby certify as follows:

1. I am the owner or an owner or an heir to a deceased owner of the property known as:

Premises Address: _____
Philadelphia, PA _____

2. I live in the property identified above;

3. This property is my principal residential property;

4. The judgment entered against me in this case was entered against me to collect a mortgage debt on my home;

5. I request that the Court schedule a Conciliation Conference pursuant to Joint General Court Regulation No. 2008-01.

The undersigned verifies that the statements made herein are true and correct. I understand that false statements are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Signature of Defendant(s)
Phone Number:
Mobile Number:
Fax Number:
Email Address: