

**This is a sample of an actual mortgage complaint. Note there was a second and third mortgage on this property and the first mortgage holder is foreclosing their interest too. Also note the many variations used for the name of the borrower. We do not recommend investing in second mortgages for this reason. If the borrower stops paying the first mortgage you have to make up their payments or risk losing your investment.**

IN THE CIRCUIT COURT OF THE 6TH JUDICIAL  
CIRCUIT, IN AND FOR PINELLAS COUNTY, FLORIDA  
GENERAL JURISDICTION DIVISION

CASE NO:

XXX MORTGAGE CORPORATION

PLAINTIFF

Vs.

ELAN KAY XXX A/K/A ELAINE K. XXXXX

A/K/A KAY ELAINE XXXX A/K/A ELAN KAY

XXXXX TRACY A/K/A KAY E. XXXXX, IF LWING,

AND IF DEAD, THE UNKNOWN SPOUSE, HEIRS,

DEVICES, GRANTEES, ASSIGNEES, LIENOR,

CREDITORS, TRUSTEES AND ALL OTHER

PARTIES CLAIMING AN INTEREST BY,

THROUGH, UNDER OR AGAINST ELAN KAY

XXXX A/K/A ELAINE K. XXXX A/K/A KAY

ELAINE XXXXXX A/K/A ELAN KAY XXXXX XXXX

A/K/A KAY E. XXXXX; UNKNOWN SPOUSE OF  
ELAN KAY XXXXX A/K/A ELAINE K. XXXXX  
A/K/A KAY ELAINE XXXXX A/K/A ELAN KAY  
BIKEL XXXXX A/K/A KAY E. XXXXX, IF ANY;  
RUTH XXXX AS TRUSTEE OF THE RUTH XXXX  
TRUST #XXX DATED APRIL 3, 199X; XXXXXX  
XXXXX, AS TRUSTEE OF MINOR XXXX  
XXXXX'S TRUST DATED OCTOBER 1, 1990;  
BEVERLY S. XXXXX; RICK KEVIN XXXX; THE  
UNKNOWN SPOUSE OF RICK KEVIN XXXX;  
THE UNKNOWN SPOUSE, HEIRS,  
BENEFICIARIES, AND ALL OTHER PARTIES  
CLAIMING AGAINST THE ESTATE OF EDGAR  
XXXX, DECEASED; JOHN DOE AND JANE DOE  
AS UNKNOWN TENANTS IN POSSESSION  
DEFENDANT(S)

COMPLAINT TO FORECLOSE MORTGAGE  
AND TO REESTABLISH LOST LOAN DOCUMENTS

Plaintiff, sues the Defendant(s) and alleges:

1. THIS IS AN ACTION to foreclose a Mortgage on real property in PINELLAS County, Florida.

2. This Court has jurisdiction over the subject matter herein.
3. On SEPTEMBER 5, 1979 BEVERLY S. XXXXX, JOINED BY HER HUSBAND, RICK KEVIN XXXX executed and delivered a Promissory Note and a PURCHASE MONEY Mortgage securing payment of the Note to the Payee named thereon.
4. The Mortgage was recorded on SEPTEMBER XX, 1979 in Official Records Book 4XXX at page 4XX, of the Public Records of PINELLAS County, Florida, and mortgaged the property described in it, then owned by and possessed by the Mortgagors, a copy of the Mortgage AND NOTE ARE attached hereto as "Exhibit "A". Said mortgage was subsequently assigned to XXX MORTGAGE CORPORATION by virtue of an assignment recorded on MARCH 15, 199X at Book 9XXX, Page 15XX of the PINELLAS County Records, a copy of which is attached hereto as Exhibit "B".
5. The Plaintiff owns and holds the Note and Mortgage.
6. The property is now owned by the Defendant(s), ELAN KAY XXXXX A/KIA ELAINE K. XXXX A/K/A KAY ELAINE XXXX A/K/A ELAN KAY XXXXX TRACY A/K/A KAY E. XXXXX if living and if dead, the unknown spouses, heirs and beneficiaries of ELAIN KAY XXXXX A/K/A ELAINE K. XXXXX A/K/A KAY ELAINE XXXXX A/K/A ELAIN KAY XXXXX TRACY A/K/A KAY E. XXXXX who hold(s) possession.
7. There is a default under the terms of the note and mortgage for the JULY 1, 199X payment and all payments due thereafter.
8. All conditions precedent to the acceleration of this Mortgage Note and to foreclosure of the Mortgage have been fulfilled or have occurred.
9. The Plaintiff declares the full amount payable under the Note and Mortgage to be due.
10. The borrowers owe the Plaintiff \$23,802.63 that is due on principal on the Note and Mortgage, interest from JUNE 1, 199X, plus the title search expense for ascertaining the necessary parties to this action, and taxes and assessments advanced by the mortgagee.
11. Plaintiff is obligated to pay its attorney a reasonable fee for his services rendered.
12. Defendants, John Doe and Jane Doe, may claim an interest in the property described in the Mortgage as tenants pursuant to a lease agreement, either written or oral. Said interest is subject, subordinate, and inferior to the lien *of the Mortgage* held by Plaintiff.
13. In addition to all other named defendants, the unknown spouses, heirs, devisees, grantees, assignees, creditors, trustees, successors in interest or other parties claiming an interest in the subject property by, through under or against any of said defendants, whether natural or corporate, who are not known to be alive or dead, dissolved or existing, are joined as defendants herein. The claims of any of said parties are subject, subordinate, and inferior to the interest of

Plaintiff.

