

NOTICE TO THE BAR

CIVIL PRACTICE AND PROCEDURE – SUPREME COURT RELAXATION OF RULES 1:5-2, 4:4-7, 4:64-1 AND 4:65-2, AND ADOPTION OF NEW RULES APPENDIX XII-K

The Supreme Court has relaxed and supplemented the following Rules of Court and adopted new Appendix XII-K, effective immediately:

- **Rule 1:5-2(a)** — to provide that when service of papers referred to in *Rule 1:5-1(a)* (“Service; When Required – Civil Actions”) is required to be made upon the clerk of the court because, despite diligent effort, no address for the party is known, the filing of papers with the clerk shall be deemed to satisfy that service requirement and there need to be no separate service upon the clerk. (Emphasis supplied).
- **Rule 4:4-7** — to provide that where service of process in Law Division – Civil Part matters is made by registered or certified mail and simultaneously by regular mail, the return receipt card, or the printout of the electronic return receipt provided by the U. S. Postal Service, or the unclaimed registered or certified mail shall be filed as part of the proof. (Emphasis supplied).

Please note that this rule relaxation merely permits, but does not require, use of the U. S. Postal Service electronic return receipt. Further, this rule relaxation is intended to apply only to Law Division – Civil Part matters and does not extend to the Special Civil Part or General Equity.

- **Rule 4:64-1** — to require that prior to entry of judgment in uncontested foreclosure matters (other than *in rem* tax foreclosures) the plaintiff must serve on all residential tenants in the property, by personal service or by regular and certified mail, return receipt requested, the “Notice to Residential Tenants of Rights During Foreclosure,” as set forth in newly adopted Appendix XII-K of the Rules of Court (see below). In the event that the name of the tenant(s) is unknown, the notice may be directed simply to “Tenant.” Any notice served in accordance with this requirement must be in an envelope with the following text in bold, 14-point or larger type: “IMPORTANT NOTICE ABOUT TENANTS’ RIGHTS.”
- **Rule 4:65-2** — to require that, if foreclosed premises to be sold are residential, the notice of sale posted on the premises must be accompanied by the “Notice to Residential Tenants of Rights During Foreclosure”

prescribed by newly adopted Appendix XII-K of the Rules of Court, in bold 14-point or larger type.

- **Appendix XII-K** — to provide residential tenants with the notice required by *Rules* 4:64-1 and 4:65-2, as relaxed and supplemented.

The Court's Orders relaxing and supplementing the above-noted rules and adopting Appendix XII-K, along with the text of Appendix XII-K, are published with this Notice to the Bar.

The Court has asked the Civil Practice Committee to develop proposed conforming rule amendments for the Supreme Court's consideration in this rules cycle.

/s/ Glenn A. Grant

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Court

Dated: December 11, 2009

SUPREME COURT OF NEW JERSEY

It is ORDERED, pursuant to N.J. Const. Art. VI, sec. 2 par. 3, that the provisions of Rule 1:5-2 ("Manner of Service") of the Rules Governing the Court of the State of New Jersey are supplemented and relaxed so as to provide that when service of papers referred to in Rule 1:5-1(a) ("Service; When Required – Civil Actions") is required to be made upon the clerk of the court because, despite diligent effort, no address for the party is known, the filing of the papers with the clerk shall be deemed to satisfy that service requirement and there need be no separate service upon the clerk.

For the Court,

/s/ Stuart Rabner

Chief Justice

Dated: November 17, 2009

SUPREME COURT OF NEW JERSEY

WHEREAS "Return receipt (electronic) is the equivalent of the traditional 'green card' – the hardcopy return receipt, PS Form 3811, Domestic Return Receipt – that provides proof of delivery for Certified Mail, Registered Mail, collect on delivery (COD), and numbered Insured Mail items" pursuant to Postal Bulletin 22137 at 43 (September 16, 2004);

THEREFORE IT IS ORDERED, pursuant to N.J. Const. (1947), Art. VI, §2, ¶ 3, that, effective immediately and until further order, Rule 4:4-7 is relaxed and supplemented such that where service of process in Law Division – Civil Part matters is made by registered or certified mail and simultaneously by regular mail, the return receipt card, or the printout of the electronic return receipt provided by the United States Postal Service, or the unclaimed registered or certified mail shall be filed as part of the proof.

