

## **Judge Nancy Margaret Russo – Standing Orders for Foreclosure Cases**

1. Pursuant to Civil Rule 4(E), if service of the complaint is not made upon a defendant within six months after the filing of the complaint, or amended complaint (if applicable), a case shall be dismissed as to that defendant without prejudice. Consequently, plaintiff will have then failed to properly join all necessary parties to a case and the Court will thus dismiss a case in its entirety without prejudice at plaintiff's costs for failure to prosecute.
2. In a Bank Foreclosure Case or a Condominium Lien Foreclosure Case or a Home Owner's Association Case, within 20 days of filing the complaint, the plaintiff shall complete a Residential Property Status Report on a form prescribed by the court. Said form may be obtained from Judge Nancy Margaret Russo's website. This form requires the submission of a recent color photograph of the subject property. Said form is to be filed and hand-delivered to courtroom 18-C on the date of filing. Failure to comply will result in dismissal without prejudice.
3. Failure of any party's counsel or pro se party to appear at any scheduled event during the pendency of this case may result in dismissal with or without prejudice for failure to prosecute and/or judgment being rendered.
4. If a continuance is sought for any reason, the appropriate motion **MUST** be filed no less than 7 days before the scheduled event, and the court provided with a courtesy copy on the date of filing.
5. Do not call the court to request a continuance. Absent an emergency, no consideration will be given to requests not made in writing, docketed and within the timeframe above.
6. The court requires a courtesy copy of all pleadings in excess of 5 pages, to be hand-delivered to the court. E-filing does not constitute a courtesy copy. Pleadings 5 pages, or less, in length may be faxed to the Court at 216-348-4036. Pleadings of 5 pages or less that are e-filed do not need to be faxed or delivered to the court.
7. Failure to comply with any portion of the court's standing orders, including this order, may result in dismissal with or without prejudice.
8. In the event the debtor enters into a forbearance agreement, loan modification, payment plan or any other similar settlement with the plaintiff, whether it is before judgment or after judgment, the plaintiff must notify the court of said agreement within 14 days of entering such an agreement. Failure to notify the court of such an agreement will result in a show cause hearing.
9. All 41(A) notices of dismissal or motions to dismiss filed with the court must have attached to them an affidavit indicating if any forbearance agreement, loan modification, payment plan, reinstatement, payoff or any other similar settlement with the defendant exists or not. Failure to comply may result in a show cause hearing.

10. In a Bank Foreclosure Case, in order to have standing, the bank must be able to prove to the court that at the time it files its case it either 1. Has had a mortgage assigned or 2. Is the holder of the note. Citimortgage v. Patterson, 2012 Ohio 5894. Failure to do so will result in the court dismissing the within case.

11. In the event the court awards plaintiff with a judgment and/or decree of foreclosure, plaintiff is ordered to provide the clerk and/or sheriff with all necessary documents to trigger the sale of the within property within 30 days of the date of the court's judgment. Failure to do so will result in the court vacating any judgment and/or decree of foreclosure and dismissing this case without prejudice for failure to comply. The court may also set the matter for a show cause hearing ordering counsel to show cause why he or she should not be held in contempt for failure to comply. If the property is unsold, plaintiff will be required to file a subsequent praecipe for sale, within 30 days after the sheriff's return reporting the property as unsold, until the property is sold or good cause is shown and the court docket such an entry. In the event the plaintiff chooses to purchase the subject property, but does not want to remain the titleholder, plaintiff will be permitted to surrender its interest in said property to the Cuyahoga County land reutilization corporation.

12. Notices of Bankruptcy filed with the court must have attached to them a copy of the bankruptcy docket. Cases stayed due to bankruptcy may be returned to the active docket only upon a properly filed motion that states the date on which the automatic stay was lifted. Court to be notified of the lifting of a bankruptcy stay within 15 days of same. Failure to notify the court and file a motion to reactivate a case within that 15 day period of time will result in the court dismissing a case without prejudice. Counsel must attach a copy of the bankruptcy docket to his or her motion to reactivate a case.

13. All filings, greater than 5 pages, are to be hand-delivered to courtroom 18-C on the date of filing and left in the designated mailbox by 4:30. Electronic filing or e-filing does not alter this policy. In addition to e-filing a document with the court, parties must still hand-deliver a hard copy of any filing, greater than 5 pages, to the court by 4:30. The court will strike any filings that are not timely delivered to the court by hand and/or the court may dismiss a party's claims without prejudice for failure to comply.

14. Parties wishing to perfect service by special process server in any given case must first file a separate motion to appoint a special process server directly with Judge Nancy Margaret Russo. Failure to obtain the express permission of Judge Nancy Margaret Russo before attempting service by special process server may result in the court striking such service attempts. Motions to appoint special process servers must have a proposed order attached to the motion for the Court's review and signature. (The proposed order should not be submitted separately to the Court, but it must be attached to the motion).

15. Any request to withdraw an Order of Sale must be filed at least 7 days in advance of the scheduled sale and must be accompanied by a motion clearly stating a valid reason for the request to withdraw the sale. Similarly, requests to Vacate Sale must be accompanied by a motion clearly stating a valid reason. Absent a motion with a clear statement for the request, the

requests to vacate/withdraw cannot be considered. (i.e. the filing of a proposed order alone is insufficient). Any motion not timely filed will be stricken.

16. A proposed order must be submitted with a Motion for Summary Judgment or a Motion for Default Judgment, and is to be submitted for signature by the Judge, rather than as a Magistrate's Decision. If a Magistrate's Decision is submitted it will be stricken.

17. In the event the defendant intends to pursue loss mitigation, he or she must submit a complete loss mitigation packet to the plaintiff or loan servicer within 60 days of the filing of the complaint.

18. Tax Certificate and Tax Foreclosure Cases will be handled by Magistrate John Dyke. A proposed Magistrate's Decision is required here. Failure to file said decision will result in a dismissal without prejudice.

19. Failure of any party or party representative to appear in person at a court date, without prior permission of the court excusing attendance, may result in the court's dismissing one's claims with or without prejudice and/or sanctions including contempt. Motions excusing attendance or to appear by phone must be filed at least 7 days in advance of the scheduled event and must clearly state a valid reason for the request.

20. Court retains jurisdiction over all post-judgment motions.

21. All Foreclosure Files are maintained and kept in Courtroom 18-C of the Justice Center, not in the Magistrate's Department.

22. Parties are to abide by the court's standing orders contained herein and located at <http://CPCUYAHOGACOUNTY.US/JUDGES/NANCYMARGARETRUSSO>