



IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 13-9171

ORDER APPROVING FORMS FOR EXPEDITED FORECLOSURE PROCEEDINGS

ORDERED that:

1. Pursuant to the Act of May 27, 2013, 83rd Leg., R.S. (HB 2978) and section 22.018 of the Texas Government Code, the Supreme Court of Texas approves the following set of forms for use in expedited foreclosure proceedings under Texas Rule of Civil Procedure 736.

2. The Clerk is directed to:

- a. file a copy of this Order with the Secretary of State;
b. cause a copy of this order to be mailed to each registered member of the State Bar of Texas by publication in the Texas Bar Journal;
c. send a copy of this order to each elected member of the Legislature; and
d. submit a copy of the Order for publication in the Texas Register.

3. These forms may be changed in response to comments received on or before January 31, 2014. Any interested party may submit written comments to Martha Newton, Rules Attorney, at P.O. Box 12248, Austin, TX 78711, or rulescomments@txcourts.gov.

Dated: December 12, 2013

- Nathan L. Hecht, Chief Justice
Paul W. Green, Justice
Phil Johnson, Justice
Don R. Willett, Justice
Eva M. Guzman, Justice
Debra H. Lehrmann, Justice
Jeffrey S. Boyd, Justice
John P. Devine, Justice
Jeffrey V. Brown, Justice

Cause No.: \_\_\_\_\_

In Re: Order for Foreclosure Concerning \_\_\_\_\_ Under Tex. R. Civ. P. 736
In the \_\_\_\_\_ [type of court, e.g., district, county, probate] Court
Petitioner: \_\_\_\_\_ County, Texas
Respondent(s): \_\_\_\_\_ [court designation]

Application For Expedited Foreclosure of a Lien Securing a Home Equity Loan, Reverse Mortgage, or Home Equity Line of Credit

- 1. Petitioner is \_\_\_\_\_, whose last known address is \_\_\_\_\_.
2. Respondent is \_\_\_\_\_, whose last known address is \_\_\_\_\_.
3. The property encumbered by the \_\_\_\_\_ [loan agreement, contract, or lien] sought to be foreclosed is commonly known as \_\_\_\_\_ [street address of the property] with the following legal description: \_\_\_\_\_ [legal description of the property]
4. Petitioner alleges:
A. The type of lien sought to be foreclosed is a \_\_\_\_\_ [see liens described in Texas Rule of Civil Procedure 735.1(a)] under \_\_\_\_\_ [state the statutory or constitutional authority for the lien]. The lien is indexed at \_\_\_\_\_ [volume/page, instrument number, or clerk's file number], and recorded in the real property records of \_\_\_\_\_ County, Texas.
B. Petitioner has authority to seek foreclosure of the lien because \_\_\_\_\_.
C. The name of each person obligated to pay the underlying debt or obligation evidenced

by the \_\_\_\_\_ [loan agreement, contract, or lien] encumbering the property sought to be foreclosed is \_\_\_\_\_.

D. The name of each mortgagor of the lien instrument sought to be foreclosed, who is not a maker or assumer of the underlying debt, is \_\_\_\_\_.

E. As of \_\_\_\_\_ [a date that is not more than sixty days prior to the date that the application is filed]:

(i) [If the default is monetary.] \_\_\_\_\_ [number and frequency of payments (e.g., monthly)] have not been paid. The amount required to cure the default is \_\_\_\_\_. According to Petitioner's records, all lawful offsets, payments, and credits have been applied to the account in default.

(ii) [If the default is nonmonetary.] The facts creating the default are \_\_\_\_\_.

(iii) The total amount to pay off the \_\_\_\_\_ [loan agreement, contract, or lien] is \_\_\_\_\_.

F. Notice to cure the default has been sent to Respondent by certified mail. The opportunity to cure has expired.

G. Before this application was filed, any other action required under applicable law and the \_\_\_\_\_ [loan agreement, contract, or lien] sought to be foreclosed was performed.

