

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN RE: FILINGS REGARDING MORTGAGE FORECLOSURES AND RELATED POSSESSORY PLEADINGS

ADMINISTRATIVE ORDER 2021-1

This 15th day of January 2021.

WHEREAS, on March 12, 2020, Governor Carney declared a State of Emergency for the State of Delaware Due to a Public Health Threat due to the public health threat of COVID -19 (“COVID State of Emergency”);

WHEREAS, beginning on March 18, 2020, and at various times thereafter, the US. Department of Housing and Urban Development – Federal Housing Administration (“HUD-FHA”), the United States Department of Veterans Affairs (“VA”), the Federal Finance Housing Agency (“FHFA”), the Federal National Mortgage Association (“Fannie Mae”), the Federal Home Loan Mortgage Corporation (“Freddie Mac”) and the United States Department of Agriculture Rural Development (“USDA”) (collectively, the Federal Moratoriums) each issued separate moratoriums to suspend foreclosures on residential properties secured by mortgage loans backed, insured, or owned by these federal agencies or entities excluding actions to evict occupants of legally vacant or abandoned properties;

WHEREAS, on March 24, 2020, Governor Carney issued the Sixth Modification of the Declaration of the State of Emergency for the State of Delaware Due to a Public Health Threat (“Sixth Modification”), which provided a moratorium on evictions and foreclosure proceedings to enable Delawareans to shelter in place safely;

WHEREAS, on March 27, 2020, Congress passed the Coronavirus Aid, and Economic Security Act (“CARES Act”), which provided funding and guidance for several measures intended to provide financial and other assistance including mortgage forbearance during this pandemic;

WHEREAS, on June 30, 2020, Governor Carney issued the Twenty-Third Modification of the Declaration of the State of Emergency for the State of Delaware Due to a Public Health Threat, effective July 1, 2020, which modified the Sixth Modification related to mortgage foreclosures and directing Sheriffs, constables, and their agents to refrain from acting to remove individual from residential properties as a result of a mortgage foreclosure process by way of sheriff’s sale, writ of possession, or action for ejectment unless the court determines on its own motion or motion of the parties that enforcement is necessary in the interest of justice. Where a judgment of foreclosure was issued prior to the declaration of the COVID State of Emergency, any summary possession or ejection

action must include supporting documents as directed by the court and demonstrate the property is not subject to a federal foreclosure moratorium;

WHEREAS, on November 20, 2020, Governor Carney issued the Third Revision to the Twenty-Seventh Modification of the Declaration of the State of Emergency for the State of Delaware Due to a Public Health Threat, which suspended the requirement that sheriff sales be conducted at a physical location for ninety (90) days beginning November 23, 2020 and encouraging such sales to be conducted electronically or to provide a video conference option for members of the public to who do not wish to attend in person;

WHEREAS, the Court issued Administrative Order 2020-1 on July 21, 2020, requiring the Plaintiff or an Authorized Agent of the Plaintiff, to file an Affidavit in Support of Compliance with the CARES Act (the “Required Affidavit”), before any action in a mortgage foreclosure matter may proceed;

WHEREAS, after certain members of the Delaware Bar raised concerns about the Required Affidavit, the Court reviewed those concerns and issued an Amended Administrative Order 2020-1 on August 19, 2020, which superseded and replaced in its entirety Administrative Order 2020-1 and modified the Required Affidavit where necessary;

WHEREAS, the Centers for Disease Control and Prevention (“CDC”) issued an Order entitled Temporary Halt in Residential Evictions to Prevent the

Further Spread of COVID-19 (“CDC Order”), effective through December 31, 2020, which, subject to limitations, placed a moratorium on residential evictions or possessory actions to protect the public health;

WHEREAS, on December 27, 2020, the passage of the Consolidated Appropriations Act 2021, Section 502 of Title V of Division N, extended the expiration date of the CDC Order until January 31, 2021, unless extended, modified or rescinded;

WHEREAS, the Federal Moratoriums were extended as follows: the HUD-FHA on insured single family mortgages through February 28, 2021), the VA on properties secured by guaranteed VA loans through October 1, 2021, the FHFA (Fannie Mae and Freddie Mac) on single-family foreclosures and real estate owned evictions through January 31, 2021, the FHFA (Fannie Mae and Freddie Mac) on qualified multifamily property owners through March 31, 2021, and the USDA on single-family housing direct and guaranteed home loans through February 28, 2021;

WHEREAS, the continued issuances of extension and modification necessitate that the Required Affidavit be Amended;

NOW, THEREFORE, this 15th day of January, IT IS ORDERED, effective Tuesday, January 19, 2021, that Amended Administrative Order 2020-1 is superseded and replaced in its entirety by this Administrative Order 2021-1, and

that the Plaintiff, or an Authorized Agent of the Plaintiff file an Affidavit of Compliance pursuant to Administrative Order 2021-1 (“Affidavit of Compliance”) (*see* Exhibit 1), before any summary possession or ejectment action is taken. An Affidavit of Compliance must be filed with any mortgage foreclosure complaint or petition. Superior Court’s Affidavit of Compliance is available on the Court’s website.

 /s/ Jan R. Jurden
President Judge Jan R. Jurden

EXHIBIT 1

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

[CASE CAPTION])
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) C.A. No.
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)

AFFIDAVIT COMPLIANCE WITH ADMINISTRATIVE ORDER 2021-1

My name is: _____
First Middle Last

I am (check one) [] the Plaintiff or [] an authorized agent of the Plaintiff in the above referenced matter. I hereby swear or affirm under penalty of perjury, and subject to referral to the Office of Disciplinary Counsel, that I have reviewed the accompanying filing(s) and certify that as of this date, the filing is in compliance with all federal, state, local, or municipal moratoriums, restrictions, or limitations including, but not limited to, those currently set forth in Administrative Order 2021-1, later modified or subsequently issued.

Date Plaintiff's Signature

or

Date Authorized Agent of the Plaintiff

SWORN TO OR AFFIRMED AND SUBSCRIBED TO BEFORE ME

This ____ day of _____, 20__.

Notary Public
My commission expires: