

(239) 533-9103 work

(239) 357-4506 mobile

<mailto:kcambareri@ca.cjis20.org>

From: Schreiber, Lee Ann </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=LSCHREIBER>

To: Carlin, John S.

CC: Conderman, Ellen

McHugh, Michael

Johnston, Linda

Cary, G. Keith

Date: 4/5/2010 10:38:30 AM

Subject: ?RE: Foreclosure Stats

Good morning all,

I am at a loss to understand where these numbers were pulled from

My JACs calendar shows the following

(Mon) 04/19/10 68 hearings are set

(Tues) 04/20/10 72 hearings are set

(Wed) 04/21/10 209 hearings are set (this is the mass docket)

(Thur) 04/22/10 67 hearings are set

(Fri) 04/23/10 14 hearings are set (these are extended hearings of 30 mins each)

(Mon) 04/26/10 68 hearings are set

(Tues) 04/27/10 67 hearings are set

(Wed) 04/28/10 58 hearings are set - this is the mass docket that LJ schedules. Pursuant to my discussion with LJ and Ellen last Monday, we will try to fill the remaining slots with other than SJ motions due to the time periods for filing same

(Thurs) 04/29/10 40 hearings are set

(Fri) 04/30/09 this is my ONE office day per month

(Mon) 05/17/10 65 hearings are set

Tues) 05/18/10 56 hearings are set

Wed) 05/19/10 146 hearings are set

20TH CIR 00976

(Fri) 05/21/10 18 hearings are set (these are extended 30" hearings)

When we met on 02/24/10 to talk about the foreclosure docket, we discussed setting 25 cases at EACH of the following intervals: 9:00, 10:30, 1:30 and 3:00 for a total of 100 hearings. We contacted Kim C. to set this up and were told she needed a "start" date (where there was nothing scheduled) in order to change the time template in JACs. Wed, Sept 1st was the first date that nothing was scheduled so that date was selected as the "start date" for the revised template.

For September forward we can expect 100 slots for hearings on Mondays, Tuesdays and Thursdays; Wednesday is the mass docket & Fridays are extended hearings

I will be attending AJS the end of May (A lee County week).

I am taking a vacation June 21 to 28 (Also a Lee County week)which was scheduled before I got the appointment)

I am attending FL Conference of Circuit Judges July 26,27,28 - also a Lee County week

The Dependency Summit is Aug 24 to 26 (3 Lee County days = travel)and I have a dependency docket in Charlotte County, so I plan to attend

Please keep in mind we are only in Lee County 10 days + per month which means we may need to set farther out than we might otherwise prefer. We are working to close some gaps since this was brought to my attention last Monday.

s. 119.071, F.S.s. 119.071, F.S.s. 119.071, F.S.s. 119.071, F.S.

Lee

P.S. I saw the subsequent email re "the numbers may not be accurate", but the first email was disturbing enough that I looked into it right away.

From: Carlin, John S.
Sent: Monday, April 05, 2010 10:57 AM
To: Schreiber, Lee Ann
Cc: Conderman, Ellen; McHugh, Michael; Johnston, Linda; Cary, G. Keith
Subject: FW: Foreclosure Stats

20TH CIR 00977

I am forwarding to you the scheduled hearings for the next 6 weeks for foreclosures. As you can see, we have very few set on the dates in April and May. I met with LJ this a.m. and requested that she contact the large foreclosure firms and try to fill these available dates i.e. we only have 4 hearings set for April 19 and 2 hearings set for April 20 and there are many other examples as you read the attachment. I would appreciate Ellen trying to fill these dates in April and May as we implement our new policy of not scheduling anything more than 60 days out from the request for hearing time. If anybody has any questions, please feel free to contact me at 32896. I appreciate your assistance in trying to get this schedule under control.

John

From: Cambareri, Kimberly
Sent: Sunday, April 04, 2010 7:50 PM
To: Aloia, Nancy K; Carlin, John S.
Subject: Foreclosure Stats

Hello,

Here are the six week foreclosure stats from April 5, 2010 to May 12, 2010.

Have a good week.

Kimberly Cambareri

Computer Programmer/Analyst

20th Judicial Circuit Courts

(239) 533-9103 work

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<mailto:kcambareri@ca.cjis20.org>

From: Callanan, Richard </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=RCALLANAN>

To: Harkey, Sandra D

Kiesel, Lisa

Melvin, Lisa

Fishbeck, Eric

CC: Smith, Carrie

Cary, G. Keith

Date: 6/2/2010 1:26:44 PM

Subject: ?RE: CBC Agenda prep for 6/11

Dear All

Attached is the latest CBC agenda. We will not be putting together new “notebooks” but you should have updated handouts on your respective areas (by Tues if possible). Theses agenda items will need new attachments for handout:

4. Foreclosure Mediation (copy of new AO or link if they already have it)—Lisa: I also would like to ask you to invite Jon Conant to the meeting for a 5 minute brief intro and Q& A for the judges—if he can make it at 130 we can get him on first and get him out).

#5. TCBC – We will need summary of any key budget changes from TCBC meeting and summary of allocations(update on popular issues: SR Judge days, CTIHO, Comp for Cty Judges etc.)

#6. Budget Status Report- County & State expenditures and where we stand on county budget submissions—Lisa Nicole will need state and county expenditures updated thru 3/31/10 and a summary on county budget submissions

#7. Court Workload Stats- Eric to provide trend reports (2005-09 and projected 09-10) and update on case management performance measures project

Thanks

From: Harkey, Sandra D

Sent: Wednesday, June 02, 2010 1:44 PM

To: Kiesel, Lisa; Melvin, Lisa; Fishbeck, Eric

Cc: Callanan, Richard; Smith, Carrie

Subject: CBC Agenda meeting time change

Importance: High

20TH CIR 00979

Good Afternoon,

Please be advised the CBC Agenda meeting scheduled for June 8, 2010 at 10:30 am in Conference Room B is now rescheduled to 1:30 pm, June 8, 2010 in Conference Room A.

Please let me know of any conflicts.

As always, thank you for your cooperation and have a great day.

Respectfully,

Sandy Harkey

Administrative Assistant III

Administrative Office of the Courts

Twentieth Judicial Circuit

(239) 533-1712

Fax: (239) 533-1701

Sharkey@ca.cjis20.org

Our mission is to provide professional services to support the judiciary in their efforts to protect rights and liberties, uphold and interpret the law, and provide for the peaceful resolution of disputes.

From: Golden, Diana </O=SAO20/OU=CACJIS/CN=RECEIVENTS/CN=DG2228>

To: Hamsharie, Deborah

Trammell, Cindy

Repperger, Kathryn

CC:

Date: 7/7/2010 9:25:08 AM

Subject: ?FW: Foreclosures - Residential

FYI

From: Aloia, Nancy K

Sent: Tuesday, July 06, 2010 4:13 PM

To: Golden, Diana

Subject: RE: Foreclosures - Residential

Yes- they should direct them to the Massforeclosure email address.

Also, we have the webpage out there that has the information as well in the event you want to direct some of the calls there. Any problems that you run into can be directed to myself or Sharon English.

Thanks

Here is the link to Lee County foreclosure webpage with some of the forms. We are trying to develop this so any suggestions you may have- let me know! You always have great input.

<http://www.ca.cjis20.org/web/programs/forecloseinfo.asp>

From: Golden, Diana

Sent: Tuesday, July 06, 2010 2:03 PM

To: Aloia, Nancy K

Subject: Foreclosures - Residential

Hi Nancy,

Do we have a new contact person for contested residential foreclosures yet? I know that Judge Schreiber and Ellen are moving to their new docket as of July 1 so I need to know who to direct these calls to if we have a person yet or if they are supposed to be directed to the massforeclosure@leeclerk.org. Thanks for your help. Hope you had a great 4th!

Diana :-)

From: Golden, Diana </O=SAO20/OU=CACJIS/CN=RECEIPTS/CN=DG2228>

To: Thompson, Lucinda

CC:

Date: 7/8/2010 10:50:44 AM

Subject: ?RE: FYI - Residential Foreclosure Paperwork

Yes I am

From: Thompson, Lucinda

Sent: Thursday, July 08, 2010 11:50 AM

To: Golden, Diana

Subject: RE: FYI - Residential Foreclosure Paperwork

Are you referring to the foreclosure paperwork??

Lucinda Thompson

Judicial Assistant to Judge Fuller

Lee County Justice Center

1700 Monroe Street

Fort Myers, FL 33901

(239) 533-2831

From: Golden, Diana

Sent: Thursday, July 08, 2010 11:43 AM

To: Golden, Diana; Thompson, Lucinda; Repperger, Kathryn; Trammell, Cindy; Hamsharie, Deborah; Conderman, Ellen; Fuller, Joseph; McHugh, Michael; Rosman, Jay; Winesett, Sherra; Schreiber, Lee Ann

Cc: Reduga, Scott; Aloia, Nancy K; Arenas, Liliana; Crongeyer, Robert L.

Subject: RE: FYI - Residential Foreclosure Paperwork

Hi everyone,

My last question Nancy clarified that the residential foreclosures are being sent to the senior judge on a monthly basis as a whole. Any time sensitive issues we may get need to be brought to her attention.

Diana

From: Golden, Diana

Sent: Thursday, July 08, 2010 11:01 AM

To: Golden, Diana; Thompson, Lucinda; Repperger, Kathryn; Trammell, Cindy; Hamsharie, Deborah; Conderman, Ellen; Fuller, Joseph; McHugh, Michael; Rosman, Jay; Winesett, Sherra; Schreiber, Lee Ann

Cc: Reduga, Scott; Aloia, Nancy K; Arenas, Liliana; Crongeyer, Robert L.

Subject: RE: FYI - Residential Foreclosure Paperwork

Here Is Nancy's response to my last question. She said "The plan is for the year until July 1, 2011 to be forwarded to

us at any time. If there is something that is time sensitive please let me know since the Senior Judges are not here every day during the month.”

When paperwork is forwarded to Scott Reduga they will coordinate with the Senior Judges for signature and follow-up since they are not here every day during the week.

I am still not clear if this is for all month or for two weeks for the senior judges and will follow up on that issue.

Diana

From: Golden, Diana

Sent: Thursday, July 08, 2010 9:43 AM

To: Thompson, Lucinda; Repperger, Kathryn; Trammell, Cindy; Hamsharie, Deborah; Conderman, Ellen; Fuller, Joseph; McHugh, Michael; Rosman, Jay; Winesett, Sherra; Schreiber, Lee Ann

Cc: Reduga, Scott; Aloia, Nancy K; Arenas, Liliana; Crongeyer, Robert L.; Golden, Diana

Subject: FYI - Residential Foreclosure Paperwork

Hi everyone,

After speaking with Nancy, Judge Schrieber will hand the residential paperwork up and to August 1 and any requests for hearing can be sent to Massforeclosure@leeclerk.org or refer to the 20th circuit web page. Our residential paperwork will go to Scott Reduga in family court services (32536) after the August 1 date when the senior judges take over the residential foreclosures. I have one more question in to her which is whether or not the senior judges will handle this as a whole all month or if this is still going to be set up on a two week basis as it is now. Hope this helps.

Diana

From: Aloia, Nancy K

Sent: Wednesday, July 07, 2010 5:50 PM

To: Golden, Diana

Cc: Reduga, Scott

Subject: RE: Question

Yes- You can send to Scott Reduga for the Senior Judges after 8/1. We will coordinate with the Snr Judges for signature and follow-up.

Will you communicate with the Civil Jas so all are aware? Would you mind copying me so I have record. Thanks for checking. Let me know of any other hiccups you are running in to.

Thank you

From: Golden, Diana

Sent: Wednesday, July 07, 2010 12:21 PM

To: Aloia, Nancy K

Subject: RE: Question

Has a decision been made as to where after that?

From: Aloia, Nancy K

Sent: Wednesday, July 07, 2010 12:08 PM

To: Golden, Diana

20TH CIR 00983

She does not transition from this docket until 8/1 so everything should still go to her until then.

From: Golden, Diana
Sent: Wednesday, July 07, 2010 10:36 AM
To: Aloia, Nancy K
Subject: Question

Hi Nancy,

I have one more question as I will be on vacation the week of the 19th which would have begun Judge Schreiber's two weeks for resident foreclosure paperwork. Where does that paperwork go this month for those two weeks? To Judge Schreiber still? I need to be able to advise my clerks and fill in JA. Thanks.

Diana :-)

From: Golden, Diana </O=SAO20/OU=CACJIS/CN=RECEIVENTS/CN=DG2228>

To: Thompson, Lucinda

CC: Hamsharie, Deborah

Trammell, Cindy

Date: 7/8/2010 10:08:30 AM

Subject: ?RE: Mortgage foreclosures

Working on getting an answer Lucy. If I don't get it I will forward this to Deb for Judge Winesett to get an answer at lunch. I think everything will go through Reduga in FCS which is Nancy's admin asst.

Diana

From: Thompson, Lucinda

Sent: Thursday, July 08, 2010 9:50 AM

To: Golden, Diana

Subject: RE: Mortgage foreclosures

On additional question I have is about "Emergency Motions" for Mortgage Foreclosure cases. Previously were directed to forward them to Judge Schreiber when she was here. If there will be a senior Judge here every week, will they handle all of the Emergency Motions??

Lucinda Thompson

Judicial Assistant to Judge Fuller

Lee County Justice Center

1700 Monroe Street

Fort Myers, FL 33901

(239) 533-2831

From: Golden, Diana

Sent: Thursday, July 08, 2010 9:45 AM

To: Hamsharie, Deborah; Trammell, Cindy; Thompson, Lucinda

Subject: RE: Mortgage foreclosures

I just sent the information I have got to you guys if I get the answer to my last question I will forward on to you. Let me know the outcome of the meeting. J

From: Hamsharie, Deborah

Sent: Thursday, July 08, 2010 9:33 AM

To: Golden, Diana; Trammell, Cindy; Thompson, Lucinda

Subject: Mortgage foreclosures

Judge Winesett has a meeting today at noon on Civil Case Mgmt and I've asked her to address with Judge Mchugh some of the issues we are having and phone calls we are receiving. Would you please take a moment and email me back w/issues you have. I am asking her to suggest a meeting with us all so we all know what is going on.

Thanks

Deb

Deborah Hamsharie
Judicial Assistant to
Hon. Sherra Winesett
239-533-2600

From: [Connell, Marguerite </O=SAO20/OU=EXCHANGE ADMINISTRATIVE GROUP \(FYDIBOHF23SPDLT\)/CN=RECIPIENTS/CN=MCONNELL>](mailto:Connell, Marguerite </O=SAO20/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCONNELL>)

To: Gutshall, Tilena

CC:

Date: 8/4/2010 10:35:34 AM

Subject: ?RE: November Foreclosure



I agree with you. I thought that when I read her e-mail. He's in Glades on the 16th so maybe she didn't notice that.

From: Gutshall, Tilena
Sent: Wednesday, August 04, 2010 10:53 AM
To: Connell, Marguerite
Subject: RE: November Foreclosure

I don't have Magistrate Larsen here on the 16th of November. Unless it's changed.....He's here on the 8, 9, 15, 29, 30

From: Connell, Marguerite
Sent: Wednesday, August 04, 2010 10:47 AM
To: Gutshall, Tilena
Subject: FW: November Foreclosure

From: Mann, Sheila
Sent: Tuesday, August 03, 2010 12:13 PM
To: Brantley, Kelly
Cc: Hendrickx, Jo-Ann; Connell, Marguerite
Subject: November Foreclosure

Judge McIver will cover 11/16, pm, for your foreclosures.
Ed Larsen can still do cases in the morning.

Thanks,
Sheila

From: Golden, Diana </O=SAO20/OU=CACJIS/CN=RECEIPTS/CN=DG2228>

To: Aloia, Nancy K

English, Sharon

CC: Hamsharie, Deborah

Trammell, Cindy

Thompson, Lucinda

Repperger, Kathryn

Conderman, Ellen

Date: 8/4/2010 1:58:04 PM

Subject: ?RE: OSC Foreclosure Residential

Thank you I will contact Henderson Franklin back.

Diana J

From: Aloia, Nancy K

Sent: Wednesday, August 04, 2010 1:57 PM

To: Golden, Diana; English, Sharon

Subject: RE: OSC Foreclosure Residential

Hello

The OSC should be sent to us (central location) and we will provide them with a date and obtain judicial signature for them.

Stamped and addressed envelopes will need to be provided.

Thank you- Nancy

From: Golden, Diana

Sent: Tuesday, August 03, 2010 2:13 PM

To: Aloia, Nancy K; English, Sharon

Subject: OSC Foreclosure Residential

Importance: High

Hi Nancy and Sharon,

I have received a call from Henderson Franklin regarding FS 702.10 and the Order to Show Cause Why Final Judgment of Foreclosure should not be entered. In these orders a date for the Final Summary Judgment hearing is given 60 days out. Respondent is then served and then directed by the order to respond and file any answer or objection to this and show up and show why it should not be entered. If they don't show up a default final judgment in foreclosure is entered. If someone shows to contest then it will have to be forwarded to mediation??? I am not sure if this is the procedure you plan to use but I need to know how to direct these firms to handle their orders.

I would direct them to request a hearing from Massforeclosure@leeclerk.org for 60 days out prioritize them for signing and let the senior judges handle them on their foreclosure dockets. What do you think or who should I pose this question to?

Diana Golden, BS, FRP

Judicial Assistant

Honorable Lynn Gerald, Jr.

Circuit Judge

(239) 533-9152

20TH CIR 00987

12_6_2010

From: Schreiber, Lee Ann </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=LSCHREIBER>

To: Richards, George

CC: Embury, Jon
Shelton, Jeremy

Date: 9/10/2010 3:54:48 PM

Subject: Motions For Continuance of trials

I wanted to share my thoughts on motions for continuances and let you know how I intend to approach these motions. With a view towards trying to be relatively uniform Yes, we have a firm policy against continuances, especially on these old cases, but we cannot have blanket no continuance rule in all cases

I am finding the request for continuances (mostly from Plaintiffs) to fall into a couple categories:

- 1) we wish to pursue settlement
- 2) there is insufficient time to set the motion for SJ (even though when we served the Order, we allowed sufficient time; they sat on it)
- 3) Discovery is not concluded
- 4) A Counter-claim is pending and a responsive pleading or motion direct to that counterclaim has not been filed &/or disposed; i.e. a Mo Dismiss)
- 5) I have a (documented) schedule conflict (which cannot be resolved by Admin Order 2.10) and my client will be prejudiced (I've gotten these from Defendant's attorneys because they are scheduled to be on other foreclosure trials (Collier County) on older cases than ours)

I will deny the Mo Continue on all but the last 2.

If the case is not at issue under Rule 1.440, it is reversible error to compel them to go to trial. This may happen on occasion given that MANY old foreclosure cases were set for trial on the Court's own motion (and upon cursory review that made the case appear as if it was at issue and ready to be placed on the trial docket when, in fact, it is not "at issue" within the meaning of the Rule). If a counterclaim is pending and the Complaint is set for trial, I am converting the 10" trial to a 10" case management conference on the Court's own motions and entering an Order accordingly.

If there is a documented, genuine conflict with the trial date, I am granting the motion to continue to another trial date. In other words I'm not just granting the motion and letting the case sit. It will automatically be set on the next trial docket approx 30 days away and the Order granting continuance will re-set the date and time for trial.

Because of the # of requests for continuances, I have developed a couple of templates that I just started using today. The templates for Order Denying Mo Continuance and Order Granting Continuance/convert to Case management conference are attached in cases you might find them helpful or something you could enhance. Either Ellen or I are hand-writing the case name & number and hand writing in the blanks which helps it go faster. On the "service list" we copy the one attached to the motion for continuance (doctor it up on copier if needed) and serve all parties.

Jon/Jeremy, is there a way to streamline these Orders (including the Order setting trial date) so that the case style & # and ALL the attorneys/parties names do not have to be re-typed? We have software capabilities in Lee County to do this (Kim Cambareri wrote the program to integrate with the family court docket in Lee County). Is there a way to have a forms data base that we populate w standard info? I think Jeremy had to hand type all the trial orders? Not an efficient good use of his or our time.

Your thoughts?

LAS

20TH CIR 00988

11_24_2010

From: [Richards, George </O=SAO20/OU=EXCHANGE ADMINISTRATIVE GROUP \(FYDIBOHF23SPDLT\)/CN=RECIPIENTS/CN=GRICHARDS>](mailto:Richards, George </O=SAO20/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=GRICHARDS>)

To: Schreiber, Lee Ann

CC: Embury, Jon

Shelton, Jeremy

Davis, Dana

Date: 9/12/2010 11:04:50 AM

Subject: ?RE: Motions For Continuance of trials

I think resetting it for trial on the next trial docket is a great idea, but what if the party states they cannot be ready by then. I suggest a status in 45-60 days. No progress, then #1 for trial on the next docket.

George

From: Schreiber, Lee Ann
Sent: Friday, September 10, 2010 4:55 PM
To: Richards, George
Cc: Embury, Jon; Shelton, Jeremy
Subject: Motions For Continuance of trials

I wanted to share my thoughts on motions for continuances and let you know how I intend to approach these motions. With a view towards trying to be relatively uniform Yes, we have a firm policy against continuances, especially on these old cases, but we cannot have blanket no continuance rule in all cases

I am finding the request for continuances (mostly from Plaintiffs) to fall into a couple categories:

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Jon/Jeremy, is there a way to streamline these Orders (including the Order setting trial date) so that the case style & # and ALL the attorneys/parties names do not have to be re-typed? We have software capabilities in Lee County to do this (Kim Cambareri wrote the program to integrate with the family court docket in Lee County). Is there a way to have a forms data base that we populate w standard info? I think Jeremy had to hand type all the trial orders? Not an efficient good use of his or our time.

Your thoughts?

LAS

From: [Kest, Kristopher J. <Kristopher.Kest@lowndes-law.com>](mailto:Kristopher.Kest@lowndes-law.com)
To: Shelton, Jeremy
CC:
Date: 9/13/2010 3:36:16 PM
Subject: ques re foreclosure trial deadlines

Jaremy,

According to the court's foreclosure trial order, any motions not heard prior to the day of trial are deemed waived. We have filed a Motion to Dismiss the Defendant's Counterclaim in several cases, and attempted to schedule those motions for hearing before Judge Schreiber. However, we understand from Judge Schreiber's JA that she is not available again for hearing in Charlotte County until the day of trial (October 4).

I would like to discuss my options with you, as I'm sure it is not the court's intent to foreclose the possibility of any motions being heard between now and the trial date.

Thanks for any assistance you can provide.

Kristopher Kest (bio)

Lowndes, Drosdick, Doster, Kantor & Reed, P.A.

450 S. Orange Ave., Suite 800

Orlando, FL 32801

407-418-6285

Fax: 407-843-4444

kristopher.kest@lowndes-law.com

www.lowndes-law.com

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[v4.30]

From: Rose, Penelope </O=SAO20/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=PROSE>

To: Kellum, Ken

CC:

Date: 9/13/2010 9:16:52 AM

Subject: ?FW: August 2010 SJ Foreclosure Report

FYI:

From: Rose, Penelope
Sent: Monday, September 13, 2010 10:17 AM
To: Carlin, John S.
Subject: RE: August 2010 SJ Foreclosure Report

Good Morning Your Honor:

No the 90 days remaining for Lee County for foreclosures does not include the additional foreclosure dates for November and December. I only heard back from Judge Thompson this morning regarding the new dates Nancy Aloia wanted me to arrange. She gave me 40 days to work with for November and December. So the balance through December 31 for foreclosure days will be 50.

My September report will reflect the additional foreclosure dates for Lee County.

You had mentioned that Joanne is out today – so if I can be of assistance to help you with anything please let me know.

Thanks.

Penelope

From: Carlin, John S.
Sent: Monday, September 13, 2010 10:07 AM
To: Rose, Penelope
Subject: RE: August 2010 SJ Foreclosure Report

Thanks, Penelope, for the report. Quick question: does my 90 days remaining include Senior Judge scheduling through December?

From: Rose, Penelope
Sent: Monday, September 13, 2010 9:25 AM
To: Carlin, John S.
Subject: August 2010 SJ Foreclosure Report

From: [Kest, Kristopher J. <Kristopher.Kest@lowndes-law.com>](mailto:Kristopher.Kest@lowndes-law.com)

To: [Shelton, Jeremy](#)

CC:

Date: 9/14/2010 11:02:38 PM

Subject: ?RE: ques re foreclosure trial deadlines

Thanks Jeremy. The court has granted our Motions to Continue as to the cases that are not at issue, so the particular issues raised below have been avoided.

Kristopher Kest

Lowndes, Drosdick, Doster, Kantor & Reed, P.A.
450 S. Orange Ave., Suite 800
Orlando, FL 32801
407-418-6285
kristopher.kest@lowndes-law.com
www.lowndes-law.com

From: Shelton, Jeremy [<mailto:JShelton@CA.CJIS20.ORG>]

Sent: Tuesday, September 14, 2010 11:12 AM

To: Kest, Kristopher J.

Subject: RE: ques re foreclosure trial deadlines

Counselor Kest,

The Judge will hear the motion at the outset of the trial (notice it for the same date and time as the trial.) If the motion is denied, the Judge may grant time to file an answer to Defendant's counterclaim if you have not already done so, in which case the allotted trial time will be converted to a case management hearing. If the motion is granted, the trial will proceed immediately thereafter.

Let me know if you have any other questions I might be able to answer.

