**FORECLOSURE OF MORTGAGE**

(Article 13 of RPAPL)

Title # \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. LIS PENDENS (CPLR § 6501-6513)

Court \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

County \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Index # \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Filed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Plaintiff)

Metes and bounds same as mortgage \_\_\_\_\_\_YES \_\_\_\_\_\_NO

Was one of the owners served no later than 30 days following the filing of the *lis pendens*? \_\_Yes \_\_\_No

**(SEE CPLR 6512)**

Were all defendants served within 120 days? \_\_\_Yes \_\_\_No

Was lis pendens extended by court order or new LP filed after three years? Date: \_\_\_\_\_\_ Date: \_\_\_\_\_\_\_

Action to foreclose mortgage in Liber (s):

SP x SD as mortgage \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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DESCRIPTION (if different from above):

1. **SUMMONS AND COMPLAINT**

Dated: \_\_\_\_\_\_\_\_\_\_ Filed on: \_\_\_\_\_\_\_\_\_\_\_

To Foreclose the same Mortgage as in the LP? \_\_\_\_\_Yes \_\_\_\_\_No

Description same as LP? \_\_Yes \_\_\_No

Defaults? \_\_\_Yes \_\_\_No

Whole principal called due? \_\_Yes \_\_\_No

Does Summons contain notice required by **RPAPL 1320?** (1-3 family) \_\_Yes \_\_\_No (actions after 8/1/07)

Was notice on colored paper included with the summons (**RPAPL 1303)** (1-4 family was changed to residential property as of 1/14/10) \_\_Yes \_\_\_No (actions started on or after 5/5/10) (1-4 family)

Does the Complaint contain the certification regarding authority to foreclose and compliance with Banking Law section six-l, six-m, 595-a and RPAPL 1304? **(RPAPL 1302)** \_\_Yes \_\_\_No (actions after 9/1/08 for high cost or subprime loans)

Does the complaint contain an affirmative allegation that the plaintiff complied with **RPAPL 1306?** \_\_Yes \_\_\_No

Was the certificate of merit filed with the complaint? \_\_Yes \_\_\_No (**CPLR 3012-b**: residential foreclosure actions after 8/29/2013)

1. **AFFIDAVIT OF REGULARITY** (RPAPL § 1321)

Dated: \_\_\_\_\_\_\_\_\_\_\_\_ Filed: \_\_\_\_\_\_\_\_\_\_\_

1. Shows no answer field or appearance except:
   1. ­­­\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
   2. ­­­\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
   3. ­­­\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Are any defendants an infant, incompetent or absentee? \_\_\_\_\_\_ Yes \_\_\_\_\_\_ No

1. **ORDER OF REFERENCE**

Dated: \_\_\_\_\_\_\_\_\_\_\_\_ Filed: \_\_\_\_\_\_\_\_\_\_\_

1. Ordered that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Referee) be appointed.
2. Directs referee to take proof of facts and circumstances in the complaint?
3. **REFEREE’S REPORT**

Dated: \_\_\_\_\_\_\_\_\_\_\_\_ Filed: \_\_\_\_\_\_\_\_\_\_\_

1. Finds amount due $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
2. Is proof of fact and circumstances taken?
3. **JUDGEMENT OF FORECLOSURE AND SALE**  (see RPAPL § 1331)

Dated: \_\_\_\_\_\_\_\_\_\_\_\_ Filed: \_\_\_\_\_\_\_\_\_\_\_

1. Directs sale by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Referee/ Auctioneer at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. (Same Referee as in OOR? Yes\_\_\_No\_\_\_)
2. Description:
   1. Same is in mortgage? Yes \_\_\_\_\_\_ No\_\_\_\_\_\_
   2. Same as in Notice of Pendency? Yes \_\_\_\_\_\_ No\_\_\_\_\_\_
   3. (if not, copy on following sheet)
3. Bars all defendants Yes ( ) No ( )
4. Directs notice of sale published in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
5. Was a copy of Summons and Complaint mailed to defendant at his place of residence at least 20 days prior to entry of the default judgment **CPLR 3215(g)(3)(iii)?** \_\_Yes \_\_\_No
6. Judgment subject to following terms and conditions: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
7. **REFEREE’S REPORT OF SALE** (see RPAPL § 1355)

Dated: \_\_\_\_\_\_\_\_\_\_\_\_ Filed: \_\_\_\_\_\_\_\_\_\_\_

1. Premises sold to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ for $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ being highest sum bid.
2. Assignment of Bid? \_\_Yes \_\_\_No Assigned to: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

NOTE: ASSIGNMENT OF BID NOT PERMITTED IN KINGS COUNTY.

1. Deficiency/Surplus: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
2. Sale subject to (should match JFS):
3. **NOTICE OF SALE** (RPAPL § 231 (1)(2))

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_ Filed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Served on all attorneys/defendants? \_\_\_\_Yes \_\_\_\_No

Are descriptions correct? \_\_\_\_Yes \_\_\_\_ No

Date and time of sale: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. **PROOF OF PUBLICATION** (RPAPL § 231)

Dated: \_\_\_\_\_\_\_\_\_\_\_\_ Filed: \_\_\_\_\_\_\_\_\_\_\_

Newspapers:

* 1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
  2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Twice in each week for the three weeks commencing \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

OR

Once each week for four weeks commencing\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

See CPRL § 2001

1. **PROOF OF POSTING** (Property located wholly outside a city or incorporated village)

3 public places in the Town of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date Posted: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Did the posting occur at least 28 days prior to the date fixed for sale? \_\_Yes \_\_\_No

Additional Posing: If Auction held at courthouse in different Town from Property:

3 public places in the Town of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date Posted: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Did the posting occur at least 28 days prior to the date fixed for sale? \_\_Yes \_\_\_No

1. **STANDING DEFENSE (RPAPL 1302-a)**
2. Does the mortgage qualify as a “home loan,” as defined in RPAPL 1304(6)(a)? \_\_\_\_Yes \_\_\_\_No
3. Did the original lender assign the mortgage? \_\_\_\_\_ Yes \_\_\_\_ No
4. Was the Judgment of Foreclosure and Sale granted on default against any defendant? \_\_\_\_Yes \_\_\_\_No
5. Did any defendant raise the defense of lack of standing? \_\_\_\_\_\_ Yes \_\_\_\_\_\_ No