

N.C.P.I.—Civil 855.18
FORECLOSURE—ACTION FOR DEFICIENCY JUDGMENT—SAMPLE VERDICT
FORM & JUDGE’S WORKSHEET.
GENERAL CIVIL VOLUME
JUNE 2014
N.C. Gen. Stat. § 45-21.36

STATE OF NORTH CAROLINA

COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
xx CVS xxxx

PLAINTIFF)
)
)
 vs.)
)
 DEFENDANT,)
)

SAMPLE VERDICT FORM

We, the jury, unanimously answer the following issues:

Issue 1:¹ What amount did the defendant owe the plaintiff at the time and place of the foreclosure sale on *(date)*?²

ANSWER: _____

Issue 2: Was *(identify property)* fairly worth the amount owed to the plaintiff at the time and place of the foreclosure sale on *(date)*?

ANSWER: _____

1 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.

2 NOTE WELL: In *High Point Bank & Trust Co. v. Highmark Props., LLC*, ___ N.C. App. ___, 750 S.E.2d 886 (2013), the Court held that once a borrower successfully obtained an offset pursuant to N.C. Gen. Stat. § 45-21.36, thereby reducing the borrower’s indebtedness, the guarantor defendant could only be held responsible for any remaining amount of the borrower’s indebtedness to the lender after the offset. ___ N.C. App. at ___, 750 S.E.2d at 888.

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(If you answer Issue 2 “Yes,” then your deliberations are complete and you will not consider the remaining issues. If you have answered it “No,” then proceed to Issue 3.)

Issue 3: Was the plaintiff’s bid of (*state bid amount*) at the foreclosure sale of (*identify property*) on (*date of foreclosure sale*) substantially less than the true value of that property on that date?

ANSWER: _____

(If you have answered Issue 3 “Yes,” then proceed to Issue 4. If you have answered it “No,” then your deliberations are complete and you will not consider the remaining issue.)

Issue 4: What was the true value of (*identify property*) on (*date of foreclosure sale*)?

ANSWER: _____

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**JUDGE’S WORKSHEET TO DETERMINE AMOUNT OF OFFSET AGAINST
DEFICIENCY JUDGMENT**

This worksheet is for the judge’s use only. Do not give to the jury.

If jury answered Issue 2 “Yes”, and found that property was fairly worth the amount of the mortgage at the time of the foreclosure sale:

Defeats Deficiency Judgment;
0 to Plaintiff; Judgment for the Defendant

If jury answered Issue 2 “No” and Issue 3 “No” finding that the plaintiff’s bid was not substantially less than the true value of the property at the time of the foreclosure sale:

Deficiency Judgment in favor of the Plaintiff stands; the Defendant is not entitled to any offset against the Deficiency Judgment

If jury answered Issue 2 “No” and Issue 3 “Yes”, use the below:

True Value of Property on
Date of Foreclosure Sale (Issue 4): _____

[minus] -

Amount Bid By Plaintiff at Foreclosure
Sale that Jury Found was Substantially Less
Than True Value (Issue 3): _____

[equal] =

Amount of Offset Defendant is entitled to
Against the Deficiency Judgment _____