Thank you,

Jeremy J. Shelton

Civil Case Manager
20th Judicial Circuit, Charlotte County
Administrative Office of the Courts
350 East Marion Avenue
Punta Gorda, Florida 33983
Email: jshelton@ca.cjis20.org
Phone: 941.637.2100

From: Kest, Kristopher J. [<mailto:Kristopher.Kest@lowndes-law.com>]

Sent: Monday, September 13, 2010 4:36 PM

To: Shelton, Jeremy

Subject: ques re foreclosure trial deadlines

Jeremy,

20TH CIR 00993

11_24_2010

According to the court's foreclosure trial order, any motions not heard prior to the day of trial are deemed waived. We have filed a Motion to Dismiss the Defendant's Counterclaim in several cases, and attempted to schedule those motions for hearing before Judge Schreiber. However, we understand from Judge Schreiber's JA that she is not available again for hearing in Charlotte County until the day of trial (October 4).

I would like to discuss my options with you, as I'm sure it is not the court's intent to foreclose the possibility of any motions being heard between now and the trial date.

Thanks for any assistance you can provide.

Kristopher Kest (bio)

Lowndes, Drosdick, Doster, Kantor & Reed, P.A.

450 S. Orange Ave., Suite 800

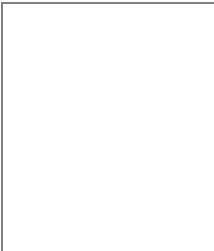
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407-418-6285

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[v4.30]

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www.symantec.com

From: [Richards, George </O=SAO20/OU=EXCHANGE ADMINISTRATIVE GROUP \(FYDIBOHF23SPDLT\)/CN=RECIPIENTS/CN=GRICHARDS>](mailto:Richards, George </O=SAO20/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=GRICHARDS>)

To: Schreiber, Lee Ann

CC:

Date: 9/14/2010 12:22:28 PM

Subject: ?FW: Is GM Lisa Porter taking referrals for motions on foreclosure cases?

FYI.

From: Davis, Dana

Sent: Tuesday, September 14, 2010 1:22 PM

To: Richards, George

Subject: RE: Is GM Lisa Porter taking referrals for motions on foreclosure cases?

SCHEDULE WITH MAGISTRATE

Please schedule **ALL OF THE** following Motions with the Magistrate via JACS. Discovery; Compel; Withdraw as Counsel; Sever; Orders to Show Cause; Transfer Venue; Vacate Default; Leave to File Amend; Dismiss and Strike Affirmative Defense. Please select Magistrate Porter's schedule on the main JACS page for instructions on reserving hearing time.

Dana Davis
Judicial Assistant to Hon. George C. Richards
Charlotte County Circuit Judge
Telephone 941-637-2375
Fax 941-637-2358 (new fax)



LEAVE A GREEN IMPRESSION

Please consider the environment before printing this e-mail

From: Richards, George

Sent: Tuesday, September 14, 2010 1:17 PM

To: Davis, Dana

Subject: FW: Is GM Lisa Porter taking referrals for motions on foreclosure cases?

???????

From: Schreiber, Lee Ann

Sent: Tuesday, September 14, 2010 11:28 AM

To: Richards, George

Subject: FW: Is GM Lisa Porter taking referrals for motions on foreclosure cases?

I meant to send this to George Richards. Sorry. Donna's email was returned via postmaster, so she must no longer work for Lee County Clerk

From: Schreiber, Lee Ann

20TH CIR 00995

Sent: Tuesday, September 14, 2010 11:21 AM

To: Kyle, Keith

Cc: Richards, Donna

Subject: Is GM Lisa Porter taking referrals for motions on foreclosure cases?

I have my first ex-parte motion for referral to GM filed by Plaintiff to refer Defendant's Motion to Dismiss to the Magistrate? I was not sure if her family, dependency & Baker/Marchman proceedings have her scheduled maxed out OR whether she is also taking civil matters? Thank you.

Shelton, Jaremy </O=SAO20/OU=EXCHANGE
From: ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/
CN=RECIPIENTS/CN=JSHELTON>
To: Conderman, Ellen
CC:
Date: 9/14/2010 8:11:56 AM
Subject: question from attorney

An attorney has cases scheduled for trial with Judge Schreiber next month (his email is below), and has filed a Motion to Dismiss the Defendant's Counterclaim in those cases. The trial order indicates that if any filed motions are unheard by the time of trial, they are considered waived or withdrawn. He wants to know how he can have this motion heard since Judge Schreiber will be in Lee County until the date of the trial here in Charlotte County. These are the two options I can think of:

1. Judge Schreiber can hear the motion at the date/time of trial then proceed with the trial after the motion is heard
 2. The attorney can schedule the motion to be heard before Judge Richards before the trial date
- Let me know how Judge Schreiber wants to handle this.

Thank you,

Jaremy J. Shelton

Civil Case Manager

20th Judicial Circuit, Charlotte County

Administrative Office of the Courts

350 East Marion Avenue

Punta Gorda, Florida 33983

Email: jshelton@ca.cjis20.org

Phone: 941.637.2100

From: Kest, Kristopher J. [<mailto:Kristopher.Kest@lowndes-law.com>]

Sent: Monday, September 13, 2010 4:36 PM

To: Shelton, Jaremy

Subject: ques re foreclosure trial deadlines

Jaremy,

According to the court's foreclosure trial order, any motions not heard prior to the day of trial are deemed waived.

We have filed a Motion to Dismiss the Defendant's Counterclaim in several cases, and attempted to schedule those motions for hearing before Judge Schreiber. However, we understand from Judge Schreiber's JA that she is not available again for hearing in Charlotte County until the day of trial (October 4).

I would like to discuss my options with you, as I'm sure it is not the court's intent to foreclose the possibility of any motions being heard between now and the trial date.

Thanks for any assistance you can provide.

Kristopher Kest ([bio](#))

Lowndes, Drosdick, Doster, Kantor & Reed, P.A.

450 S. Orange Ave., Suite 800

Orlando, FL 32801

407-418-6285

Fax: 407-843-4444

kristopher.kest@lowndes-law.com

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[v4.30]

??

Page 1

Shelton, Jeremy </O=SAO20/OU=EXCHANGE
From: ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/
CN=RECIPIENTS/CN=JSHELTON>
To: Kest, Kristopher J.
CC:
Date: 9/14/2010 10:12:10 AM
Subject: RE: ques re foreclosure trial deadlines

Counselor Kest,

The Judge will hear the motion at the outset of the trial (notice it for the same date and time as the trial.) If the motion is denied, the Judge may grant time to file an answer to Defendant's counterclaim if you have not already done so, in which case the allotted trial time will be converted to a case management hearing. If the motion is granted, the trial will proceed immediately thereafter.

Let me know if you have any other questions I might be able to answer.

Thank you,

Jaremy J. Shelton

Civil Case Manager

20th Judicial Circuit, Charlotte County

Administrative Office of the Courts

350 East Marion Avenue

Punta Gorda, Florida 33983

Email: jshelton@ca.cjis20.org

Phone: 941.637.2100

From: Kest, Kristopher J. [<mailto:Kristopher.Kest@lowndes-law.com>]

Sent: Monday, September 13, 2010 4:36 PM

To: Shelton, Jaremy

Subject: ques re foreclosure trial deadlines

Jaremy,

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I would like to discuss my options with you, as I'm sure it is not the court's intent to foreclose the possibility of any motions being heard between now and the trial date.

Thanks for any assistance you can provide.

Kristopher Kest ([bio](#))

Lowndes, Drosdick, Doster, Kantor & Reed, P.A.

450 S. Orange Ave., Suite 800

Orlando, FL 32801

407-418-6285

Fax: 407-843-4444

kristopher.kest@lowndes-law.com

www.lowndes-law.com

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20TH CIR 00999

Page 2

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[v4.30]

From: Rose, Penelope </O=SAO20/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=PROSE>

To: Kellum, Ken

CC:

Date: 9/16/2010 2:32:02 PM

Subject: ?FW: 2011 SJ Felony Days

From: Carlin, John S.
Sent: Thursday, September 16, 2010 3:31 PM
To: Rose, Penelope
Subject: RE: 2011 SJ Felony Days

Thank you! I better get busy with 2011.

From: Rose, Penelope
Sent: Thursday, September 16, 2010 2:46 PM
To: Carlin, John S.
Subject: 2011 SJ Felony Days

Hello Your Honor:

We have nothing scheduled yet for 2011.

Thanks.

Penelope

PS: Dropped off the current calendar to Joanne a few minutes ago

From: Carlin, John S.
Sent: Thursday, September 16, 2010 1:03 PM
To: Rose, Penelope
Subject:

Hi Penelope,

I would like to have a new hard copy of the Senior Judge schedule after you put in the names for the November and December foreclosure dates. Also, I would like to have a hard copy through whatever month we have scheduled the last court event for a Senior Judge, possibly June, 2011 if we have scheduled felony that far. Thank you.

From: Rose, Penelope </O=SAO20/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=PROSE>

To: Kellum, Ken

CC:

Date: 9/16/2010 5:03:16 PM

Subject: ?FW: conforming copies

I had no idea Barbara had orders dating back to August 26th. But then, again these huge buckets were coming every day and there is only so much a person can do. She worked really hard to get them done.

From: Aloia, Nancy K
Sent: Thursday, September 16, 2010 5:04 PM
To: Rose, Penelope
Subject: conforming copies

Hello

I pulled staff to conform the copies so they should be out today or first thing in the morning. There were items dating back to August 26th in the stack. I would recommend that they target a 3 day turn-around on these. If they are unable to conform, please have them let you know so we can figure something out. We may possible need to bring in reinforcements to help with the job. The ECR department has offered to assist with the project but can only help in between jobs.

Also, please forward the foreclosure mail sent to the Senior Judges to us (Scott) so that the clerk may open and prepare them for review by the Senior Judge The clerk needs to immediately scan in the motions and handle the checks before they come back to us for the Senior Judges' review. This also helps save time for all of us and actually saves them some grief because the motions are not showing up in the court record until days later.

Thank you

*Nancy Aloia
Family/Civil Director
Twentieth Judicial Circuit
1700 Monroe Street, Ft. Myers, FL 33901
239-533-2991/Mobile 357-5641*

From: Williams, Diane </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=DIANEW>

To: Hayes, Hugh
Pivacek, Cynthia
Pedrotty, Jodi
Metcalf, Jan

CC: Middlebrook, Mark
Figueroa-Ibanez, Nancy
Mravic, Deborah

Date: 9/16/2010 1:55:18 PM

Subject: Foreclosure dockets

Good afternoon,

I wanted to update you on a few changes implemented in scheduling foreclosure hearing.

Yesterday I added several foreclosure hearing timeslots to the foreclosure docket. These hearings are on Fridays from 9-noon in front of Magistrate David Friedman. Therefore, you will be receiving some Order of Referral for Mag. David Friedman in Hearing Room 3-1.

Eventually we will be separating the foreclosure docket into 2 dockets. One for the Magistrate and one for the Judge. Each docket will have instructions that will hopefully help to guide the scheduling parties a little better.

We anticipate adding Magistrate Friedman to the Foreclosure docket up till the end of this year and possibly longer if the need arises. If you have any questions concerning foreclosure scheduling, please refer them to Nancy or Diane.

Thank you

Diane Williams

Court Administration - Naples

20th Judicial Circuit Court

239-252-8133

239-252-8785

20TH CIR 01003

From: Porter, Lisa </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=LSPADER>

To: Embury, Jon

CC: Wolff, Luanne

Date: 9/22/2010 11:36:10 AM

Subject: motions to dismiss, etc.

<http://www.ca.cjis20.org/web/services/jacs.asp>

I think Judge Richards JACS page needs to be changed to reflect new policies – please look under “Schedule With the Magistrate.”

Perhaps we need to make a policy that the Magistrate should not hear ANY foreclosure matters. I hear non-foreclosure motions to dismiss, and I think it would be asking Amelia a little much to discern between a foreclosure motion to dismiss and a motion to dismiss in a negligence action. I think it gets confusing trying to figure out what kind of cases goes to the Magistrate, and what should be scheduled and that we need just a blanket policy like no foreclosure cases - that way Amelia can ask the attorney if it's a foreclosure case, and if they say yes, she can direct them to the Judge. Or, in the alternative, have the Magistrate just hear “discovery matters only” regardless of the type of case. I think either one of these scenarios would be less confusing and make it easier on everyone.

Amelia just got an email from a law firm that wants to schedule two motions to dismiss with me in a foreclosure action. Does she tell them to call Judge Schreiber's office or Judge Richard's office for hearing time? She gets close to 10 calls a day on these currently.

Thanks Jon.

Lisa

Lisa S. Porter
Magistrate, Twentieth Judicial Circuit
Charlotte County Justice Center
350 E. Marion Avenue
Punta Gorda, FL 33950
(941) 637-2213
(941) 637-2337 (fax)

From: [Shelton, Jeremy </O=SAO20/OU=EXCHANGE ADMINISTRATIVE GROUP \(FYDIBOHF23SPDLT\)/CN=RECIPIENTS/CN=JSHELTON>](mailto:Shelton,Jeremy@ca.cjis20.org)

To: [Embury, Jon](mailto:Embury,Jon@ca.cjis20.org)

CC:

Date: 9/22/2010 3:50:32 PM

Subject: JACS wording

Foreclosure Hearings: All Motions for Summary Judgment, Default Final Judgments and Motions for Default are heard before Judge Lee Ann Schreiber or a Senior Judge and will be scheduled on Judge Schreiber's Charlotte County JACS calendar. These motions are heard on Tuesdays and Thursdays during the last two weeks of each month. Foreclosure cases that have been noticed for trial on the Court's own motion will be heard before Judge Schreiber on Mondays and Wednesdays during the first two weeks of each month. The following motions (foreclosures only) should be set before Judge Richards: Discovery; Compel; Withdraw as Counsel; Sever; Orders to Show Cause; Transfer Venue; Vacate Default; Leave to File Amend; Dismiss and Strike Affirmative Defense. If the case has already been set for trial, the motion must be set for hearing before the trial date. Please contact Judge Richard's Judicial Assistant to schedule hearing time for these motions.

SCHEDULE WITH MAGISTRATE

Please schedule **ALL OF THE** following Motions with the Magistrate via JACS for non-foreclosure cases. Discovery; Compel; Withdraw as Counsel; Sever; Orders to Show Cause; Transfer Venue; Vacate Default; Leave to File Amend; Dismiss and Strike Affirmative Defense. Please select Magistrate Porter's schedule on the main JACS page for instructions on reserving hearing time. **NOTE:** For foreclosure cases, these motions should be scheduled for hearing before Judge Richards. If the foreclosure case has already been set for trial, the motion must be heard before the trial date. Please contact Judge Richard's Judicial Assistant to schedule hearing time for these motions.

Thank you,

Jeremy J. Shelton

Civil Case Manager
20th Judicial Circuit, Charlotte County
Administrative Office of the Courts
350 East Marion Avenue
Punta Gorda, Florida 33983
Email: jshelton@ca.cjis20.org
Phone: 941.637.2100

From: Aloia, Nancy K </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=NKW2884>

To: McHugh, Michael

Carlin, John S.

CC:

Date: 9/23/2010 4:31:44 PM

Subject: Foreclosure reduction project

Hello

We have set the foreclosure backlog for cases filed until the end of April 2010. We are ready to set cases filed in May 2010 but I am wondering if this may be too soon. Please let me know if you think we should hold on setting the May cases. I am concerned that we may receive an influx of calls/motions because we are setting too soon. We are presently using the DS dates for 11/30 and 12/1 to set these cases.

We are in the process of reviewing our 2009 backlog right now to determine if we have missed any cases that should have been set for docket sounding. This should buy us a little time but this group moves quickly.... They will be done in the next 2 weeks.

Thank you

Nancy Aloia

Family/Civil Director

Twentieth Judicial Circuit

1700 Monroe Street, Ft. Myers, FL 33901

239-533-2991/Mobile 357-5641

From: Carlin, John S. </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=JSC5225>

To: Aloia, Nancy K

McHugh, Michael

CC:

Date: 9/23/2010 7:00:38 PM

Subject: ?Re: Foreclosure reduction project

We need to fill all of our Nov and Dec DS dates because we only have 50 Sr judge days left for foreclosures through June. Most of these May cases should be ready for a DS even if it turns out that the case needs some case management.

Are we using foreclosure Friday dates for continued DS dates?

-- Sent from my Palm Pre

On Sep 23, 2010 5:31 PM, Aloia, Nancy K <NAloia@CA.CJIS20.ORG> wrote:

Hello

We have set the foreclosure backlog for cases filed until the end of April 2010. We are ready to set cases filed in May 2010 but I am wondering if this may be too soon. Please let me know if you think we should hold on setting the May cases. I am concerned that we may receive an influx of calls/motions because we are setting too soon. We are presently using the DS dates for 11/30 and 12/1 to set these cases.

We are in the process of reviewing our 2009 backlog right now to determine if we have missed any cases that should have been set for docket sounding. This should buy us a little time but this group moves quickly. They will be done in the next 2 weeks.

Thank you

Nancy Aloia

Family/Civil Director

Twentieth Judicial Circuit

1700 Monroe Street, Ft. Myers, FL 33901

239-533-2991/Mobile 357-5641

From: Rose, Penelope </O=SAO20/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=PROSE>

To: Kellum, Ken

CC:

Date: 9/27/2010 10:47:12 AM

Subject: ?FW: foreclosure signing

-----Original Message-----

From: Carlin, John S.
Sent: Monday, September 27, 2010 11:00 AM
To: Rose, Penelope
Cc: Starnes, Hugh E; Aloia, Nancy K
Subject: RE: foreclosure signing

Thank you for the correction. I looked at the wrong date on the calendar. Yes, please ask Judge Thompson to cover for Judge Reese on Oct. 4 and we do already have Judge Starnes booked for foreclosures for Oct. 4. My mistake!

-----Original Message-----

From: Rose, Penelope
Sent: Monday, September 27, 2010 10:56 AM
To: Carlin, John S.
Subject: RE: foreclosure signing

Good Morning Your Honor:

Judge Thompson is not scheduled to do foreclosures on October 4. Only Judge Starnes is working that day.

I could ask Judge Thompson to come in to cover for Judge Reese on October 4 if you like as he not presently scheduled to work that day.

Let me know.

Penelope

-----Original Message-----

From: Carlin, John S.
Sent: Monday, September 27, 2010 10:40 AM
To: 'Hugh Starnes'
Cc: Rose, Penelope; Aloia, Nancy K
Subject: RE: foreclosure signing

We need a Felony Judge to cover for Judge Reese on Monday, October 4. Judge Thompson is currently scheduled to cover foreclosure cases. Would you be available to do foreclosures and we could switch Judge Thompson to Felony? If you are willing to sign as you mentioned, we can use a Senior Judge for the signing. Thank you for thinking of this option and for only charging us for one day.

-----Original Message-----

From: Hugh Starnes [mailto:hstarnes@mindspring.com]

20TH CIR 01009

Sent: Monday, September 27, 2010 9:52 AM

Page 2

To: Carlin, John S.

Cc: Rose, Penelope

Subject: foreclosure signing

I see that Judge Thompson has foreclosures for virtually the whole week this week. I will be there for EID and can do signing Wednesday. I had some Collier work I was going to do Thursday by conference call from the courthouse, but it cancelled. If it is acceptable, I would be willing to come in and do all the signing for the day on Thursday. I am doing a seminar on Friday AM, and can come in to do the PM signing that day. I would turn in one day of Sr. Judge work.

Just an offer, I'll do the Friday PM regardless.

??

From: [Cary, G. Keith </O=SAO20/OU=CACJIS/
CN=RECIPIENTS/CN=GKC2460>](mailto:Cary.G.Keith@SAO20.OU=CACJIS/CN=RECIPIENTS/CN=GKC2460)
To: [McHugh, Michael](mailto:McHugh.Michael)
CC:
Date: 9/29/2010 7:05:58 PM
Subject: FW: Question

Can you call me on this.....not sure what to tell her ??

G. Keith Cary
239-533-9140

From: soozg@ggdrs.com [mailto:soozg@ggdrs.com]

Sent: Friday, September 24, 2010 5:21 PM

To: Cary, G. Keith

Subject: RE: Question

Okay, here is the question:

On docket soundings for mortgage foreclosures, where our client is a defendant (homeowners associations or condo associations) where the debtor is current with their assessments to our client, our clients are not wanting us to attend the docket soundings or any other activity in a mortgage foreclosure action and run up attorney fees. Attorneys are faced with the delimma of being under a court order for their appearance at the docket sounding and do not want to be in contempt or *look bad in the court's eyes* for ignoring a required attendance.

Can you please give me some insight on how we should handle this?

Hopefully I explained this well enough...if not, call me when you get a free minute. Thank you.

Susan M. Galbraith

12239 Championship Circle

Fort Myers, FL 33913

Phone: 239-851-4777

Email: soozg@ggdrs.com

----- Original Message -----

Subject: RE: Question

From: "Cary, G. Keith" <GCary@CA.CJIS20.ORG>

Date: Fri, September 24, 2010 4:10 pm

To: "soozg@ggdrs.com" <soozg@ggdrs.com>

Susan

Fire away, i am always open to questions. However, i have left the office for today and will be gone out of town until next Thursday, so will not be able to get back with you until end of next week.

gkc

From: soozg@ggdrs.com [soozg@ggdrs.com]

Sent: Friday, September 24, 2010 3:03 PM

To: Cary, G. Keith

Subject: Question

Keith, I wonder if I can ask a question of you regarding the massive docket soundings. It does not have to do with any particular case, but merely a general procedure question regarding attendance of attorneys in certain circumstances. I am being vague with my email only because I wanted to ask you if it was appropriate for me to ask a question of you. Just let me know, please.

Susan M. Galbraith

12239 Championship Circle

Fort Myers, FL 33913

Phone: 239-851-4777

Email: soozg@ggdrs.com

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From: [Hendrickx, Jo-Ann </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=JHENDRICKX>](mailto:Hendrickx,Jo-Ann@SAO20/OU=CACJIS/CN=RECIPIENTS/CN=JHENDRICKX)

To: 'Michelle L. Camacho'

CC:

Date: 9/29/2010 12:38:22 PM

Subject: ?RE: Order of Referral for Hendry County

All foreclosure cases are set before a Senior Judge, for any kind motions

Jo-Ann Hendrickx
Judicial Assistant to
Honorable Christine Greider
Circuit Court
Tel: 863-675-5225
Fax: 863-675-5361

From: Michelle L. Camacho [mailto:mcamacho@djspenterprises.com]
Sent: Wednesday, September 29, 2010 1:37 PM
To: Hendrickx, Jo-Ann
Subject: RE: Order of Referral for Hendry County

Hi Jo-ann, one more question pleaseWhat about for non-judgment matters ?

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-----Original Message-----

From: Hendrickx, Jo-Ann [mailto:JHendrickx@CA.CJIS20.ORG]
Sent: Wednesday, September 29, 2010 12:42 PM
To: Michelle L. Camacho
Subject: RE: Order of Referral for Hendry County

We do not use Magistrate anymore for MSJ in Foreclosure, you Hearing is set with a Judge so we do not need an Order of Referral.

Jo-Ann Hendrickx
Judicial Assistant to

20TH CIR 01013

Honorable Christine Greider
Circuit Court
Tel: 863-675-5225
Fax: 863-675-5361

From: Michelle L. Camacho [mailto:mcamacho@djspenterprises.com]
Sent: Wednesday, September 29, 2010 11:27 AM
To: Hendrickx, Jo-Ann
Subject: RE: Order of Referral for Hendry County

yes it is
thanks

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-----Original Message-----

From: Hendrickx, Jo-Ann [mailto:JHendrickx@CA.CJIS20.ORG]
Sent: Wednesday, September 29, 2010 11:24 AM
To: Michelle L. Camacho
Subject: RE: Order of Referral for Hendry County

Is this for a Hearing on MSJ in foreclosures?

Jo-Ann Hendrickx
Judicial Assistant to
Honorable Christine Greider
Circuit Court
Tel: 863-675-5225
Fax: 863-675-5361

From: Michelle L. Camacho [mailto:mcamacho@djspenterprises.com]
Sent: Wednesday, September 29, 2010 11:21 AM
To: Hendrickx, Jo-Ann
Cc: Jason B. Bennett
Subject: Order of Referral for Hendry County

20TH CIR 01014

Good Morning Joann,

Could you please assist me in locating an Order of Referral on the website for the month of September? I need to attach it to my Notice of Hearing.

Thank you

Michelle Camacho, Junior Paralegal
DJS Processing, LLC
On behalf of The Law Offices of David J. Stern, PA
900 South Pine Island Road, Suite 400
Plantation, FL 33324
mcamacho@DJSPEnterprises.com
(954) 233-8000 Ext. 1426

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From: [Michelle L. Camacho <mcamacho@djspenterprises.com>](mailto:mcamacho@djspenterprises.com)

To: [Hendrickx, Jo-Ann](#)

CC:

Date: 9/29/2010 12:41:24 PM

Subject: ?RE: Order of Referral for Hendry County

[thanks again](#)

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Subject: RE: Order of Referral for Hendry County

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Judicial Assistant to
Honorable Christine Greider
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Tel: 863-675-5225
Fax: 863-675-5361

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Sent: Wednesday, September 29, 2010 1:37 PM

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[Hi Jo-ann, one more question pleaseWhat about for non-judgment matters ?](#)

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Michelle Camacho, Junior Paralegal
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On behalf of The Law Offices of David J. Stern, PA
900 South Pine Island Road, Suite 400
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From: Rose, Penelope </O=SAO20/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=PROSE>

To: Kellum, Ken

CC:

Date: 9/29/2010 8:27:08 AM

Subject: ?FW:

I was simply trying to explain how it we ended up having two judges working on both dates and this is her response.

From: Aloia, Nancy K
Sent: Tuesday, September 28, 2010 4:25 PM
To: Rose, Penelope
Subject: RE:

No – the master calendar I forwarded only shows one Judge for both those dates. I am showing Thompson for both dates.

