

[Home](#) - [Foreclosure Defense](#) - [Pleadings Main Index](#)

## Motion for Continuance

IN THE CIRCUIT COURT OF THE  
11TH JUDICIAL CIRCUIT IN AND  
FOR MIAMI-DADE COUNTY, FLORIDA

WELLS FARGO BANK, N.A.  
CASE NO: 09-00xxxx-CA-(13)  
Plaintiff,

vs.  
A.M and M.A., et. al.  
Defendants.

\_\_\_\_\_ /

DEFENDANTS', A.M and M.A., MOTION FOR CONTINUANCE OF NON-JURY TRIAL  
CURRENTLY SET FOR SEPTEMBER 27, 2012

The Defendants, A.M and M.A., file this Motion for Continuance of Non-Jury Trial Set for  
September 27, 2012 and as grounds therefore state:

- 1) This is a mortgage foreclosure action.
- 2) A Non-Jury Trial is set to commence on September 27, 2012 at 9:30 a.m.
- 3) The undersigned law firm has filed a Stipulation and Substitution of Counsel for the Defendants, A.M and M.A., on August 31, 2012. However, an order of substitution has not yet been executed.
- 4) The Defendants hired the undersigned law firm on August 30, 2012. The undersigned is scheduled for vacation the week of September 24, 2012 and is not available to attend the trial.
- 5) The paralegal for the undersigned reviewed the docket in August, 2012 and noticed that there was an order setting this case for a non-jury trial, docketed on August 6, 2012, and scheduled for September 27, 2012.
- 6) Defendants may have defense(s) or counterclaim(s) relative to the reason why Plaintiff did not approve Defendants, A.M and M.A.'s modification. Plaintiff claimed there are title defects preventing the modification from occurring. Defendants, A.M and M.A., hired and performed

their own independent title search and found that no title defects existed at the time of the modification. Therefore, discovery pertaining to what title defects existed at the time of the loan modification process, which prevented the modification from being approved by Plaintiff, is necessary to determine if the Plaintiff acted lawfully and in good faith when it did not approve the Defendants' modification.

7) A non-jury trial should not go forward until such time as an order substituting counsel for Defendants, A.M and M.A., is entered and any potential discovery propounded upon Plaintiff has been completed.

WHEREFORE, Defendants, A.M. and M.A., respectfully request that this court enter an order granting this Motion for Continuance of Motion for Continuance of Non-Jury Trial Currently Set for September 27, 2012.

**CERTIFICATE OF SERVICE**

IT IS HEREBY CERTIFIED that on September 7, 2012, a true and correct copy of the foregoing was Fax: 813.251.1541; E-Mail: [iivanov@wolfelawfl.com](mailto:iivanov@wolfelawfl.com) to: Ivan Dimitrov Ivanov, Esq., 4919 Memorial Hwy, Ste 200, Tampa, Florida 33634-7500

SACKRIN & TOLCHINSKY, P.A.  
Attorney for Defendant(s)  
2100 E. Hallandale Beach Blvd./Suite 200  
Hallandale Beach, FL 33009  
Telephone: (954) 458-8655  
Facsimile: (954) 455-9649

By \_\_\_\_\_  
ALAN D. SACKRIN, ESQ. Florida Bar No. 349070  
LARRY TOLCHINSKY, ESQ. Florida Bar No 021997

kb

This is a sample document related to a specific set of facts and circumstances and should not be used or relied upon if any foreclosure, deficiency judgment, short sale or any other real estate matter. We recommend and urge you to consult with an experienced lawyer for professional advice as each case is unique.