For the Court,

/s/ Stuart Rabner

Chief Justice

Dated: November 17, 2009

SUPREME COURT OF NEW JERSEY

It is ORDERED, pursuant to N.J. Const. Art. VI, sec. 2 par. 3, that the provisions of Rule 4:64-1 (“Uncontested Judgment: Foreclosures Other Than In Rem Tax Foreclosures”) of the Rules Governing the Courts of the State of New Jersey are supplemented and relaxed so as to require that prior to entry of judgment in such foreclosure matters the plaintiff shall serve on all residential tenants in the property, by personal service or by regular and certified mail, return receipt requested, the “Notice to Residential Tenants of Rights During Foreclosure” as set forth in Appendix XII-K of the Rules of Court . In the event that the name of any tenant(s) is unknown, the Notice may be directed simply to "Tenant." Any notice served in accordance with this requirement shall be contained in an envelope with the following text in bold, 14-point (or larger) type: “IMPORTANT NOTICE ABOUT TENANTS' RIGHTS.” And,

It is FURTHER ORDERED, pursuant to N.J. Const. Art. VI, sec. 2 par. 3, that the provisions of Rule 4:65-2 (“Notice of Sale; Posting and Mailing”) of the Rules Governing the Courts of the State of New Jersey are supplemented and relaxed so as to require that if the foreclosed premises to be sold are residential, the notice of sale posted on the premises shall be accompanied by the “Notice to Residential Tenants of Rights During Foreclosure” prescribed by Appendix XII-K of the Rules of Court, in bold, 14-point (or larger) type.

For the Court,

/s/ Stuart Rabner

Chief Justice

Dated: November 17, 2009

SUPREME COURT OF NEW JERSEY

It is ORDERED that the attached new Appendix XII-K (“Notice to Residential Tenants of Rights During Foreclosure”) to the Rules Governing the Courts of the State of New Jersey is adopted effective immediately.

For the Court,

/s/ Stuart Rabner

Chief Justice

Dated: November 17, 2009

[Appendix XII-K]

NOTICE TO RESIDENTIAL TENANTS OF RIGHTS DURING FORECLOSURE

A FORECLOSURE ACTION HAS BEEN FILED CONCERNING (INSERT ADDRESS OF PROPERTY), AND THE OWNERSHIP OF THE PROPERTY MAY CHANGE AS A RESULT.

UNTIL OWNERSHIP OF THE PROPERTY CHANGES OR YOU ARE OTHERWISE INFORMED BY THE COURT OR THE MORTGAGE HOLDER, YOU SHOULD CONTINUE TO PAY RENT TO THE LANDLORD OR TO A RENT RECEIVER, IF ONE IS APPOINTED BY THE COURT. YOU SHOULD KEEP RECEIPTS OR CANCELED CHECKS OF YOUR RENT PAYMENTS. IF YOU ARE NOT SURE HOW OR WHERE TO PAY RENT, SAVE YOUR RENT MONEY SO THAT YOU WILL HAVE IT WHEN THE OWNER DEMANDS IT. NONPAYMENT OF RENT IS GROUNDS FOR EVICTION.

FORECLOSURE ALONE IS GENERALLY NOT GROUNDS TO REMOVE A BONA FIDE RESIDENTIAL TENANT. TENANTS WHO WANT TO STAY IN THEIR HOMES CAN BE REMOVED ONLY THROUGH A COURT PROCESS. WITH LIMITED EXCEPTIONS, THE NEW JERSEY "ANTI-EVICTION ACT" PROTECTS RESIDENTIAL TENANTS' RIGHTS TO REMAIN IN THEIR HOME. THIS LAW INCLUDES PROTECTION FOR TENANTS WHO DO NOT HAVE WRITTEN LEASES.

IT IS UNLAWFUL FOR ANYONE TO TRY TO FORCE YOU TO LEAVE YOUR HOME OUTSIDE THE COURT PROCESS, INCLUDING BY SHUTTING OFF UTILITIES OR FAILING TO MAINTAIN THE PREMISES.

[Note: Appendix XII-K adopted November 17, 2009 to be effective immediately.]