

# Lexington County



## Master In Equity Procedure Manual

# Orders of Reference

# Order of Reference Procedure for Lexington County

## Orders of Reference

- The Law Firm is to e-file the order of reference with clerk of court.
- We suggest that on the **same day** you e-file the OR you **mail** the MIE **check** for the reference fee along with **Judge Spence's checklist** and a copy of the **NEF** (Notice of Electronic filing) of Order of Reference to the MIE office attention **MIE Order of Reference Clerk**.
- **Note: list a contact name and e-mail for the Law Firm**

Checks should be payable to The Lex. Co. Master In Equity:

- \$125.00(Foreclosure)
  - \$25.00(Supplemental Proceeding)
  - \$50.00(Other/Quiet Title etc.)
- 
- The Clerk of Court will forward the order to Judge Spence for review/conflict issues only (he does not sign the order of reference)
  - After reviewing Judge Spence will send the OR back to clerk of court for e-filing and e-signing. (OR are signed by clerk of court or circuit court judge)
  - Once the clerk of court or circuit court judge has e-signed and e-filed the OR the clerk of court will post the Order on the Referral Request Management System portal to be added to the MIE system by MIE Order of Reference clerk.
  - Then if the MIE court has received our check and checklist from the law firm we will accept the case into the MIE system. The order is now considered "perfected" and the case can be scheduled for status conference or hearing.

**Note: wait 3-5 days after the order of reference has been filed by the COC to request your hearing date. It takes a little time to get the OR on the MIE portal and for your check to reach MIE court.**

**Supplemental Proceeding Order of Reference Procedure:**

- 1- You will e-file an order of reference only - **you can't combine the OR & RTSC.** Refer to OR procedure above. There are examples of the SP order of reference and Rule to Show Cause forms at the end of this section.
- 2- **The Master In Equity Court will e-mail a hearing date to your law firm.**
- 3- Put the hearing date in your **Supplemental Proceeding RTSC** and e-file it with a note to the clerk of court that this RTSC needs to go to Judge Spence. (Since the case was referred to him first he will now sign the RTSC)

Updated 1-25-19

Judge Spence Order of Reference Checklist (9-24-2013)

HEARING DATE: \_\_\_\_\_

CASE NAME & CAPTION: \_\_\_\_\_

LIS PENDENS BOOK & PAGE/FILE DATE: \_\_\_\_\_

ORDER OF REFERENCE FILED: \_\_\_\_\_

NOTICE OF HEARING MAILED: \_\_\_\_\_

FORECLOSURE INTERVENTION.COMPLIANCE DATE FILED: \_\_\_\_\_ OR  
IF ORIGINAL INCLUDED WITH OR PACKAGE FOR FILING CHECK HERE \_\_\_\_\_

DEFENDANT(S) SERVED (LIST EACH DEFENDANT AND DATE THEY WERE SERVED)

\_\_\_\_\_

ANSWER OR COUNTERCLAIM FILED? \_\_\_\_\_

AFFIDAVIT DEFAULT DATE FILED: \_\_\_\_\_ NON-MILITARY AFF. DATE FILED: \_\_\_\_\_ OR  
IF ORIGINALS INCLUDED WITH OR PACKAGE FOR FILING CHECK HERE \_\_\_\_\_

PLAINTIFF FIRM/ATTORNEY: \_\_\_\_\_

DEFENDANT FIRM/ ATTORNEY: \_\_\_\_\_ /GAL: \_\_\_\_\_ /Answer \_\_\_\_\_

BAILIFF: \_\_\_\_\_ DEPUTY: \_\_\_\_\_

COURT REPORTER: \_\_\_\_\_

DEFENDANT APPEARS SRL/RULES EXPLAINED: \_\_\_\_\_

We discuss (1) process/procedure. (2) Record/Order review (3) Loan Mod/ Short sale etc (4) 2011 Admin Order (5) Sales/vacate issues (6) judicial foreclosure issues/right of occupancy(7) SCHELP (8) Plaintiff to send Status email on \_\_\_\_\_

Other: \_\_\_\_\_

Deficiency Judgment Waived/Demanded/USA RIGHT OF REDEMPTION/HOA OR 2<sup>nd</sup> MTG/ Multiple Tracts

Sales Date: \_\_\_\_\_

Note/mtg date: \_\_\_\_\_

Interest Rate: \_\_\_\_\_

Mortgage Recorded: Book \_\_\_\_\_ Page \_\_\_\_\_

Judgment Debt: \_\_\_\_\_

**DOCUMENTS NEEDED TO PROCESS CASE: / NONE NEEDED-READY TO GO!**

- (1) FIC Proof
- (2) Notice of hearing
- (3) Note, Mortgage, Assignment, Property Description
- (4) AOD/Breakdown of Corporate Advances: \_\_\_\_\_
- (5) Attorney fee clarification: \_\_\_\_\_
- (6) Other: \_\_\_\_\_

**EXAMPLE**

STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

[REDACTED]

Plaintiff,

-vs-

[REDACTED]

Defendant.

IN THE COURT OF COMMON PLEAS

201-CP-32

**ORDER OF REFERENCE**

**For Supplemental Proceeding**

Plaintiff above named, as judgment creditor, moves to have a supplementary examination of the Defendant, Eagle Excavating Inc., to discover sufficient property and for an Order to require the Sheriff to levy upon Execution or to appoint a Receiver of Defendant property so discovered for the purpose of carrying Plaintiff's Judgment into effect, and for such other relief as may be deemed proper based upon the said examination.

**NOW, THEREFORE**, on Motion of Plaintiff,

**IT IS ORDERED** that the said examination be, and it is hereby referred to Honorable James O. Spence, Master-In-Equity for Lexington County, to take sworn testimony and evidence and to make findings of fact and render conclusions of law, with full authority to enter a final order disposing of all issues before him, including, but not limited to, issuing Orders to appropriate property, directing sale of property, issuing writs of assistance, enforcing Orders and matters of Contempt, which authority includes issuing a fine, ordering incarceration, or both.

