



HON. ROBERT F. QUINLAN

SUPREME COURT of the
STATE OF NEW YORK
COUNTY OF SUFFOLK
Arthur M. Cromarty Court Complex
210 Center Drive, Part 27
Riverhead, New York 11901
Chambers (631) 852-3482
Facsimile (631) 852-3485

Janet Ford
Principal Law Clerk

Angelica Leone
Secretary

**SUFFOLK COUNTY SUPREME COURT PART 27
RULES FOR
EXPEDITED PROCEEDINGS IN CERTAIN FORECLOSURE ACTIONS
Dated: November 27, 2017**

GENERAL PROVISIONS

This part has been instituted to expedite proceedings in certain foreclosure actions which meet the following criteria and which have been identified as such by plaintiff's counsel in its submission of a "combined motion" entitled "**Fixing Default and Judgment of Foreclosure and Sale**" to the court.

As used herein, the term "combined motion" means an application by plaintiff's counsel for the court to set and fix the default of the non-answering, non-appearing defendants-mortgagors pursuant to CPLR § 3215, for the court itself to perform the computations and determinations under RPAPL § 1321 and to simultaneously issue a judgment of foreclosure pursuant to RPAPL §1351.

- Participation by plaintiff in this program is voluntary.
- Cases submitted pursuant to this procedure will be assigned to Part 27 of this court for determination pursuant to Administrative Order 125-17 of the District Administrative Judge of Suffolk County. Counsel should make themselves familiar with the published rules of Part 27 and these rules before submission.
- ALL MOTIONS SHOULD BE MADE RETURNABLE ON A THURSDAY,
as that is the Motion Day for Part 27.

ELIGIBILITY FOR PARTICIPATION

1. Only foreclosure actions involving residential properties are eligible for inclusion in this program, except that **“Reverse Mortgages” are NOT eligible.**
2. The defendant-mortgagor must have defaulted by not answering or moving on the complaint.
3. The defendant-mortgagor[s] did not appear at the first scheduled conference in the Foreclosure Settlement Conference Part and the case was released to an IAS Part.
4. There must be no pending application for a modification filed with plaintiff.
5. Plaintiff must waive a deficiency judgment (RPAPL § 1371).
6. There must be no answer filed by any other defendant that requests any relief other than protecting their position upon a surplus or merely a notification of a sale.
7. Plaintiff's application must meet all legal requirements and proof required for a default pursuant to CPLR § 3215, RPAPL § 1321 and for a judgment of foreclosure and sale pursuant to RPAPL § 1351, including but not limited to proof of service of the summons, complaint, notice of pendency and other statutory required; and the filing of any affirmation/affidavit required by statute (CPLR 3012-b) or Administrative Order
8. The application must be made within **180** days after release from the Foreclosure Settlement Conference Part.

PROCEDURES

9. No ex parte combined motions may be made. All combined motions must be made on notice to defendants with proof of mailing pursuant to CPLR 2103 (f).
10. Referees appointed to conduct a sale under a combined motion shall be authorized a fee of \$750, if there are any cancellations or adjournments, the referee may make an application for additional fees by letter to the court, as will be set forth in the judgment.
11. Any proposed judgment must comply with Suffolk County Administrative Order #41-13 and contain the following language:

ORDERED that plaintiff shall serve the notice of the foreclosure sale and any adjournments upon the Supreme Court Calendar Clerk; and it is further

ORDERED that the referee complete and file the Suffolk County Foreclosure Action Surplus Monies form with the Supreme Court Calendar Clerk and the Suffolk County Clerk within thirty (30) days of the foreclosure sale; and it is further

ORDERED that the referee submit proof of deposit of any surplus monies with the Suffolk County Comptroller with the Supreme Court Calendar Clerk and the Suffolk County Clerk within thirty (30) days of the date of closing of title; and it is further

ORDERED that pursuant to RPAPL § 1351 (1) the mortgaged premises is to be sold under the direction of the referee within ninety (90) days of the date of this order; and it is further

ORDERED that the referee may make an application for additional fees by letter to the court as a result of any adjournments of the sale, providing proof of compliance with 22 NYCRR Part 36 including the filing of UCS Forms 872 and 875; and it is further

12. Additionally, Suffolk County has its own Foreclosure Action Surplus Monies form, which can be found at www.nycourts.gov/courts/10jd/suffolk/Forms/Surplus-Money.pdf. It is to be filed with the Supreme Court Calendar Clerk and the Suffolk County Clerk, not Part 27.
13. In addition to that language generally included in separate motions for an order of reference or a judgment of foreclosure, the papers submitted in support of the combined motion shall also indicate the following:
 - The **captioned relief** requested is **“Fixing Default and Judgment of Foreclosure and Sale”** this will identify the case as one to be assigned to this part and **MUST BE PROMINENTLY DISPLAYED**.
 - All exhibits to the motion are to have tabs on the right hand side or bottom of the page so that they can be easily referenced;
 - A breakdown of interest and charges, and a computation sheet (as would be submitted to a referee to compute) are to be included in the motion.

14. The preamble to the “ORDERED” paragraphs in any proposed order must include the following:
- a. that plaintiff is making a combined application for default and for a judgment of foreclosure and sale, and upon determining the default, the court itself, pursuant to RPAPL §1321, will ascertain and determine the amounts due and whether the premises shall be sold in parcels and then issue a judgment of foreclosure and sale pursuant to RPAPL § 1351;
 - b. an acknowledgment that by submitting the motion, the plaintiff is **waiving its right to a deficiency judgment** and accepts the sale of the property in full satisfaction of the mortgage debt;
 - c. list those sections of the CPLR and RPAPL that plaintiff has complied with to be entitled to the default and judgement of foreclosure;
 - d. that there is an unexpired notice of pendency filed.
15. The additional “ORDERED” paragraphs of any proposed order shall include language that addresses the following:
- a. that the Court, having considered the application for a default, has found the non-appearing, non-answering defendants in default, and pursuant to RPAPL §1321 the court has ascertained and determined the amounts due and owing (identify the amounts and the documents upon which it is based), has determined that the premises/property should be sold in one parcel and issues a judgment of foreclosure and sale pursuant to RPAPL § 1351;
 - b. that plaintiff shall accept the proceeds of the sale in satisfaction of the mortgage debt and that plaintiff shall not seek a deficiency judgment pursuant to RPAPL §1371.
16. Only ONE “WORKING COPY” shall be sent to chambers, which shall have tabs on the right hand side or bottom of the page of all exhibits so that they can be easily referenced, **no Working Copies** shall be sent to the Clerk’s Office.

IT IS THE POLICY OF THE COURT THAT IF A DEFENDANT-MORTGAGOR OPPOSES THE MOTION AND SEEKS BY MOTION/ CROSS-MOTION TO VACATE A DEFAULT IN ANSWERING AND FILE A LATE ANSWER, IF SUCH APPLICATION IS GRANTED, THE CASE SHALL BE TRANSFERRED TO THE GENERAL INVENTORY OF PART 27 AND PROCEED IN THE OTHERWISE USUAL FASHION.