5. **Legal action is not being sought against the occupant of the property unless the occupant is named as a respondent in this application.**

6. **If Petitioner obtains a court order, Petitioner will proceed with foreclosure of the property in accordance with applicable law and the terms of the \_\_\_\_\_ [loan agreement, contract, or lien] sought to be foreclosed.**

7. The following documents are attached to this petition:

A. An affidavit or declaration of material facts describing the basis for foreclosure.

B. The \_\_\_\_\_ [note, original recorded lien, or other documentation] establishing the lien.

C. [If the lien has been assigned.] The current assignment of the lien.

D. A copy of each notice required to be mailed to any person under applicable law and the \_\_\_\_\_ [loan agreement, contract, or lien] sought to be foreclosed before the application

was filed, and the \_\_\_\_\_ [USPS Tracking report, return receipt or other proof] demonstrating that each notice was sent to Respondent's last known address by certified mail.

8. *Prayer for Relief:* Petitioner seeks a Rule 736 order so that it may proceed with foreclosure in accordance with applicable law and terms of the \_\_\_\_\_ [loan agreement, contract, or lien] sought to be foreclosed.

\_\_\_\_\_  
[Petitioner's signature block]

**Cause No.:** \_\_\_\_\_

<b>In Re: Order</b>	§	<b>In the _____</b>
<b>for Foreclosure</b>	§	[type of court, e.g.,
<b>Concerning _____</b>	§	district, county, probate]
[property address]	§	<b>Court</b>
<b>Under Tex. R. Civ. P. 736</b>	§	
	§	
	§	
<b>Petitioner:</b>	§	
_____	§	_____ <b>County, Texas</b>
	§	
<b>Respondent(s):</b>	§	
_____	§	_____ [court designation]

**Application For Expedited Foreclosure of a Lien Securing a Tax Lien Transfer or Property Tax Loan Created Before May 29, 2013**

1. Petitioner is \_\_\_\_\_, whose last known address is \_\_\_\_\_.

2. Respondent is \_\_\_\_\_, whose last known address is \_\_\_\_\_.

3. The property encumbered by the \_\_\_\_\_ [loan agreement, contract, or lien] sought to be foreclosed is commonly known as \_\_\_\_\_ [street address of the property] with the following legal description:

\_\_\_\_\_  
[legal description of the property]

- 
4. Petitioner alleges:
- A. The type of lien sought to be foreclosed is a \_\_\_\_\_ [see liens described in Texas Rule of Civil Procedure 735.1(b)] under \_\_\_\_\_ [state the statutory or constitutional authority for the lien]. The lien is indexed at \_\_\_\_\_ [volume/page, instrument number, or clerk's file number], and recorded in the real property records of \_\_\_\_\_ County, Texas.
  - B. Petitioner has authority to seek foreclosure of the lien because \_\_\_\_\_.
  - C. The name of each person obligated to pay the underlying debt or obligation evidenced by the \_\_\_\_\_ [loan agreement, contract, or lien] encumbering the property sought to be foreclosed is \_\_\_\_\_.
  - D. The name of each mortgagor of the lien instrument sought to be foreclosed, who is not a maker or assumer of the underlying debt, is \_\_\_\_\_.
  - E. As of \_\_\_\_\_ [a date that is not more than sixty days prior to the date that the application is filed]:
    - (i) [If the default is monetary.] \_\_\_\_\_ [number and frequency of payments (e.g., monthly)] have not been paid. The amount required to cure the default is \_\_\_\_\_. According to Petitioner's records, all lawful offsets, payments, and credits have been applied to the account in default.
    - (ii) [If the default is nonmonetary.] The facts creating the default are \_\_\_\_\_.
    - (iii) The total amount to pay off the \_\_\_\_\_ [loan agreement, contract, or lien] is \_\_\_\_\_.
  - F. Notice to cure the default has sent to Respondent by certified mail. The opportunity to cure has expired.
  - G. Before this application was filed, any other action required under applicable law and the \_\_\_\_\_ [loan agreement, contract, or lien] sought to be foreclosed was performed.
5. The lien sought to be foreclosed was created on \_\_\_\_\_. Petitioner affirms that:
- A. The lien is an ad valorem tax lien instead of a lien created under Section 50, Article XVI, Texas Constitution.
  - B. The petitioner does not seek a court order required by Section 50, Article XVI, Texas Constitution.
- C. Petitioner has provided notice to cure the default, notice of intent to accelerate, and notice of acceleration of the maturity of the debt to the property owner and each holder of a recorded first lien on the property in the manner required by Section 51.002, Property Code.
  - D. The property owner has not requested a deferral of taxes authorized by Section 33.06, Tax Code.
6. **Legal action is not being sought against the occupant of the property unless the occupant is named as a respondent in this application.**
7. **If Petitioner obtains a court order, Petitioner will proceed with foreclosure of the property in accordance with applicable law and the terms of the \_\_\_\_\_ [loan agreement, contract, or lien] sought to be foreclosed.**
8. The following documents are attached to this petition:
- A. An affidavit or declaration of material facts describing the basis for foreclosure.
  - B. The \_\_\_\_\_ [note, original recorded lien, or other documentation] establishing the lien.
  - C. [If the lien has been assigned.] The current assignment of the lien.
  - D. A copy of each notice required to be mailed to any person under applicable law and the \_\_\_\_\_ [loan agreement, contract, or lien] sought to be foreclosed before the application was filed, and the \_\_\_\_\_ [USPS Tracking report, return receipt, or other proof] demonstrating that each notice was sent to Respondent's last known address by certified mail.
  - E. The property owner's sworn document, required by Section 32.06(a-1), Tax Code.
  - F. The taxing authority's certified statement transferring the lien, required by Section 32.06(b), Tax Code.
9. *Prayer for Relief:* Petitioner seeks a Rule 736 order so that it may proceed with foreclosure in accordance with applicable law and terms of the \_\_\_\_\_ [loan agreement, contract, or lien] sought to be foreclosed.
- \_\_\_\_\_  
[Petitioner's signature block]