**AND IT IS FURTHER ORDERED** that any appeal of an Order will be directly to the South Carolina Supreme Court or South Carolina Court of Appeals.

**AND IT IS SO ORDERED.**

Presiding Judge, Eleventh Judicial Circuit

[SIGNATURE PAGE TO FOLLOW]

I SO MOVE.

[REDACTED]

By [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

ELECTRONICALLY FILED - 2018 Feb 26 10:07 AM - LEXINGTON - COMMON PLEAS - CASE#2016CP320

# EXAMPLE

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

[REDACTED]

Plaintiff,

-vs-

[REDACTED]

Defendant

) IN THE COURT OF COMMON PLEAS

) [REDACTED] 201 CP-32-[REDACTED]

) **ORDER AND RULE TO SHOW CAUSE**  
) **For Supplemental Proceeding**

This matter was referred to the Court for purposes of holding a supplemental hearing.

**NOW THEREFORE, IT IS ORDERED** that [REDACTED], proper officer and registered agent for the Defendant, [REDACTED], is hereby required to appear before the said Court on May 24, 2018 at 9:30 am at the Lexington County Judicial Center, 205 E. Main Street, Courtroom 2A, 2<sup>nd</sup> Floor, Lexington, South Carolina and then and there submit to examination by Plaintiff and truly testify and answer concerning any and all of Defendant's assets in which the Defendant could claim any interest or entitlement whatsoever, whether legal, equitable, custodial, possessory or otherwise.

**AND IT IS FURTHER ORDERED** that [REDACTED], proper officer and registered agent for the Defendant, [REDACTED] herein is **SUMMONED AND REQUIRED** then and there to bring complete copies of all books and records pertaining to Defendant's assets of whatsoever kind, nature or location, including all intangible and tangible property, personal, corporate (business), real, personal, or mixed, including, but not limited to the following:

1. All complete State and Federal income tax returns, with all attachments, including W-2 and 1099 Forms for the two (2) preceding tax years for which a return was filed by Defendant.
2. The last (12) twelve monthly statements concerning all bank and/or credit union accounts, either checking, savings, IRA accounts, Certificates of Deposit, and/or other similar savings instruments of the Defendant.
3. All complete insurance policies, including life, homeowners, property and/or casualty, with all endorsements, riders and/or all other documents related to property that Defendant has insured.
4. All deeds and mortgages, whether as Grantor or Grantee or Mortgagor or Mortgagee, and data pertaining to same, of any real property in which Defendant has any interest whatsoever and the current balance due on any liens / encumbrances.
5. The titles and/or bills of sale for all vehicles and equipment of any kind or description of the Defendant with the current balance due on any liens/encumbrances and name and address of lienholder.

- 6. A list of Defendant's tools and equipment with specific description and liens thereon.
- 7. All jewelry of any kind or description.
- 8. All collectible items, such as coins, antiques, heirlooms or similar property.
- 9. All stocks, bonds or similar investment instruments.
- 10. All of Defendant's financial statements, loan applications and /or balance sheets as were completed within the last two (2) calendar years.
- 11. All accounts receivable to and payable by Defendant.
- 12. A list of the furniture, fixtures and business equipment used in Defendant's business with liens and current balances due.
- 13. A list of inventory sold in Defendant's business in the last twelve (12) months prior to and as of the date of the hearing.
- 14. A list of all property of the Defendant that is leased, loaned or otherwise in the possession of any person other than Defendant or stored or remains in any other location than in Defendant's immediate possession.
- 15. A list and specific description of all personal properties including vehicles and equipment with identification of liens thereon and balance due.

**AND IT IS FURTHER ORDERED** that at said time and place [REDACTED], proper officer and registered agent for the Defendant [REDACTED], herein will be required to **SHOW CAUSE** why, upon discovery of property by Plaintiff, the Court should not enter its appropriate order either requiring the Sheriff to levy upon Execution of Plaintiff's judgment or appointing a Receiver of all of the said property so discovered in order to satisfy the said judgment or grant such other relief as is requested at the time of the examination.

**AND IT IS FURTHER ORDERED** that any appeal in this case will be directly to the South Carolina Supreme Court or the South Carolina Court of Appeals.

**AND IT IS FURTHER ORDERED** that [REDACTED], proper officer and registered agent for Defendant [REDACTED], be, and is hereby placed on actual notice by the service hereof that should you not appear or otherwise produce the documents as ordered, that you may, without just cause shown, be considered to be in Contempt of this Court's Order, which violation could result in a fine, incarceration, or both.

Columbia, South Carolina  
[REDACTED]

[REDACTED]  
Honorable James O. Spence  
Master-In-Equity, Lexington County

**[SIGNATURE PAGE TO FOLLOW]**



# Default Hearing Packages

When to send block hearing case list to Lex. Co. MIE:

You will need to forward your list to us on Monday the week before your default block is scheduled.

Sometimes it may be 5 days before and other times it may be 8 days before the actual hearing date. We continue to have to ask for many of lists and don't receive some until a few days prior to the hearing block. **This way you always know on Monday to send us your list for the next week.**

When to send Default Foreclosure Hearing Packages

- Law Firm to e-mail (in Word attachment) Notice of Sale, Form 4 and Order at least 72 business hours prior to hearing to Leslie Shealy (lshealy@lex-co.com)
- All other documents to be e-filed (72 business hours prior to hearing)
- \$35.00 MIE fee for supplemental hearing is to be handed up at the hearing.  
Note: Exhibits/Attachments to be e-filed **prior** to hearing  
Record Cover Sheet to be e-filed **after** hearing

## Default Foreclosure Hearing package procedure

### Documents to E-mail:

- Notice of Sale  
(e-mail 72 business hours prior to hearing date to Leslie Shealy ([lshealy@lex-co.com](mailto:lshealy@lex-co.com)))