From: Rose, Penelope
Sent: Tuesday, September 28, 2010 3:15 PM
To: Aloia, Nancy K
Subject: RE:

Yes that is correct.

Judge Starnes replaced Judge Schoonover back in January on these dates so he has been scheduled since then to do Friday foreclosures.

And then on July 8th, I added Judge Thompson per Judge Carlin's email for September and October foreclosure dates.

Do you still need two judges on those dates?

From: Aloia, Nancy K
Sent: Tuesday, September 28, 2010 2:37 PM
To: Rose, Penelope
Subject:

Hello

I am showing 2 Judges for 10/15 and 10/29. Can you confirm that I am reading that correctly? I have attached my master calendar to show what I have. thanks

*Nancy Aloia
Family/Civil Director
Twentieth Judicial Circuit
1700 Monroe Street, Ft. Myers, FL 33901
239-533-2991/Mobile 357-5641*

From: Aloia, Nancy K </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=NKW2884>

To: Carlin, John S.

McHugh, Michael

CC:

Date: 10/5/2010 10:47:02 AM

Subject: Foreclosure issue

Hello

I am alerting you to a potential problem we are having in foreclosure court:

Plaintiff's counsel is representing at docket sounding that their banks (certain banks such as BAC) have instructed them not to proceed even when a Motion for Summary Judgment has been set because they are trying to sort out their affidavit issue.

These cases are being continued to another docket sounding date to allow the banks to resolve the matter but this may become a potential problem for us if it continues long term. Perhaps a topic to be discussed at the next foreclosure meeting.

Thank you

Nancy Aloia

Family/Civil Director

Twentieth Judicial Circuit

1700 Monroe Street, Ft. Myers, FL 33901

239-533-2991/Mobile 357-5641

From: [Owens, Nancy </O=SAO20/OU=EXCHANGE ADMINISTRATIVE GROUP \(FYDIBOHF23SPDLT\)/CN=RECIPIENTS/CN=NOWENS>](mailto:Owens, Nancy </O=SAO20/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=NOWENS>)

To: Mann, Sheila

CC:

Date: 10/6/2010 10:17:12 AM

Subject: ?RE: foreclosures



A fax came in yesterday afternoon requesting that two be cancelled that are set for October 21, 2010. Regarding the notes I will get with Joann and Marilu gave her notes to me.

Have a Great Day!

Nancy

From: Mann, Sheila

Sent: Wednesday, October 06, 2010 10:56 AM

To: Hendrickx, Jo-Ann; Owens, Nancy

Subject: foreclosures

Two things:

1. Please let me know immediately if you have any requests from Bank of America to pull foreclosure hearings that have already been set. Apparently BoA is doing this in other counties and pulling foreclosure hearings en masse. We are talking with OSCA (Office of the State Court Administrator) folks to get handle on it so if it happens in Hendry let me know please. Thanks.
2. Nancy, can you please scan all your notes on foreclosures for me that you have for September. Also, ask Marilu for the notes she took for both Hendry and Glades. You can scan them in Jo-Ann's office. Thanks.

If you have questions, please call me.

Sheila

From: [Hendrickx, Jo-Ann </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=JHENDRICKX>](mailto:Hendrickx,Jo-Ann@SAO20.OU=CACJIS/CN=RECIPIENTS/CN=JHENDRICKX)

To: ['Maria Montenegro'](mailto:María Montenegro)

CC: [Owens, Nancy](mailto:Owens,Nancy)

Date: 10/18/2010 10:33:44 AM

Subject: ?RE: MSJ

I am forwarding her the email for her to contact you directly, thank you

Jo-Ann Hendrickx
Judicial Assistant to
Honorable Christine Greider
Circuit Court
Tel: 863-675-5225
Fax: 863-675-5361

From: Maria Montenegro [mailto:María.Montenegro@blaxgray.com]
Sent: Monday, October 18, 2010 11:32 AM
To: Hendrickx, Jo-Ann
Subject: MSJ

Jo-Ann: Can you please forward me the contact information of the person I need to request hearing dates to schedule a motion for summary judgment of foreclosure?

María A. Montenegro
Legal Assistant to Gaspar Forteza, Esq.
Blaxberg, Grayson & Kukoff, P.A.
25 Southeast 2nd Avenue
Ingraham Building
Suite 730
Miami, FL 33131
Phone: 305. 381.7979 Ext: 314
Facsimile: 305.371.6816
E-mail: maria.montenegro@blaxgray.com

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From: [Callanan, Richard <RCallanan@CA.CJIS20.ORG>](mailto:RCallanan@CA.CJIS20.ORG)

To: [Kiesel, Lisa](#)

[Harkey, Sandra D](#)

CC:

Date: 5/25/2010 7:59:02 AM

Subject: ?FW: Foreclosure and Economic Recovery - OPS Information

From: Gary Phillips[SMTP:PHILLIPSG@FLCOURTS.ORG]

Sent: Tuesday, May 25, 2010 8:58:55 AM

To: Circuit Personnel Reps

Cc: Trial Court Administrators; Delcynth Schloss; Charlotte Jerrett

Subject: Foreclosure and Economic Recovery - OPS Information

Auto forwarded by a Rule

Good Morning All:

This is to address issues concerning the use of OPS resources for the foreclosure backlog.

Rapid Deployment of Resources and Advertising on People First

A new version of People First will be released in July. Therefore, the system will be taken off line on July 1 for about 3 weeks. Due to this transition, any advertisement you run on People First in June will have a closing date of no later than June 30th. Even if you advertise on June 29th, the system will force a June 30 closing date. Therefore, you need to advertise by mid June in order to have a two week advertising window. Advertisements will not be able to be started back up until at least the last week of July.

General Information Concerning Employing OPS Staff for the Foreclosure Backlog Project

- Each Circuit will have an approved plan and allotment.
- Each circuit utilizing OPS will engage in recruitment and selection activities.
- As candidates are selected, submit OPS Employment Authorization Forms (OSCA Intranet Site, Personnel, Forms Section), and all of the additional forms listed on the bottom of the Authorization Form except Direct Deposit forms, to the Office of Personnel Services. Direct Deposit forms are to be handled just like FTE new hires. Agreement Periods will be six months or the end of the fiscal year, whichever is sooner.

20TH CIR 01025

- Since there is a specific appropriation for this project, extensions beyond 1040 hours in a calendar year will be automatic and will not need to be requested.
- All OPS employees are paid biweekly. Attached is a biweekly pay schedule.
- Payroll processing each biweekly pay period for OPS employees will be complete only upon receipt of the OPS employee's timesheet, also on our Intranet site, signed by the employee and approved by the manager/supervisor and submitted to our office in a timely manner.
- Overtime is not permitted. Should overtime inadvertently occur, the employees in included classes will have to be paid time-and-a-half.
- Listed below are the job classes and hourly rates for OPS positions that were used in the original proposal for the Foreclosure and Economic Recovery Funding. You may use discretion and flexibility in classification and pay as long as pay is within guidelines and you stay within your allotment. If you have any questions concerning classification and pay, please call me to discuss.

Element Position Hourly Rate

Magistrates: Magistrate \$35.48 hourly

Case Management: Court Program Specialist II \$17.36 hourly

Court Program Specialist I \$14.58 hourly

Court Program Specialist I \$15.40 hourly w/ CAD – Hillsborough and Pinellas

Court Program Specialist I \$15.40 hourly w/ CAD – Broward, Dade, Monroe, Palm Beach

Admin. Support: Senior Secretary \$11.89 hourly

Senior Secretary \$12.10 hourly w/ CAD – Hillsborough and Pinellas

Senior Secretary \$12.48 hourly w/ CAD – Broward, Dade, Monroe, Palm Beach

This amount does not include the 7.65% FICA that needs to be added to the hourly rate. You will need to add this amount when tracking your budget.

20TH CIR 01026

Best of luck with this project. I am available if I can be of any assistance.

Gary

Gary R. Phillips, SPHR

Chief of Personnel Services

Office of the State Courts Administrator

500 S. Duval Street

Tallahassee, Florida 32399-1900

phone: 850-617-4028

fax: 850-488-3744

email: phillipsg@flcourts.org

From: [Ederr, Suzanne </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=SUZANNE2566>](mailto:Ederr,Suzanne@SAO20/OU=CACJIS/CN=RECIPIENTS/CN=SUZANNE2566)

To: [Harkey, Sandra D](mailto:Harkey,SandraD)

CC:

Date: 6/22/2010 4:55:32 PM

Subject: ?FW: Stella Diamond - OPS Magistrate accepted

Sandy,

Let me know if you need help on this

From: Aloia, Nancy K
Sent: Tuesday, June 22, 2010 5:54 PM
To: Harkey, Sandra D
Cc: Ederr, Suzanne
Subject: FW: Stella Diamond - OPS Magistrate accepted
Importance: High

Hello

Please prepare the Magistrate appointments and oaths for Stella Diamond and also Amy Hawthorne. They will be hearing foreclosure case types- so we need civil. Please just let me know when completed. Thank you

From: Wegis, Ginny
Sent: Friday, June 18, 2010 1:55 PM
To: Kiesel, Lisa; Aloia, Nancy K
Cc: Suhar, Sharon
Subject: Stella Diamond - OPS Magistrate accepted

Good news ladies – Ms. Diamond accepted the position and will attend a brief orientation with me on her hire date, 7/6, at 8:30 a.m.

Nancy – I plan to walk Ms. Hawthorne to your office after orientation, is that O.K. with you?

We are waiting on the criminal background for Ms. Hawthorne and should be offering that position this afternoon also.

20TH CIR 01028

Thank you,

Ginny Wegis
Court Administration-HR
20th Judicial Circuit
239-533-1709

From: [Callanan, Richard <RCallanan@CA.CJIS20.ORG>](mailto:RCallanan@CA.CJIS20.ORG)

To: [Kiesel, Lisa](#)

[Harkey, Sandra D](#)

CC:

Date: 3/4/2009 12:38:36 PM

Subject: ?FW: College of Advanced Judicial Studies Course Catalog

From: Ann Luchini[SMTP:LUCHINIA@FLCOURTS.ORG]

Sent: Wednesday, March 04, 2009 12:38:02 PM

To: Trial Court Administrators; DCA Marshals

Subject: College of Advanced Judicial Studies Course Catalog

Auto forwarded by a Rule

FYI – The following email was sent this morning to all justices, appellate judges, circuit judges, county judges, and magistrates and hearing officers.

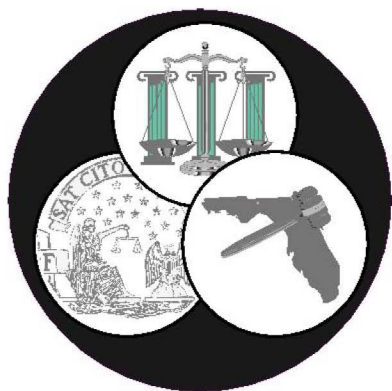
We are pleased to send you the course catalog for the 2009 Florida College of Advanced Judicial Studies. The AJS College is scheduled for June 1-5, 2009, at the Sanibel Harbor Resort in Fort Myers. This unique and important educational event is funded through the Court Education Trust Fund, and we hope you will plan to take advantage of this opportunity.

Once you have reviewed the course descriptions, you may apply online at the link located on the HOW TO APPLY page of the catalog. In order to be considered for attendance at the AJS College, you must submit the online application.

If you are not able to open the attached AJS course catalog, it can also be found on the intranet at http://intranet.flcourts.org/osca/Judicial_Education/2009AJS/CourseCatalog.pdf.

If you have any questions or need additional information, please contact Ann Luchini at (850) 488-1423 or luchinia@flcourts.org or Beverly Brown at (850) 922-5084 or brownb@flcourts.org.

Course Catalog
for
Florida's
Trial Judges,
Appellate Judges,
General
Magistrates and
Child Support
Enforcement
Hearing Officers



June 1-5, 2009
Sanibel Harbour Resort
Ft. Myers

FLORIDA COLLEGE OF

ADVANCED

JUDICIAL

STUDIES

20TH CIR 01031

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A MESSAGE FROM THE DEAN . . .



Dear Colleagues,

In these troubled times, the judicial branch is being called upon to resolve the difficulties of our society with fewer resources, time and opportunities for quality, relevant and current education. It is now more important than ever that we continue to be able to meet the needs of our citizenry by being well-educated and well-informed so that we can make well-reasoned decisions. It is to that end that the Florida Court Education Trust Fund was created. Its purpose is to provide education to our branch, from court filing fees rather than general revenue tax dollars. Despite these tough economic times, we are still obligated to meet our responsibility of serving the public well.

Therefore, on behalf of the faculty and OSCA staff, it is with great pride that we present our course offerings for the 2009 College of Advanced Judicial Studies. We have sought to make these course offerings relevant to our present circumstances. Please join us in Sanibel from June 1, through June 5, 2009 for the 2009 AJS College.

I hope to see you there,

Gill S. Freeman

The Florida College of Advanced Judicial Studies is a joint activity of the Florida Court Education Council, the Florida Conference of District Court of Appeal Judges, the Florida Conference of Circuit Judges, and the Conference of County Court Judges of Florida.

AJS COLLEGE ORGANIZATION

- Dean** **The Honorable Gill S. Freeman**
Circuit Judge, Eleventh Judicial Circuit, Miami
- Associate Appellate Dean** **The Honorable William A. Van Nortwick, Jr.**
Appellate Judge, First District Court of Appeal, Tallahassee
- Associate County Dean** **The Honorable Karl B. Grube**
Senior County Court Judge, Pinellas County, St. Petersburg

DEPARTMENT HEADS

- Handling Capital Cases Course Offerings** **The Honorable O.H. (Bill) Eaton, Jr., Dept. Head**
Circuit Judge, Eighteenth Judicial Circuit, Sanford
The Honorable Kevin M. Emas, Dept. Head
Circuit Judge, Eleventh Judicial Circuit, Miami
- Criminal Course Offerings** **The Honorable Dava J. Tunis, Dept. Head**
Circuit Judge, Eleventh Judicial Circuit, Miami
- Families in Court Course Offerings** **The Honorable Alan S. Apte, Dept. Head**
Circuit Judge, Ninth Judicial Circuit, Orlando
The Honorable Judith L. Kreeger, Dept. Head
Circuit Judge, Eleventh Judicial Circuit, Miami
- Civil Course Offerings** **The Honorable Thomas H. Bateman, III, Dept. Head**
Senior Judge, Tallahassee
The Honorable Donna L. McIntosh, Dept. Head
Circuit Judge, Eighteenth Judicial Circuit, Sanford
- General Interest Course Offerings** **The Honorable Terry P. Lewis, Dept. Head**
Circuit Judge, Second Judicial Circuit, Tallahassee
The Honorable Ronald J. Rothschild, Dept. Head
Circuit Judge, Seventeenth Judicial Circuit, Ft. Lauderdale
- General Magistrates' and Hearing Officers' Course Offerings** **Robert J. Jones, Dept. Head**
General Magistrate, Eleventh Judicial Circuit, Miami

COURT EDUCATION STAFF OFFICE OF THE STATE COURTS ADMINISTRATOR

Martha Martin, Chief of Court Education

- | | |
|--|---|
| Lynne Winston, Supervising Sr. Attorney, AJS Lead | Cathy Brockmeier, Court Education Consultant |
| Beverly Brown, AJS Lead Program Coordinator | Jo Deyo, Senior Attorney |
| Ann Luchini, AJS Assistant Program Coordinator | Janice Fleischer, Senior Attorney |
| | Bart Moore, Senior Attorney |
| | Susan Morley, Senior Attorney |
| | Dan Rettig, Senior Attorney |
| | Danica Winter, Senior Attorney |

PROGRAM INFORMATION

PURPOSE

The Florida College of Advanced Judicial Studies (AJS) annually offers a comprehensive continuing judicial educational curriculum for all of Florida's trial and appellate court judges. In-depth courses are designed for experienced judges preparing for new judicial assignments and mid-career judges wishing to sharpen existing skills. The College also provides enrichment courses for other court personnel. The overarching purpose of the College is to encourage judges to focus intensively on matters of continuing jurisprudential interest in discrete areas of the law, while affording them opportunities to examine emerging legal issues from various judicial perspectives.

MISSION STATEMENT

The mission of AJS is to improve the quality of judicial decision making, to promote the professional and personal growth of judicial officers, and enhance the quality of their public service by presenting a substantively diverse curriculum focusing on learning, performance, and professional development.

POLICY STATEMENT

As a matter of policy, AJS structures its curriculum in a manner underscoring the importance of judicial fairness. Faculty members are expected to incorporate judicial fairness issues into the planning process, preparation of materials, and presentations. Issues involving race, age, gender, ethnicity, or sexual orientation should be addressed, keeping in mind the following:

- Learning objectives which incorporate judicial fairness issues must be developed early in the planning process;
- Judicial fairness must be fully integrated into the subject matter of the materials and presentations, including those addressing substantive areas of the law;
- Generalizing about an individual or group or casting individuals or groups into stereotypical roles must be avoided;
- Inappropriate humor must be avoided; and
- Faculty evaluations must include a performance element addressing effective treatment of judicial fairness in the materials and presentations.

FACILITIES AND COSTS

Funding for judges, general magistrates, and child support enforcement hearing officers to attend the College is provided through the Court Education Trust Fund. All persons enrolled in college courses will be reimbursed for travel and lodging pursuant to Section 112.061, Florida Statutes, and FCEC policies. You will receive complete lodging and travel information upon acceptance of your application to attend the College.

COURSE SELECTION

Judges may select multiple courses if the days do not conflict. Applicants planning to attend two courses that do not run consecutively will either need to enroll in a course to cover the missing day(s) or pay their own lodging and per diem expenses for those non-course days.

The General Magistrates' and Hearing Officers' Program is the only course available for general magistrates and child support enforcement hearing officers.

After course enrollment has been confirmed, you may switch courses through **May 20, 2009**, if an opening exists in the course you wish to attend, by contacting Ann Luchini at (850) 488-1423 or Beverly Brown at (850) 922-5084. You will not be allowed to change from your enrolled course(s) on-site, absent extraordinary circumstances and approval by the Dean.

PROGRAM INFORMATION

PRIORITY ENROLLMENT

Judges changing divisions within six months of the College will be given priority for enrollment in courses specific to their new or changing assignment.

Rising county judges that did not attend the 2009 Florida Judicial College, Phase II fundamentals program will be given priority for enrollment.

Enrollment in the "Handling Capital Cases" course will be determined by a weighted set of criteria and verification by the chief judge that the completion of the course is necessary pursuant to Rule 2.215(b)(10) Fla.R.Jud.Admin.

Applicants for the "General Magistrates' and Hearing Officers' Program" will be prioritized as follows: **First Priority** - never received formal judicial education through either Advanced Judicial Studies (AJS), Florida Judicial College (FJC) or the June 2004 General Magistrates' Program; **Second Priority** - attended AJS in the past; **Third Priority** - attended the June 2004 General Magistrates' Program; and **Fourth Priority** - attended the 2008 FJC program.

Enrollment of applicants for the "An Introduction to Distance Learning" course will be determined based on a consideration of the following priorities: (1) completion of the Faculty Training Specialty Course (mandatory); (2) previously taught a distance learning course; (3) Florida Court Education Council member; (4) number of Florida judicial education courses taught in the last three years; and (5) willingness to commit to teaching a distance learning course.

CONTINUING JUDICIAL EDUCATION CREDIT (CJE)

The CJE hours offered vary depending on the course. Your total credits are calculated on the basis of your attendance hours as shown on your credit reporting form, which is submitted online or with your travel voucher. Generally, 6.5 hours will be available for each full day of class attended. **However, absent a waiver from the Dean, no CJE credit will be given if you fail to attend the entire course.**

FLORIDA BAR CONTINUING LEGAL EDUCATION (CLE) CREDIT FOR GENERAL MAGISTRATES AND CHILD SUPPORT ENFORCEMENT HEARING OFFICERS

CLE credit will be applied for by the Court Education Office and enrolled participants will be given the course number assigned by The Florida Bar upon completion of the course. All CLE reporting will be the responsibility of course participants.

ETHICS CREDIT

The "Handling Capital Cases", "The Judge as Role Model" and "Justice or Just Us" courses are eligible for some ethics credits. Please check the course descriptions for details.

ATTENDANCE

You may attend a course only if you have received confirmation of enrollment. Once enrolled in a course, you must attend all segments of that course, and you may not attend segments of other courses that run concurrently. Unless excused by the Dean of the College due to extraordinary circumstances, you must attend an entire course in order to: **(1) obtain any CJE credit for the course; and (2) obtain any travel reimbursement. Failure to attend the entire course, without a written excused absence from the Dean, will result in your inability to attend AJS at all in 2010. These are Florida Court Education Council requirements.**

REGISTRATION FEE

All participants and Florida judicial/magistrate/hearing officer faculty will pay a reimbursable registration fee for the course(s), regardless of the length of the course, you attend and/or teach. If your travel does not include an overnight stay, your registration fee reimbursement will be reduced by the state per diem of \$6.00 for breakfast and \$11.00 for lunch. The Florida Legislature has determined anyone arranging single-day travel will not be reimbursed for breakfast, lunch, or dinner.

PROGRAM INFORMATION

HOTEL INFORMATION

Submission of an application does **not guarantee** your enrollment in the College of Advanced Judicial Studies. Written confirmation of enrollment will be mailed soon after the March 31st application deadline. Complete lodging and travel information will be included.

SANIBEL HARBOUR RESORT

17260 Harbour Pointe Drive
Fort Myers, Florida 33908

Phone: (239) 466-4000

Reservations: 800-767-7777

Fax: (239) 466-2198

Website: www.sanibel-resort.com

CANCELLATION

Please notify Court Education by calling Ann Luchini at (850) 488-1423 or Beverly Brown at (850) 922-5084 immediately if you become unable to attend a course. Many courses have waiting lists of applicants who wish to enroll and can attend the program if given adequate notice. **Failure to notify this office of your nonattendance by April 30, 2009, will result in your losing priority for attendance at the 2010 College of Advanced Judicial Studies. You will automatically be placed on a waiting list regardless of when you apply for the 2010 College.**

HOW TO APPLY

Click on the following link to submit your online application: [2009 AJS Online Application](#). You will be prompted to supply a password. The password is **apply** (all lowercase letters).

Applications should be submitted as soon as possible, but no later than the **March 31, 2009**, deadline. Courses have limited enrollment and registration is on a first-come, first-served basis. Applications received after the deadline will be considered for enrollment in courses that have not met their enrollment capacity.

If you have any problem viewing or completing the online application, please contact:

Ann Luchini
(850) 488-1423
luchinia@flcourts.org

Beverly Brown
(850) 922-5084
brownb@flcourts.org

Court Education
Office of the State Courts Administrator
500 South Duval Street
Tallahassee, Florida 32399-1900
(850) 922-5079

Remember:

- You may select multiple courses **if the days do not conflict**.
- Applicants planning to attend two courses that do not run consecutively will either need to enroll in a course to cover the missing day(s) or pay their own lodging and per diem expenses for those non-course days.
- Courses have limited enrollment and registration is on a first-come, first-served basis. Applications received after the deadline will be considered for enrollment in courses that have not met their enrollment capacity.
- **You will be notified of your enrollment status after the March 31st deadline.** You will receive complete lodging and travel information when enrollment is confirmed in the College.
- You must attend all segments of every course in which you are enrolled; you may not attend segments of other courses that run concurrently.

2009 AJS COURSE SCHEDULE

| MONDAY June 1 | TUESDAY June 2 | WEDNESDAY June 3 | THURSDAY June 4 | FRIDAY June 5 |
|--|--|---|--|---|
| <i>All courses begin at 8:30 a.m. and end at 4:00 p.m. EXCEPT Friday courses end at 12:00 p.m.</i> | | | | |
| CRIMINAL COURSE OFFERINGS FOR JUDGES | | | | |
| Handling Capital Cases – Surviving the Death Penalty | | | | The Judge as Role Model |
| Navigating Your Way From Trial to Postconviction | Searches, Seizures and Statements: Unlocking the Secrets | Criminal Evidence Workshop | | |
| FAMILIES IN COURT COURSE OFFERINGS FOR JUDGES | | | | |
| Transnational Families: Where International Law and Family Law Intersect | New Perspectives on Domestic Violence – One Size Does Not Fit All | Gangs, Thugs and Families | Termination of Parental Rights: CPR for your TPR | |
| | | | Current Issues in Parenting Plans | |
| CIVIL COURSE OFFERINGS FOR JUDGES | | | | |
| Manage the Madness! Managing Complex Cases and Attorneys | That's Not Fair! Consumer Protection Law in Florida Courts | Products Liability – Danger in the Marketplace | The Last Phase in the Construction Sequence – Litigation: Resolving Claims Involving Defects and Construction Liens | Foreclosures and Residential Mortgages |
| GENERAL INTEREST COURSE OFFERINGS FOR JUDGES | | | | |
| Judicial Writing and Editing Workshop | Judicial Spanish: <i>As easy as uno, dos, tres!</i> | Judicial Spanish: <i>As easy as uno, dos, tres!</i> <i>(repeat course)</i> | | |
| Teaching in the 21st Century: An Introduction to Distance Learning | Justice or Just Us: Using Film to Examine Perceptions of Fairness in a World of Cultural Differences | Neuroscience in the Florida Courtroom: <i>Illusion or Reality?</i> | | |
| Getting Affirmed: Research with Westlaw | Advanced Westlaw | Getting Affirmed: Research with LexisNexis | Advanced LexisNexis | |
| COURSE OFFERINGS FOR GENERAL MAGISTRATES AND HEARING OFFICERS | | | | |
| | General Magistrates' and Hearing Officers' Program: The Fundamentals and Beyond | | | |

CRIMINAL COURSE OFFERINGS FOR JUDGES

Handling Capital Cases – Surviving the Death Penalty

COURSE DESCRIPTION

This four-day course covers all phases of capital litigation from pre-trial motions to trial and penalty phases and postconviction relief. Pursuant to Florida Rule of Judicial Administration 2.215(b) (10) a judge must successfully complete this course before that judge is qualified to preside over a capital case. This course is eligible for **1 hour of judicial ethics credit**.