Cause No.: \_\_\_\_\_

**In Re: Order** § **In the** \_\_\_\_\_  
**for Foreclosure** § [type of court, e.g.,  
**Concerning** \_\_\_\_\_ § district, county, probate]  
[property address] § **Court**  
**Under Tex. R. Civ. P. 736** §  
§  
§  
**Petitioner:** §  
\_\_\_\_\_ § \_\_\_\_\_ **County, Texas**  
§  
**Respondent(s):** §  
\_\_\_\_\_ § \_\_\_\_\_ [court designation]

**Application For Expedited Foreclosure of a Lien Securing a Property Owners' Association Assessment**

1. Petitioner is \_\_\_\_\_, whose last known address is \_\_\_\_\_.
2. Respondent is \_\_\_\_\_, whose last known address is \_\_\_\_\_.
3. The property encumbered by the \_\_\_\_\_ [loan agreement, contract, or lien] sought to be foreclosed is commonly known as \_\_\_\_\_ [street address of the property] with the following legal description:  
\_\_\_\_\_  
[legal description of the property]
4. Petitioner alleges:
  - A. The type of lien sought to be foreclosed is a \_\_\_\_\_ [see liens described in Texas Rule of Civil Procedure 735.1(c)] under \_\_\_\_\_ [state the statutory or constitutional authority for the lien]. The lien is indexed at \_\_\_\_\_ [volume/page, instrument number, or clerk's file number], and recorded in the real property records of \_\_\_\_\_ County, Texas.
  - B. Petitioner has authority to seek foreclosure of the lien because \_\_\_\_\_.
  - C. The name of each person obligated to pay the underlying debt or obligation evidenced by the \_\_\_\_\_ [loan agreement, contract, or lien] encumbering the property sought to be foreclosed is \_\_\_\_\_.
  - D. As of \_\_\_\_\_ [a date that is not more than

sixty days prior to the date that the application is filed]:

- (i) [If the default is monetary.] \_\_\_\_\_ [number and frequency of payments (e.g., monthly)] have not been paid. The amount required to cure the default is \_\_\_\_\_. According to Petitioner's records, all lawful offsets, payments, and credits have been applied to the account in default.
  - (ii) [If the default is nonmonetary.] The facts creating the default are \_\_\_\_\_.
- E. Notice to cure the default has been sent to Respondent by certified mail. The opportunity to cure has expired.
  - F. Before this application was filed, any other action required under applicable law and the \_\_\_\_\_ [loan agreement, contract, or lien] sought to be foreclosed was performed.
5. **Legal action is not being sought against the occupant of the property unless the occupant is named as a respondent in this application.**
  6. **If Petitioner obtains a court order, Petitioner will proceed with foreclosure of the property in accordance with applicable law and the terms of the \_\_\_\_\_ [loan agreement, contract, or lien] sought to be foreclosed.**
  7. The following documents are attached to this petition:
    - A. An affidavit or declaration of material facts describing the basis for foreclosure.
    - B. The \_\_\_\_\_ [note, original recorded lien, or other documentation] establishing the lien.
    - C. [If the lien has been assigned.] The current assignment of the lien.
    - D. A copy of each notice required to be mailed to any person under applicable law and the \_\_\_\_\_ [loan agreement, contract, or lien] sought to be foreclosed before the application was filed, and the \_\_\_\_\_ [USPS Tracking report, return receipt, or other proof] demonstrating that each notice was sent to Respondent's last known address by certified mail.
  8. *Prayer for Relief:* Petitioner seeks a Rule 736 order so that it may proceed with foreclosure in accordance with applicable law and terms of the \_\_\_\_\_ [loan agreement, contract, or lien] sought to be foreclosed.

\_\_\_\_\_  
[Petitioner's signature block]

Cause No.: \_\_\_\_\_

**In Re: Order** § **In the** \_\_\_\_\_  
**for Foreclosure** § [type of court, e.g.,  
**Concerning** \_\_\_\_\_ § district, county, probate]  
[property address] § **Court**  
**Under Tex. R. Civ. P. 736** §  
§  
§  
**Petitioner:** §  
\_\_\_\_\_ § \_\_\_\_\_ **County, Texas**  
§  
**Respondent(s):** §  
\_\_\_\_\_ § \_\_\_\_\_ [court designation]

**Affidavit of \_\_\_\_\_ in Support of Petitioner's  
Application for an Expedited Rule 736 Order**

State of Texas

County of \_\_\_\_\_

Before me, the undersigned notary, on this day personally appeared \_\_\_\_\_ [name of affiant], and stated under oath:

1. My name is \_\_\_\_\_ [first, middle, and last name]. I am an adult and of sound mind.
2. I am \_\_\_\_\_ [job title or position] of \_\_\_\_\_ [name of affiant's employer], whose address is \_\_\_\_\_ [street address, city, state, and zip code]. \_\_\_\_\_ [name of affiant's employer] is the \_\_\_\_\_ [state connection or role of employer with respect to the servicing or foreclosure of Respondent's account, e.g., mortgagee, mortgage servicer, attorney of record] of the account of \_\_\_\_\_ [name of the person(s) obligated to pay the underlying obligation] ("Obligor") who is the person obligated for the underlying debt or obligation supporting the lien sought to be foreclosed.
3. I have read and understand the purpose of the application to which my affidavit is attached and adopt by reference the statements made in the application and documents attached. I am the authorized agent or representative of \_\_\_\_\_

[name of petitioner] ("Petitioner") and, in that capacity, I am authorized to make this affidavit on Petitioner's behalf. My testimony is based on my experience, my knowledge of the usual business practices of Petitioner and the servicing industry in general, my job responsibilities, and my review of the records related to Obligor's account in my custody and control.

4. In performing my duties and responsibilities for Petitioner, I have had access to and have reviewed the business records, including electronic and computer generated records, memorandums, reports, public records, data compilations, and copies of records made under conditions that create no suspicion about the authenticity of the business records related to the administration and servicing of the Obligor's account made the subject of this proceeding. The records related to Obligor's account were made in the regular course of business of administrating Obligor's loan agreement or contract by an employee, agent, or representative servicing Obligor's account who had knowledge of the act, event, condition or opinion, recorded so as to make the record or transmit information to be included in such records, and the record was made at or near the time or reasonably soon thereafter. The business records related to Obligor's account are the kinds of records that are normally made and kept in the regular course of administering and servicing loan agreements or contracts like that of Obligor that require the collection of money, keeping accurate records as to debits, credits, and account balances, preserving and protecting the collateral, and enforcement of the underlying debt if there is a default or breach of the Obligor's obligations. The servicing records of Obligor's account that I reviewed on Petitioner's behalf are relied upon for accuracy by all persons charged with administering, servicing, and enforcing Obligor's account obligations and there is no indication that the records pertaining to the Obligor's account are untrustworthy.
5. Based on my review of the servicing records of Obligor's account, the documents attached to Petitioner's application are the originals or exact duplicates of the original records contained in the servicing file related to the Obligor's account.
6. According to my review of the servicing records of Obligor's account, as of the date stated in the

