

**IN THE SUPREME COURT OF FLORIDA**

**IN RE: AMENDMENTS TO THE  
FLORIDA RULES OF CIVIL  
PROCEDURE**

**CASE NO.: SC13-**

**FAST-TRACK AMENDMENTS TO CONFORM TO  
AMENDMENTS TO MORTGAGE FORECLOSURE  
STATUTES IN CHAPTER 2013-137, LAWS OF FLORIDA**

Thomas H. Bateman, III, Chair, Civil Procedure Rules Committee, and John F. Harkness, Jr., Executive Director, The Florida Bar, file this fast-track petition to amend the Rules of Civil Procedure to conform to Chapter 2013-137, Laws of Florida, under *Fla. R. Jud. Admin. 2.140(e)*. As required by *Rule 2.140*, the amendments have been approved by the full committee and the Board of Governors of The Florida Bar. The voting records of the committee and Board of Governors are as follows:

<u>Rule/Form</u>	<u>Committee vote</u>	<u>BOG vote</u>
1.110	22-0	40-0
1.115	22-0	40-0
1.944(a)	22-0	40-0
1.944(b)	22-0	40-0
1.944(c)	23-0	40-0
1.944(d)	23-0	40-0
1.996(a)	22-0	40-0
1.996(b)	22-0	40-0
1.996(c)	22-0	40-0

The amendments are attached in the full-page (Appendix A) and two-column (Appendix B) formats. Chapter 2013-137, Laws of Florida, is attached as Appendix C. The reasons for the amendments are as follows:

**Rule 1.110.** The last two paragraphs of subdivision (b) regarding pleading requirements for foreclosure actions have been deleted and added to new *Form 1.115, Pleading Mortgage Foreclosures*.

**Rule 1.115.** This new rule has been created to govern pleading requirements in mortgage foreclosure actions. The new rule incorporates the requirements of section 702.015, Florida Statutes, as created by section 3, Chapter 2013-137, Laws of Florida. *Rule 1.115(a)* incorporates specifically the requirements of section 702.015(2), Florida Statutes, as created by section 3, Chapter 2013-137, Laws of Florida. Subdivision (b) incorporates the requirements of section 702.015(3), Florida Statutes, as created by section 3, Chapter 2013-137, Laws of Florida, for pleading when the claimant is acting on behalf of the person entitled to enforce the note. Subdivision (c) governs procedures if the claimant is in possession of the original promissory note. It is based on section 702.015(4), Florida Statutes, as created by section 3, Chapter 2013-137, Florida Statutes. Subdivision (d) governs procedures when the note is lost, stolen, or destroyed. It is based on section 702.015(5), Florida Statutes, as created by section 3, Chapter 2013-137, Laws of Florida. Subdivision (e) adds requirements for a standard verification in an action to foreclose a mortgage.

**Form 1.944(a).** Existing *Form 1.994* has been amended to apply only to Complaints for Foreclosure when the location of the note is known. New *Form 1.944(b)* governs complaints when the location of the original note is not known.

Item 3 of the form addresses the issue of delegated authority to institute a mortgage foreclosure action. See section 702.015(3), Florida Statutes, as created by section 3, Chapter 2013-137, Laws of Florida.

The certification of possession of original note is required by section 702.015(4), as created by section 3, Chapter 2013-137, Laws of Florida.

The verification was added to conform to the language in *Rule 1.110(b)* (which is being moved to *Rule 1.115*).

**Form 1.944(b).** This new form is a complaint for a mortgage foreclosure when the location of the original note is unknown. See section 701.015(5), as created by section 3, Chapter 2013-137, Laws of Florida. The form is based on existing *Form 1.994*, but meets the additional requirements for a complaint when a note is lost, stolen, or destroyed. The form also meets the requirements of section 673.3091, Florida Statutes, Enforcement of lost, stolen, or destroyed instrument.

**Form 1.944(c).** This new form is a motion for an order to show cause if the defendant fails to respond. It is authorized by section 702.10, Florida Statutes, as amended by section 6, Chapter 2013-137, Laws of Florida.

**Form 1.944(d).** This new form is an order to show cause, to be issued following the filing of a motion for an order to show cause, proposed *Form 1.944(c)*. It is authorized by section 702.10, Florida Statutes, as amended by section 6, Chapter 2013-137, Laws of Florida.

**Form 1.996(a).** The existing Final Judgment of Foreclosure form has been renumbered and updated by adding section titles and provisions regarding attorneys' fees.

**Form 1.996(b).** This new form creates a final judgment of foreclosure for reestablishment of a lost note. See section 702.015(5), Florida Statutes, as created by section 3, Chapter 2013-137, Laws of Florida. The form is based on existing *Form 1.996*, but adds additional requirements for lost of stolen notes. See, *e.g.*, item 8 and section 673.3091, Florida Statutes.

**Form 1.996(c).** Existing *Form 1.996(b)* has been renumbered as *Form 1.996(c)* because of creation of new *Form 1.996(b)*. Style changes have also been made to this form.

The Civil Procedure Rules Committee respectfully requests that the Court amend the Florida Rules of Civil Procedure as outlined in this report.

Respectfully submitted December 16, 2013.

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## Certification of Font-size and Read-Against

I certify that this document complies with the font requirements of *Fla. R. App. P.* 9.120(a)(2). I also certify that all existing rules and forms have been read against West's *Florida Rules of Court* (2013 revised ed.).

/s/ Ellen H. Sloyer

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