LEARNING OBJECTIVES

- Identify the differences among the various death penalty schemes in the United States.
- Describe the role of Federal Courts in capital litigation, including analysis of recent decisions.
- Analyze and properly rule on typical pre-trial motions in capital cases.
- Give examples of case management tools and techniques which may be used effectively in capital cases.
- Identify legal and practical problems unique to selecting and “death qualifying” juries in capital cases.
- Identify and successfully address trial issues unique to capital cases.
- Rule correctly on evidentiary issues involving aggravating and mitigating circumstances in the penalty phase of a capital case.
- Discuss factors to consider when evaluating and weighing aggravating and mitigating circumstances in the penalty phase of a capital case.
- Properly manage and handle postconviction proceedings in capital cases.
- Recognize the most commonly raised claims in postconviction motions in capital cases.
- Discuss problems inherent in the discovery of public records in capital cases.
- Recognize the essentials of sentencing orders and prepare sentencing orders that will withstand appellate scrutiny.
- Recognize and appropriately resolve ethical and professionalism issues unique to capital cases.

TARGET AUDIENCE

Enrollment in this course will be determined by a weighted set of criteria and verification by your chief judge that the completion of this course is necessary pursuant to Rule 2.215(b)(10) Fla.R.Jud.Admin. This course cannot be used as a substitute for the one-day Handling Capital Cases Refresher Course offered at the Circuit Judges’ Program.

COURSE LENGTH

| | |
|--------------------|-----------------------|
| Monday, June 1: | 8:30 a.m. – 4:00 p.m. |
| Tuesday, June 2: | 8:30 a.m. – 4:00 p.m. |
| Wednesday, June 3: | 8:30 a.m. – 4:00 p.m. |
| Thursday, June 4: | 8:30 a.m. – 4:00 p.m. |

FACULTY

The Honorable O.H. “Bill” Eaton, Jr.

Circuit Judge, Eighteenth Judicial Circuit, Sanford

The Honorable Kevin M. Emas

Circuit Judge, Eleventh Judicial Circuit, Miami

Alex E. Ferrer, Esquire

Gavel to Gavel, Inc., Miami

The Honorable Mary Barzee Flores

Circuit Judge, Eleventh Judicial Circuit, Miami

Professor Scott E. Sundby

Washington & Lee University School of Law, Lexington, Virginia

The Honorable Michael R. Weatherby

Circuit Judge, Fourth Judicial Circuit, Jacksonville

CRIMINAL COURSE OFFERINGS FOR JUDGES

Navigating Your Way From Trial to Postconviction

COURSE DESCRIPTION

Sentencing: Beyond the Guidelines

This session is designed for judges currently assigned to or slated for rotation into the criminal division. The course will review recent developments in enhanced and recidivist sentencing, consecutive versus concurrent sentencing, and considerations for jury findings in verdict forms. There will be a short overview of postconviction motions.

Plea Colloquys: It's a Novel, Not a Short Story

This session is designed to instruct judges on how to conduct a full plea colloquy. You will be able to properly advise defendants of their rights and the consequences of their pleas which will reduce motions to withdraw pleas and/or motions for postconviction relief.

Jury Selection: Do It Right or Do It Over!

This session will help judges to properly conduct Melbourne inquiries to determine when challenges for cause should be granted and participants will discuss issues unique to the high profile case.

Jurors Gone Wild: Dealing with Juror Misconduct

This session covers allegations of juror misconduct at all three phases of trial: jury selection, the evidentiary portion and deliberations. The course will help judges identify and deal appropriately with juror misconduct, including determining whether to conduct juror interviews.

"I Can't Believe You Just Said That:" Closing Arguments

Have you ever asked yourself, "Can you say that in closing?" This session will teach you to answer that question and avoid that dreaded label of "fundamental error" and, therefore, a new trial due to improper closing arguments.

LEARNING OBJECTIVES

Sentencing: Beyond the Guidelines

- Evaluate a defendant's criminal history to determine the appropriate sentencing enhancement scheme.
- Identify maximum possible sentence permitted for multiple counts.
- Draft interrogatory verdict form(s) to contain necessary jury findings of fact.
- Analyze and rule correctly on postconviction motions.

Plea Colloquys: It's a Novel, Not a Short Story

- Conduct a full and proper plea colloquy.

Jury Selection: Do It Right or Do It Over!

- Analyze and discuss the intricacies of Melbourne.
- Correctly rule on for cause challenges.
- Correctly rule on peremptory challenges.
- Manage jury selection in high profile cases.

Jurors Gone Wild: Dealing with Juror Misconduct

- Determine whether allegations of juror misconduct warrant interview of the juror(s).
- Properly conduct and limit the scope of juror interviews.
- Rule correctly on motions for new trial based upon allegations of juror misconduct.

"I Can't Believe You Just Said That:" Closing Arguments

- Recognize and rule correctly on permissible and impermissible statements in closing arguments.

COURSE LENGTH

Monday, June 1: 8:30 a.m. – 4:00 p.m.
 Tuesday, June 2: 8:30 a.m. – 4:00 p.m.

CRIMINAL COURSE OFFERINGS FOR JUDGES

Navigating Your Way From Trial to Postconviction, *continued*

FACULTY

The Honorable Beatrice A. Butchko

Circuit Judge, Eleventh Judicial Circuit, Miami

The Honorable Angela Cowden

Circuit Judge, Tenth Judicial Circuit, Bartow

The Honorable Robert F. Diaz

County Court Judge, Broward County, Ft. Lauderdale

Alex E. Ferrer, Esquire

Gavel to Gavel, Inc., Miami

The Honorable Donald G. Jacobsen

Circuit Judge, Tenth Judicial Circuit, Bartow

The Honorable Julie O’Kane

Circuit Judge, Ninth Judicial Circuit, Orlando

The Honorable Orlando A. Prescott

Circuit Judge, Eleventh Judicial Circuit, Miami

The Honorable Israel Reyes

Circuit Judge, Eleventh Judicial Circuit, Miami

The Honorable Jacqueline Hogan Scola

Circuit Judge, Eleventh Judicial Circuit, Miami

The Honorable Robert N. Scola

Circuit Judge, Eleventh Judicial Circuit, Miami

The Honorable Diane V. Ward

Circuit Judge, Eleventh Judicial Circuit, Miami

CRIMINAL COURSE OFFERINGS FOR JUDGES

Searches, Seizures, and Statements: Unlocking the Secrets

COURSE DESCRIPTION

By attending this course, judges will be taught how to unlock the secrets of searches, seizures and statements as the Fourth and Fifth Amendments come alive. Topics will include warrantless searches, suppression hearings, police informants, Miranda rights, interrogations and the voluntariness of statements.

LEARNING OBJECTIVES

- Recognize the exceptions to the warrant requirement.
- State the exceptions to the exclusionary rule.
- Apply the law to the evidence heard during motions to suppress hearings in an analytical way to arrive at a sound decision.
- Analyze the different types of contacts between the police and the public and determine what legal justification must exist for that contact to be constitutionally permissible.
- Identify the different types of “police informants” and determine how much credibility the case law has accorded to each type of informant.
- Recognize when an officer may conduct a frisk and determine what an officer is permitted to do when the officer suspects a concealed object is a weapon/contraband.
- Effectively determine when Miranda rights are required.
- Correctly determine whether statements are voluntary.
- Ascertain when interrogation must stop.

COURSE LENGTH

Wednesday, June 3: 8:30 a.m. – 4:00 p.m.

FACULTY

The Honorable Michael F. Andrews

Circuit Judge, Sixth Judicial Circuit, Clearwater

The Honorable David A. Demers

Circuit Judge, Sixth Judicial Circuit, St. Petersburg

The Honorable Samuel J. Slom

County Court Judge, Dade County, Miami

CRIMINAL COURSE OFFERINGS FOR JUDGES

Criminal Evidence Workshop

COURSE DESCRIPTION

One of the most important things you do as a judge is rule on evidentiary objections. These rulings often do not have the benefit of research or reflection. You are expected to rule immediately – and correctly. This one-day workshop will give you an opportunity to practice and hone your skills by ruling on a variety of evidence hypotheticals. Through discussion of these hypotheticals and the applicable code provisions, you will deepen your knowledge of this important body of law and develop an analytical framework for resolving certain common, but tricky, evidentiary issues.

LEARNING OBJECTIVES

- Develop and utilize an analytical framework for resolving evidentiary issues.
- Properly rule on selected evidentiary objections.

COURSE LENGTH

Thursday, June 4: 8:30 a.m. – 4:00 p.m.

FACULTY

Professor Emeritus Charles W. Ehrhardt

Florida State University College of Law, Tallahassee

The Honorable Terry P. Lewis

Circuit Judge, Second Judicial Circuit, Tallahassee

CRIMINAL COURSE OFFERINGS FOR JUDGES

Changing the Atmosphere: The Judge as Role Model - Establishing and Maintaining a Professional Courtroom through Actions, Expectations and Expert Writings

COURSE DESCRIPTION

This four-part course will explore ways in which the judge is role model in order to ensure ethical standards are implemented and to improve professionalism in the courtroom by (1) creating a good example for attorneys by demonstrating personal professionalism; (2) expecting the same professionalism of attorneys; and 3) reviewing drafting techniques of opinion writing with the goal of avoiding reversal wherever possible.

The opening session includes a panel of county, circuit and appellate judges and will be moderated by Former Florida Supreme Court Justice, Raoul G. Cantero, III. Moderator Cantero will lead panel members who will describe how they set an example of professionalism, what they do to communicate their expectation that lawyers will act professionally, and how they react to unprofessional conduct.

The second session will combine small group work by participants working with provided scenarios followed by the panel members giving their reactions to the scenarios. (This session will be interactive).

The last two sessions will concentrate on professionalism as it is demonstrated in expert opinion writing. In session three, Former Justice Cantero will moderate a panel whose members will discuss with and instruct participants on refined opinion writing as it relates to avoiding reversals. In the fourth and final session, Former Justice Cantero will instruct participants on judicial writing. This course is eligible for **1.75 hours of continuing judicial education ethics credit**.

LEARNING OBJECTIVES

- Recognize frequently encountered attorney ethics and professionalism problems.
- Develop and discuss techniques that prevent unprofessional/unethical conduct as well as encourage professional conduct.
- Assess the judge's role and responsibilities in a professional community of practice, and react accordingly.
- Demonstrate those actions that inspire confidence and pride in the justice system.
- Identify those elements in a judicial written opinion that best ensure insulation from reversal.
- Construct orders and opinions so that they are understandable.

COURSE LENGTH

Friday, June 5: 8:30 a.m. – 12:00 p.m.

FACULTY

The Honorable Roberto A. Arias

County Court Judge, Duval County, Jacksonville

The Honorable Peter D. Blanc

Circuit Judge, Fifteenth Judicial Circuit, West Palm Beach

Raoul G. Cantero, III, Esquire

White & Case LLP, Miami

The Honorable Kerry I. Evander

Appellate Judge, Fifth District Court of Appeal, Daytona Beach

The Honorable Terry P. Lewis

Circuit Judge, Second Judicial Circuit, Tallahassee

The Honorable Linda Ann Wells

Appellate Judge, Third District Court of Appeal, Miami

FAMILIES IN COURT COURSE OFFERINGS FOR JUDGES

Transnational Families: Where International Law and Family Law Intersect

COURSE DESCRIPTION

Separating transnational families often brings more than the “typical” issues to family courts. This course will include discussion of domesticating foreign judgments, jurisdictional and venue issues, the Hague child abduction, child support and adoption treaties, pre- and post-nuptial agreements signed outside the United States, and special considerations in formulating parenting plans for transnational families.

LEARNING OBJECTIVES

- Identify the requirements to domesticate a foreign judgment and the available defenses to domestication.
- Determine whether your court has jurisdiction over, and is the appropriate venue for, parties and issues that transnational families present in family court.
- Utilize resources of the United States Central Authority (the U.S. State Department) that are available pursuant to adoption, child support, and child abduction treaties.
- Determine the elements of and defenses to a case for return of an allegedly abducted child as established according to the Hague Convention on the Civil Aspects of International Child Abduction.
- Communicate appropriately with a judge from another country in cases seeking return of an allegedly abducted child.
- Prepare an order for return of a child that is more likely to be effective in returning the child to the country of habitual residence.
- Appropriately apply special considerations for transnational families in developing parenting plans.

COURSE LENGTH

Monday, June 1: 8:30 a.m. – 4:00 p.m.

FACULTY

The Honorable Amy Steele Donner

Circuit Judge, Eleventh Judicial Circuit, Miami

Lawrence S. Katz, Esquire

Lawrence S. Katz, P.A., Miami

The Honorable Judith L. Kreeger

Circuit Judge, Eleventh Judicial Circuit, Miami

The Honorable Melanie G. May

Appellate Judge, Fourth District Court of Appeal, West Palm Beach

Kathleen S. Ruckman

Deputy Director, Office of Children’s Issues, U.S. Department of State, Washington, D.C.

FAMILIES IN COURT COURSE OFFERINGS FOR JUDGES

New Perspectives on Domestic Violence – One Size Does Not Fit All

COURSE DESCRIPTION

Recent research shifts the paradigm of domestic violence. Learn the latest research about family violence, learn how family violence affects children, and use that information to develop appropriate parenting plans for families where children are exposed to family violence. Learn the kind of questions that are supposed to be asked about family violence, how these questions should be structured, and how the results of evaluations and reports about family violence should be interpreted.

LEARNING OBJECTIVES

- Identify various behaviors related to family violence that relate to the safety, well-being, and best interests of children.
- Discuss the new research on differentiation of family violence and explore how to apply that research to appropriate parenting plans.
- Utilize appropriate judicial gate keeping when ordering evaluations and programs that relate to families with domestic violence issues.
- Identify the relevant factors necessary for judicial decisions affecting children from families in which domestic violence has occurred.
- Develop an appropriate parenting plan for families in which children have been exposed to domestic violence.

COURSE LENGTH

Tuesday, June 2: 8:30 a.m. – 4:00 p.m.

FACULTY

The Honorable Robert L. Doyel

Circuit Judge, Tenth Judicial Circuit, Bartow

Billie Lee Dunford-Jackson, Esquire

Senior Attorney, Family Violence Department, National Council of Juvenile and Family Court Judges, Reno, Nevada

Evan Marks, Esquire

Marks and West, P.A., Miami

Phillip M. Stahl, Ph.D.

Licensed Psychologist, Queen Creek, Arizona

FAMILIES IN COURT COURSE OFFERINGS FOR JUDGES

Gangs, Thugs and Families

COURSE DESCRIPTION

Gangs have been romanticized in stories and movies, but gang activity can have a real impact on the children and families of Florida. In this course, presenters will discuss the nature of gangs, the mindset of gang members, and why children join gangs. Participants will learn about the legal issues that are relevant to gang activity. Finally, participants will learn how to spot potential gang activity and recognize how gang activity may affect the children and families involved in juvenile and family cases.

LEARNING OBJECTIVES

- Identify possible gang members and gang-related activity or behavior as it may arise in juvenile or family cases.
- Recognize the motivation of gangs and of children who join gangs.
- Discuss how gangs impact families and communities.
- Analyze the legal issues and correctly apply the law relevant to gang activity.
- Develop strategies to address youth involvement in gangs.

COURSE LENGTH

Wednesday, June 3: 8:30 a.m. – 4:00 p.m.

FACULTY

The Honorable Alan S. Apte

Circuit Judge, Ninth Judicial Circuit, Orlando

Vance Arnett

Project Director, Gang Prosecutorial Unit, State Attorney's Office, Sixth Judicial Circuit, Clearwater

Darell Dones

Supervisory Special Agent, FBI Behavioral Science Unit, Quantico, Virginia

Donna Schulz

Law Enforcement Coordination Manager, U.S. Attorney's Office, Tampa

FAMILIES IN COURT COURSE OFFERINGS FOR JUDGES

Current Issues in Parenting Plans: Relocation, Recent Statutory Changes, and Plans for Families Affected by Asperger's Syndrome

COURSE DESCRIPTION

Parenting issues often are at the heart of domestic relations cases. In recent years there have been significant changes to Chapter 61. In particular, statutory provisions relating to parenting and to relocation have changed significantly. In this course you will learn about statutory requirements and other factors to consider in making parenting and relocation decisions.

Parenting decisions also must consider a child's needs. Autism may not be what you expect. Individuals with Asperger's Syndrome are on the autism spectrum yet vary greatly in their abilities and limitations. One may win a Nobel Prize, while another struggles with the social skills necessary to maintain a low-paying job. What do you do when a parent or child in a family case before you has Asperger's Syndrome? Do the neurotypical siblings of a child with Asperger's also have special needs? What evaluations or interventions might you order? How should you structure your parenting plan? Learn the answers to these and other perplexing questions in an interactive course presented by Diane Adreon, M.A., a national expert on Asperger's Syndrome, the author of books on the subject, and the parent of a child with Asperger's Syndrome; Dr. Joann Hoza, a clinical psychologist with a children's medical clinic who has extensive experience with family law cases; and Circuit Judge Karen K. Cole, an experienced family law judge and the parent of a child with Asperger's Syndrome.

LEARNING OBJECTIVES

- Identify the 2008 statutory changes to Chapter 61, relating to parenting.
- Correctly apply appropriate standards for relocation.
- Correctly apply statutory changes when formulating parenting plans.
- Identify the nature and symptoms of Asperger's Syndrome.
- Discuss how the strengths and weaknesses associated with Asperger's Syndrome may affect parenting skills.
- List the types of professionals whose evaluations and interventions may assist children and parents with Asperger's Syndrome.
- Structure a parenting plan that appropriately addresses the needs of a child with Asperger's Syndrome, the needs of a neurotypical sibling of such a child, and the abilities of a parent with Asperger's Syndrome.

COURSE LENGTH

Thursday, June 4: 8:30 a.m. – 4:00 p.m.

FACULTY

Diane Adreon, M.A.

Associate Director, University of Miami, Center for Autism & Related Disabilities, Miami

The Honorable John M. Alexander

Circuit Judge, Seventh Judicial Circuit, St. Augustine

The Honorable Karen K. Cole

Circuit Judge, Fourth Judicial Circuit, Jacksonville

JoAnn Hoza, Ph.D.

Clinical Psychologist, Hope Haven Children's Clinic and Family Center, Jacksonville

FAMILIES IN COURT COURSE OFFERINGS FOR JUDGES

Termination of Parental Rights: CPR for your TPR

COURSE DESCRIPTION

The importance of an error-free trial for Termination of Parental Rights cannot be overstated. Appellate reversal in this area of the law can be disastrous. A bad TPR decision can profoundly affect a child's life. The challenges presented are among the most difficult ever presented to judges during their judicial careers. The stakes are high for the numerous participants which include the child, birth parents, guardians, immediate family, including siblings and other relatives, prospective adoptive parents, ad litems, foster parents, the Department of Children and Families and Regional Counsel. Complications include strict timelines and statutory and case law requirements, as well as the media! In this course you will learn how to handle TPR from A to Z including: (1) How to handle TPR proceedings from start to finish and appeal-proof your rulings; (2) Prepare yourself for all of the unusual factual twists which are not so unusual in TPR cases; (3) Use guidelines and templates (which will be provided) for creation of proper final judgments with the specific findings which must be made.

LEARNING OBJECTIVES

- Conduct a TPR proceeding, preliminary hearings and trials in accordance with the statutes and case law.
- Establish case management procedures that will allow you to stay within legal time frames.
- Generate final orders and judgments that can withstand appellate review.

COURSE LENGTH

Thursday, June 4: 8:30 a.m. – 4:00 p.m.
Friday, June 5: 8:30 a.m. – 12:00 p.m.

FACULTY

The Honorable Gail A. Adams

Circuit Judge, Ninth Judicial Circuit, Orlando

Krista Bartholomew, Esquire

Guardian Ad Litem Staff Attorney, Legal Aid Society of the Orange County Bar Association, Inc., Orlando

The Honorable Daniel P. Dawson

Circuit Judge, Ninth Judicial Circuit, Orlando

Jeffrey Gillen, Esquire

Statewide Appellate Attorney, Children's Legal Services, Department of Children and Families, West Palm Beach

The Honorable Sandra Sue Robbins

Circuit Judge, Fifth Judicial Circuit, Ocala

The Honorable James H. Seals

Circuit Judge, Twentieth Judicial Circuit, Ft. Myers

CIVIL COURSE OFFERINGS FOR JUDGES

Manage the Madness! Managing Complex Cases and Attorneys

COURSE DESCRIPTION

This course will teach civil judges techniques for managing those complex cases that we all have on our dockets. Judges currently assigned to the Complex Business Litigation sections of their circuits will discuss the procedures they use to manage complex business cases. Learn how to bring peace to the “discovery battles” we all face. Special attention will be given to dealing with difficult lawyers. Participants will also have the opportunity to learn about best practices for controlling their caseloads, instead of their caseloads controlling them.

LEARNING OBJECTIVES

- Identify those cases that need judicial management/control.
- Develop strategies to manage difficult, complex cases.
- Recognize other tools to assist in case management (e.g., alternative dispute resolution techniques, special and general magistrates).
- Identify techniques for controlling difficult attorneys.

COURSE LENGTH

Monday, June 1: 8:30 a.m. – 4:00 p.m.

FACULTY

Merrick L. (Rick) Gross, Esquire

Carlton Fields, Miami

The Honorable Frederick J. Lauten

Circuit Judge, Ninth Judicial Circuit, Orlando

Professor Amy Mashburn

University of Florida, Levin College of Law, Gainesville

The Honorable Renee A. Roche

Circuit Judge, Ninth Judicial Circuit, Orlando

CIVIL COURSE OFFERINGS FOR JUDGES

That's Not Fair! Consumer Protection Law in Florida Courts

COURSE DESCRIPTION

This course will cover the Consumer Protection Law issues that arise most frequently in Florida State Courts, including unfair trade and debt collection practices. It will equip participants to effectively handle emerging issues presented in consumer protection cases, including mortgage foreclosure and bankruptcy defenses.

LEARNING OBJECTIVES

- Describe how federal and state consumer protection laws impact your court.
- Correctly rule on Florida Deceptive and Unfair Trade Practices Act (FDUTPA) claims and defenses.
- Define the legal parameters of permissible damages in FDUTPA actions.
- Correctly award attorney's fees in FDUTPA cases.
- Competently preside over civil government enforcement proceedings.
- Correctly rule on Florida Consumer Collection Practices Act (FCCPA) claims and defenses.
- Define the legal parameters of permissible damages in FCCPA actions.
- Correctly award attorney's fees in FCCPA cases.
- Effectively resolve consumer protection and bankruptcy issues in foreclosure cases.

COURSE LENGTH

Tuesday, June 2: 8:30 a.m. – 4:00 p.m.

FACULTY

The Honorable Paul L. Huey

County Court Judge, Hillsborough County, Tampa

Thomas J. Roehn, Esquire

Carlton Fields, Tampa

Barbara A. Sinsley, Esquire

Barron, Newburger, Sinsley & Wier, PLLC, Lutz

CIVIL COURSE OFFERINGS FOR JUDGES

Products Liability - Danger in the Market Place

COURSE DESCRIPTION

This course will provide a working knowledge of the law applicable to products liability cases. The various causes of action available, and regularly pled in this area of practice, will be explained and demonstrated in actual trial court examples including the theories of strict liability and negligence as applicable to products liability claims. The course will identify issues that a trial judge will encounter when ruling on challenges to choice of forum or venue and when determining whether punitive damages may be appropriately pled or recovered. Have you ever wondered about ruling on claimed privileges, discovery issues and the admissibility of evidence in products liability cases? Well, this course will help you rule correctly. Finally, the judge will be taught how to apply the laws regarding the admissibility of scientific evidence and the predicates for the admission of expert testimony.

LEARNING OBJECTIVES

- Identify and distinguish various causes of action.
- Evaluate challenges to forum and venue.
- Manage discovery appropriately.
- Correctly decide whether punitive damages may be pled or recovered.
- Rule correctly on challenges to scientific evidence as well as the admission of expert testimony.
- Rule correctly on objections to admissibility of evidence of events pre-dating and post-dating the cause of action.

COURSE LENGTH

Wednesday, June 3: 8:30 a.m. – 4:00 p.m.

FACULTY

The Honorable Tyrie W. Boyer

County Court Judge, Duval County, Jacksonville

The Honorable Lucy Chernow Brown

Circuit Judge, Fifteenth Judicial Circuit, West Palm Beach

Howard Coker, Esquire

Coker Schickel Sorenson Posgay, P.A., Jacksonville

The Honorable Gary M. Farmer

Appellate Judge, Fourth District Court of Appeal, West Palm Beach

Larry Stewart, Esquire

Stewart Tilghman Fox & Bianchi, P.A., Miami

CIVIL COURSE OFFERINGS FOR JUDGES

The Last Phase in the Construction Sequence - Litigation: Resolving Claims Involving Defects and Construction Liens

COURSE DESCRIPTION

Among lawyers practicing in the construction law arena, it is often said that a construction project is never fully complete until the litigation is concluded. Although this sentiment is expressed jokingly, the reality is that construction projects, by their very nature, are fertile ground for disputes. The litigation that results often involves multiple parties and complex factual and legal issues. To be equipped to adequately preside over these matters, a trial judge needs to have a basic understanding of industry jargon, the responsibilities of the various players in the construction process and the myriad legal issues arising from the typical construction dispute. This course will address two particular aspects of a construction dispute: defective construction and construction liens and bonds.