#### **Must include:**

If Deficiency is Waived or Demanded and the interest rate

- Property Address
- Name of Attorney/Law Firm

Note: Sale is in Lex. Co. Judicial Center NOT Courthouse

**\*\*You are responsible for obtaining publication of the Notice of Sale in the appropriate newspaper (*general circulation within the county*). The two general circulation papers most often used in Lexington County are the Lexington Chronicle and The State.**

- Order (Master's Report & Judgment) along with New Form 4  
e-mail 72 business hours prior to hearing date to Leslie Shealy ([lshealy@lex-co.com](mailto:lshealy@lex-co.com))  
Note: Sale is in Lex. Co. Judicial Center NOT Courthouse

### Documents to E-File:

- Affidavit of Debt signed by Client  
e-file 72 business hours prior to the hearing date
- Affidavit of Attorney Fees **\*\*See Page 2 for requirements**  
e-file 72 business hours prior to the hearing date
- Copy of Notice of Hearing; Note and Mortgage; Assignments of Mortgage and or Mergers proving plaintiff has authority to foreclose  
e-file as Exhibits 72 hours prior to hearing date
- Record – (Record is also required on Supplemental Hearings) Refer to new Record Cover Sheet found under forms on MIE Dept. website.  
e-file **AFTER** the hearing
- \$35.00 check payable to Master-In-Equity - if this is a Supplemental Hearing the check is to be handed up at the hearing to Judge Spence.

**Notes:**

**Please do not submit nor attempt to collect attorney fees or costs due to past foreclosure actions, unless you can document that the attorney fees are bankruptcy fees unpaid and due to the current action**

**While certain reasonable costs relating to securing abandoned property are, if properly presented and documented, proper in a foreclosure case, a default in a foreclosure case is not a license to begin process of rehabilitating a house for purposes of re sale. I ask all attorneys to review, before they sign and submit, the client's corporate advance and provide a breakdown with hearing package.**

(1)

**Attorney Fee Affidavit Requirements**

**(1) Uncontested Cases---**

- (a) your attorney fee affidavit must be executed properly
- (b) state if contract rate-if it is a contract rate-no time records are required.
- (c) state if hourly rate and the number of hours worked on the case
- (d) contain a discussion of factors listed in \*Judge Ralph Anderson's 2011 MIE Bench-Bar Attorney fees-How to get them and keep them on appeal.

As normal, provide a copy to party who appears and I will ask if party wishes to ask questions. If party appears and contest attorney fees, cost or debt, case will be continued to allow for a court reporter and a detailed fee affidavit prepared and sent to defendant(s) for review prior to second hearing if they still contest after review of detailed affidavit.

- (2) Contested Cases---**bring a witness and court reporter. If after determining who wins case, attorney fees are still an issue, I require same step as above---send detailed attorney fee affidavit with time and costs. IF defendant requests, they can have hearing to cross examine on fee issues.

- (3) All Deficiency cases-**detailed time sheet required.

\*you can contact Terry Burnett at the SC CLE Division to get this information

2)

Updated 4-24-18

# Forms

## Default Foreclosure

## **Eviction/Writ wording to be inserted in Judgment Orders**

Please make sure that you and your staff are using the below wording in all orders for Lexington County.

If this wording is in your order the only time you should need a writ order (which requires a fee and Summon/RSC) for eviction is if there is a tenant in the property.

Otherwise the order and the deed should be all that the Sheriff's department will need to remove the defendant.

### **Wording:**

If the named defendant(s) continues in possession of the property after a deed has been issued to the purchaser, then the Sheriff of Lexington County is directed to eject and remove named defendant(s) from the property sold, together with all personal property located thereon, and put the successful bidder to whom the deed of conveyance has been issued or his assigns in full, quiet and peaceable possession of said premises without delay, and to keep said successful bidder or his assigns in such peaceable possession.

If the person(s) occupying the property after the deed has been issued to the purchaser is other than the named defendant(s), the purchaser shall serve the occupants with a Summons and Rule to Show Cause to determine why the occupant(s) should not be removed from the property.

Updated 1-25-19

STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON,

IN THE COURT OF COMMON PLEAS  
C/A NO.:

vs. Plaintiff,  
Defendant(s).

**RECORD OF HEARING**  
(Non-Jury)

Pursuant to the Order of Reference granted in the above titled case, a reference hearing was held on \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ a.m. before the Honorable James O. Spence, as Master in Equity for Lexington County.

Plaintiff is represented by \_\_\_\_\_. The following Defendants/ Person(s) appeared at the hearing: \_\_\_\_\_.

According to the Plaintiff's Affidavit of Debt, the Note and Mortgage are in default.

The original Lis Pendens was filed on \_\_\_\_\_.

Affidavits, Acceptance of Services, or Order of Publication are filed herein and show that service of the Summons and Complaint was properly made upon all Defendants.

Pursuant to Rule 55(a), SCRCP, a Notice of Default showing the Defendants \_\_\_\_\_ are in default; and that no individual Defendants in default are in the military service of the United States of America, as contemplated under the Servicemembers' Civil Relief Act, 50 U.S.C. §3901 et seq. was or will be filed herein.

Pursuant to South Carolina Administrative Order 2011-05-02-01, a Certification of Non-Compliance was or will be filed herein.

Plaintiff's attorney called the Court's attention to the documents below which were previously filed as Exhibits to the Complaint or subsequent pleadings, herein:

- a. Promissory Note
- b. Mortgage
- c. Title/Registration records of the subject Mobile Home

Plaintiff's attorney presented copies of the following additional Exhibits, which were admitted into evidence along with the previously filed exhibits:

- a. Affidavit of Debt

b. Affidavit of Attorney Fees

c. Statement of Costs

Plaintiff established the total debt amount secured by the Note and Mortgage is \$ \_\_\_\_\_. Plaintiff established that the Note is in default for failure to make the \_\_\_\_\_ payment and all subsequent payments.

