

Motion to Cancel
Foreclosure Sale,
Notice of Hearing,
Form Order on
Motion to Cancel
Foreclosure Sale,
and Court
instructions on filing
(Blank sample
forms)

IN THE CIRCUIT COURT OF THE
11TH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

CIRCUIT CIVIL DIVISION

vs. Plaintiff

Case No.:

Defendant

_____ /

MOTION TO CANCEL FORECLOSURE SALE

The Defendant(s), _____ hereby
move this court for the entry of an Order cancelling the foreclosure sale set in this
action for _____, and states
as follows:

1. A final judgment was entered in this mortgage foreclosure on _____
_____, 20____, and the foreclosure sale was set for
_____, 20____.

2. It is imperative that the foreclosure sale be cancelled for the following
reason(s): _____

3. Cancellation of this sale will not prejudice any party and is sought in the
interest of justice and equity.

WHEREFORE, the Defendant asks this court to grant this motion and to order
the cancellation of the foreclosure sale.

I HEREBY CERTIFY, that a copy of this Motion to Cancel Foreclosure Sale was
mailed or hand-delivered to the below addressee(s) on _____, 20____.

cc: _____

Name

Address

Telephone

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR DADE COUNTY, FLORIDA

CIRCUIT CIVIL DIVISION

CASE NO: _____ CA _____

Plaintiff(s),

vs.

Defendant(s).

ORDER
DENYING REQUEST FOR EMERGENCY
HEARING
OR
DENYING GRANTING
PLAINTIFF'S DEFENDANT'S
EMERGENCY
MOTION FOR CANCELLATION OF SALE

THIS CAUSE was reviewed by the Court upon a request for emergency hearing.

THE COURT HAS EXAMINED SAME AND DETERMINED THAT THIS MATTER DOES NOT CONSTITUTE AN EMERGENCY. Any urgency is due to Plaintiff's Defendant's failure to act diligently and failure to attend to the impending sale date. The Plaintiff's Defendant's inaction until one two day(s) before the foreclosure sale does not constitute an emergency. **THE REQUEST FOR AN EMERGENCY HEARING IS THEREFORE DENIED.**

THE COURT HAS EXAMINED SAME AND DETERMINED THAT THIS MATTER DOES CONSTITUTE AN EMERGENCY and thus, having come on to be heard on this _____ day of _____, 20__ on the above Motion and the Court being advised in the Premises, it is hereupon,

ORDERED AND ADJUDGED that said Motion be, and the same is hereby

GRANTED due to:

- loss mitigation evidence
- viable short sale evidence
- agreement of all parties
- forbearance agreement

payoff evidence

Bankruptcy Case # _____

(other) _____

Therefore, the sale scheduled for _____, 20__ is cancelled.

DENIED due to:

- lack of supporting documentation to evidence grounds
- lack of consent of condominium or homeowner's association
- evidence of tenant

The Court specifically finds that Plaintiff did not make reasonable efforts to move to cancel the sale

(other) _____

Denial does not prevent any party from moving to vacate the subject sale. If a party so moves, the party is ordered to send notice of the hearing to all parties and the buyer of the subject property.

The Foreclosure Sale shall be rescheduled for the _____ day of _____, 20__.

DATED this _____ day of _____, 20__.

CIRCUIT JUDGE

Copies to: _____

Are you filing a motion to cancel sale?

Your motion will be heard before the Foreclosure Master Calendar in:

Courtroom 3-3
Miami Dade County Courthouse
73 West Flagler Street, Miami, Fla. 33130.

Hearings take place Monday through Friday at 8:30 A. M.
Division Judges do not hear these motions.

ONLY CIRCUIT CIVIL CASES WILL BE HEARD IN COURTROOM 3-3

To Schedule your Hearing:

Step 1:

You must file a written motion to cancel sale. Your motion must include why any earlier foreclosure sales were cancelled and why this sale should be cancelled now. You must have documentary evidence to support your reason.

Step 2:

You must set your hearing and notify the other parties in your case. If you are filing an emergency motion to cancel sale, your sale date must be scheduled within the next five (5) days; the calendar for non-emergency motions is limited to 30 cases. Select a date Monday through Friday; the calendar is at 8:30 A. M.

Step 3:

Once you have selected your hearing date, you must send notice of hearing to all parties on the service list, including condominium and homeowners' associations, as applicable. You must bring proof of this notice to the hearing; a minimum notice of 48 hours by fax or e-mail is required for emergency hearings.

Step 4:

You must file both the motion to cancel sale and the notice of hearing with the Clerk of the Courts, Room 133 on the First Floor of the Miami Dade County Courthouse. Remember to keep copies of your stamped, filed motion and notice to present in Court.

Step 5:

On the day of your hearing you must appear before the Presiding Judge in Courtroom 3-3 at 8:30 A.M. No one arriving after 9:25 A.M. will be heard. You are required to provide a copy of the Motion, Notice of Hearing, fax or email confirmation of notice to all parties, and any supporting documentation to the Presiding Judge.

NOTE: For sales that have already taken place: Any Motions filed after the foreclosure sale are handled by the Division Judge and will not be heard in courtroom 3-3. Please contact the Division Judge's office and follow their procedures.