LEARNING OBJECTIVES

- Define common construction industry terms.
- Identify the various actors in the construction process and describe their roles as they pertain to defects and lien and bond disputes.
- Analyze legal issues pertaining to jurisdiction, forum selection, pleading, evidence, contract interpretation and the construction lien statute.

COURSE LENGTH

Thursday, June 4: 8:30 a.m. – 4:00 p.m.

FACULTY

Bruce Alexander, Esquire

Casey, Ciklin, Lubitz, Martens & O'Connell, West Palm Beach

Kimberly A. Ashby, Esquire

Akerman Senterfitt, Orlando

The Honorable Kerry I. Evander

Appellate Judge, Fifth District Court of Appeal, Daytona Beach

CIVIL COURSE OFFERINGS FOR JUDGES

Foreclosures and Residential Mortgages

COURSE DESCRIPTION

Are you feelin' the pain? Are you suffering from the crush of the thousands of residential mortgage foreclosure cases that have been filed and are pending in your courts? Do you want some relief? Then, this course is for you!

Everything you need to know about the mortgage foreclosure crisis, its affect on Florida's courts and how to relieve the strain and burden of your expanding foreclosure caseload, will be covered.

Your presenters, Judge Janet Ferris, a circuit judge who formerly served as the Secretary of the Florida Department of Business and Professional Regulation, Senior Judge Tom Bateman, who has chaired numerous Florida Supreme Court and Florida Bar committees that addressed differentiated case management, innovative and effective case management techniques and procedures, and April Charney, a nationally recognized consumer law legal aid lawyer who specializes in mortgage foreclosure training for legal aid and volunteer lawyers, have planned an informative, hands-on program for you.

As result of attending this course you will be able to handle your exploding foreclosure caseload much more efficiently and effectively. Please join us for this practical and timely course.

LEARNING OBJECTIVES

- Discuss the current local and national situations regarding residential mortgages, servicing entities and securitized trusts, and recognize how mortgage foreclosure cases pending in Florida's courts are affected.
- Identify factors to be considered when determining whether the plaintiff has the authority to foreclose a residential mortgage.
- Utilize alternative dispute resolution techniques as a case management tool to resolve pending mortgage foreclosure cases in a more timely manner.
- Correctly rule on what documentation meets the minimum evidentiary burden to support granting relief in a foreclosure proceeding.

COURSE LENGTH

Friday, June 5: 8:30 a.m. – 12:00 p.m.

FACULTY

The Honorable Thomas H. Bateman, III

Senior Judge, Tallahassee

April Charney, Esquire

Jacksonville Area Legal Aid, Inc., Jacksonville

The Honorable Janet E. Ferris

Circuit Judge, Second Judicial Circuit, Tallahassee

GENERAL INTEREST COURSE OFFERINGS FOR JUDGES

Judicial Writing and Editing Workshop

COURSE DESCRIPTION

Through the use of actual court opinions and documents, you will learn to write and edit with “super-clarity” so that even the most hurried readers comprehend your intended message. Those who attend this class will be presented with principles and techniques of writing that produce prose that is both energetic and credible. You will also learn how to express differences of opinion with colleagues in the context of a decision in a professional manner. In particular, you will learn the nature and importance of individual style in anyone's writing.

The first day of this two-day program will be a presentation by Professor Terrell of his approach to writing and editing at every level of an opinion -- from overall organization to sentence structure -- while the second day will be devoted to editing exercises and review of Florida court opinions. An important element of this program will be the development of feedback skills that will allow you to communicate to clerks more effectively the elements you want to see in their work.

Using gentle humor and real examples, Professor Terrell will take participants on a journey of self-evaluation and creative enhancement, while developing the skills needed to write with precision and clarity. This course is one that is practical and entertaining -- and therefore not to be missed.

LEARNING OBJECTIVES

- Discuss techniques creating “super-clarity” that will reach out and grab the minds of even the most hurried readers.
- Utilize techniques contributing to more effective and disciplined editing.
- Write in an energetic style that projects an image which enhances the writers’ credibility and expresses differences of opinion in a professional way.
- Write opinions that reflect careful consideration of the privacy rights of litigants and others involved in the case.

COURSE LENGTH

Monday, June 1: 8:30 a.m. – 4:00 p.m.

Tuesday, June 2: 8:30 a.m. – 4:00 p.m.

FACULTY

Professor Timothy P. Terrell

Emory University School of Law, Atlanta, Georgia

GENERAL INTEREST COURSE OFFERINGS FOR JUDGES

Judicial Spanish: *As easy as uno, dos, tres!*

COURSE DESCRIPTION

How do you tell a Spanish-speaking litigant that you have called for a court interpreter? How do you properly address “Señora María Teresa Álvarez González de Ordóñez” in the courtroom? What do you do when you must communicate with a Spanish-speaking litigant and there is no available interpreter?

In this hands-on course, participants will be given the tools they need to effectively handle these and other “real courtroom” scenarios that may arise. Using interactive and demonstrative learning techniques, participants will be given invaluable skills to facilitate interaction and communication with Spanish-speaking persons in their courtrooms.

LEARNING OBJECTIVES

- Demonstrate a basic understanding of the communication between the Spanish-speaking litigants and the court interpreter.
- Communicate courtroom procedures in Spanish in a conversational manner.
- Identify the impact of cultural differences, including the custom and use of Hispanic names, on courtroom decorum.
- Recognize and correctly pronounce frequently used legal terms and phrases in Spanish.
- Use basic Spanish grammar principles to properly construct sentences commonly used in your specific court-appointed division.

COURSE LENGTH

This one-day course will be offered twice. You may apply for one day only.

Wednesday, June 3: 8:30 a.m. – 4:00 p.m.

Thursday, June 4: 8:30 a.m. – 4:00 p.m.

FACULTY

The Honorable Mercedes A. Bach

Senior Judge, Key Biscayne

Stephanie H. Langston

President, Hands On Spanish, Inc., Monroe, Georgia

Cristina Pereyra-Shuminer, Esquire

Miami

GENERAL INTEREST COURSE OFFERINGS FOR JUDGES

Teaching in the 21st Century: An Introduction to Distance Learning

COURSE DESCRIPTION

Designed for judges who have completed the Faculty Training Specialty Course (required), this course will introduce presenters to distance learning formats, many of which are currently in use for training Florida's non-judge court personnel (and some judges). Course participants will experiment with audio conferences, videoconferences, Web conferences and development of online learning, and develop strategies for selecting course formats that are appropriate for various topics and groups. Like the traditional faculty training course, this two-day course will conclude with a short teaching demonstration by participant teams.

No advanced computer skills are necessary; however, participants will have an opportunity to become familiar with distance learning formats before the course by participating in two short distance learning activities, including a one-hour web conference to be held on May 21, 2009, at 12:00 p.m. (required).

Because course size is limited, priority will be given to applicants as follows:

- (1) Applicant must have completed the Faculty Training Specialty Course;
- (2) Applicant has previously taught a distance learning course;
- (3) Florida Court Education Council member;
- (4) The number of courses, of any type, applicant has taught in the last three years to judges or other court personnel; and
- (5) Applicant is willing to commit to teach a distance learning course.

****Participants must bring their own laptop computer to class.***

LEARNING OBJECTIVES

- Describe the principles of adult learning and the different types of adult learners.
- Select course formats that are appropriate for the topic and group.
- Identify effective distance learning tools and the basic methods used to teach with these tools.
- Demonstrate the effective use of one or more of these distance learning tools.

COURSE LENGTH

Monday, June 1: 8:30 a.m. – 4:00 p.m.
 Tuesday, June 2: 8:30 a.m. – 4:00 p.m.

FACULTY

The Honorable Peter Evans

County Court Judge, Palm Beach County, West Palm Beach

Joseph R. Sawyer

Distance Learning/Technology Specialist, The National Judicial College, Reno, Nevada

The Honorable William A. Van Nortwick, Jr.

Appellate Judge, First District Court of Appeal, Tallahassee

Jill Y. Wallace, Ph.D.

Instructional Designer, University of Nevada, Reno, Nevada

GENERAL INTEREST COURSE OFFERINGS FOR JUDGES

Justice or Just Us: Using Film to Examine Perceptions of Fairness in a World of Cultural Differences

COURSE DESCRIPTION

This fascinating one-day course will use film to take you to the other side of the bench to help you recognize the differences among the litigants appearing before you, and assist you in developing strategies to assure that those differences do not affect the treatment of the litigants or the perception of fairness of your judicial decisions. This course is eligible for **2 hours of continuing judicial education ethics credit**.

LEARNING OBJECTIVES

- Recognize the differences among cultures in their communities - their practices, lifestyles, and beliefs.
- Analyze the impact of language, terminology, bias, and stereotyping on court proceedings and the perception of fairness.
- Recognize his or her own biases and develop strategies to prevent those biases from affecting the fairness of the judge's decision-making.

COURSE LENGTH

Wednesday, June 3: 8:30 a.m. – 4:00 p.m.

FACULTY

The Honorable Sandy Karlan

Circuit Judge, Eleventh Judicial Circuit, Miami

Wilhelmina Tribble

President and CEO, Lowe Tribble & Associates, Inc., Orlando

GENERAL INTEREST COURSE OFFERINGS FOR JUDGES

Neuroscience in the Florida Courtroom: *Illusion or Reality?*

COURSE DESCRIPTION

Are brain scans more or less reliable than other scientific evidence? Is it a legitimate defense to claim that a tumor or a brain injury “*made me do it?*” Can neuroscience be used to prove competence or lack of capacity? Can brain scans prove factual innocence or guilt?

Who should have access to information about our brains? How should juries and judges assess neuroscientific information since most behaviors are driven by brain systems that we cannot control? What does neuroscience reveal about eye-witness identification?

After examining the core approaches and recent developments in neuroscience and brain imaging, attendees of this course will explore how these developments impact legal proceedings and judicial decision-making. Hands-on problem-solving exercises, based on actual cases and controversies, provide the attendees with the opportunity for challenging analysis and practical application of this fascinating scientific and legal synthesis!

LEARNING OBJECTIVES

- Summarize the basic elements and core approaches of neuroscience.
- Distinguish between the potential and the limitations of neuroscience in the context of criminal and civil cases.
- Identify the situations in which brain injury may impact responsibility for criminal behavior.
- Determine whether brain imaging evidence is relevant and should be admitted.
- Analyze evidence in order to make informed decisions on legal issues that involve neuroscientific matters.

COURSE LENGTH

Thursday, June 4: 8:30 a.m. – 4:00 p.m.

FACULTY

Adina Roskies, Ph.D.

Assistant Professor, Dartmouth College, Hanover, New Hampshire

Barry R. Schaller

Former Associate Justice, Connecticut Supreme Court, Hartford, Connecticut

GENERAL INTEREST COURSE OFFERINGS FOR JUDGES

Getting Affirmed: Research with Westlaw

COURSE DESCRIPTION

This one-day program is a practical course focusing on the fundamentals and the most frequently used Westlaw research techniques. It starts from the very beginning for novice researchers and propels those who already have some basic knowledge and understanding of Westlaw to a better understanding of Westlaw's legacy research features. Effective judicial research that is fast and accurate will make for better judicial decisions and fewer reversals. This course is designed for judges who have not had professional Westlaw training or simply want to hone their research skills.

****Participants must bring their own laptop computer to class.***

LEARNING OBJECTIVES

- Utilize Westlaw effectively and efficiently when fast and accurate decisions need to be made from the bench or in the office.

COURSE LENGTH

Monday, June 1: 8:30 a.m. – 4:00 p.m.

FACULTY

Jamie Todd Foreman, Esquire

Government Account Manager, Thomson-West, Lake Worth

The Honorable Scott J. Silverman

Circuit Judge, Eleventh Judicial Circuit, Miami

Kristine K. Trudeau, Esquire

Government Account Representative, Thomson-West, Kissimmee

GENERAL INTEREST COURSE OFFERINGS FOR JUDGES

Advanced Westlaw

COURSE DESCRIPTION

Stay on the cutting edge of effective and efficient legal research by becoming proficient in the full complement of Westlaw research tools and innovative research techniques. In addition to a quick refresher on the Westlaw environment, this class focuses specifically on Westlaw's legacy features, including advanced citation research, topic and key number searching, and field restrictions. Judges who complete this course will acquire the skills and creativity to attack legal research from all possible angles.

**Participants must bring their own laptop computer to class.*

LEARNING OBJECTIVES

- Utilize advanced Westlaw skills effectively and efficiently when fast and accurate decisions need to be made from the bench or in the office.

COURSE LENGTH

Tuesday, June 2: 8:30 a.m. – 4:00 p.m.

FACULTY

Jamie Todd Foreman, Esquire

Government Account Manager, Thomson-West, Lake Worth

The Honorable Scott J. Silverman

Circuit Judge, Eleventh Judicial Circuit, Miami

Kristine K. Trudeau, Esquire

Government Account Representative, Thomson-West, Kissimmee

GENERAL INTEREST COURSE OFFERINGS FOR JUDGES

Getting Affirmed: Research with LexisNexis

COURSE DESCRIPTION

This one-day program is a practical course focusing on the fundamentals and advanced research techniques of LexisNexis. It starts from the very beginning for novice researchers and propels those who already have some basic knowledge and understanding of LexisNexis to another level. Effective judicial research that is fast and accurate will make for better judicial decisions and fewer reversals. For those judges who have not had professional training with LexisNexis or simply want to refresh their skills, this course is for you.

****Participants must bring their own laptop computer to class.***

LEARNING OBJECTIVES

- Use LexisNexis effectively and efficiently when fast and accurate decisions need to be made from the bench or in the office.

COURSE LENGTH

Wednesday, June 3: 8:30 a.m. – 4:00 p.m.

FACULTY

Stacey L. Hornsby, Esquire

Government Consultant, LexisNexis, Atlanta, Georgia

The Honorable Scott J. Silverman

Circuit Judge, Eleventh Judicial Circuit, Miami

GENERAL INTEREST COURSE OFFERINGS FOR JUDGES

Advanced LexisNexis

COURSE DESCRIPTION

This one-day program is designed for those who are currently proficient at LexisNexis research, but want to do more. This course will take your research skills to a higher level. Advanced LexisNexis offers greater proficiency in legal research, as well as a broader range of research techniques. If you are interested in LexisNexis wizardry, this course is for you.

**Participants must bring their own laptop computer to class.*

LEARNING OBJECTIVES

- Use advanced LexisNexis effectively and efficiently when fast and accurate decisions need to be made from the bench or in the office.

COURSE LENGTH

Thursday, June 4: 8:30 a.m. – 4:00 p.m.

FACULTY

Stacey L. Hornsby, Esquire

Government Consultant, LexisNexis, Atlanta, Georgia

The Honorable Scott J. Silverman

Circuit Judge, Eleventh Judicial Circuit, Miami

COURSE OFFERINGS FOR GENERAL MAGISTRATES AND HEARING OFFICERS

General Magistrates' and Hearing Officers' Program: The Fundamentals and Beyond

COURSE DESCRIPTION

This two-day course is designed to enhance the skills of general magistrates and child support enforcement hearing officers. Taught by experienced judges, general magistrates and hearing officers, the program will present issues and answers on a wide range of topics, through the sessions described below.

LEARNING OBJECTIVES

General Magistrate and Hearing Officer Systems (History, Powers, Limitations, Procedures)

- Discuss the role, authority and limitations of a general magistrate/child support enforcement hearing officer within the judicial system.

Effective Case Management

- Identify tools for effectively and efficiently managing your caseload, including court and community resources when appropriate.
- Develop effective case management techniques for cases involving self-represented parties, family violence, and other challenging issues.

Court Records and Privacy

- List types of data and court records that may be treated as confidential upon being placed in court files.
- Develop strategies to minimize the extent of confidential data that is not presently needed to determine issues but is being placed in court files.
- Outline procedures for promptly determining privacy and public records issues.

Handling Pro Se (Self-Represented) Litigant Cases

- Identify and discuss methods for handling pro se (self-represented) litigants during the hearing.

Disqualification and Recusal

- Discuss disqualification and recusal procedures.

Ex Parte Communications

- Recognize and avoid improper ex parte communications.

Making a Record and Ruling on Objections

- Discuss the necessity of establishing a complete and appropriate record.
- Recognize the need to rule promptly on objections to admissibility of evidence.
- Determine when a proffer is appropriate and suggest methods of preserving a proffer of testimony.

Preparation and Construction of Reports and Recommended Orders

- Identify a magistrate report and recommendation that contains findings of fact and conclusions of law that will withstand appellate review.

Establishment and Modification of Child Support

- Prepare proper findings of fact regarding child support awards and deviations, pursuant to child support guidelines and current case law.
- Determine criteria necessary to award a modification of child support.
- Properly apply the provisions of UIFSA.

Civil Contempt/Enforcement Proceedings

- Identify the types of relief available for enforcement in civil cases.
- Determine whether a proceeding involves civil or criminal contempt.
- Identify proceedings where contempt is not an available remedy.
- Discuss the procedural and findings requirements of Florida Family Law Rule of Procedure 12.615.

COURSE OFFERINGS FOR GENERAL MAGISTRATES AND HEARING OFFICERS

General Magistrates' and Hearing Officers' Program, *continued*

Relocation and Paternity Disestablishment

- Discuss current procedural requirements, burden of proof and findings of fact in paternity disestablishment actions and relocation actions.
- Identify the temporary relief available in relocation actions.

Legislation and Rules Update

- Identify recent changes to statutes and rules that affect family law and other civil law matters.

TARGET AUDIENCE

Enrollment will be determined by the following priority system:

- First Priority - never received formal judicial education through either Advanced Judicial Studies (AJS), Florida Judicial College (FJC) or the June 2004 General Magistrates' Program;
- Second Priority - attended AJS in the past;
- Third Priority - attended the June 2004 General Magistrates' Program; and
- Fourth Priority - attended the 2008 Florida Judicial College.

COURSE LENGTH

Tuesday, June 2: 8:30 a.m. – 4:00 p.m.
Wednesday, June 3: 8:30 a.m. – 4:00 p.m.

FACULTY

The Honorable Gary P. Flower

County Court Judge, Duval County, Jacksonville

Jon J. Johnson

General Magistrate, Thirteenth Judicial Circuit, Tampa

Robert J. Jones

General Magistrate, Eleventh Judicial Circuit, Miami

Norberto S. Katz

Child Support Enforcement Hearing Officer, Ninth Judicial Circuit, Orlando

Diane M. Kirigin

General Magistrate, Fifteenth Judicial Circuit, Delray Beach

The Honorable Judith L. Kreeger

Circuit Judge, Eleventh Judicial Circuit, Miami

Thomas A. Tilson

General Magistrate, Eleventh Judicial Circuit, Miami

The Honorable Richard R. Townsend

County Court Judge, Clay County, Green Cove Springs

From: McLean, Craig </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=CRAIGM>

To: Thomas, Manuel

Judges-Charlotte

Judges-Collier

Judges-Glades

Judges-Hendry

Judges-Lee

Magistrates-All

CC: Kiesel, Lisa

Callanan, Richard

Ackerman, Paul

Woelfel, Joe

Friess, Joseph

Middlebrook, Mark

Embury, Jon

Goodpasture, Penelope

Rosemond, Larry

Date: 9/10/2009 2:52:12 PM

Subject: ?RE: Registration Now Open for Tenants' Rights in Foreclosures Course 10/2/09

All,

We have purchased through our CJIS agency a piece of equipment that will allow us to do video conferences to the state (or outside our network) from anywhere in our circuit. This will allow us to do these trainings from individual counties. We are in process of configuring this "bridge" and should have it up for the video conference training on the 17th. We are very happy with this new technology for our circuit and were able to share in the cost of the equipment with the State's Attorney and the Public Defender. We can also now do circuit wide calls with every county at the same time, before we could only do up to 4. Thanks to the CJIS and AOC networking staff for configuring this and installing the equipment. It was not an easy task.

If you have any questions, please give me a call.

Thanks,

Craig

Craig McLean

Information Services Director

20TH CIR 01067

20th Judicial Circuit Court

239.533.1722

cmclean@ca.cjis20.org

From: Thomas, Manuel

Sent: Thursday, September 10, 2009 10:20 AM

To: Judges-Charlotte; Judges-Collier; Judges-Glades; Judges-Hendry; Judges-Lee; Magistrates-All

Cc: Kiesel, Lisa; McLean, Craig; Callanan, Richard

Subject: FW: Registration Now Open for Tenants' Rights in Foreclosures Course 10/2/09

Good Morning Your Honors and Magistrates:

Judges and Magistrates who are interested in attending the Videoconference on "Tenants' Rights in Foreclosures" on October 2, 2009 in Conference Room B in the Lee Justice Center Annex may register by using the link <http://caintra/events/login.asp> and selecting this videoconference.

Tenants' Rights in Foreclosures Videoconference

for County Court Judges and Senior Judges

Friday, October 2, 2009

12:15 p.m. – 1:30 p.m. ET

Faculty and Course Content

20TH CIR 01068

12_1_2010

- Identify the issues facing renters whose homes are in mortgage or association foreclosure;
- Correctly apply 12 USC Sec. 5220 to ameliorate some of those issues; and
- Identify issues that may be raised that are not answered by the recent federal legislation.

Location

This course will be offered LIVE from a videoconferencing location at each circuit. Contact your local Court Technology Officer for the location in your circuit.

Continuing Judicial Education Credit (CJE) and Evaluation

A maximum of 1.25 hours of CJE credit for judges is available. Sign in on the form provided at your location. You will receive an email after the course for instructions on completing online CJE and evaluation forms.

How to Register

Space may be limited in some locations so registration is required. Use the password rent to register at this link –

<http://www.flcourts.org/UltimateSurvey/Surveys/TakeSurvey.aspx?s=27C0DF85C3A940D1815697CEB9FFE0FD>

The deadline to register is September 25, 2009. If you are a person who needs an accommodation in order to register or participate, please submit your request to Beverly Brown at 850-922-5084 or brownb@flcourts.org.

Contact Information

Bart Moore, Court Education Senior Attorney
850-413-9642 or mooreb@flcourts.org

Website

http://intranet.flcourts.org/osca/Judicial_Education/DistanceLearning/2009TenantsRights/main.html

From: Paul Alessandroni <Paul.Alessandroni@co.charlotte.nc.us>

To: McLean, Craig
Thomas, Manuel
Judges-Charlotte
Judges-Collier
Judges-Glades
Judges-Hendry
Judges-Lee
Magistrates-All

CC: Kiesel, Lisa
Callanan, Richard
Ackerman, Paul
Woelfel, Joe
Friess, Joseph
Middlebrook, Mark
Embury, Jon
Goodpasture, Penelope
Rosemond, Larry

Date: 9/10/2009 2:53:38 PM

Subject: ?RE: Registration Now Open for Tenants' Rights in Foreclosures Course 10/2/09

Excellent work Craig and ALL!

Judge Alessandroni

From: McLean, Craig [mailto:CMcLean@CA.CJIS20.ORG]

Sent: Thursday, September 10, 2009 3:52 PM

To: Thomas, Manuel; Judges-Charlotte; Judges-Collier; Judges-Glades; Judges-Hendry; Judges-Lee; Magistrates-All

Cc: Kiesel, Lisa; Callanan, Richard; Ackerman, Paul; Woelfel, Joe; Friess, Joseph; Middlebrook, Mark; Embury, Jon; Goodpasture, Penelope; Rosemond, Larry

Subject: RE: Registration Now Open for Tenants' Rights in Foreclosures Course 10/2/09

All,

We have purchased through our CJIS agency a piece of equipment that will allow us to do video conferences to the state (or outside our network) from anywhere in our circuit. This will allow us to do these trainings from individual counties. We are in process of configuring this "bridge" and should have it up for the video conference training on the 17th. We are very happy with this new technology for our circuit and were able to share in the cost of the equipment with the State's Attorney and the Public Defender. We can also now do circuit wide calls with every county at the same time, before we could only do up to 4. Thanks to the CJIS and AOC networking staff for configuring this and installing the equipment. It was not an easy task.

20TH CIR 01070

If you have any questions, please give me a call.

Thanks,

Craig

Craig McLean

Information Services Director

20th Judicial Circuit Court

239.533.1722

cmclean@ca.cjis20.org

From: Thomas, Manuel

Sent: Thursday, September 10, 2009 10:20 AM

To: Judges-Charlotte; Judges-Collier; Judges-Glades; Judges-Hendry; Judges-Lee; Magistrates-All

Cc: Kiesel, Lisa; McLean, Craig; Callanan, Richard

Subject: FW: Registration Now Open for Tenants' Rights in Foreclosures Course 10/2/09

Good Morning Your Honors and Magistrates:

Judges and Magistrates who are interested in attending the Videoconference on "Tenants' Rights in Foreclosures"

on October 2, 2009 in Conference Room B in the Lee Justice Center Annex may register by using the link

<http://caintra/events/login.asp> and selecting this videoconference.

for County Court Judges and Senior Judges

Friday, October 2, 2009
12:15 p.m. – 1:30 p.m. ET

Faculty and Course Content

Broward County Court Judge Jane Fishman will present this timely topic to include the following objectives:

- Identify the issues facing renters whose homes are in mortgage or association foreclosure;
- Correctly apply 12 USC Sec. 5220 to ameliorate some of those issues; and
- Identify issues that may be raised that are not answered by the recent federal legislation.

Location

This course will be offered LIVE from a videoconferencing location at each circuit. Contact your local Court Technology Officer for the location in your circuit.