application: (a) there has been a default or breach of Obligor's obligation under the loan agreement or contract supporting the lien sought to be foreclosed; (b) the default or breach has not been cured; (c) the Petitioner has the authority to administer the enforcement of Obligor's account obligations; (d) the number of \_\_\_\_\_ [*bi-monthly, monthly, quarterly, semi-annual, annual, or other period*] scheduled payments of Obligor's account that have not been paid are \_\_\_\_\_ [*number of payments*]; (e) the amount to cure the default is at least \_\_\_\_\_; (f) the payoff amount, if applicable, is at least \_\_\_\_\_; (g) as indicated by the documents attached to the application, each person named as a Respondent was given the requisite notice or notices required by applicable foreclosure law and the loan agreement or contract sought to be enforced; (h) the status of Obligor's account as stated is just, true, due, and owing; and (i) all just and lawful offsets, payments and credits have been applied.

7. [*If the lien sought to be foreclosed is a tax lien.*] The lien sought to be foreclosed is a transferred tax lien or property tax loan and \_\_\_\_\_ [*name and current address of transferee*] is the current transferee of Obligor's loan agreement. All conditions precedent required by Sections 32.06 and 32.065 of the Tax Code for initiating a Texas Rule of Civil Procedure 736 proceeding have been accomplished.
8. I sign this affidavit based on the personal knowledge I obtained from reviewing the servicing records under my custody and control related to Obligor's account and based on my review, the statements made in the application and my affidavit are true and correct as of the date stated.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
[*printed name and title of affiant*]

\_\_\_\_\_  
[*signature of affiant*]

## VERIFICATION

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_ [*name of affiant*] who swore on oath that the following facts are true:

1. My name is \_\_\_\_\_.
2. I am \_\_\_\_\_ [*"an employee" or "the duly authorized agent or representative"*] of \_\_\_\_\_ [*name of Petitioner*], and \_\_\_\_\_ [*"I have" or "a person under my supervision has"*] care, custody, and control of all the servicing records concerning the account of \_\_\_\_\_ [*name of Obligor*].
3. I hereby aver that the claim and the affidavit and documents attached to Petitioner's application are within my personal knowledge and are just and true. The claim is due by Obligor and that all just and lawful offsets, payments, and credits to Obligor's account have been allowed.
4. The Obligor's records show that as of the date cited in the application, the amounts due are payable by Obligor, and demand for payment was made more than thirty days ago.

\_\_\_\_\_  
[*name of affiant*]

Signed under oath before me on \_\_\_\_\_, 20\_\_.

[*notary's seal*]

\_\_\_\_\_  
Notary Public in and for the State of Texas

My commission expires: \_\_\_\_\_.

Cause No.: \_\_\_\_\_

**In Re: Order** § **In the** \_\_\_\_\_  
**for Foreclosure** § [type of court, e.g.,  
**Concerning** \_\_\_\_\_ § district, county, probate]  
[property address] § **Court**  
**Under Tex. R. Civ. P. 736** §  
§  
§  
**Petitioner:** §  
\_\_\_\_\_ § \_\_\_\_\_ **County, Texas**  
§  
**Respondent(s):** §  
\_\_\_\_\_ § \_\_\_\_\_ [court designation]

**Declaration of \_\_\_\_\_ in Support of Petitioner's  
Application for an Expedited Rule 736 Order**

I, \_\_\_\_\_ [name], declare:

