20 No.

Supreme Court of Nova Scotia

Between: [copy standard heading]

Plaintiff

and

Defendant

## **Initial Foreclosure Order**

Before the Honourable Justice [name or blank] in chambers

On the motion of the plaintiff, the following is ordered and declared:

1. The mortgage granted by [*the defendant*/name] to [*the plaintiff*/name] dated the day of , 20 and [*registered*/*recorded*] in on the day of , 20 [*in*/*under*] [book and page/parcel register] is in default.

2. The defendant, and any other person entitled to redeem the mortgage, may exercise their right of redemption by paying the amount due on the mortgage to the plaintiff before noon on

day, the day of , 20 .

3. The amount due on the mortgage is settled at $ plus interest at the rate of % a year from , 20 until the date of redemption calculated [*months/semi-annually/ not in advance/other*] , plus any further protective disbursements or charges approved by the court, plus costs of $ .

4. The right of the defendant, or any person claiming under the defendant, to redeem the mortgaged property is extinguished, unless a right of redemption is exercised before the deadline or a judge orders otherwise.

5. The plaintiff may make a motion, in anticipation that the right of redemption will expire, for a final foreclosure order declaring that all the right, title, interest, property, and demand of the defendant of, in, or to the mortgaged property, and of any person claiming by, through, or under the defendant, is forever barred and foreclosed.

6. The motion for a final foreclosure order must be made on day, the day of

, 20 at o’clock in the [*morning*/*afternoon*] at the [*Law Courts*/ *Courthouse*] in , unless a judge directs otherwise.

7. At least fifteen days before the day appointed by this order for the hearing of the motion for a final foreclosure order, the plaintiff shall deliver to Canada Post a notice of motion for delivery by ordinary mail to the last known address of the defendant and a notice of motion and a notice to subsequent encumbrancer for delivery by registered mail to each subsequent encumbrancer.

8. The paragraph in the notice of motion titled “Evidence” may read:

Unless a judge directs otherwise, the evidence in support of the motion will be an affidavit of counsel filed two days before the hearing proving delivery, as required, to Canada Post of the notice of motion and notice to subsequent encumbrancer and proving that the mortgaged property has not been redeemed.

9. A subsequent encumbrancer is bound by the terms of this order when the notice of motion and notice to subsequent encumbrancer are delivered to Canada Post for transmission to the subsequent encumbrancer.

10. Notwithstanding this order, a subsequent encumbrancer may defend or contest the claim by filing a notice of defence or notice of contest before the deadline for redemption, or such other time as a judge allows.

11. In the event a notice of defence or notice of contest is filed, the plaintiff and the defending or contesting parties must appear at the time and place set for the motion for a final foreclosure order, and the judge may give directions for conduct of the proceeding.

12. In either of the following circumstances, the plaintiff must, as soon as is practicable, take all steps necessary to cause the public record, including the [*parcel register*/other] , to show that liability on the mortgage debt is extinguished:

(a) a person redeems the mortgaged property;

(b) the plaintiff, or an assignee holding the foreclosed property for the plaintiff, ceases to be able to accommodate redemption, such as the property having been sold to an arms-length third person.

Issued , 20

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Prothonotary