Continuing Judicial Education Credit (CJE) and Evaluation

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How to Register

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The deadline to register is September 25, 2009. If you are a person who needs an accommodation in order to register or participate, please submit your request to Beverly Brown at 850-922-5084 or brownb@flcourts.org.

Contact Information

20TH CIR 01072

850-413-9642 or mooreb@flcourts.org

Website

http://intranet.flcourts.org/osca/Judicial_Education/DistanceLearning/2009TenantsRights/main.html

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager.

This footnote also confirms that this email message has been swept by Symantec Mail Security for the presence of computer viruses.

www.symantec.com

Under Florida Law, email addresses are public records. If you do not want your email address released in response to a public-records request, do not send electronic email to this entity. Instead, contact this office by phone or in writing. -- F.S. 668.606

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager.

This footnote also confirms that this email message has been swept by MIMESweeper for the presence of computer viruses.

www.clearswift.com

From: Thomas, Manuel </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=MTHOMAS>

To: Judges-Charlotte

Judges-Collier

Judges-Glades

Judges-Hendry

Judges-Lee

Magistrates-All

CC: Kiesel, Lisa

McLean, Craig

Callanan, Richard

Date: 9/10/2009 9:20:18 AM

Subject: ?FW: Registration Now Open for Tenants' Rights in Foreclosures Course 10/2/09

Good Morning Your Honors and Magistrates:

Judges and Magistrates who are interested in attending the Videoconference on "Tenants' Rights in Foreclosures" on October 2, 2009 in Conference Room B in the Lee Justice Center Annex may register by using the link <http://caintra/events/login.asp> and selecting this videoconference.

Tenants' Rights in Foreclosures Videoconference

for County Court Judges and Senior Judges

Friday, October 2, 2009

12:15 p.m. – 1:30 p.m. ET

Faculty and Course Content

Broward County Court Judge Jane Fishman will present this timely topic to include the following objectives:

- Identify the issues facing renters whose homes are in mortgage or association foreclosure;

20TH CIR 01075

- Correctly apply 12 USC Sec. 5220 to ameliorate some of these issues; and

- Identify issues that may be raised that are not answered by the recent federal legislation.

Location

This course will be offered LIVE from a videoconferencing location at each circuit. Contact your local Court Technology Officer for the location in your circuit.

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<http://www.flcourts.org/UltimateSurvey/Surveys/TakeSurvey.aspx?s=27C0DF85C3A940D1815697CEB9FFE0FD>

The deadline to register is September 25, 2009. If you are a person who needs an accommodation in order to register or participate, please submit your request to Beverly Brown at 850-922-5084 or brownb@flcourts.org.

Contact Information

Bart Moore, Court Education Senior Attorney
850-413-9642 or mooreb@flcourts.org

Website

http://intranet.flcourts.org/osca/Judicial_Education/DistanceLearning/2009TenantsRights/main.html

From: Thomas, Manuel </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=MTHOMAS>

To: Judges-Charlotte

Judges-Collier

Judges-Glades

Judges-Hendry

Judges-Lee

Magistrates-All

CC: Kiesel, Lisa

McLean, Craig

Callanan, Richard

Date: 9/11/2009 10:51:58 AM

Subject: ?FW: Register for Foreclosure 101 Videoconference 9/30/09

Good Morning Your Honors and Magistrates:

This is to alert you to another videoconference opportunity available for viewing on September 30, in Conference B, Justice Center Annex. Again please register by using the link <http://caintra/events/login.asp> and selecting this class.

Text Box: Foreclosure 101 Videoconference??for Circuit Judges and Senior Judges??Wednesday, September 30, 2009??12:15 p.m. ? 1:30 p.m. ET??Course Content??This course will provide a basic overview of mortgage foreclosure actions and give judges the tools they need to efficiently and effectively handle their foreclosure caseload. Participants will also be provided access to the Foreclosure Benchbook, which was prepared by The Honorable Jennifer Bailey and Assistant General Counsel Doris Bermudez-Goodrich, both from the Eleventh Judicial Circuit.??Faculty ??Thomas H. Bateman, III, Esquire, Messer, Caparelo ? Self, P.A., Tallahassee (2009-present). B.S., Nova University; J.D., George Mason University. Formerly Circuit Judge, Second Judicial Circuit (2001-2008); County Court Judge, Leon County (1990-2001); General Counsel, Florida Department of Transportation (1987-90); Florida Office of the Attorney General, Assistant Attorney General, Civil Division (1985-87); Criminal Appeals Division (1984-85); Assistant Public Defender, Ninth Judicial Circuit (1982-84).??Location??This course will be offered LIVE from a videoconferencing location at each circuit. Contact your local Court Technology Officer for the location in your circuit. ??Continuing Judicial Education Credit (CJE) and Evaluation??A maximum of 1.25 hours of CJE credit for judges is available. Sign in on the form provided at your location. You will receive an email after the course for instructions on completing online CJE and evaluation forms.??How to Register??Space may be limited in some locations so registration is required. Use the password 101 to register at this link ? ??http://www.flcourts.org/UltimateSurvey/Surveys/TakeSurvey.aspx?s=AE8056A4D7C84109A4950611CA3F084C ??The deadline to register is September 25, 2009. If you are a person who needs an accommodation in order to register or participate, please submit your request to Beverly Brown at 850-922-5084 or brownb@flcourts.org. ??Contact Information??Danica Winter, Court Education Senior Attorney??(850) 488-2842 or winterd@flcourts.org??Website ??http://intranet.flcourts.org/osca/Judicial_Education/DistanceLearning/2009Foreclosure101/main.html????

From: Hayes, Hugh </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=HUGHH>

To: McLean, Craig

CC: Callanan, Richard

Cary, G. Keith

Date: 9/12/2009 7:07:00 AM

Subject: ?RE: Registration Now Open for Tenants' Rights in Foreclosures Course 10/2/09

Craig:

Many thanks to you and your staff!

Hugh

From: McLean, Craig

Sent: Thursday, September 10, 2009 3:52 PM

To: Thomas, Manuel; Judges-Charlotte; Judges-Collier; Judges-Glades; Judges-Hendry; Judges-Lee; Magistrates-All

Cc: Kiesel, Lisa; Callanan, Richard; Ackerman, Paul; Woelfel, Joe; Friess, Joseph; Middlebrook, Mark; Embury, Jon;

Goodpasture, Penelope; Rosemond, Larry

Subject: RE: Registration Now Open for Tenants' Rights in Foreclosures Course 10/2/09

All,

We have purchased through our CJIS agency a piece of equipment that will allow us to do video conferences to the state (or outside our network) from anywhere in our circuit. This will allow us to do these trainings from individual counties. We are in process of configuring this "bridge" and should have it up for the video conference training on the 17th. We are very happy with this new technology for our circuit and were able to share in the cost of the equipment with the State's Attorney and the Public Defender. We can also now do circuit wide calls with every county at the same time, before we could only do up to 4. Thanks to the CJIS and AOC networking staff for configuring this and installing the equipment. It was not an easy task.

If you have any questions, please give me a call.

Thanks,

Craig

Information Services Director

20th Judicial Circuit Court

239.533.1722

cmclean@ca.cjis20.org

From: Thomas, Manuel

Sent: Thursday, September 10, 2009 10:20 AM

To: Judges-Charlotte; Judges-Collier; Judges-Glades; Judges-Hendry; Judges-Lee; Magistrates-All

Cc: Kiesel, Lisa; McLean, Craig; Callanan, Richard

Subject: FW: Registration Now Open for Tenants' Rights in Foreclosures Course 10/2/09

Good Morning Your Honors and Magistrates:

Judges and Magistrates who are interested in attending the Videoconference on "Tenants' Rights in Foreclosures"

on October 2, 2009 in Conference Room B in the Lee Justice Center Annex may register by using the link

<http://caintra/events/login.asp> and selecting this videoconference.

Tenants' Rights in Foreclosures Videoconference

for County Court Judges and Senior Judges

Friday, October 2, 2009

12:15 p.m. – 1:30 p.m. ET

20TH CIR 01080

12_1_2010

Faculty and Course Content

Broward County Court Judge Jane Fishman will present this timely topic to include the following objectives:

- Identify the issues facing renters whose homes are in mortgage or association foreclosure;
- Correctly apply 12 USC Sec. 5220 to ameliorate some of those issues; and
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Location

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Contact Information

Bart Moore, Court Education Senior Attorney
850-413-9642 or mooreb@flcourts.org

Website

http://intranet.flcourts.org/osca/Judicial_Education/DistanceLearning/2009TenantsRights/main.html

From: Hayes, Hugh </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=HUGHH>

To: Callanan, Richard

CC:

Date: 9/14/2009 8:54:54 AM

Subject: ?RE: Registration Now Open for Tenants' Rights in Foreclosures Course 10/2/09

Good Morning Rick:

I actually think that these programs will work fine. I've participated in some of the Appellate Practice telephone conferences and they have worked out pretty well.

Will keep you informed...HDH

From: Callanan, Richard

Sent: Monday, September 14, 2009 9:42 AM

To: Hayes, Hugh

Subject: RE: Registration Now Open for Tenants' Rights in Foreclosures Course 10/2/09

Thanks Judge..I guess we are now officially moving into the 21st century? Please let me know how valuable you actually think these distance learning workshops are for the judges..Thanks again

Rick

From: Hayes, Hugh

Sent: Saturday, September 12, 2009 8:07 AM

To: McLean, Craig

Cc: Callanan, Richard; Cary, G. Keith

Subject: RE: Registration Now Open for Tenants' Rights in Foreclosures Course 10/2/09

Craig:

Many thanks to you and your staff!

Hugh

From: McLean, Craig
Sent: Thursday, September 10, 2009 3:52 PM
To: Thomas, Manuel; Judges-Charlotte; Judges-Collier; Judges-Glades; Judges-Hendry; Judges-Lee; Magistrates-All
Cc: Kiesel, Lisa; Callanan, Richard; Ackerman, Paul; Woelfel, Joe; Friess, Joseph; Middlebrook, Mark; Embury, Jon; Goodpasture, Penelope; Rosemond, Larry
Subject: RE: Registration Now Open for Tenants' Rights in Foreclosures Course 10/2/09

All,

We have purchased through our CJIS agency a piece of equipment that will allow us to do video conferences to the state (or outside our network) from anywhere in our circuit. This will allow us to do these trainings from individual counties. We are in process of configuring this "bridge" and should have it up for the video conference training on the 17th. We are very happy with this new technology for our circuit and were able to share in the cost of the equipment with the State's Attorney and the Public Defender. We can also now do circuit wide calls with every county at the same time, before we could only do up to 4. Thanks to the CJIS and AOC networking staff for configuring this and installing the equipment. It was not an easy task.

If you have any questions, please give me a call.

Thanks,

Craig

Craig McLean

Information Services Director

20th Judicial Circuit Court

239.533.1722

cmclean@ca.cjis20.org

From: Thomas, Manuel
Sent: Thursday, September 10, 2009 10:20 AM
To: Judges-Charlotte; Judges-Collier; Judges-Glades; Judges-Hendry; Judges-Lee; Magistrates-All
Cc: Kiesel, Lisa; McLean, Craig; Callanan, Richard
Subject: FW: Registration Now Open for Tenants' Rights in Foreclosures Course 10/2/09 **20TH CIR 01083**

Good Morning Your Honors and Magistrates:

Judges and Magistrates who are interested in attending the Videoconference on "Tenants' Rights in Foreclosures" on October 2, 2009 in Conference Room B in the Lee Justice Center Annex may register by using the link <http://caintra/events/login.asp> and selecting this videoconference.

Tenants' Rights in Foreclosures Videoconference

for County Court Judges and Senior Judges

Friday, October 2, 2009
12:15 p.m. – 1:30 p.m. ET

Faculty and Course Content

Broward County Court Judge Jane Fishman will present this timely topic to include the following objectives:

- Identify the issues facing renters whose homes are in mortgage or association foreclosure;
- Correctly apply 12 USC Sec. 5220 to ameliorate some of those issues; and
- Identify issues that may be raised that are not answered by the recent federal legislation.

Location

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20TH CIR 01084

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How to Register

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<http://www.flcourts.org/UltimateSurvey/Surveys/TakeSurvey.aspx?s=27C0DF85C3A940D1815697CEB9FFE0FD>

The deadline to register is September 25, 2009. If you are a person who needs an accommodation in order to register or participate, please submit your request to Beverly Brown at 850-922-5084 or brownb@flcourts.org.

Contact Information

Bart Moore, Court Education Senior Attorney
850-413-9642 or mooreb@flcourts.org

Website

http://intranet.flcourts.org/osca/Judicial_Education/DistanceLearning/2009TenantsRights/main.html

From: Kiesel, Lisa </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=LKIESEL>

To: Judges-Charlotte
Judges-Collier
Judges-Glades
Judges-Hendry
Judges-Lee
Magistrates-All
Staff Attorney Offices
Davis, Dana
'Judge Daniel Monaco'
'Judge Donald Pellecchia'
'Judge George Brescher'
'Judge Harry Rapkin'
'Judge Hugh Starnes'
'Judge James Thompson'
'Judge Stephen Dakan'
'Judge Theodore Brousseau'
McIver, William

CC: JA-Charlotte
JA-Collier
JA-Glades
JA-Hendry
JA-Lee
Callanan, Richard
Thomas, Manuel
Suhar, Sharon
HelpDesk

Date: 9/24/2009 11:22:56 AM

Subject: 9/30/09 Foreclosure 101 Videoconference

The Foreclosure 101 videoconference is on Wednesday 9/30/09. The program runs from 12:15 – 1:30 and is presented by Thomas H. Bateman, III, Esquire from Messer, Caparello & Self, PA. The course content includes a basic overview of mortgage foreclosure actions and gives Judges the tools they need to efficiently and effectively handle their foreclosure caseload. Participants will also be provided access to the Foreclosure Benchbook, which was prepared by Judge Jennifer Bailey and Assistant General Counsel Doris Bermudez-Goodrich, both from the 11th Circuit.

If you have not already registered and would like to attend, please register at <http://caintra/events/login.asp>. If you do not have access to the Court's intranet site, you can reply to this email to register.

If you have any questions, please let me know.

Lisa Kiesel, Chief Deputy Court Administrator
Twentieth Judicial Circuit
Administrative Office of the Courts
1700 Monroe Street

20TH CIR 01086

Office (239) 533-1711

Fax (239) 533-1701

Our mission is to provide professional services to support the judiciary in their efforts to protect rights and liberties, uphold and interpret the law, and provide for the peaceful resolution of disputes.

From: Kiesel, Lisa </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=LKIESEL>

To: 'winterd@flcourts.org'

CC: Suhar, Sharon

Date: 9/24/2009 11:25:28 AM

Subject: Foreclosure 101 video conference

Danica,

Can you please let me know if anyone from the 20th Circuit has registered for this training?

Thanks,

Lisa Kiesel, Chief Deputy Court Administrator

Twentieth Judicial Circuit

Administrative Office of the Courts

1700 Monroe Street

Fort Myers, FL 33901

Office (239) 533-1711

Fax (239) 533-1701

Our mission is to provide professional services to support the judiciary in their efforts to protect rights and liberties, uphold and interpret the law, and provide for the peaceful resolution of disputes.

From: Callanan, Richard </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=RCALLANAN>

To: Kiesel, Lisa

Harkey, Sandra D

CC:

Date: 9/11/2009 6:19:44 AM

Subject: ?FW: Register for Foreclosure 101 Videoconference 9/30/09

From: Beverly Brown[SMTP:BROWNB@FLCOURTS.ORG]

Sent: Friday, September 11, 2009 7:19:37 AM

To: Abdiel Ortiz; Bill Hale; Brett Arquette; McLean, Craig;
Craig Van Brussel; Dennis Menendez; Doug Smith; Fred Buhl; Gary Hagan;
Gerald Land; Jannet Lewis; Jeff Sourbeer; John Lake; Jon Lin; Ken Nelson;
Noel Chessman; Ray Green; Sharon Abrams; Stephen Shaw; Sunil Nemade;
Wayne Fountain

Cc: Trial Court Administrators; 'brooke.jones@flcourts1.gov';
'ctadsg1@ocnjcc.org'; Vivian Gonzalez; Danica Winter; Lynne Winston;
Tenisha Lewis

Subject: FW: Register for Foreclosure 101 Videoconference 9/30/09

Auto forwarded by a Rule

FYI - We sent the following email to all circuit judges and senior judges. There are a number of senior judges who do not use email so we would appreciate your assistance in notifying senior judges in your circuit of this educational opportunity.

From: Callanan, Richard </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=RCALLANAN>

To: Kiesel, Lisa

Harkey, Sandra D

CC:

Date: 9/9/2009 11:08:44 AM

Subject: ?FW: Registration Now Open for Tenants' Rights in Foreclosures Course 10/2/09

From: Beverly Brown[SMTP:BROWNB@FLCOURTS.ORG]

Sent: Wednesday, September 09, 2009 12:08:36 PM

To: Abdiel Ortiz; Bill Hale; Brett Arquette; McLean, Craig;
Craig Van Brussel; Dennis Menendez; Doug Smith; Fred Buhl; Gary Hagan;
Gerald Land; Jannet Lewis; Jeff Sourbeer; John Lake; Jon Lin; Ken Nelson;
Noel Chessman; Ray Green; Sharon Abrams; Stephen Shaw; Sunil Nemade;
Wayne Fountain

Cc: 'brooke.jones@flcourts1.gov'; 'ctadsg1@ocnjcc.org'; Vivian Gonzalez;
Trial Court Administrators; Trial Court Chief Judges; Bart Moore

Subject: FW: Registration Now Open for Tenants' Rights in Foreclosures Course 10/2/09

Auto forwarded by a Rule

R

FYI - We sent the following email to all county court judges and senior judges this morning. There are a number of senior judges who do not use email so we would appreciate your assistance in notifying senior judges in your circuit of this educational opportunity.

Tenants' Rights in Foreclosures Videoconference

for County Court Judges and Senior Judges

Friday, October 2, 2009

12:15 p.m. – 1:30 p.m. ET

Faculty and Course Content

Broward County Court Judge Jane Fishman will present this timely topic to include the following objectives:

- Identify the issues facing renters whose homes are in mortgage or association foreclosure;
- Correctly apply 12 USC Sec. 5220 to ameliorate some of those issues; and
- Identify issues that may be raised that are not answered by the recent federal legislation.

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<http://www.flcourts.org/UltimateSurvey/Surveys/TakeSurvey.aspx?s=27C0DF85C3A940D1815697CEB9FFE0FD>

The deadline to register is September 25, 2009. If you are a person who needs an accommodation in order to register or participate, please submit your request to Beverly Brown at 850-922-5084 or brownb@flcourts.org.

Contact Information

Bart Moore, Court Education Senior Attorney
850-413-9642 or mooreb@flcourts.org

Website

http://intranet.flcourts.org/osca/Judicial_Education/DistanceLearning/2009TenantsRights/main.html

From: Kiesel, Lisa </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=LKIESEL>

To: Suhar, Sharon

CC:

Date: 9/24/2009 11:28:08 AM

Subject: training emails

Foreclosure 101 email...

Tenant's Rights email...

Lisa Kiesel, Chief Deputy Court Administrator
Twentieth Judicial Circuit
Administrative Office of the Courts
1700 Monroe Street
Fort Myers, FL 33901
Office (239) 533-1711
Fax (239) 533-1701

Our mission is to provide professional services to support the judiciary in their efforts to protect rights and liberties, uphold and interpret the law, and provide for the peaceful resolution of disputes.

From: Kiesel, Lisa </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=LKIESEL>

To: Middlebrook, Mark

Embury, Jon

CC: Mause, Denise

Williams, Diane

Callanan, Richard

Smith, Carrie

Harkey, Sandra D

Date: 9/29/2009 1:12:12 PM

Subject: ?FW: 9/30/09 Foreclosure 101 video conference

FYI

From: Kiesel, Lisa

Sent: Tuesday, September 29, 2009 12:27 PM

To: HelpDesk; Suhar, Sharon

Subject: 9/30/09 Foreclosure 101 video conference

Participants for Wednesday's Foreclosure 101 video conference:

| Employee Name | Location | Position Title |
|-----------------------------|----------|----------------|
| Brescher, George Lee | | Senior Judge |
| Brousseau, Theodore Collier | | Senior Judge |
| Friedman, David Collier | | Magistrate |
| Gagliardi, Josephine Lee | County | Judge |
| Hayward, Archie Lee | County | Judge |
| Lundy, Jack Glades | County | Judge |
| Manalich, Ramiro Lee | Circuit | Judge |
| McGarity, James Collier | | Magistrate |
| Pellecchia, Donald Lee | | Senior Judge |
| Richards, George Lee | Circuit | Judge |

Lisa Kiesel, Chief Deputy Court Administrator
Twentieth Judicial Circuit
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1700 Monroe Street
Fort Myers, FL 33901
Office (239) 533-1711
Fax (239) 533-1701

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From: Kiesel, Lisa </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=LKIESEL>

To: McGarity, James

CC:

Date: 9/29/2009 9:02:22 AM

Subject: ?RE: 9/30/09 Foreclosure 101 Videoconference

We have to get special approval from OSCA for anyone other than Judges to register. I have asked for approval for you to register and will let you know when I hear back. I am not anticipating any problems.

Thanks,

Lisa Kiesel, Chief Deputy Court Administrator
Twentieth Judicial Circuit
Administrative Office of the Courts
1700 Monroe Street
Fort Myers, FL 33901
Office (239) 533-1711
Fax (239) 533-1701

Our mission is to provide professional services to support the judiciary in their efforts to protect rights and liberties, uphold and interpret the law, and provide for the peaceful resolution of disputes.

-----Original Message-----

From: McGarity, James
Sent: Monday, September 28, 2009 8:38 PM
To: Kiesel, Lisa
Subject: RE: 9/30/09 Foreclosure 101 Videoconference

Lisa:
If it is not too late I'd like to register for this class / videoconference this Wednesday.
Thanks,
Jim McGarity
G.M.
(239)252-8388

From: Kiesel, Lisa
Sent: Thursday, September 24, 2009 12:22 PM
To: Judges-Charlotte; Judges-Collier; Judges-Glades; Judges-Hendry; Judges-Lee; Magistrates-All; Staff Attorney Offices; Davis, Dana; 'Judge Daniel Monaco'; 'Judge Donald Pellecchia'; 'Judge George Brescher'; 'Judge Harry Rapkin'; 'Judge Hugh Starnes'; 'Judge James Thompson'; 'Judge Stephen Dakan'; 'Judge Theodore Brousseau'; McIver, William
Cc: JA-Charlotte; JA-Collier; JA-Glades; JA-Hendry; JA-Lee; Callanan, Richard; Thomas, Manuel; Suhar, Sharon; HelpDesk
Subject: 9/30/09 Foreclosure 101 Videoconference

The Foreclosure 101 videoconference is on Wednesday 9/30/09. The program runs from 12:15 – 1:30 and is presented by Thomas H. Bateman, III, Esquire from Messer, Caparello & Self, PA. The course content includes a basic overview of mortgage foreclosure actions and gives Judges the tools they need to efficiently and effectively handle their foreclosure caseload. Participants will also be provided access to the Foreclosure Benchbook, which was prepared by Judge Jennifer Bailey and Assistant General Counsel Doris Bermudez-Goodrich, both from the 11th Circuit.
20TH CIR 01094

If you have not already registered and would like to attend, please register at <http://caintra/events/login.asp>. If you do not have access to the Court's intranet site, you can reply to this email to register.

If you have any questions, please let me know.

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From: Kiesel, Lisa </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=LKIESEL>

To: [HelpDesk](#)

[Suhar, Sharon](#)

CC:

Date: 9/29/2009 11:27:08 AM

Subject: 9/30/09 Foreclosure 101 video conference

Participants for Wednesday's Foreclosure 101 video conference:

| Employee Name | Location | Position | Title |
|-----------------------------|----------|--------------|-------|
| Brescher, George Lee | | Senior Judge | |
| Brousseau, Theodore Collier | | Senior Judge | |
| Friedman, David Collier | | Magistrate | |
| Gagliardi, Josephine Lee | County | Judge | |
| Hayward, Archie Lee | County | Judge | |
| Lundy, Jack Glades | County | Judge | |
| Manalich, Ramiro Lee | Circuit | Judge | |
| McGarity, James Collier | | Magistrate | |
| Pellecchia, Donald Lee | | Senior Judge | |
| Richards, George Lee | Circuit | Judge | |

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From: Kiesel, Lisa </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=LKIESEL>

To: [Middlebrook, Mark](#)
[Embury, Jon](#)

CC: [Mause, Denise](#)
[Williams, Diane](#)
[Callanan, Richard](#)
[Smith, Carrie](#)
[Harkey, Sandra D](#)

Date: 9/29/2009 1:12:12 PM

Subject: ?FW: 9/30/09 Foreclosure 101 video conference

FYI

From: Kiesel, Lisa
Sent: Tuesday, September 29, 2009 12:27 PM
To: HelpDesk; Suhar, Sharon
Subject: 9/30/09 Foreclosure 101 video conference

Participants for Wednesday's Foreclosure 101 video conference:

| Employee Name | Location | Position | Title |
|-----------------------------|----------|---------------|-------|
| Brescher, George Lee | | Senior Judge | |
| Brousseau, Theodore Collier | | Senior Judge | |
| Friedman, David Collier | | Magistrate | |
| Gagliardi, Josephine Lee | | County Judge | |
| Hayward, Archie Lee | | County Judge | |
| Lundy, Jack Glades | | County Judge | |
| Manalich, Ramiro Lee | | Circuit Judge | |
| McGarity, James Collier | | Magistrate | |
| Pellecchia, Donald Lee | | Senior Judge | |
| Richards, George Lee | | Circuit Judge | |

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From: Kiesel, Lisa </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=LKIESEL>

To: Hayward Jr., Archie

Lundy, Jack

Gagliardi, Josephine

Mañalich, Ramiro

Friedman, David

'tedbrousseau@netscape.net'

'sabelpalm@aol.com'

'pellecchiade@yahoo.com'

Richards, George

McGarity, James

CC: Wilkinson, Kathy

Brantley, Kelly

Walsh, Carol

Ferreira, Nicole

Davis, Dana

Date: 9/30/2009 8:51:38 AM

Subject: Foreclosure 101 Handbook

Attached you will find the handbook mentioned in the course description for today's video conference. Any other training materials will be sent directly from OSCA.

