



THE SUPREME COURT OF THE NORTHWEST TERRITORIES

**PRACTICE DIRECTION**

**Foreclosure Practice**

Rule 586 requires the filing of a report when a person other than the Clerk has conduct of a sale made under Court order in a foreclosure proceeding:

586. (1) Where a person other than the Clerk has conduct of a sale made under an order of the Court, the person shall prepare a report setting out the result of the sale and shall file it with the Clerk without delay after the sale.
- (2) A report filed under subrule (1) shall be verified by affidavit.

The Court is frequently asked to order that a sale be conducted by counsel for the mortgagee. Although the report referred to in Rule 586 is mandatory, some issues have arisen around the filing of the report. The purpose of this Practice Direction is to clarify what is expected of counsel in this regard.

The Rule requires that the report be filed with the Clerk “without delay after the sale”. That requirement will be considered to have been complied with so long as the report is filed on the court file within three (3) months after the date title to the property which is the subject of the foreclosure action is transferred, or by the date costs are taxed, whichever is earlier. The time for filing may be extended by Court order, provided application for such order is made before the filing date otherwise expires.

The affidavit verifying the report should be the affidavit of counsel and may be attached to the report itself. It is to be filed on the court file. It need not be accompanied by a Memorandum to the Judge unless the Judge who granted the order for sale specified in that order that the report was to be brought to her attention.

Issued this 21 day of February 2013 by direction of the judges of the Supreme Court of the Northwest Territories.

Justice V.A. Schuler

Justice K. Shaner

Justice L.A. Charbonneau

Justice S.H. Smallwood