14. The Defendant, UNKNOWN SPOUSE OF ELAIN KAY XXXXX A/K/A ELAINE K. XXXX A/K/A KAY ELAINE XXXXX A/K/A ELAIN KAY XXXX XXXX A/K/A KAY E. XXXXX is joined because HE may claim some interest in or lien upon the subject property by virtue of a possible homestead interest. Said interest is subject, subordinate and inferior to the interest of the Plaintiffs mortgage.

15. The Defendant(s) RUTH XXXX AS TRUSTEE OF THE RUTH XXXX TRUST # 19XX DATED APRIL X, 199X IS joined because SHE may claim some interest in or lien upon the subject property by virtue of a MORTGAGE recorded in Official Records Book 98XX at Page 1XX in PINELLAS COUNTY which is inferior to Plaintiffs Mortgage described herein.

16. The Defendant(s) XXXXXX XXXXXX AS TRUSTEE OF MINOR XXXXX XXXXX'S TRUST DATED OCTOBER 1, 1990 IS joined because HE may claim some interest in or lien upon the subject property by virtue of a MORTGAGE recorded in Official Records Book 902X at Page 5XX in PINELLAS COUNTY which is inferior to Plaintiffs Mortgage described herein.

17. The Defendant(s) THE UNKNOWN SPOUSE OF RICK KEVIN XXXX IS joined because SHE may claim some interest in or lien upon the subject property by virtue of a LACK OF JOINDER OF SPOUSE IN QUIT CLAIM DEED RECORDED FEBRUARY 9, 198X in Official Records Book 569X at Page 6XX in PINELLAS COUNTY which is inferior to Plaintiffs Mortgage described herein.

IS. The Defendant(s) THE UNKNOWN SPOUSE, HEIRS, BENEFICIARIES AND ALL OTHER PARTIES CLAIMING AGAINST THE ESTATE OF EDGAR XXXX, DECEASED IS joined because THEY may claim same interest in or lien upon the subject property by virtue of a MORTGAGE recorded in Official Records Book 569X at Page 6XX in PINELLAS COUNTY which is inferior to Plaintiffs Mortgage described herein.

WHEREFORE, Plaintiff prays: That an accounting may be had and taken under the direction of this Court of what is due the Plaintiff for principal and interest on said Mortgage and Mortgage Note, and for the casts, charges and expenses, including attorneys fees and title search costs, and advancements which Plaintiff may be put to or incur in and about this suit, and that the Defendants found responsible for same be ordered to pay the Plaintiff herein the amounts so found to be due it; that in default of such payments, all right, title, interest, claim, demand, or equity of redemption of the Defendants and all other persons claiming by, through, under or again said Defendants since the filing of the Lis Pendens herein be absolutely baired and foreclosed and that said mortgage property be said under the direction of this Court; that out of the proceeds of said sale, the amounts due the Plaintiff may be paid so far as same will suffice; and that a deficiency judgment be entered if applicable, and a Writ of Possession be issued.

## COUNT II

19. This is an action to reestablish a Promissory Note AND MORTGAGE under F.S. 71.011

20. On SEPTEMBER 5, 19XX, BEVERLY S. XXX, JOINED BY HER HUSBAND, RICK KEVIN XXXX

executed and delivered a Promissory Note and a Mortgage securing payment of the Note to the payee named thereon.

21. The Mortgage was recorded on SEPTEMBER 10, 19XX in Official Records Book 49XX at page 49X, of the Public Records of PINELLAS County, Florida, a substantial copy of the Mortgage and a copy of the Note already being attached hereto as composite Exhibit "A" to the Plaintiffs original Complaint herein.

22. The original document(s) were received by the Plaintiff at the inception of the loan or upon assignment of the note and mortgage to Plaintiff and while in its custody, the Note AND MORTGAGE WERE lost or destroyed under unknown circumstances.

23. Plaintiff knows of no parties except the Defendants who are interested in the reestablishment of said document(s).

WHEREFORE, Plaintiff prays that this Court re-establish the NOTE AND MORTGAGE, copy(ies) already exhibited to this Complaint.

XXXX XXXXXX

Law Offices of XXXX XXXXXX, P.A.

Attorney for Plaintiff

XXX S. XXXXXXXX Drive Suite XX

XXXXXX, FL 333XX

(XXX) XXX-XXXX