Plaintiff is seeking the usual foreclosure of the first mortgage and has in the Complaint (or subsequently thereto in writing) waived the right to a personal or deficiency judgment.

Plaintiff asks that the Mortgage be foreclosed, that the property be sold at public auction in accordance with law, and that the sale be made subject to taxes and assessments, existing easements or restrictions, and any other senior encumbrances.

\_\_\_\_\_  
Attorneys for Plaintiff

Lexington, South Carolina  
Date: \_\_\_\_\_



STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2016CP320

**EXAMPLE**

[Redacted]

Plaintiff,

Deficiency Judgment **Waived**

v.  
[Redacted]

Defendant(s).

(011792-00591)

**AFFIDAVIT OF INDEBTEDNESS**

BEFORE ME, the undersigned authority, personally appeared [Redacted] Specialized Loan Servicing LLC ("SLS") who being first duly sworn, deposes and says:

1. I am authorized to sign this affidavit on behalf of Plaintiff, Specialized Loan Servicing LLC, as an officer or employee of SLS, which is Plaintiff's loan servicer ("servicer") for the subject loan ("the Loan").
2. SLS maintains records for the Loan in its capacity as Plaintiff's servicer. As part of my job responsibilities for SLS, I am familiar with the type of records maintained by SLS in connection with the Loan.
3. The information in this affidavit is taken from SLS's business records. I have personal knowledge of SLS's procedures for creating these records. They are: (a) made at or near the time of the occurrence of the matters recorded by persons with personal knowledge of the information in the business record, or from information transmitted by persons with personal knowledge; (b) kept in the course of SLS's regularly conducted business activities; and (c) it is the regular practice of SLS to make such records.
4. Plaintiff is the assignee of the security instrument for the subject loan. Plaintiff has exercised its option under the Note and Mortgage to accelerate the Loan and declare the entire principal balance, together with interest, advances and other charges immediately due and payable. Plaintiff has the right to foreclose the subject note and mortgage.
5. The business record attached as Exhibit A, which I have personally reviewed, is a true and correct printout that is part of the business records described above. It shows that [Redacted] defaulted on the Loan, the default has not been cured, and the amount stated on the attached business record is owed on the Loan.
6. SLS's books and records reflect that there is now due and owing to the Plaintiff the following amounts:
 

A. Unpaid Principal Balance due on the Note and Mortgage: .....	\$40,789.44
B. Accrued Interest from August 1, 2015 to October 20, 2017: .....	\$6,787.43
C. Escrow Advanced: .....	\$2,494.02
D. Attorney Fees & Costs.. .....	\$5,786.50
E. Pre-acceleration Late Charges .....	\$0.00
F. Property Inspections: .....	\$240.00
G. Less Suspense (Unapplied) Credit: .....	(\$542.11)
<b>TOTAL .....</b>	<b>\$55,555.28</b>
7. Interest at the rate of 7.5% continues to accrue for each day that the debt remains unpaid at a rate of \$8.3814, subject to any adjustment as provided for in the Note;
8. On account of Defendant's default under the Note and Mortgage sued upon herein, Plaintiff retained its attorney of record and instructed the filing of this action and agreed, bound and obligated itself to pay said attorney for his/her services on its behalf such sum as the Court shall adjudge to be reasonable.

1 - 2017 NOV 08 8:43 AM - LEXINGTON - COMMON PLEAS - CASE#2016CP320

Further Affiant sayeth not.

Dated: OCT 05 2017

MMh  
By: Mark McCloskey  
Title: Assistant Vice President

STATE OF Colorado  
COUNTY OF Douglas

Sworn to before me this 5th day of Oct., 2017.

Agnes Bradshaw (L.S.)  
Notary Public for \_\_\_\_\_  
My Commission Expires: 12/3/20

AGNES BRADSHAW  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20084040359  
MY COMMISSION EXPIRES 12/03/2020

Borrower: Glenn Bradley  
Property Address: 130 Shirway Court, Lexington, SC 29073  
011792-00591

ELECTRONICALLY FILED - 2017 Nov 08 8:43 AM - LEXINGTON - COMMON PLEAS - CASE#2016CP320

# Exhibit A



**JFIGS Good Through 10/20/17**

Client: SLS  
 Loan Number: [REDACTED]  
 Mortgagor Name: [REDACTED]  
 Current Interest Rate: 7.50000  
 Per Diem: 8.3814  
 Prepared: 09/20/17

Unpaid Principal Balance:	=	<u>40789.44</u>
Interest From: <u>08/01/15</u> to <u>10/20/17</u>	=	<u>6787.43</u>
Escrow Advanced:	=	<u>2494.02</u>
Delinquent Taxes	=	<u>0.00</u>
Delinquent Insurance	=	<u>0.00</u>
Deferred Balance	=	<u>0.00</u>
Late Charges Good Through: <u>09/01/15</u>	=	<u>0.00</u>
NSF Fee:	=	<u>0.00</u>
Property Inspection:	=	<u>240.00</u>
Other Fees & Costs:	=	<u>0.00</u>
Attorney Fees & Costs:	=	<u>5786.50</u>
Property Preservation:	=	<u>0.00</u>
Suspense (Unapplied):	=	<u>-542.11</u>
<b>Subtotal Due:</b>	<b>=</b>	<b><u>55555.28</u></b>

**Comments:**

**IF ANY OF THE ABOVE FEES ARE IN EXCESS OF THOSE ALLOWED BY THE LAWS OF YOUR JURISDICTION, PLEASE ADJUST TO THE ALLOWABLE LIMITS.**

# EXAMPLE

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

Carolina First Bank,

Plaintiff,

v.

[REDACTED]

Defendant(s).

