

The Legal Aid Society of Columbus
Foreclosure: Motion for Mediation
Current as of November 2012

This is a general guide to help you ask for Mediation in the Foreclosure case filed against you. This guide will tell you how to file a **Motion for Mediation**. Mediation is an informal process in which a neutral third party assists the opposing parties to reach a voluntary, negotiated resolution to their lawsuit. Mediation gives the parties the opportunity to discuss the issues raised in the case, clear up misunderstandings, determine the underlying interests or concerns, find areas of agreement and, ultimately, to incorporate those areas of agreement into resolutions. A mediator does not resolve the case or impose a decision on the parties. Instead, the mediator helps the parties to agree on a mutually acceptable resolution. The mediation process is strictly confidential. Information disclosed during mediation will not be revealed to anyone, including the judge in your case, except for the negotiated agreement which must be signed by the Judge.

This guide includes:

1. A Motion for Mediation; and
2. Certificate of Service
3. Instructions on how to fill out and file the Motion for Mediation and Certificate of Service

You must complete and file the forms right away.

If you do nothing, the Court could foreclose on your home without hearing your side of the story.

**IMPORTANT NOTICE
PLEASE READ VERY CAREFULLY**

Please understand that it can be very hard to complete and file Court documents.

There are risks when you file Court papers on your own. For example, the Court may dismiss your motion because you did not follow the Court's rules. You may miss a deadline, lose a legal right or claim or you may not get the best result possible. The judge or the Court Clerk cannot give you any advice on what to do. It may not be in your best interest to handle this matter without help from an attorney.

The information in this packet is only a general guideline for how certain documents should be completed and filed with the Court. We cannot tell you what you should say or if the Court will give you what you are asking for.

Finally, the law changes often. The information in this packet may change at any time. We cannot guarantee that the law has not changed.

HOW TO FILL OUT AND FILE A MOTION FOR MEDIATION

1. HOW TO FILL OUT THIS COURT FORM:

This Form has three parts. You will complete the first two parts. The Judge will complete the last part.

PART 1: How to Complete the Motion for Extension of Time to Answer

To complete this part of the form, here's what you need to do:

- The **top part of the Motion is called the “caption.”** You need to fill in the name of the Court, the case number, and information about you and the other party. **You can copy this information from the caption on the Court papers that you got from the other side.**
- The party who sued you is the “Plaintiff.”
- You are the “Defendant” acting “pro se” – which means that you do not have an attorney yet and you are acting for yourself.
- In this Motion, you tell the Court that you are looking for an attorney to help you in this case.
- Do not forget to sign the Motion.

PART 2: How to Complete the Certificate of Service

You must tell the other side that you are asking for more time to file an Answer to the Complaint. You must show the Court that you told the other side that you are asking for additional time to answer the Complaint. To complete this part of the form, here's what you need to do:

- Fill in the day, the month and the year, day and month.
- Also fill in the opposing attorney's name and address, and do not forget to sign.

2. MAKE COPIES AND MAIL TO THE OTHER SIDE'S ATTORNEY

After you have filled out this form, you need to provide the other side's attorney with a copy.

- Make **two** photocopies of the entire form.
- Mail one photocopy of the form to the attorney who filed the complaint. You may wish to ask the post office for a Certificate of Mailing. A Certificate of Mailing proves you mailed the Motion on the date you mailed it, to the person to whom it was addressed. You will have to pay a fee for “Return receipt Requested.”

3. HOW TO FILE THIS COURT FORM WITH THE COURT:

Within three days after you mail this form to the other side's attorney, you must also file it with the Court. To file the Form with the Court here's what you need to do:

- After you have mailed the photocopy of the Motion Form to the other side's attorney, you should go to the Courthouse. You must eFile the original Motion with the Franklin County Common Pleas Court at 345 S. High Street, 1st Floor. You will be asked to set-up an eFiling account.
- The clerk will return the extra time-stamped photocopy to you. You should keep your copy in a safe place. It proves you filed the motion in the right court and on the date that is shown on the file stamp.

KEEP IN MIND: If for any reason you change your address at any time during this case, you must tell the Court and the other side (the Plaintiff or the Plaintiff's attorney). The Court and the other side may use the address on file to send decisions and other notices to you. Also, notices will appear on the eFiling account that was created.

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

_____, : CASE NO. _____
:
Plaintiff, : JUDGE _____
vs. :
:
_____ et al., :
:
Defendants. :

DEFENDANT’S MOTION FOR MEDIATION
AND REQUEST FOR ONE HUNDRED AND TWENTY-DAY STAY PENDING
MEDIATION

Defendant hereby respectfully moves this Court to set this matter for mediation pursuant to Ohio Rev. Code § 2323.06. Defendant also moves this Court to stay further proceedings in this action for one hundred and twenty (120) days in order to provide sufficient time to mediate the claims. The attached Memorandum in Support more fully explains this request.

Respectfully submitted,

_____, *pro se*

Address:
Phone:
Defendant, *pro se*

MEMORANDUM IN SUPPORT

On _____, Plaintiff filed a Complaint for Foreclosure against me. I would like to keep my home and believe a settlement would be mutually beneficial. Ohio Rev. Code § 2323.06 states:

In an action for the foreclosure of a mortgage, the court may at any stage in the action require the mortgagor and the mortgagee to participate in mediation as the court considers appropriate and may include a stipulation that requires the mortgagor and the mortgagee to appear at the mediation in person.

Therefore, I request this Court set the matter for mediation and include such stipulation that requires both parties to appear in person. My request is made to allow the parties to discuss their respective positions and to arrive at a mutually beneficial and agreeable resolution.

I also request this Court to stay any further proceedings for one hundred and twenty (120) days in order to provide sufficient time to mediate the claims.

Respectfully submitted,

_____, *pro se*

Address:
Telephone:
Defendant, *pro se*

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served upon counsel for defendants and plaintiffs this _____ day of _____ 20____, by regular first class U.S. mail, as follows:

_____, *pro se*