

N.C.P.I.—Civil 855.10
FORECLOSURE—ACTION FOR DEFICIENCY JUDGMENT—
AMOUNT OF DEBT OWED.
GENERAL CIVIL VOLUME
REPLACEMENT APRIL 2016
N.C. Gen. Stat. § 45-21.36

855.10 FORECLOSURE—ACTION FOR DEFICIENCY JUDGMENT—AMOUNT OF DEBT OWED.

NOTE WELL: This issue is necessary only if the amount of the debt remains in dispute at the close of the evidence and has not been resolved by stipulation, summary judgment or directed verdict. It is anticipated in many cases that this will not be an issue. In the event that the defendant presents evidence that the debt has been paid in full, questions of issue preclusion may arise.

A sample verdict form and a judge's worksheet to use for deficiency judgment actions are available at N.C.P.I.—Civil 855.18.

The [first] [(state number)] issue reads:

“What amount did the defendant owe the plaintiff at the time and place of the foreclosure sale on (date)?”

On this issue, the burden of proof is on the plaintiff. This means that the plaintiff must prove, by the greater weight of the evidence, what amount the defendant owed under the terms of the promissory note secured by the [mortgage] [deed of trust] [other obligation] at the time and place of the foreclosure sale on (date).

Once you have found by the greater weight of the evidence the amount that the defendant owed the plaintiff under the terms of the promissory note secured by the [mortgage] [deed of trust] [other obligation], you will write that amount in the blank space provided on the verdict form. You then should proceed to answer the next issue.

