

AMENDMENTS TO RULE 11 & 12

FORECLOSURES

Blue type indicates changes to Rule 11 & 12.

11.01 Title Evidence; Preliminary Judicial Report

In actions for the marshaling and foreclosure of liens on real property or partition of real estate, a Preliminary Judicial Report shall be filed with the Clerk by the attorney for the plaintiff, as evidence of the state of the record title of the premises in question. Said report may be prepared by an attorney or a competent abstractor or title company. A copy, certified by the attorney or a photographic copy of the original evidence of title, **from the Property Deed**, may be filed with the Clerk in lieu of the original, and shall become and remain a part of the files in the case. Upon failure of the plaintiff's attorney to comply with the foregoing requirement within sixty (60) days after filing of the complaint, any other interested party may, upon notice to plaintiff's attorney, procure such evidence of title and file the same in such action. Where the evidence of title indicates that necessary parties have not been made defendants, the attorney for the party filing the same shall proceed without delay to cause such new parties to be added and served.

11.03 (A) Final Judicial Report

The Legal Description of property, included in Preliminary Judicial Report, must be approved and verified by the County Fiscal Office/Property Transfer Division. Three (3) copies of the "Property Description Approval Form" must be timestamped/filed with the Clerk of Courts PRIOR to the filing of the Final Judgment Entry in the foreclosure case. The Clerk of Courts will retain one (1) copy of the "Property Description Approval Form" and return the two (2) copies to the filing party, which shall then be attached to the precipe for "Order of Sale". Blank the "Property Description Approval Forms" may be obtained from the County Fiscal Office/ Property Transfer Division or on the County Website at www.co.summit.oh.us/fiscaloffice. <http://www.co.summit.oh.us/fiscaloffice/pdfs/Description%20Approval%20Form.pdf>

A final Judicial Report, shall be issued and filed with the Clerk **BEFORE** the Decree of Foreclosure or Decree of Partition is filed. Said report shall state the method of service on each of the parties and shall include a statement indicating whether any additional liens or mortgages have been filed since the date the Preliminary Judicial Report was issued.

11.03 (B) Property Description Approval Form

Two (2) filed copies of the "Property Description Approval Form" MUST BE ATTACHED to the Precipe for Order of Sale. Said "Property Description Approval Form" shall state that the legal description, with correct parcel and routing numbers and taken from the Property Deed, has been approved and verified true by the County Fiscal Office/ Property Transfer Division.

11.05 FISCAL OFFICER as Party Defendant

In all foreclosure actions it shall not be necessary to name the Summit County **Fiscal Officer** as a party unless a party is contesting the amount of real estate taxes or the **Fiscal Officer** holds a personal property tax lien on the premises. In all actions in which the **Fiscal Officer** has been named a party, and in which the taxes are not in dispute nor is there a personal property tax lien, the **Fiscal Officer** need not file an answer to the complaint or to any cross-claims, but shall be served with a copy of the Confirmation of Sale or the dismissal entry.

11.07 Appraiser’s Fees

In all actions in which the Summit County Sheriff is called upon to appoint appraisers to appraise real property for the purpose of conducting a judicial sale, the appraisal fees shall be taxes as costs in the action, and each appraiser so appointed shall be compensated and receive fees based upon the Summit County **Fiscal Office, Auditor’s Division’s**, last tax appraisal of the property as shown by the **Fiscal Office, Auditor’s Division’s Appraisal Records**. The fees shall be scaled as follows:

- Up to \$5,000 tax value.....\$25.00 each appraiser
- \$5,000 to \$25,000 tax value.....\$35.00 each appraiser
- \$25,000 to \$50,000 tax value.....\$50.00 each appraiser
- Over \$50,000.....\$50.00 each appraiser, plus \$1.00 for each \$1,000 for fraction thereof of tax valuation in excess of \$50,000.

Upon motion made with notice and an opportunity for all parties to be heard, the appraisers may be awarded such lesser or additional compensation as the Court shall determine just and proper.

“Property” is defined as all parcels consolidated in use and to be offered at judicial sale, whether containing more than one lot or parcel.

RULE 12

SHERIFF’S SALES

12.04 Confirmation of Sale

Counsel shall prepare and submit to the Court an order of Confirmation of Sale approved by all parties who have entered an appearance in the matter **NO LATER THAN 45 DAYS FROM** the date of sale. If consent of all parties cannot be obtained, counsel for plaintiff shall file a Motion for Confirmation of Sale in accordance with Rule 7.14. Upon confirmation of the sale, counsel shall provide a time-stamped copy to the Sheriff with a verification form from the **Fiscal Office, Treasurer’s Division** in accordance with Rule 11.08. The Sheriff shall forthwith deliver the deed to the purchaser or an escrow agent designated in writing by the purchaser, upon payment of the full purchase price, with interest, if any.