

NOTICE TO THE BAR

FORECLOSURE – AMENDMENTS TO RULE 4:64-8 – REINSTATEMENT FEE AFTER A MATTER HAS BEEN DISMISSED FOR LACK OF PROSECUTION

The Supreme Court in April 2019, acting on a recommendation by the Special Committee on Residential Foreclosures, adopted amendments to Rule 4:64-8 (1) to establish restoration fees for dismissed foreclosure cases and (2) to limit the number of dismissals for lack of prosecution to two before triggering the new complaint requirement. The Legislature enacted N.J.S.A. 2A:50-56.3 after those April 2019 amendments to Rule 4:64-8, creating some inconsistencies between the statute and the rule. To address the new statutory requirements, the Court by Order dated July 9, 2019 relaxed the provisions of amended Rule 4:64-8 so as to specifically establish the amount of reinstatement fees to be “twice the amount of the complaint” and to expand the limitation on the number of dismissals for lack of prosecution from two to three before a new complaint is required. That rule relaxation was intended as an interim measure pending adoption of conforming rule amendments.

This notice is to advise that the Court has now adopted conforming amendments to Rule 4:64-8. The amendments, which are published with this notice, were adopted and effective on December 2, 2019.

Questions regarding this notice may be directed to Michelle M. Smith, Clerk of the Superior Court, by email at michelle.smith@njcourts.gov or by telephone 609-815-2900 ext. 54200.



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

Dated: December 17, 2019

SUPREME COURT OF NEW JERSEY

It is ORDERED that the attached amendments to Rule 4:64-8 of the Rules Governing the Courts of the State of New Jersey are adopted to be effective immediately.

For the Court,

A handwritten signature in blue ink, likely of the Chief Justice, consisting of a stylized 'S' followed by a large 'R' and a trailing flourish.

Chief Justice

Dated: December 2, 2019

4:64-8. Dismissal of Foreclosure Actions for Lack of Prosecution; Reinstatement

(a) Dismissal for Lack of Prosecution. Except as otherwise provided by rule or court order, when a foreclosure matter has been pending for twelve months without any required action having been taken therein, the Clerk of the Superior Court shall issue written notice to the parties advising that the matter as to any or all defendants will be dismissed without prejudice 30 days following the date of the notice unless, within said period, an answer, motion for default, or motion for judgment or a motion setting time and place for redemption has been filed. If the plaintiff fails to respond as herein prescribed, the court shall enter an order of dismissal without prejudice as to any named party defendant who has not been served or has not answered and shall furnish the plaintiff with a copy thereof.

(b) Reinstatement After Dismissal. A matter may be reinstated after dismissal pursuant to paragraph (a) only on motion for good cause shown. Upon such reinstatement, the plaintiff will be assessed a restoration fee equivalent to twice the filing fee for a foreclosure complaint. A matter may be reinstated only three times (not counting any dismissals based on federal exemptions) before a new complaint must be filed by plaintiff in order to proceed. [An application to reinstate the matter shall be accompanied by payment of a \$100 restoration fee to the Clerk of the Superior Court, made payable to the "Treasurer, State of New

Jersey," if the motion to reinstate is made within 30 days after entry of the order of dismissal or suppression, or a \$300 restoration fee if the motion is made thereafter. Reinstatement of the matter after dismissal may be permitted only two times on motion for good cause shown before a new complaint shall be required in order to proceed.]

Note: Adopted July 28, 2004 to be effective September 1, 2004; amended April 30, 2019 to be effective May 1, 2019; text allocated into paragraphs (a) and (b), captions added, and paragraph (b) amended December 2, 2019 to be effective immediately.