

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

**ORDER AMENDING RULE 4(f)
OF THE
SUPERIOR COURT RULES OF CIVIL PROCEDURE**

This 5th day of August, 2010, ***IT IS ORDERED*** that:

(1) Superior Court Civil Rule 4(f) is amended as follows:

(5) Ejectment. Not later than ten (10) days following the filing of an action begun in ejectment under a lease of an interest in real estate, which lease or a notice or memorandum of which has been recorded in the Office of the Recorder of Deeds, the plaintiff, or his counsel of record, shall send by certified mail, postage prepaid, return receipt requested, to holders of liens on the real estate (including but not limited to liens on the leasehold interest of the lessee), which is the subject of such action, who have acquired such liens at the time the action is filed and to tenants holding or possessing a leasehold estate for years or at will in such real estate (other than the parties to the ejectment action; hereafter “Non-party Tenants”), a notice consisting of a copy of the complaint and a written Notice to Lien Holders and Non-party Tenants of Filing of Action substantially similar to Form 36 Appendix of Forms (Superior Court). The notice shall be addressed to holders of liens at the address which appears upon the recorded or filed instrument creating the lien or upon the record of the lien, or to the counsel of record for the holder of the lien, or, if such addresses are not ascertainable from the public records, at the last known available or reasonably ascertainable address of the holders of such liens. The notice shall be addressed to Non-party Tenants at the last known available or reasonably ascertainable address of such Non-party Tenants, and in addition, the plaintiff or his counsel of record or a representative of the plaintiff or his counsel of record shall post

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such notice on the common entrance door or in a common area of any building or buildings on the real estate which is the subject of such action. No judgment shall be entered in such action unless the plaintiff or his counsel of record shall file with the Court proof of the mailing and posting of such notice which shall consist of the usual receipt given by the post office of mailing to the persona mailing the certified article, the return receipt, or, in the case of an undelivered notice, the original returned envelope, and a copy of the Notice to Lien Holders and Non-party Tenants of Filing of Action mailed with such notice together with an affidavit made by plaintiff or his counsel of record or a representative of the plaintiff or his counsel of record specifying:

(i) The names and addresses of holders of liens and Non-party Tenants in such real estate and the dates upon which the notice was mailed by certified mail to such lien holders and Non-party Tenants;

(ii) That the copy of the Notice to Lien Holders and Non-party Tenants of Filing of Action attached to the affidavit is a true and correct copy of the Notice to Lien Holders and Non-party Tenants of Filing of Action mailed by certified mail;

(iii) That the notice was posted on the common entrance door or in a common area of any building or buildings on the real estate which is the subject of the action and the date of such posting;

(iv) That the receipt obtained at the time of mailing

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by the person mailing the envelope containing the notice is the receipt filed with the affidavit;

(v) That the return receipt obtained at the time of delivery of the envelope containing the notice is the return receipt filed with the affidavit;

(vi) The date upon which the envelope containing any undelivered notice was returned to the sender; and

(vii) If the identity or address of any lien holders and Non-party Tenants cannot be reasonably ascertained, a description of the reasonably diligent efforts that were made by plaintiff or his counsel to ascertain such identity or address and that plaintiff or his counsel of record caused a copy of the Notice to Lien Holders and Non-party Tenants (but not Exhibit "A" to such Notice) to be published once in a newspaper of general circulation in the County which is the venue of such action. Notice given to lien holders and Non-party Tenants in accordance with this paragraph shall be sufficient notice to such parties in lieu of joinder of such parties as a defendant.

(6) Service of original process other than summons, attachment, capias or scire facias, shall be made as provided by statute or order of court.