1. My name is \_\_\_\_\_ [first, middle, and last name]. I am an adult and of sound mind.
2. I am \_\_\_\_\_ [job title or position] of \_\_\_\_\_ [name of declarant's employer], whose address is \_\_\_\_\_ [street address, city, state, and zip code]. \_\_\_\_\_ [name of declarant's employer] is the \_\_\_\_\_ [state connection or role of employer with respect to the servicing or foreclosure of Respondent's account, e.g., mortgagee, mortgage servicer, attorney of record] of the account of \_\_\_\_\_ [name of the person(s) obligated to pay the underlying obligation] ("Obligor") who is the person obligated for the underlying debt or obligation supporting the lien sought to be foreclosed.
3. I have read and understand the purpose of the application to which my declaration is attached and adopt by reference the statements made in the application and documents attached. I am the authorized agent or representative of \_\_\_\_\_ [name of petitioner] ("Petitioner") and, in that capacity, I am authorized to make this declaration on Petitioner's behalf. My testimony is based on my experience, my knowledge of the usual business practices of Petitioner and the servicing industry in general, my job responsibilities, and

- my review of the records related to Obligor's account in my custody and control.
4. In performing my duties and responsibilities for Petitioner, I have had access to and have reviewed the business records, including electronic and computer generated records, memorandums, reports, public records, data compilations, and copies of records made under conditions that create no suspicion about the authenticity of the business records related to the administration and servicing of the Obligor's account made the subject of this proceeding. The records related to Obligor's account were made in the regular course of business of administering Obligor's loan agreement or contract by an employee, agent, or representative servicing Obligor's account who had knowledge of the act, event, condition or opinion, recorded so as to make the record or transmit information to be included in such records, and the record was made at or near the time or reasonably soon thereafter. The business records related to Obligor's account are the kinds of records that are normally made and kept in the regular course of administering and servicing loan agreements or contracts like that of Obligor that require the collection of money, keeping accurate records as to debits, credits, and account balances, preserving and protecting the collateral, and enforcement of the underlying debt if there is a default or breach of the Obligor's obligations. The servicing records of Obligor's account that I reviewed on Petitioner's behalf are relied upon for accuracy by all persons charged with administering, servicing, and enforcing Obligor's account obligations and there is no indication that the records pertaining to the Obligor's account are untrustworthy.
  5. Based on my review of the servicing records of Obligor's account, the documents attached to Petitioner's application are the originals or exact duplicates of the original records contained in the servicing file related to the Obligor's account.
  6. According to my review of the servicing records of Obligor's account, as of the date stated in the application: (a) there has been a default or breach of Obligor's obligation under the loan agreement or contract supporting the lien sought to be foreclosed; (b) the default or breach has not been cured; (c) the Petitioner has the authority to

administer the enforcement of Obligor's account obligations; (d) the number of \_\_\_\_\_ [bi-monthly, monthly, quarterly, semi-annual, annual, or other period] scheduled payments of Obligor's account that have not been paid are \_\_\_\_\_ [number of payments]; (e) the amount to cure the default is at least \_\_\_\_\_; (f) the payoff amount, if applicable, is at least \_\_\_\_\_; (g) as indicated by the documents attached to the application, each person named as a Respondent was given the requisite notice or notices required by applicable foreclosure law and the loan agreement or contract sought to be enforced; (h) the status of Obligor's account as stated is just, true, due, and owing; and (i) all just and lawful offsets, payments and credits have been applied.

7. [If the lien sought to be foreclosed is a tax lien.] The lien sought to be foreclosed is a transferred tax lien or property tax loan and \_\_\_\_\_ [name and current address of transferee] is the current transferee of Obligor's loan agreement. All conditions precedent required by Sections 32.06 and 32.065 of the Tax Code for initiating a Texas Rule of Civil Procedure 736 proceeding have been accomplished.
8. I sign this declaration based on the personal knowledge I obtained from reviewing the servicing records under my custody and control related to Obligor's account and based on my review, the statements made in the application and my declaration are true and correct as of the date stated.

### JURAT

My name is \_\_\_\_\_ [first, middle, and last], my date of birth is \_\_\_\_\_, and my address is \_\_\_\_\_ [street, city, state, zip code, and country]. I declare under penalty of perjury that the foregoing is true and correct.

Executed on the \_\_\_\_ day of \_\_\_\_ [month], \_\_\_\_ [year].

\_\_\_\_\_  
[signature of declarant]

### CITATION ISSUED PURSUANT TO TEXAS RULE OF CIVIL PROCEDURE 736.3

*The State of Texas*

To: \_\_\_\_\_ [name], \_\_\_\_\_, Respondent, at \_\_\_\_\_ [state the last known address of the respondent.]

To: Occupant of \_\_\_\_\_ [state the mailing address of the property to be foreclosed].

You are commanded to appear by filing a written answer to Petitioner's Application for Expedited Rule 736 Order on or before **the first Monday following the expiration of 38 days from** \_\_\_\_\_, the date that this citation was placed in the custody of the U.S. Postal Service in accordance with the clerk's standard mailing procedures. Your response must be filed in the \_\_\_\_\_ [court designation], in \_\_\_\_\_ [city], in \_\_\_\_\_ County, Texas. The court is located at \_\_\_\_\_ [street address of court].

Petitioner in this suit is \_\_\_\_\_ [name], having filed in this Court an Application for Expedited Rule 736 order on \_\_\_\_\_ [date of filing], against \_\_\_\_\_ [name of each respondent]. The case is styled \_\_\_\_\_ v. \_\_\_\_\_ and has been assigned cause number \_\_\_\_\_. A copy of the application is attached to this citation. Petitioner is being represented by \_\_\_\_\_, whose offices are located at \_\_\_\_\_ [address of Petitioner or Petitioner's representative].

### Notice to Respondent

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued the citation by **the first Monday following the expiration of 38 days from** \_\_\_\_\_, a default judgment may be taken against you.

### Notice to Occupant

You are not required to file a response unless you are also named as a respondent in the attached application.

### Form of Response

A response must be signed in accordance with Rule 57, Texas Rules of Civil Procedure, and may be in the form of a general denial in accordance with Rule 92, Texas Rules of Civil Procedure, except that a respondent must affirmatively plead:

1. Why the respondent believes a respondent did not sign a loan agreement document, if applicable, that is specifically identified by the respondent;
2. Why the respondent is not obligated for payment of the lien;
3. Why the number of months of alleged default or the reinstatement or payoff amounts are materially incorrect;
4. Why any document attached to the application is not a true and correct copy of the original; or
5. Proof of payment in accordance with Rule 95, Texas Rules of Civil Procedure.

**Return of Service**

On \_\_\_\_\_ [date], at \_\_\_\_\_ [time], I placed a separate copy of this citation and the attached application, addressed to each respondent and occupant listed above, in the custody of the U.S. Postal Service. Each copy of the citation and application was mailed by first class mail and by certified mail.

\_\_\_\_\_  
[signature of clerk or deputy clerk]

\_\_\_\_\_  
[printed name of clerk]

\_\_\_\_\_  
[seal of clerk]

**Cause No.:** \_\_\_\_\_

**In Re: Order** § **In the** \_\_\_\_\_  
**for Foreclosure** § [type of court, e.g.,  
**Concerning** \_\_\_\_\_ § district, county, probate]  
 [property address] § **Court**  
**Under Tex. R. Civ. P. 736** §  
 §  
 §  
**Petitioner:** § \_\_\_\_\_ **County, Texas**  
 §  
 §  
**Respondent(s):** § \_\_\_\_\_ [court designation]  
 §

**U.S. Servicemembers Civil Relief Act Affidavit**

State of Texas  
 County of \_\_\_\_\_

Before me, the undersigned notary, on this day personally appeared \_\_\_\_\_ [name of affiant], and stated under oath:

1. My name is \_\_\_\_\_ [first, middle, and last name]. I am an adult and of sound mind.
2. I am \_\_\_\_\_ [job title or position] of \_\_\_\_\_ [name of the affiant's employer]. I have personal knowledge of the facts set forth in this affidavit, which are true and correct.
3. [Choose a or b]
  - a. The respondent \_\_\_\_\_ [is or is not] in military service. The facts supporting this statement are as follows: \_\_\_\_\_.
  - b. I am unable to determine if the respondent is in military service.
4. [If applicable under 50 U.S.C. App. § 533] The respondent's period of military service ended more than \_\_\_\_\_ months before this proceeding was filed.

\_\_\_\_\_  
[signature of affiant]

Sworn to and subscribed before me by \_\_\_\_\_  
 [name of affiant] on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
 Notary Public in and for the State of Texas

My commission expires: \_\_\_\_\_

**Cause No.:** \_\_\_\_\_

**In Re: Order** § **In the** \_\_\_\_\_  
**for Foreclosure** § [type of court, e.g.,  
**Concerning** \_\_\_\_\_ § district, county, probate]  
 [property address] § **Court**  
**Under Tex. R. Civ. P. 736** §  
 §  
 §  
**Petitioner:** § \_\_\_\_\_ **County, Texas**  
 §  
 §  
**Respondent(s):** § \_\_\_\_\_ [court designation]  
 §

**U.S. Servicemembers Civil Relief Act Declaration**

**Default Order**

- I, \_\_\_\_\_ [name], declare:
1. My name is \_\_\_\_\_ [first, middle, and last name]. I am an adult and of sound mind.
  2. I am \_\_\_\_\_ [job title or position] of \_\_\_\_\_ [name of the declarant's employer]. I have personal knowledge of the facts set forth in this declaration, which are true and correct.
  3. [Choose a or b]
    - a. The respondent \_\_\_\_\_ [is or is not] in military service. The facts supporting this statement are as follows: \_\_\_\_\_.
    - b. I am unable to determine if the respondent is in military service.
  - a. [If applicable under 50 U.S.C. App. § 533] The respondent's period of military service ended more than \_\_\_\_ months before this proceeding was filed.

1. On this day, the Court considered Petitioner's motion for a default order granting its application for an expedited foreclosure order. Petitioner's application complies with the requirements of Texas Rule of Civil Procedure 736.1.
2. The name and last known address of each Respondent subject to this order is \_\_\_\_\_. Each Respondent was properly served with the citation, but none filed a response within the time required by law. The return of service for each Respondent has been on file with the court for at least ten days.
3. The property that is the subject of this foreclosure proceeding is commonly known as \_\_\_\_\_ [street address of the property] with the following legal description:

\_\_\_\_\_ [legal description of the property]

4. The lien to be foreclosed is indexed or recorded at \_\_\_\_\_ [volume/page, instrument number, or clerk's file number], and recorded in the real property records of \_\_\_\_\_ County, Texas.
5. The material facts establishing the basis of the foreclosure are \_\_\_\_\_.
6. Based on the affidavit of Petitioner, no Respondent subject to this order is protected from foreclosure by the Servicemembers Civil Relief Act, 50 U.S.C. App. § 501 *et seq.*
7. Therefore, the Court grants Petitioner's motion for a default order under Texas Rules of Civil Procedure 736.7 and 736.8. Petitioner may foreclose on the lien described above in accordance with applicable law and the \_\_\_\_\_ [loan agreement, contract, or lien] sought to be foreclosed.
8. This order is not subject to a motion for rehearing, new trial, bill of review, or appeal. Any challenge to this order must be made in a separate, original proceeding filed in accordance with Texas Rule of Civil Procedure 736.11.

**JURAT**

My name is \_\_\_\_\_ [first, middle, and last], my date of birth is \_\_\_\_\_, and my address is \_\_\_\_\_ [street, city, state, zip code, and country]. I declare under penalty of perjury that the foregoing is true and correct.

Executed on the \_\_\_\_ day of \_\_\_\_ [month], \_\_\_\_ [year].

\_\_\_\_\_ [signature of declarant]

**Cause No.:** \_\_\_\_\_

**In Re: Order** § **In the** \_\_\_\_\_  
**for Foreclosure** § [type of court, e.g.,  
**Concerning** \_\_\_\_\_ § district, county, probate]  
 [property address] § **Court**  
**Under Tex. R. Civ. P. 736** §

**Petitioner:** § \_\_\_\_\_  
 \_\_\_\_\_ § \_\_\_\_\_ **County, Texas**

**Respondent(s):** § \_\_\_\_\_  
 \_\_\_\_\_ § \_\_\_\_\_ [court designation]

SIGNED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
 JUDGE PRESIDING