If you have any questions, please let me know.

Thanks,

Lisa Kiesel, Chief Deputy Court Administrator
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Fort Myers, FL 33901
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FORECLOSURE BENCHBOOK

Prepared by

Honorable Jennifer S. Bailey
Administrative Judge
General Jurisdiction Division
Eleventh Judicial Circuit of Florida

and

Christine M. Woodrich
Assistant General Counsel
Eleventh Judicial Circuit of Florida

Introduction

1. Foreclosure is the enforcement of a security interest by judicial sale of collateral.

2. **Definitions:**

a **Mortgage:** any written instrument securing the payment of money or advances including liens to secure payment of assessments for condominiums, cooperatives and homeowners associations. § 202.02, Fla. Stat. 2000.

A mortgage creates only a specific lien against the property; it is not a conveyance of legal title or of the right of possession. § 202.02, Fla. Stat. 2000. *Fla. Nat'l Bank Trust Co. of Miami v. Brown*, 4 So. 2d 414.

b **Mortgagee:** refers to the lender, the secured party or holder of the mortgage lien. § 21.21, Fla. Stat. 2000.

c **Mortgagor:** refers to the obligor, the individual or entity who has assumed the obligation secured by the mortgage lien. § 21.21, Fla. Stat. 2000. The mortgagor holds legal title to the mortgaged property. *offman v. Semet*, 1 So. 2d 4, 52 Fla. 4th C 15.

To foreclose the mortgage lien and extinguish equities of redemption, secured parties must file a civil action. § 45.015, Fla. Stat. 2000.

Lender's Right to Foreclose

1. Constitutional obligation to uphold mortgage contract and right to foreclose. F. S. Const. Art 10.

a Right unaffected by defendant's misfortune. *Lee County v. Christian Mut. Found., Inc.*, 40 So. 2d 44, 44 Fla. 2d C 11. *Morris v. Waite*, 10 So. 51, 51 Fla. 15.

b Right not contingent on mortgagor's health, good fortune, ill fortune, or the regularity of his employment. *Home Owners Loan Corp. v. Wilkes*, 1 So. 11, 14 Fla. 1.

c Contract impairment or imposition of moratorium is prohibited by court. *Lee County Bank v. Christian Mut. Foundation, Inc.*, 40 So. 2d 44, 44 Fla. 1 1 .

Default

1. Right to foreclosure accrues upon the mortgagor's default.
2. Basis for default:
 - a mortgagor's failure to tender mortgage payments or
 - b impairment of security, including failure to pay taxes or maintain casualty insurance.

Acceleration

1. Acceleration gives the mortgagee the authority to declare the entire mortgage obligation due and payable immediately upon default.
2. Mortgage Acceleration Clause confers a contract right upon the note or mortgage holder which he may elect to enforce upon default. *as id. Sun Fed. Sa. Loan Ass'n.*, 41 So. 2d 4, 4 Fla. 1 4 .
 - a Absent acceleration clause, lender can only sue for amount in default. *Kirk v. Van Petten*, 21 So. 2 1 Fla. 1 .
 - b Commencement upon delivery of written notice of default to the mortgagor prior notice is not required unless it is a contractual term. *Millett v. Pere*, 41 So. 2d 10 Fla. d C 1 2 *Fowler v. First Sa. Loan Ass'n. of Refuniak Springs*, 4 So. 2d 0, 4 Fla. 1st C 1 4 , filing of complaint is notice of acceleration .
4. Pre acceleration mortgagor may defeat foreclosure by the payment of arrearages, thereby reinstating the mortgage. *Pisci v. First Union Nat'l Bank of Florida*, 21 So. 2d 2, Fla. 2d C 1 .

Statute of Limitations

1. Five year statute of limitations period applies specifically to mortgage foreclosure actions. 5.11 2 c, Fla. Stat. 200 *Farmers Merch. Bank v. Riede*, 55 So. 2d 5, 5 Fla. 1st C 1 0 .

2. Commencement of limitations period:

a. General rule: commencement upon accrual of the cause of action when the last element of the cause of action is satisfied. For example, default. 5.011, Fla. Stat. 200 *Maggio v. Dept. of Labor Employment Sec.*, 10 So. 2d , Fla. 2d C 2005 .

b. Note or other written instrument: when the first written demand for payment occurs. *Ruhl v. Perry*, 0 So. 2d 5 , 5 Fla. 1 0 .

c. Real loan payable on demand: commencement upon demand for payment. *Mosher v. Anderson*, 1 So. 2d 12, 1 Fla. 2002 .

. Tolling of the limitations period: acknowledgment of the debt or partial loan payments subsequent to the acceleration notice toll the statute of limitations. 5.0511 f, Fla. Stat. 200 *Cadle Company v. McCartha*, 20 So. 2d 144, 145 Fla.5th C 200 .

a. Tolling effect: starts the running and of the limitations period on the debt. *Wester v. Rigdon*, 110 So. 2d 4 0, 4 4 Fla. 1st C 1 5 .

Jurisdiction

1. Court's judicial authority over real property based on *in rem* jurisdiction.

2. Two part test to establish *in rem* jurisdiction: 1 jurisdiction over the class of cases to which the case belongs, and 2 jurisdictional authority over the property or *res* that is the subject of the controversy. *Ruth v. Dept. of Legal Affairs*, 4 So. 2d 1 1, 1 5 Fla. 1 .

a. Class of case: jurisdictional parameters defined by Article Section 5 b , Florida Constitution, implemented by Section 2 .012 2 g , Fla. Stat. 2004 . *Le de Corp. v. Achon Enter., Inc.*, 41 So. 2d 5 Fla. 1 4 , concurrent equity jurisdiction over lien foreclosures of real property that fall within statutory monetary limits . *d.*, at .

b. Jurisdictional authority over real property only in the circuit where the land is situated. *Ammond v. S e e lopers, LLC.*, 51 So. 2d 5, Fla. 2d C 200 . *Oedmakers v. Oedmakers*, 520 So.2d 5 5, 5 Fla.

1 court lacks *in rem* jurisdiction over real property located outside the court's circuit .

Parties to the Foreclosure Action

Plaintiff

1. Must be the owner holder of the note.

a The holder of a negotiable instrument means the person in possession of the instrument payable to bearer or to the identified person in possession.

1.201 21 , Fla. Stat. 200 .

b The holder may be the owner or a nominee, such as a servicer, assignee or a collection and litigation agent. Rule 1.210 a , Fla. R. Ci . P. 200 provides that an action may be prosecuted in the name of an authorized person without joinder of the party for whose benefit the action is brought.

c Plaintiff's nominee has standing to maintain foreclosure based on real party in interest rule. *Mortgage Electronic Registration Systems, Inc. v. Redondo*, 55 So. 2d 151 Fla. 4th C 200 , *MERS v. City of Jacksonville*, 5 So. 2d 151 Fla. 2d C 200 *Philogene v. MR Mortgage Group, Inc.*, 4 So. 2d 45 Fla. 4th C 200 .

2. Assignment of note and mortgage Plaintiff should assert assignee status in complaint. Absent formal assignment of mortgage or delivery, the mortgage in equity passes as an incident of the debt. *Perry v. Fairbanks Capital Corp.*, So. 2d 25, 2 Fla. 5th C 2004 *Johns v. Hillian*, 14 Fla. 5 5, 5 Fla. 1 *Warren v. Seminole Bond Mortg. Co.*, 12 Fla. 10 Fla. 1 , security follows the note, the assignee of the note secured by a mortgage is entitled to the benefits of the security .

a Requirement of a written and recorded assignment of the mortgage to maintain foreclosure action. *WM Specialty Mortgage, LLC v. Salomon*, 4 So. 2d 0, 2 Fla. 4th C 2004 *Chem. Residential Mortgage v. Rector*, 42 So. 2d 00 Fla. 1st C 1 *Clifford v. Eastern Mortg. Sec. Co.*, 1 So. 5 2

Fla. 1 .

. Since the promissory note is a negotiable instrument, plaintiff must present the original note or give a satisfactory explanation for its absence.

0. 5 1 , Fla. Stat. 200 *State Street Bank and Trust Co. v. Lord*, 51 So. 2d 0, 1 Fla. 4th C 200 . satisfactory explanation includes loss, theft, destruction and wrongful possession of the note. . 0 1 1 , Fla. Stat. 2004 . Reestablishment of the note is governed by . 0 1 2 , Fla. Stat. 2004 .

Necessary and Proper Defendants

1. The owner of the fee simple title only indispensable party defendant to a foreclosure action. *English v. Bankers Trust Co. of Calif.*, . ., 5 So 2d 1120, 1121 Fla. 4th C 2005 . Foreclosure is void if titleholder omitted. *d.*

a indispensable parties defined necessary parties so essential to a suit that no final decision can be rendered without their joinder. *Sudhoff v. Federal at l. Mortgage Ass'n.*, 42 So. 2d 425, 42 Fla. 5th C 200 .

2. Failure to join other necessary parties they remain in the same position as they were in prior to foreclosure. *bdoney v. ork*, 0 So. 2d 1, Fla. 2d C 2005 .

. omitted party only remedies are to compel redemption or the reforeclosure in a suit de no o. *d. uinn Plumbing Co. v. e Miami Shores Corp.*, 12 So. 2d 0, Fla. 1 0 .

4. death of titleholder prior to entry of final judgment beneficiaries of the titleholder and the personal representative are indispensable parties. *Campbell v. apoli*, So. 2d 12 2 Fla. 2d C 2001 .

a f indispensable parties not joined, action abated pending proper joinder. *d.* s such, suit against a decedent alone will result in abatement.

b Post judgment death of titleholder, these parties are not deemed indispensable parties. *a is v. Scott*, 120 So. 1 Fla. 1 2 .

5. necessary parties to the foreclosure action all subordinate interests recorded or acquired subsequent to the mortgage.

a includes: junior mortgagees, holders of judgments and liens acquired after the superior mortgage, lessees and parties in possession of the real property. *Posnansky v. Reckenridge Estates Corp.*, 21 So. 2d 111, 112 Fla. 4th C 1 *Commercial Laundries, Inc. v. Wolf Course Toers Associates*, 5 So. 2d 501, 502 Fla. 4th C 1 *Crystal River Lumber Co. v. Knight Turpentine Co.*, 4, 5 Fla. 1 15 .

b If junior lien holders are not joined, their rights in the real property survive the foreclosure action.

c Joinder of original parties to the deed or mortgage are essential when a reformation count is needed to remedy an incorrect legal description contained in the deed and or mortgage. *Chanrain v. Clement*, 5 So. 2d 40, 41 Fla. 5th C 1 0 . As such, the original grantor and grantee are necessary parties in an action to reform a deed. *d.*

. Prior titleholders that signed the note and mortgage do not have to be named in the foreclosure action unless:

a Mortgagee seeks entry of a deficiency judgment against the prior unreleased mortgagors in the foreclosure action. *PM Ins. Co. v. Candler*, 15 So. 2d 10, 11 Fla. 4th C 1 .

Superior Interests

1. First or senior mortgagees are never necessary or proper parties to the foreclosure action by the junior mortgagee. *Archie v. Stewart*, 10 So. 2d 111, 112 Fla. 4th C 2005 *Poinciana Hotel of Miami Beach, Inc. v. Kasden*, 10 So. 2d 401 Fla. 4th C 1 .

a Senior liens are unaffected by the foreclosure of a junior mortgage.

2. **Purchase money mortgage defined** proceeds of the loan are used to acquire the real estate or to construct improvements on the real estate.

.2 a , Restatement Third of Property Mortgages 200 . The purchase and conveyance of real property occur simultaneously and are given as security for a purchase money mortgage.

a Purchase money mortgages priority over all prior claims or liens that attach to the property through the mortgagor, even if latter be prior in time.

ancFlorida v. Bayard, So. 2d 1052, 1054 Fla. 1 *Sarmiento v. Stockton, Whatley, & Co.*, So. 2d 105, 105 Fla. d C 1 1 .

1 Priority does not extend beyond the amount of the purchase money advanced. *Citibank v. Carteret Savings Bank, F.*, 12 So. 2d 5, 01 Fla. 4th C 1 2 .

Association Liens and Assessments

1. Condominium associations Section 1.11 1 b, Fla. Stat. 200 establishes the liability of the first mortgagee, its successor or purchaser for condominium assessments and maintenance as the lesser of:

a units unpaid common expenses and regular periodic assessments which came due months prior to title acquisition or

b one per cent of the original mortgage debt.

2. Homeowners associations Section 20.052 c 1, Fla. Stat. 200 establishes the liability of the first mortgagee, its successor or purchaser for homeowners assessments and maintenance as the lesser of:

a parcels unpaid common expenses and regular periodic or special assessments which accrued 12 months prior to acquisition of title or

b one per cent of the original mortgage debt.

c homeowners associations lien for assessments had priority over purchase money mortgage here associations declaration of covenants contained express provision establishing priority. *ss.n. of Poinciana Ill.* .

atar Props., 24 So. 2d 55, 5 Fla. 5th C 1 .

d The limitations on the first mortgagee's liability only apply if the lender filed suit and initially joined the homeowners association as a defendant.

20.052 c, Fla. Stat. 200 .

e Statutory revisions of the 200 Legislature failed to remedy the potential super priority of liens recorded prior to July 1, 200 . Prior statutory version amended by the 200 Legislature gave homeowners association liens a

priority, even if the mortgage was filed first in time. Arguably, many homeowners associations have subordination language in their declaration of covenants providing that their lien is subordinate to the mortgage. However, the subordination language is not standard in all declarations. Any challenge to the priority if the mortgage will likely be resolved on the basis of impairment of contract.

Judgment Liens

1. Section 55.10 1 , Fla. Stat. 2004 applies to judgment liens.

a Requirements: 1 must contain address of the party in the judgment or in an accompanying affidavit and 2 a certified copy of judgment lien must be recorded in the official records of the county.

b Judgment liens recorded after July 1, 1 4 retain their judgment lien status for a period of 10 years from recording. Judgment lien is renewable by recording a certified copy of the judgment containing a current address prior to the expiration of the judgment lien. 55.10 2 , Fla. Stat. 2004 .

Filing of the Lis Pendens

1. Filing of lis pendens cuts off the rights of any person whose interest arises after filing.

a Constitutes bar to the enforcement against the subject real property of any other unrecorded interests and liens unless the holder of the unrecorded interest intervenes within ten days of the notice of the lis pendens.

4 .2 1 b , Fla. Stat. 200 .

2. Validity of a notice of lis pendens is one year from filing. 4 .2 2 , Fla. Stat. 200 .

a Exception: one year period may be tolled by the trial court's exercise of discretion or appellate review. *lesh . reenberg*, 41 So. 2d 2 , 242 Fla. 5th C 200 *onmitschke Collande . Kramer*, 41 So. 2d 4 1, 4 2 Fla. d C 2002 .

Lis pendens automatically dissolved upon dismissal of foreclosure. Rule 1.420 f, Fla. R. Civ. P.

a Lis pendens revived or reinstated upon the reversal of dismissal. *onmitschke Collande*, 41 So. 2d at 42.

The Foreclosure Complaint

1. Florida Supreme Court Form for foreclosure Rule 1.44, Fla. R. Civ. Proc. Requisite allegations assert: jurisdiction, default, acceleration and the legal description of the real property.

a Plaintiff must allege that he is the present owner and holder of the note and mortgage. *Edason v. Cent. Farmers Trust Co.*, 12 So. 2d 100 Fla. 10.

b If plaintiff is a nonresident corporation, it must comply with the condition precedent of filing a nonresident bond, upon commencement of the action. § 5.011, Fla. Stat. 200. If plaintiff has failed to file the requisite bond within 30 days after commencement, the defendant may move for dismissal after 20 days notice to plaintiff.

c Rule 1.10 a, Fla. R. Civ. Proc. mandates that a copy of the note and mortgage be attached to the complaint. *Eigen v. F C*, 42 So. 2d 2 Fla. 2d C 1.

d If note and mortgage assigned, complaint should allege assignment. Attachment of the assignment is not required since the cause of action is based on the mortgage not the assignment. Rule 1.10 a, Fla. R. Civ. P., *WM Specialty Mortgage, LLC v. Salomon*, 4 So. 2d 0, 2 Fla. 4th C 2004 *Chemical Residential Mortgage v. Rector*, 42 So. 2d 00 Fla. 1st C 1 *Johns v.illian*, 14 So. 140, 144 Fla. 1.

e Junior lien holders' allegation is sufficient if it states that the interest of a defendant accrued subsequent to the mortgage and he is a proper party. *nter at l. Kaolin Co. v. ause*, 4 So. 2d, Fla. 10.

f Federal tax lien allegation must state interest of the United States of America, including: the name and address of the taxpayer, the date and place the tax lien was filed, the identity of the Internal Revenue office which filed the tax lien and if a notice of tax lien was filed. Title 26 U.S.C. 2410(b). Copy of the tax lien must be attached as an exhibit.

g Local taxing authority or State of Florida party defendant allegation should state with particularity the nature of the interest in the real property.

.0412, Fla. Stat. 200.

h Complaint must include statement of default. Default based on unpaid taxes or insurance must be alleged default with particularity. *Siahpoosh v. Prop.*, 50 So. 2d 111, Fla. 4th D.C. 1.

i Legal description of the subject real property.

j Attorney fees must be pled or it is waived. *Stockman v. Jones*, 50 So. 2d 5, Fla. 1 D.C. 1. Allegation as to obligation to pay a reasonable attorney fee is sufficient to claim entitlement. *Wallace v. Age*, 150 So. 2d 100, Fla. 1 D.C. The claim of attorney fees is based on contractual language in the note and mortgage.

Original Document Filing and Reestablishment of the Note

1. Lender is required to either present the original promissory note or give a satisfactory explanation for the lender's failure to present it prior to it being enforced. *Atl. Loan Investors, L.P. v. Joymar Associates*, 50 So. 2d 54, 550 Fla. D.C. 2000.

a limited exception applies to lost, destroyed or stolen instruments.
d.

2. Lost promissory note is a negotiable instrument. .0411, Fla. Stat. 200, *Thompson v. First National Bank*, 40 So. 2d 11, Fla. 5th D.C. 14.

a Loss or unintentional destruction of a note does not affect its validity or enforcement.

Reestablishment of the lost note owner of a lost, stolen or destroyed instrument may maintain an action by showing proof of his ownership, facts that prevent the owner from producing the instrument and proof of the terms of the lost instrument. 2012, Fla. Stat. 2004 *Layser's Title Ins. Co., Inc. v. Coastal Mortgage, Inc.*, 2 So. 2d , Fla. 4th C 2004 *Wittier v. Bermudez*, 540 So. 2d , 0 Fla. 5th C 1 .

a owner of note is not required to have held possession of the note when the loss occurred to maintain an action against the mortgagor. *Bank of America v. Menendez*, 0 So. 2d 124, 12 Fla. 4th C 2002 . Further, plaintiff is not required to prove the circumstances of the loss or destruction of the note to seek enforcement. *Id.*, at 12 .

b If plaintiff is not in possession of the original note and did not reestablish it, plaintiff cannot foreclose on the note and mortgage.

2011, Fla. Stat. 2004 *Asman Est., LLC v. Realty Associates Fund, L.P.* 45 F. Supp. 2d 124, 102 S. Fla. 200 .

c The filing of a duplicate copy of the note is sufficient to satisfy statutory requirements in a foreclosure action. *Perry v. Fairbanks Capital Corp.*,

So. 2d 25 Fla. 5th C 2004 . If there is no copy, Plaintiff should file a lost note affidavit, ledger or a summary of loan terms.

1 Checklist for lost note affidavit:

- a original principal balance
- b signators and date note executed
- c rate of interest
- d unpaid balance and default date
- e affiant status must be banking representative with knowledge of the particular loan
- f indemnity language, precluding subsequent foreclosure judgment on the same note.

Fair Debt Collection Practices Act (FDCPA)

1. Purpose eliminate abusive debt collection practices by debt collectors and to promote consistent State action to protect consumers against debt collection abuses. 15 U.S.C. 1692e.

2. Some Florida courts held attorneys engaged in regular foreclosure work met the general definition of debt collector and are subject to the FDCPA. *Sandlin v. Shapiro*, 154 F. Supp. 154, 158 M. J. Fla. 1981, a law firm engaged in collection foreclosure work was considered a debt collector where the firm sent correspondence advising of payoff and reinstatement figures and directed mortgagors to pay the law firm.

Under FDCPA, a debt collector's obligation to send a notice of debt is triggered by an initial communication with the consumer. *McKnight v. Benite*, 154 F. Supp. 101, 104 M. J. Fla. 2001.

a Filing of suit is not an initial communication which otherwise would have given rise to notice and verification rights. *Costa v. Campbell*, 200 WL 42042 M. J. Fla. 2001.

b Foreclosure law firms have adopted the practice of attaching to their complaint: notice required under the Fair Debt Collection Practice Act. This notice held ineffective in *Martinez v. La Oficinas of Madrid J. Stern*, 2001 R. 52 Bank. S. J. Fla. 2001.

Service of Process

1. Due service of process is essential to satisfy jurisdictional requirements over the subject matter and the parties in a foreclosure action. Rule 1.000, Fla. R. of Civ. P. 2001 and Chapters 4 and 4 of the Florida Statutes.

2. Service of process must be made upon the defendant within 120 days after the filing of the initial pleading. Rule 1.000 j, Fla. R. Civ. P. 2001. Absent a showing of excusable neglect or good cause, the failure to comply with the time limitations may result in the court's dismissal of the action with prejudice or the dropping of the defendant.

Personal Service

1. Section 4.011, Fla. Stat. 2004 requires that service of process be effectuated on the person to be served by delivery of the complaint or other pleadings at the usual place of abode or by leaving the copies at the individual's place of abode with any person residing there, who is 15 years of age or older and informing them of the contents.

a. Ineffective service. Leaving service of process with a doorman or with a tenant, when the defendant does not reside in the apartment is defective service. *Rosheim v. Greenpoint Mortgage Funding, Inc.*, 1 So. 2d 0, 0 Fla. 4th C 2002. Evidence that person resides at a different address from service address is ineffective service. *Ware v. State Farm Mut. Ins. Co.*, 5 So. 2d 11 Fla. d C 14.

b. Judgment subject to collateral attack where plaintiff did not substantially comply with the statutory requirements of service.

2. Substitute service authorized by Section 4.012, Fla. Stat. 2004. Substitute service may be made upon the spouse of a person to be served, if the cause of action is not an adversary proceeding between the spouse and the person to be served, and if the spouse resides with the person to be served.

a. Statutes governing service of process are strictly construed. *General de Seguros, S. A. v. Consol. Prop. Cas. Ins. Co.*, So. 2d 0, 1 Fla. d C 2001. Reversed with directions to vacate default judgment and wash service of process since substituted service was not perfected.

b. Use of private couriers or Federal Express Federal held invalid. *d. F M v. Fandino*, 51 So. 2d 52, 5 Fla. d C 2000, trial courts voiding of judgment affirmed based on plaintiff's failure to strictly comply with substitute service of process which employed Federal.

c. Evading service of process defined by statute as concealment of whereabouts. 4.0111, Fla. Stat. 2004 *Wadden v. Wung*, 422 So. 2d 1055 Fla. 4th C 12.

1 The Florida case which clearly illustrates concealment is *Luckey v. Smathers Thompson*, 4 So.2d 5 Fla. d C 1 . In *Luckey*, the defendant had for the purpose of avoiding all legal matters, secreted himself from the world and lived in isolation in a high security apartment refusing to answer the telephone or even to open his mail. *Id.* at 54. The Third District Court of appeal affirmed the trial court's decision denying defendant's motion to vacate the writ of execution and levy of sale based on a record of genuine attempts to serve the defendant. The Third District Court further opined that there is no rule of law which requires that the officers of the court be able to breach the self imposed isolation in order to inform the defendant that a suit has been filed against him. *Id.*

2 Effective proof of evading service must demonstrate plaintiff's attempts in light of the facts of the case despite process server's unsuccessful attempts at service, evasion was not proved based on evidence that the property was occupied and defendant's vehicle parked there. *Wise v. Warner*, 2 So. 2d 51, 52 Fla. 5th C 200 . Working defendant whose place of employment was known to the sheriff was not concealing herself or avoiding process, sheriff only attempted service at the residence during work hours. *Styles v. United Fid. Guaranty Co.*, 42 So. 2d 04 Fla. d C 1 2 .

Statutory requirements satisfied if papers left at a place from which the person to be served can easily retrieve them and if the process server takes reasonable steps to call the delivery to the attention of the person to be served. *Lin Corp. v.aney*, 245 So. 2d Fla 4th C 1 1 .

Service on a corporation may be served on the registered agent, officer or director. Section 4.012 b, Fla. Stat. 2004 if the address provided for the registered agent, officer, director, or principal place of business is a residence or private mailbox, service on the corporation may be made by serving

the registered agent, officer or director in accordance with § 4.01, Fla. Stat. 200 .

Constructive Service

1. Section 4.011(1), Fla. Stat. 200 identifies the enforcement of a claim of lien to any title or interest in real property such as foreclosure actions.

2. Sections 4.021-4.041, of the Florida Statutes govern constructive service or service by publication. Constructive service statutes are strictly construed against the party seeking to obtain service. *Leenson v. McCarty*, So. 2d 1, 1 Fla. 4th C 2004 .

. Service by publication is only available when personal service cannot be made. *Woodsell v. United Guaranty Residential Insurance*, 2 So. 2d 120, 1212 Fla. 5th C 200 , service by publication is void when plaintiff knew of the defendant's Canadian residency, but merely performed a skip trace in Florida and made no diligent search and inquiry to locate Canadian address. *Ross v. Fidelity Fed. Sav. Bank of Fla.*, 5 So. 2d 4, 4 Fla. 4th C 11, appellate court reversed and remanded to quash service of process and default based on plaintiff's knowledge of defendant's out of state residence address and subsequent failure to attempt personal service .

a Plaintiff must demonstrate that an honest and conscientious effort, reasonably appropriate to the circumstances, was made to acquire the necessary information and comply with the applicable statute. *Corcha, Inc. v. Hollingsworth*, So. 2d , Fla. 4th C 2004 , default judgment reversed based on plaintiff's crucial misspelling of defendant's name and subsequent search on wrong individual .

b Condition precedent to service by publication Section 4.041, Fla. Stat., 200 , requires that the plaintiff file a sworn statement that shows (1) a diligent search and inquiry has been made to discover the name and residence of such person, (2) whether the defendant is over the age of 18, and if unknown, the statement should set forth that it is unknown, and (3) the status of the

defendant's residence, whether unknown or in another state or country. Section 4.051, Fla. Stat. 200 applies to service by publication on a corporation.

c Plaintiff is entitled to have the clerk issue a notice of action subsequent to the filing of its sworn statement. Pursuant to § 4.0, Fla. Stat., 200, the notice requires defendant to file defenses with the clerk and serve same upon the plaintiff's attorney within 10 days after the first publication of the notice.

1 notice published once each week for two consecutive weeks, with proof of publication filed upon final publication.

4.101(c)2, Fla. Stat. 200.

d Affidavit of diligent search need only allege that diligent search and inquiry have been made; it is not necessary to include specific facts. *Floyd v. F.M.*, 104 So. 2d 1110, 1112 Fla. 5th Cir., final judgment and sale vacated based on plaintiff's failure to conduct diligent search to discover deceased mortgagor's heirs residence and possession of the subject property.

1 better practice is to file an affidavit of diligent search that contains all details of the search. *emars v. ill. of Sandalood Lakes Homeowners Ass'n.*, 25 So. 2d 121, 122 Fla. 4th Cir., 1, plaintiff's attorney failed to conduct diligent search and inquiry by neglecting to follow up on leads which he knew were likely to yield defendant's residence.

a **Diligent search and inquiry checklist**

basic checklist of a diligent search and inquiry to establish constructive service generally utilizes the following sources:

- 1 inquiry as to occupants in possession of the subject property
- 2 inquiry of neighbors
- Public records search of criminal civil actions
- 4 Telephone listings
- 5 Tax collector records
- utility Co. records

Last known employer
 . S. Post office
 Local police department, correctional department
 10 Local hospitals
 11 Armed Forces of the .S.
 12 Department of Highway Safety Motor Vehicles
 1 School board enrollment verification, if defendant has children
 14 in inquiry of the Division of Corps, State of Florida, to
 determine if the defendant is an officer, director or registered
 agent
 15 Other registration records.

f The plaintiff bears the burden of proof to establish the legal sufficiency of the affidavit when challenged. *d.*

g **Diligent search test** Whether plaintiff reasonably employed the knowledge at his command, made diligent inquiry, and exerted an honest and conscientious effort appropriate to the circumstances. *Shepherd v. Deutsche Bank Trust Co. m.s.*, 22 So. 2d 40, 4 Fla. 5th C 200 , reversed and voided judgment as to defendant life based on plaintiff's failure to strictly comply with statute, when they had been informed of defendant's correct address in England . Plaintiff's reliance on constructive service, when a doorman in the work repeatedly informed the process server of the defendant's location in Florida, reflects an insufficient amount of reasonable efforts to personally serve the defendant to justify the use of constructive service. *De Rico v. Chase Manhattan Bank*, 2 So. 2d 15, 1 Fla. d C 2002 . Similarly, failure to inquire of the most likely source of information concerning whereabouts of a corporation, or an officer or agent, does not constitute reasonable diligence. *Redfield Investments, Village of Pinecrest*, 0 So. 2d 115, 11 Fla. d C 200 .

h Effectiveness of process judgment based on lack of diligent search and inquiry constitutes improper service and lacks authority of law .

atchin v. Arnett Bank of South East Fla., 4 So. 2d 211,21 Fla. 2d C 1 4 .

1 Judgment rendered void when defective service of process amounts to no notice of the proceedings. *Shepherd*, 22 So. 2d at 45. void judgment is a nullity that cannot be validated by the passage of time and may be attacked at any time. *d.*

2 Judgment rendered voidable irregular or defective service actually gives notice of the proceedings. *d.*

i Limitations of constructive service only confers in rem or quasi in jurisdiction restricted to the recovery of mortgaged real property.

1 no basis for deficiency judgment constructive service of process cannot support a judgment that determines an issue of personal liability. *Carter v. Kingsley Bank*, 5 So. 2d 5 , 5 Fla. 1st C 1 1 , deficiency judgment cannot be obtained absent personal service of process .

Service of Process outside the State of Florida and in Foreign Countries

1. Section 4 .1 4 1 , Fla. Stat., 200 authorizes service of process in the same manner as service within the state, by an officer in the state where the person is being served. Section states that service of process outside the United States may be required to conform to the provisions of Hague Convention of 1 concerning service abroad of judicial and extrajudicial documents in civil or commercial matters.

2. The Hague Convention creates appropriate means to ensure that judicial and extrajudicial documents to be served abroad shall be brought to the addressee in sufficient time. *Koehli v. P ntl.*, 1 So. 2d 501, 502 Fla. 5th C 200 .

a Procedure process sent to a designated central authority, checked for compliance, served under foreign nation's law, and certificate prepared which documents the place and date of service or an explanation as to lack of service. *d.* return by the central authority of a foreign nation of completed certificate of

service as prima facie evidence that the authority's service on a defendant in that country was made in compliance with the Hague Convention and with the law of that foreign nation.

b. Compliance issues see *Williams v. Bellman Int'l. For. Orders*, 11 So. 2d 1 Fla. d. C. 1 2, plaintiff provided a faulty address to the Spanish authorities and the trial judge entered a default judgment, which appellate court reversed.

. Service by registered mail authorized by Section 4 .1 4 2, Fla. Stat. 200 . Permits service by registered mail to nonresidents where the address of the person to be served is known.

a. Section 4 .1 2 2 b, Fla. Stat. 200, provides that plaintiff must file an affidavit which sets forth the nature of the process, the date on which the process was mailed by registered mail, the name and address on the envelope containing the process that was mailed, the fact that the process was mailed by registered mail and was accepted or refused by endorsement or stamp. The return envelope from the attempt to mail process should be attached to the affidavit.

Mortgage Workout Options

1. Reinstatement: Repayment of the total amount in default or payments behind and restoration to current status on the note and mortgage.
2. Forbearance: The temporary reduction or suspension of mortgage payments.
- . Repayment Plan: Agreement between the parties whereby the homeowner repays the regularly scheduled monthly payments, plus an additional amount over time to reduce arrears.
4. Loan Modification: Agreement between the parties whereby one or more of the mortgage terms are permanently changed.
5. Short Sale: Sale of real property for less than the total amount owed on the note and mortgage.

after the lender agrees to the short sale, the remaining portion of the mortgage debt may be forgiven by the lender.

Moreover, the amount of debt forgiven may be considered income imputed to the seller and taxable as a capital gain by the

IRS. *Parker v. Helvering*, 1 F. 2d 455, 451 1st Cir. 1935.

Redeemed in lieu of Foreclosure: The homeowner's voluntary transfer of the home's title in exchange for the lender's agreement not to file a foreclosure action.

Substitution of Parties

1. Substitution is not mandatory; the action may proceed in the name of the original party. Moreover, to substitute a new party based on a transfer of interest requires a court order. *Tinsley v. Mangonia Residence 1, Ltd.*, 50 So. 2d 1111, 1112 Fla. 4th D.C. 2001, Rule 1.200, Fla. R. Civ. P.

2. Order of substitution must precede an adjudication of rights of parties, including default. *Floyd v. Wallace*, 50 So. 2d 551 Fla. 1st D.C. *Campbell v. Apoli*, 50 So. 2d 1222 Fla. 2d D.C. 2001, error to enter judgment without a real party against whom judgment could be entered.

When substitution is permitted, plaintiff must show the identity of the new party's interest and the circumstances.

Entry of Default

1. Without proof of service demonstrating adherence to due process requirements, the Plaintiff is not entitled to entry of default or a default final judgment.

a Failure to effectuate service places the jurisdiction in a state of dormancy during which the trial court or clerk is without authority to enter a default. *Armet S. v. C. di Ferronato Gioanni Co. v. Hornsby*, 44 So. 2d 1111, 1121 Fla. 1st D.C. 1950 *Tetley v. Lett*, 42 So. 2d 112 Fla. 4th D.C. 1954.

2. Legal effect of default: admission of every cause of action that is sufficiently well pled to properly invoke the jurisdiction of the court and to give

due process notice to the party against whom relief is sought. *Fiera.Com, Inc. v. iGicast & Media Group, Inc.*, So. 2d 451, 452 Fla. 4th D.C. 200 .
 Default terminates the defending party's right to further defend, except to contest the amount of unliquidated damages. *Monohue v. Rightman*, So. 2d 11 2, 11 4 Fla. 4th D.C. 200 .

Plaintiff is entitled to entry of default if the defendant fails to file or serve any paper 20 days after service of process. Rule 1.040 a 1 , Fla. R. Civ. P.

a State of Florida has 40 days in which to file or serve any paper in accordance with Section 4 .121, Fla. Stat. 200 .

b United States of America has 30 days to file under the provisions of 28 U.S.C. . 2410 b Rule 12 a , Fed. R. Civ. P.

4. **Service Members Civil Relief Act of 2003 (formerly, Soldier's & Sailors Act)**

a Codified in 50 pp. . S. C. . 521 tolls proceedings during the period of time that the defendant is in the military service.

b Act precludes entry of default there is no need for the service member to demonstrate hardship or prejudice based on military service. *Conroy v. Niskoff*, 50 U.S. 511, 512 1 . Service member with notice of the foreclosure action, may obtain a stay of the proceedings for a period of 90 days, provided he has a defense which requires his presence and despite due diligence, counsel has been unable to contact the servicemember. 50 pp. . S. C. . 521 d .

c Determination of military status to obtain default, plaintiff must file an affidavit stating:

- 1 the defendant is not in military service or
- 2 the plaintiff is unable to determine if the defendant is in the military service. 50 pp. . S. C. . 521 b 1 .

d Unknown military status the court may require the plaintiff to file a bond prior to entry of judgment. 50 pp. . S. C. . 521 b .

5. Plaintiff is required to serve the defendant with notice of the application for default. Failure to notice defendant's attorney entry of subsequent default is invalid rendering resulting judgment void. *S. Bank at L. v. Lloyd*, 11 So. 2d 1025, 104 Fla. 2d C 200.

6. A Military Affidavit required must be based on: personal knowledge, attest to the fact that in military service made of the Armed Forces, and affiant must state that the defendant is not in the armed forces. *The Fla. Bar Re: Approval of Forms*, 21 So. 2d 1025, 104 Fla. 1. Affidavits based on information and belief are not in compliance.

a. A military affidavit is valid for one year.

7. **Appointment of a Guardian ad Litem** the best practice is appointment when unknown parties are joined and service effected through publication. For example, a guardian ad litem should be appointed to represent the estate of a deceased defendant or when it is unknown if the defendant is deceased. § 50, Fla. Stat. 2002.

a. Section 5.012, Fla. Stat. 2004 states that a guardian ad litem shall not be appointed unless it affirmatively appears that the interest of minors, persons of unsound mind, or conflicts are involved.

b. Rule 1.210 b, Fla. R. Civ. P. provides that the court shall appoint a guardian ad litem for a minor or incompetent person not otherwise represented for the protection of the minor or incompetent person. Similarly, Rule 1.511 e, Fla. R. Civ. P. maintains that final judgment after default may be entered by the court at any time, but no judgment may be entered against an infant or incompetent person unless represented by a guardian.

c. Apparent conflict between the statute and the rules discussed herein, must be resolved in favor of the rules. *Art. 2, Fla. Const. State v. Raymond*, 10 So. 2d 1045, 104 Fla. 2005.

Summary Final Judgment of Foreclosure

1. Filing of the Motion at any time after the expiration of 20 days from the commencement of the action or after service of a motion for summary judgment by the adverse party. Rule 1.510 a , Fla. R. Civ. P. The motion for summary judgment, supporting affidavits and notice of hearing must be served on a defendant at least 20 days before the summary judgment hearing. Rule 1.510 c , Fla. R. Civ. P.

a Other discovery materials and evidence used in support of or in opposition to a motion for summary judgment are subject to the same notice requirements. *Dept. of Revenue v. L Concepts, Inc.*, 12 So.2d 20, 22 Fla. 5th Cir. , Court declined to consider depositions in opposition to summary judgment that were untimely filed in the day of the hearing. *San Juan v. Atl. Found. Life Ins. Co.*, 545 So. 2d 21 Fla. 4th Cir. , nonmoving party's answers to interrogatories filed at time of summary judgment hearing could be considered when they were served within the time required by Fla. Rule of Procedure 1.510 c and received at least one day before hearing.

b Filing of cross motions is subject to the 20 day notice period. *Winkowski v. Hillsborough County*, 51 So. 2d 122 Fla. 2d Cir. 15 .

2. Requirement for motion for summary judgment due notice and a hearing. Proof of mailing of notice of the final summary judgment hearing created presumption that notice of hearing was received. *Inanco v. Kinas*, So. 2d 1, 2 Fla. 4th Cir. 200 .

. Affidavits in support of Summary Judgment

a affidavit of indebtedness Must be signed by a custodian of business record with knowledge. In general, the plaintiff's affidavit itemizes:

- 1 property address,
- 2 principal balance,
- interest calculated from default up until the entry of judgment,
- when the mortgage provides for automatic acceleration upon

default, *T F Realty Co. v. Kirkman Conroy, Ltd.*, 54 So. 2d 115 Fla. 5th C 1 . ,

4 late charges pre acceleration only , *Fowler v. First Fed. Sav. Loan Ass'n.*, 4 So. 2d 0, Fla. 1st C 1 4 . ,

5 property inspections appraisals,
hard insurance premiums and taxes.

b. Affidavit of Costs This affidavit details:

- 1 the filing fee,
- 2 service of process,
and abstracting costs.

c. Affidavit of attorney's time references the actual time the attorney expended on the foreclosure file and references the actual hourly billable rate or the flat fee rate which the client has agreed to pay. The Fla. Supreme Court endorsed the lodestar method. *Well v. S. Acquisition Co.*, 4 So. 2d 40 , 40 Fla. 1 . The hours may be reduced or enhanced in the discretion of the court, depending on the novelty and difficulty of questions involved. *Fla. Patient's Compensation Fund v. Rowe*, 42 So. 2d 1145, 1150 Fla. 1 5 . With regard to uncontested time, plaintiff is not required to keep contemporaneous time records since the lender is contractually obligated to pay a flat fee for that time. *d.*

1 Affidavit of attorney's fee must be signed by a practicing attorney not affiliated with the plaintiff's firm, attesting to the rate as reasonable and customary in the circuit. Affiant should reference and evaluate the attorney fee claim based on the eight factors set forth in Rule 4.1.5(b)(1) Rules Regulating the Fla. Bar.

4. Burden of Proof

The plaintiff bears the burden of proof to establish the nonexistence of disputed issues of material fact. *Delandro v. m.s. Mortgage Servicing, Inc.*, 4 So. 2d 14, 1 Fla. 4 C 1 *Holl v. Talcott*, 11 So. 2d 40, 4 Fla.

1 .

Affirmative Defenses

1. Genuine existence of material fact precludes entry of summary judgment. *Manassas Investments Inc. v. Anrahan*, 1 So. 2d 100 Fla. 2d C 2002 .
2. Legal sufficiency of defenses certainty is required when pleading affirmative defenses conclusions of law unsupported by allegations of ultimate fact are legally insufficient. *Liss v. Carmona*, 41 So. 2d 101 , 101 Fla. d C 1 2 . Affirmative defenses do not simply deny the facts of the opposing party's claim they raise some new matter which defeats an otherwise apparently valid claim. *Wiggins v. Protmy*, 40 So. 2d 541, 542 Fla. 1 st C 1 .

• **Affirmative defenses commonly raised:**

a Payment Where defendants alleged advance payments and plaintiff failed to refute this defense, plaintiff not entitled to summary judgment. *Morrone v. Household Fin. Corp.* , 0 So. 2d 11, 12 Fla. 2d C 2005 . Moreover, summary judgment will be defeated if payment was attempted, but due to misunderstanding or excusable neglect coupled with lender's conduct, contributed to the failure to pay. *Campbell v. Werner*, 22 So. 2d 252, 25 Fla. d C 1 0 *Lieberbaum v. Surfcomber Motel Corp.*, 122 So. 2d 2 , 2 Fla. d C 1 0 , Court dismissed foreclosure complaint here plaintiffs knew that some excusable oversight was the cause for non payment, said payment having been refused and subsequently deposited by defendants into the court registry .

b Failure to comply with conditions precedent such as Plaintiff's failure to send the notice of default letter.

c Estoppel elements include: a representation as to a material fact that is contrary to a later asserted position reliance on that representation and a change in position detrimental to the party claiming estoppel, caused by the representation and reliance thereon. *arris v. Atl. Recovery Agency*, 1 So. 2d 50, 54 Fla. 4th C 2002 *Jones v. City of Winter Haven*, 0 So. 2d 52, 55 Fla. 2d C 200 , defendant defeated city's foreclosure based on evidence

presented which indicated that the city had agreed to stop fines for noncompliance with property code if homeowner hired a licensed contractor to make repairs.

and Waiver the knowing and intentional relinquishment of an existing right. *Taylor v. Kenco Chem. Mfg. Co.*, 45 So. 2d 51, 5 Fla. 1st C 15. When properly pled, affirmative defenses that sound in waiver and estoppel present genuine issues of material fact which are inappropriate for summary judgment. *Schiebe v. Bank of Am.*, 22 So. 2d 55 Fla. 5th C 2002.

1. Acceptance of late payments common defense asserting waiver is the lender's acceptance of late payments. However, the lender has the right to elect to accelerate or not to accelerate after default. *Scarfo v. Peer*, 405 So. 2d 104, 10 Fla. 5th C 11. Default predicated on defendant's failure to pay real estate taxes, could not be overcome by defendant's claim of estoppel due to misapplication of non-escrow payments. *Lunn Woods v. Loney*, 5 So. 2d 05, 0 Fla. 2d C 11.

e. Fraud in the inducement defined as situation where parties to a contract appear to negotiate freely, but where in fact the ability of one party to negotiate fair terms and make an informed decision is undermined by the other party's fraudulent behavior. *TP, Ltd. v. Lineas Aereas Costarricenses, S.A.*, 5 So. 2d 12, 12 Fla. 1.

affirmative defense of fraud in the inducement based on allegation that vendors failed to disclose extensive termite damage resulted in reversal of foreclosure judgment. *Inton v. Brooks*, 20 So. 2d 25 Fla. 5th C 2001.

Note that purchasers had first filed fraud in the inducement case and vendor retaliated with foreclosure suit. Further, the appellate court opined in the *Inton* case that fraud in the inducement was not barred by the economic loss rule. *d.*

f usury defined by § 200.01, Fla. Stat., as a contract for the payment of interest upon any loan, advance of money, line of credit, or forbearance to enforce the collection of any debt, or upon any obligation thereafter, at a higher rate of interest than the equivalent of 1 percent per annum simple interest. If the loan exceeds \$500,000 in amount or value, then the applicable statutory section is § 200.01, Fla. Stat.

1 usurious contract is unenforceable according to the provisions of Section 200.01, Fla. Stat.

g Forbearance agreement Appellate court upheld summary judgment based on defendant's failure to present any evidence as to the alleged forbearance agreement of prior servicer to delay foreclosure until the settlement of his personal injury case. *Walker v. Midland Mortgage Co.*, 5 So. 2d 51, 520 Fla. d C 200.

h Statute of limitations Property owner successfully asserted that foreclosure filed five years after mortgage maturity date was barred by statute of limitations mortgage lien was no longer valid and enforceable under Section 5.211a, Fla. Stat. 2002 *American Ankers Life Insurance Co. of Fla. v. 225 West Corp.*, 05 So. 2d 1, 11 Fla. d C 2005.

i Failure to pay documentary stamps Section 201.01, Fla. Stat. 200 precludes enforcement of notes and mortgages absent the payment of documentary stamps. *WRJ v. nc. v. North Ring Limited*, So. 2d 104, 104 Fla. d C 200 *Conifiglio v. Ankers Trust Co. of Calif.*, 44 So. 2d 10, 10 Fla. 4th C 200.

1 This is a limitation on judicial authority not a genuine affirmative defense.

j Truth in Lending T L violations Technical violations of T L do not impose liability on lender or defeat foreclosure. *Kasket v. Chase Manhattan Mortgage Corp.*, 5 So. 2d 2 Fla. 4th C 2000 15. S. C. v. 100. E ception to T L one year statute of limitations applies to defenses raised in

foreclosure. *Ailey v. Leshin*, 2 So. 2d 52, 52 Fla. 4th C 2001 15 . S. C. . 1 40 e .

Res judicata Foreclosure and acceleration based on the same default bars a subsequent action unless predicated upon separate, different defaults. *Singleton v. Reymar Assoc.*, 2 So. 2d 1004, 100 Fla. 2004 .

Additional cases: *Limehouse v. Smith*, So. 2d 15 Fla. 4th C 2001 , mistake *rien v. Fed. Trust Bank, F. S. .*, 2 So. 2d 2 Fla. 5th C 1 , fraud, R C and duress *iondo v. Powers*, 4 So. 2d 1 1 Fla. 4th C 1 , usury *eimermann v. First Union Mortgage Corp.*, 05 F. 2 d 125 11th Circ. 2002 , Real Estate Settlement Procedures Act RESP violations.

Summary Judgment Hearing

1. Plaintiff must file the original note and mortgage at or before the summary judgment hearing. Since the promissory note is negotiable, it must be surrendered in the foreclosure proceeding so that it does not remain in the stream of commerce. *Perry v. Fairbanks Capital Corp.*, So. 2d 25, 2 Fla. 5th C 2001 . Copies are sufficient with the exception that the note must be reestablished. *d.* Best practice is for judge to cancel the signed note upon entry of summary judgment.

a Failure to produce note can preclude entry of summary judgment. *at l. Loan Investors, L. P. v. Joymar Assoc.*, So. 2d 54 , 550 Fla. 4th C 2000 .

Final Judgment

1. Section 45.0 1, Fla. Stat. 200 governs the contents of the final judgment.

2. 0 incorporates statutory requirement and requires the use of the adopted form for final summary judgment of foreclosure. Supplemental language must be submitted for review by separate order in the Eleventh Judicial Circuit.

. amounts due Plaintiff's recovery limited to items pled in complaint or affidavit or based on a mortgage provision.

4. Court may award costs agreed at inception of contractual relationship costs must be reasonable. *emours Found. v. Auldin*, 01 So. 2d 54, 5 Fla. 5th C 12, assessed costs consistent with mortgage provision rather than prevailing party statute *Martin v. Binales*, 4 So. 2d 1245, 124 Fla. 2d C 15, award of costs governed by mortgage provision.

5. Checklist

a Final Judgment:

1 amounts due and costs should match affidavits filed. If interest has increased due to resets a daily interest rate should be indicated so you can verify it.

2 Check principal, rate calculation of interest through date of judgment.

Late fees pre acceleration is recoverable post acceleration is not. *Fowler v. First Fed. Sav. Loan Assoc. of defuniak Springs*, 4 So. 2d 0, Fla. 1st C 14.

4 All expenses and costs, such as service of process should be reasonable, market rates. Items related to protection of security interest, such as fencing and boarding up property are recoverable if reasonable.

5 There are hidden charges fees for default letters, correspondence related to workout efforts. Court's discretion to deny recovery.

Attorney fees must not exceed contract rate with client and be supported by an affidavit as to reasonableness. Attorney fee cannot exceed of principal owed. 02.052, Fla. Stat. 2001.

Bankruptcy fees not recoverable Correct forum is bankruptcy court. *Martine v. iacobbe*, 51 So. 2d 02, 04 Fla. d C

200 *orak . First Family ank,* So. 2d 10 , 10 Fla. 5th C 1 4 . ankruptcy costs incurred to obtain stay relief reco erable. *emours,* 01 So. 2d at 5 5.

Sale date may not be set in less than 20 days or more than 5 days, unless parties agree. 45.0 1 1 a , Fla. Stat. 200 , *JR L e ., nc. . Maiello,* 2 So. 2d 2, Fla. 2d C 2004 .

. f summary judgment denied, foreclosure action proceeds to trial on contested issues.

a Trial is before the court ithout a jury. 02.01, Fla. Stat. 200 .

Right of Redemption

1. Mortgagor may e ercise his right of redemption at any time prior to the issuance of the certificate of sale. 45.0 15, Fla. Stat. 200 .

a Court appro al is not needed to redeem. *ndian Ri er Farms . F Partners,* So. 2d 10 , 1100 Fla. 4th C 2001 *Saidi . