



THE SUPREME COURT OF BERMUDA
PRACTICE DIRECTION

ISSUED BY THE CHIEF JUSTICE

Ref. A/50

CIRCULAR NO. 12 OF 2010

MORTGAGE ACTIONS

1. Order 88, r. 6(2) of the Rules of the Supreme Court 1985 requires that the affidavit in support of a mortgage action must “exhibit a true copy of the mortgage *and the original mortgage*”.
2. On the face of it the italicized words make no sense¹. There is no point in exhibiting both a copy and the original, and it is inappropriate to lodge such documents of title with the Registry.
3. Until the sub-rule can be formally amended, the following practice shall apply: mortgagees seeking to enforce a mortgage must continue to exhibit a true copy of the mortgage to the affidavit in support, but need not exhibit the original mortgage in addition to that copy. If any party wishes to inspect the original, they should follow the procedure set out in RSC 1985, Ord. 24, r. 10.

Dated this 16th day of July 2010

Richard W. Ground OBE QC
Chief Justice

cc. Deputy Governor
Attorney General’s Chambers
Department of Public Prosecutions
Hamilton Police Station
Commissioner of Police
Commissioner of Corrections
Magistrates’ Court
Legal Aid Office

¹ The reality appears to be that part of the original English model was lost in translation. The Original English sub-rule (RSC 1965, Ord. 88, r.5(2)) read:
“(2) The affidavit must exhibit a true copy of the mortgage, and the original mortgage . . . must be produced at the hearing of the summons”.