IN THE COURT OF COMMON PLEAS

DOCKET NO. 10-CP-32-[REDACTED]

## AFFIDAVIT OF VERIFIED STATEMENT OF ACCOUNT

Deficiency Judgment Demanded

(015076-00014)

PERSONALLY APPEARED, who being duly sworn, deposes and says:

1. My name is John R. Welsh Jr and I am authorized to execute this affidavit on behalf of the plaintiff as an employee of Carolina First Bank. Carolina First Bank is the plaintiff's servicing agent for the subject mortgage loan ("Loan").
2. Carolina First Bank maintains records for the Loan in its capacity as plaintiff's servicer in the ordinary course of its business. As part of my job responsibilities for Carolina First Bank, I am familiar with the records maintained by my company in connection with this Loan. I have personal knowledge of the facts set forth in this affidavit, based on my review of such records.
3. In addition to being Plaintiff's servicing agent and the Loan's records custodian, it is also Carolina First Bank's regular practice to maintain the electronic payment history for the Loan. As such, Carolina First Bank is able to generate payment histories from the electronic data compilation it stores of the credits posted on or debits charged to a customer's account. I have personal knowledge of Carolina First Bank's procedures for creating and maintaining these records. They include: (a) being posted at or near the time of the occurrence of the matters recorded by persons with personal knowledge of the information in the business record or from information transmitted by persons with personal knowledge; (b) being maintained in the course of Carolina First Bank's regularly conducted business activities; and (c) being records created and maintained on each customer as the regular practice of Carolina First Bank in its servicing operations.
4. The following principal, interest, late charges (if applicable) and escrow/advances which I have confirmed following my review of Carolina First Bank's business records, are a true and accurate record of the Loan's currently owed balance (excepting any unpaid attorney's fees and attorney's costs that will be addressed by our attorneys through their own affidavit) to the date of hearing.
5. The total amount due the Plaintiff on said Note through February 22, 2010 is \$202,939.08 which breaks down as follows:

1123

A. Principal .....	\$166,915.16
B. Interest from December 7, 2009 to February 22, 2010 @ 7.75% .....	\$13,614.36
C. Advances (Appraisal, environmental inspection reports) .....	\$13,615.00
D. Pre-acceleration Late Charges .....	\$8,794.56
<b>TOTAL PRINCIPAL INTEREST AND EXPENSES .....</b>	<b><u>\$202,939.08</u></b>

6. It is the regular practice of Carolina First Bank, on behalf of the Plaintiff, to generate such account summary information from the electronic payment history it maintains for the Plaintiff. This payment history summary accurately reflects, to the best of my knowledge, the debits and credits made on the loan's account.

FURTHER AFFIANT SAYETH NOT.

John R. Welsh  
 Name John R. Welsh  
Vice President  
 (Title)

STATE OF South Carolina  
 COUNTY OF Lexington

Sworn to before me this 18 day of February, 2011.

Mary Sue Moore (L.S.)  
 Notary Public for South Carolina  
 My Commission Expires: 9/22/2018

Borrower: John Kent Spehl

015076-00014

2(14)

Hourly

**EXAMPLE**

STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

IN THE COURT OF COMMON PLEAS  
C/A No. 2009-CP-32-

Kondaur Capital Corporation,

Plaintiff,

v.

**AFFIDAVIT OF ATTORNEYS FEES**

Defendant(s).

( 937.090322)

This law firm was engaged by the Plaintiff to foreclose the Mortgages as expeditiously as possible, given the detriment to Plaintiff's equity position as a direct result of increasing losses from the running of interest. Upon receipt of the case file, the title was examined to identify all parties having or claiming any interest in the subject real estate. The following non-inclusive list of pleadings and other documents have been prepared or reviewed in this action:

- a. Lis Pendens and any amendment thereto
- b. Summons and Complaint and any amendment thereto
- c. Affidavit of Default
- d. Consent to Order of Reference, if necessary
- e. Order of Reference
- f. Notice of Hearing
- g. Record of Hearing
- h. Proposed Master's Report and Judgment of Foreclosure and Sale
- i. Notice of Sale

Additionally, the pleadings were drafted and served upon each defendant personally or by statutory/substitute service; reinstatement and payoff figures and payment histories were provided as requested or required. We scheduled and attended the hearing in this matter.

Future duties include forwarding copies of the Judgment to appearing defendants, obtaining bidding instructions from Plaintiff or its designee, representing Plaintiff at the sale or arranging for such representation, preparing an Order of Sale or Report on Sale and Disbursements and Order Confirming Sale, if needed, and preparing the Foreclosure Deed and any other documents necessary in this particular action.

# 'p w 7

1102

The contract rate between Plaintiff's law firm and the Plaintiff and/or its servicer for a routine, uncontested, default foreclosure of a single family residential property is \$1,050.00. This sum does not include any approved non-routine fees nor any bankruptcy work that may have been required of this firm.

This matter was a contested foreclosure as the Debtors were represented by David C. Gaffney, Esquire. Additional fees were approved not to exceed five hours (without additional pre-approval) at the rate of \$175.00 per hour. This firm has expended in excess of this five hours maximum stated above ( $\$175 \times 5 = \$875.00$ ). Additional non-routine fee approval of \$90.00 was approved. The total approved was \$2,015.00. ✓

In a normal, routine, uncontested residential foreclosure, without title issues, through the merit hearing, the time expended is between 12-15 hours.

This case also involved a bankruptcy filing by the Debtors, a Proof of Claim filing, Motion for Relief followed by a Settlement Order and an Order with Supporting Affidavit in order to obtain an order of the Bankruptcy Court to Lift Stay of Section 362 of the Bankruptcy Code.

All of the additional fees and costs pertaining to the bankruptcy activities mentioned above have been paid to Plaintiff's counsel and are specifically enumerated in the Record of Hearing and Decree of Foreclosure.

Also set out in the Record of Hearing and the Decree are foreclosure fees and costs previously paid to Plaintiff's counsel.

Considering all of the factors set out and the foreclosure fee previously paid, it is respectfully requested that an additional fee be approved of \$2,500.00.

In addition to the time expended to date in prosecution of this action, we anticipate a minimum additional four hours after the hearing. Moreover, depending upon the interest shown by defendants, third parties, or counsel for either and the negotiations required thereby, other time may also be committed to the completion of the case. I reserve the right to re-visit the question of attorney fees should the action proceed in an unexpected way.

In regard to the professional standing of counsel, representation of the Plaintiff has been undertaken by the firm of Fleming & Whitt, P.A. In regards to the professional standing of counsel, the Plaintiff's firm consists of two attorneys, including the attorney who is primarily responsible for this case, and each has extensive experience in foreclosure practice. Mr. Fleming, and Mr. Whitt concentrate their practice in the areas of bankruptcy, creditors rights and foreclosure. Each member of the firm has participated numerous times as C. L. E. speakers on various topics that relate to these areas of practice. Mr. Whitt is a Certified Specialist in Bankruptcy and Debtor & Creditor law and he has an "AV" rating by Martindale Hubbell. Each

z pw7

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member of the firm has handled hundreds of foreclosure and bankruptcy cases in South Carolina and the federal Bankruptcy Court.

The amount of the attorney fee requested in this matter is \$2,500.00. This fee is in line with the fee customarily charged by counsel with similar experience in this particular locality. Also the Plaintiff's attorney has achieved the beneficial result of a prompt foreclosure of the Mortgages.

*Pearce W. Fleming*  
Pearce W. Fleming, [REDACTED]  
D. Randolph Whitt, [REDACTED]  
FLEMING & WHITT, P. A.

[REDACTED]  
[REDACTED]  
[REDACTED]

Attorneys for Kondaur Capital Corporation

SWORN to before me this  
3 day of February, 2011

*Stephany L. Faulkner*  
Notary Public for South Carolina  
My Commission expires: 6-8-14

Flat fee

**EXAMPLE**

STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

SOUTH CAROLINA BANK AND TRUST,  
N.A.,

Plaintiff,

vs.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Defendants.

IN THE COURT OF COMMON PLEAS  
ELEVENTH JUDICIAL CIRCUIT

C/A #: 2010-CP-32-[REDACTED]

**AFFIDAVIT OF ATTORNEYS' FEES**

Personally appeared before me Benjamin E. Grimsley, attorney for the Plaintiff, who first being duly sworn, deposes and says as follows:

1. I am an attorney for the Plaintiff in the above referenced matter.

2. This case is an action to foreclose a mortgage on real property located in Lexington County, South Carolina. The subject mortgage specifically provides that the Plaintiff is entitled to the recovery of attorneys' fees and costs associated with the collection of sums due under the promissory Note.

3. I was retained by the Plaintiff to conduct this foreclosure action pursuant to a contractual rate of compensation providing for a flat attorneys' fee in the amount of \$1,500.00.

4. Under Dede v. Strickland, 414 S.E.2d. 134 (S.C. 1992), the Supreme Court of South Carolina has set forth the factors to be considered in an award of attorney's fees in real property actions. These factors include nature, extent, and difficulty of the legal services rendered, the time and labor necessarily devoted to the case, the professional standing of counsel, the contingency of compensation, the customary fees charged in the locality for similar services, and the beneficial result obtained. These factors, as applied in this case, are as follows:

- a. Nature, Extent, and Difficulty of the Legal Services Rendered. As stated earlier, this is an action to foreclose a mortgage on real property. The case involved complex issues of real property law. A hearing was held by the Master, who requires an order to be prepared by Plaintiff's counsel. Accordingly, the factual and legal issues presented were complex and detailed in nature, the extent of the work performed was necessary to adequately prepare and try these matters, and the matters decided were of legal and factual difficulty.

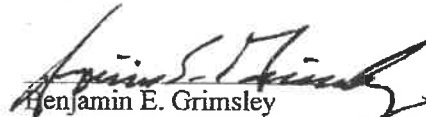
- b. Time and Labor Necessarily Devoted to the Case. As stated above, this case involved difficult issues of both legal and factual natures. Approximately 14.4 hours were devoted to the case by my firm. Accordingly, the time and labor devoted to this case were necessary to properly prepare and try this case.
- c. Professional Standing of Counsel. I am a licensed member of the Bar of the State of South Carolina and the State of North Carolina. I completed law school approximately 8 years ago. For approximately the last 6 years, I have been employed with the Grimsley Law Firm, LLC in Columbia, South Carolina. I am a member of the Richland County Bar Association, the South Carolina Bar Association, the North Carolina State Bar, the North Carolina Bar Association, and other professional organizations. Approximately 75% of my practice consists of real property litigation, including foreclosure cases, collection cases, land title questions, and other land related litigation. In the last six years, I have filed and pursued hundreds of real property cases. Accordingly, I submit that I have a high professional standing in general and in this area of practice.
- d. Contingency of Compensation. As recited above, compensation in this case is based on a flat-fee rate of \$1,500.00.
- e. Customary Fee Charged on the Locality for Similar Services. I am aware from discussions with clients, other attorneys in the Foreclosure Bar in the Midlands region of South Carolina, and from my general familiarity with the legal profession that the fees charged for services similar to those in this case are from \$850 to \$4,000.00 per case. As stated earlier, my flat-fee rate is within this range in this case. Accordingly, this rate is the fee customarily charged in this locality for similar services.
- f. Beneficial Results Obtained. This attorney obtained beneficial results for the Plaintiff in this action by securing a Judgment enforcing Plaintiff's mortgage rights with regard to the subject real property. Accordingly, it is submitted that beneficial results were obtained by this firm on the Plaintiffs' behalf.

6. After due consideration of the nature, extent, and difficulty of the legal services rendered, the time and labor necessarily devoted to the case, the professional standing of counsel, the contingency of compensation, the customary fee charged in the locality for similar services, and the beneficial result obtained, I respectfully submit that an award of attorney's fees to the full extent set forth in this Affidavit is appropriate; therefore, Plaintiffs are entitled to recover \$1,500.00 in attorney's fees.

7. In conjunction with this Affidavit, Plaintiff's counsel is submitting an affidavit reflecting the costs actually incurred through the date of the hearing. The costs in this matter total \$1,161.41. These costs include filing fees, reference fees, service costs, and other miscellaneous costs. The costs are reasonable and necessary to pursue this action and are not, I believe, excessive given the nature, extent and difficulty of the legal services in this case, the time and labor devoted to this case, and the beneficial result obtained.

8. Accordingly, the total attorney's fees and costs sought in this case and allowable under the terms of the Note and Mortgage total \$2,661.41.

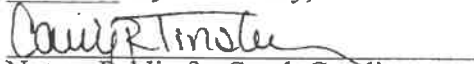
FURTHER AFFIANT SAYETH NOT.

  
Benjamin E. Grimsley  
GRIMSLEY LAW FIRM, LLC



*Attorney for the Plaintiff*

SWORN to before me this  
2nd day of February, 2011



Notary Public for South Carolina  
My Commission Expires: 3/14/2012

The following 2 pages are  
examples of documents  
e-mailed each month to  
contacts within Law Firms  
who receive and review the  
Judicial Foreclosure Sale Roster

Hello everyone!

**PLEASE READ THE BELOW CAREFULLY!!!**

I have attached the sale roster for the May 7, 2018 sale. Please review this list for your cases (if you have any---the Sale Roster Contacts List may include your name if you have had a case in the past) and let me know if you find anything incorrect.

You will need to check this roster to make sure all of your cases are listed and check the waived/demanded and pulled status also.

**Please Note: The roster is in order by case number not by attorney name.**

**PLEASE CHECK THE FOLLOWING INFORMATION VERY CAREFULLY!** The address, deficiency and pulled status is entered for each case by the MIE staff and not pulled from the CMS system, so we could very easily incorrectly enter any one of those 3 data fields.

The Address, Deficiency and sale Pulled status is listed under the TAX MAP column.

(Example: 123 Main St. Lexington, SC and X Waived/Demanded and XX PULLED)

**NOTE:** The X's don't mean anything they just hold a place to keep the lines in order.

**NOTE:** if a case is Pulled (cancelled) it will remain on the roster and just be marked SALE CANCELLED. (This is under the tax map column)

**\*\*\*\*\*ALSO, if you see that the attorney listed is no longer with your firm, please let us know as soon as possible. You will need to send something on letterhead stating Attorney A is no longer with your law firm and Attorney B is now the attorney of record.\*\*\*\*\***

**Lexington County Eleventh Judicial Circuit - Roster Details**  
**Judicial Sale of April 2, 2018 @ 11:00am**

Court Agency	Master in Equity	Judge	Spence	Roster Id	1			
Roster Type	Master's Sales	Roster Begin Date	04/02/2018	Roster End Date	04/02/2018			
Number of cases = 48								
#	Case	Plaintiff Attorney	Defendant Attorney	Filed Date	Sub Type	Status	Tax Map	Notes
1	2010CP3200988 Winnington Savings Fund Society, FSB, d/b/a Christiana Trust plaintiff, et al VS Lori Sailer, defendant, et al	Heidi B. Carey (803) 799-9993	John Douglas Barnett (803) 929-3015 Douglas Kosta Koffi (803) 465-3223 Ronald W. Urban (803) 467-5093 S. Nelson Weston Jr. (803) 771-4400	06/03/2010	Foreclosure 420	Judgment	005390-07-129 967 PISGAH CHURCH RD LEXINGTON SC 29072 X WAIVED XX PULLED	
2	2011CF3202888 U.S. Bank Trust, N.A. plaintiff, et al VS LUISIANA R. BACOTE, defendant, et al	Suzanne E. Brown (803) 726-8853	Wendy V. Campbell (803) 781-1508	10/16/2013	Foreclosure 420	Judgment	006019-03-004 204 CHESTERFIELD CT LEESVILLE, SC 29070 X WAIVED	
3	2014CP3201330 One West Bank FSB VS Nicole G Kokolis, defendant, et al	Suzanne E. Brown (803) 726-9953 Caroline Richardson Glenn (803) 454-3540	Todd Raymond Ellis (803) 732-0123	01/19/2016	Foreclosure 420	Judgment	001200-03-019 32 CLAY CT CHAPIN, SC 29036 X WAIVED XX PULLED	
4	2015CP3201006 Bank of America NA VS Troy F Lewis	Nicole Deanna Hildebrander (809) 727-1200	Brianne Luren Kilpatrick (843) 696-3048 Albert Peter Sheald Jr. (843) 853-4000	06/12/2015	Foreclosure 420	Judgment	004519-04-023 1029 DAWSON DR W. COLA, SC 29169 X WAIVED XX PULLED	
5	2015CP3203246 Deutsche Bank National Trust Company VS Jason R. Eskra, defendant, et al	Aian Martin Stewart (803) 726-2700 K2738 Kristen Elisa Washburn (843) 407-2487		05/18/2016	Foreclosure 420	Judgment	007529-02-057 105 MOLLY CT LEXINGTON, SC 29073 X WAIVED	
6	2015CP3204011 First Bank VS Kerry D Ward, defendant, et al	John Brian Keldner (803) 726-2700 Ashley Zarratt Stanley (803) 726-2700 Aian Martin Stewart (803) 726-2700 K2738	George John Conits (884) 262-2100	09/25/2017	Foreclosure 420	Judgment	007644-01-282 304 PLEASANT CREEK COURT LEXINGTON, SC 29073 X WAIVED XX PULLED	
7	2015CP3204329 Carrington Mortgage Services LLC VS Laura L Sprague	Heidi B. Carey (803) 799-9993		07/29/2016	Foreclosure 420	Judgment	008925-03-015 149 PEELER RD GASTON, SC 29053 X WAIVED	
8	2016CP3200906 JP Morgan Chase Bank National Association VS Robert A Laffordy, defendant, et al	James Lloyd Williams (803) 256-2680	Brittany Lauren Kilpatrick (843) 696-3048	03/31/2017	Foreclosure 420	Judgment	005553-01-028 101 RUSTIC CROSSING LEXINGTON, SC 29072 X DEMANDED	
9	2016CP3200223 Specialized Loan	John Brian Keldner (803) 726-2700		10/26/2016	Foreclosure 420	Judgment	005529-05-004 156 LA HABRA LN	

# Post Sale Packages



## **Post-Sale Packages**

The original documents are to be mailed to the attention of **Gail Faircloth**

- Deed
- Satisfaction
- Assignment of bid
- Report on sale
- Deficiency order & form 4
- Checks for 1% bid fee

Note: you will put the date and signature line on these documents as they will be "ink" signed and then e-filed by the MIE court.

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LEXINGTON )

COURT OF COMMON PLEAS  
Case # \_\_\_\_\_

)  
 )  
 )  
vs. Plaintiff(s) )  
 )  
 )  
 )  
 )  
 )  
Defendant(s) )  
 )  
\_\_\_\_\_ )

**ORDER VACATING JUDICIAL SALE  
AND FORFEITING BID DEPOSIT**

This matter was referred to the Master-In-Equity Court by an Order of Reference pursuant to Section Rule 53 (SCRCP).

The property subject of this action was sold at the Judicial Sale of (sale date) For a high bid of \$ \_\_\_\_\_ to \_\_\_\_\_, who deposited \$ \_\_\_\_\_ with the court on the day of the sale. \_\_\_\_\_ Has not complied with their bid in the time set out in the Notice of Sale. As a result, this deposit was forfeited.

IT IS THEREFORE ORDERED ADJUDGED AND DECREED THE (sale date) Judicial Sale of the subject property is hereby vacated and the court shall disburse the forfeited deposit first to the County of Lexington for the 1% Bid Fee due (\$ \_\_\_\_\_) and then the balance (\$ \_\_\_\_\_) to \_\_\_\_\_ as attorneys for plaintiff to be applied toward plaintiff's judgment.

Date: \_\_\_\_\_  
Lexington, South Carolina

\_\_\_\_\_  
Judge James O. Spence  
Master In Equity for Lexington County

Note:  
This order is to be e-mailed in a word document to Gail Faircloth at [gfaircloth@lex-co.com](mailto:gfaircloth@lex-co.com) and not e-filed.

# Miscellaneous

**Documents that need a hearing/other date such as:**

- Rule to Show Cause  
(other than Supplemental Proceeding RTSC-see order of reference procedures)
- Order of continuance
- Writ order put out date
- Trial scheduling order

The Law Firm will need to e-mail **Gail Faircloth** or **Leslie Shealy** for a hearing/set out date prior to e-filing the document.

You should never e-file a document with a blank – if you do the clerk of court will reject it.



## Documents that are Mailed to the MIE court staff

### **Attention Order of Reference clerk:**

Checks for order of reference  
Judge Spence's checklist  
NEF for order of reference

### **Attention Gail Faircloth:**

Checks for 1% Bid Fee  
Deeds  
Satisfactions/Lien Release  
Report on Sale  
Assignment of bid  
Deficiency order/form 4



## Documents that are E-Mailed to MIE court staff

### **To Leslie Shealy at [lshealy@lex-co.com](mailto:lshealy@lex-co.com):**

- Notice of Sale
- Masters Report/Judgment & Form 4

### **To Judge Spence at [jspence@lex-co.com](mailto:jspence@lex-co.com):**

- Orders from a contested hearing where attorneys on both sides are submitting proposed orders.

### **To Gail Faircloth at [gfaircloth@lex-co.com](mailto:gfaircloth@lex-co.com):**

- Order vacating sale and forfeiting or refunding deposit



## Documents that are E-Filed

- All other documents

**1-Note:** For any \*document that requires a date - you must e-mail Gail or Leslie for the date prior to e-filing. Never file with a blank or the Clerk of Court will reject the document.

**Trial Scheduling order**

**Order of Arrest**

**Writ/Eviction order**

**Rule to Show Cause**

(except \*RTSC for Sup. Proc. – e-mail Vanda [vwhite@lex-co.com](mailto:vwhite@lex-co.com) for a hearing date)

**2-Note: Never e-file orders/documents prior to a hearing these will be filed after the hearing with instructions from Judge Spence (except Default FC hearings)**

# FORMS

## Templates and Examples

### Templates:

\*Arrest Discharge only (from MIE case) order

\*Arrest Order

Checklist Order of Reference for Judge Spence

Order to be Relieved as Counsel

Stay Due to Foreclosure Intervention order

Supplemental Proceeding order (after hearing)

Supplemental Proceeding order (Dismissal)

Trial Scheduling Order

Vacate Sale and Forfeit Deposit Order (must be e-mailed not e-filed)

**\*These two documents may need to be e-mailed the MIE Judge for him to “ink” sign and e-file as there have been issues with serving e-signed arrest orders.**

### Examples:

Affidavit of Attorney Fees Example - Hourly

Affidavit of Attorney Fees Example – Flat Fee

Affidavit of Debt/Verified Statement of Account - Demanded

Affidavit of Debt/Verified Statement of Account - Waived

Installment/Contract for deed Order (No Equity)

Installment/Contract for deed Order (Some Equity)

Record of Hearing cover sheet – Foreclosure

Record of Hearing Minor Settlement Approval

Record of Hearing (other) Settlement Approval

Supplemental Proceeding Order of Reference & Rule to Show Cause

**The Above forms can be found on the Lexington County website ([www.lex-co.sc.gov](http://www.lex-co.sc.gov)) under the Master In Equity department.**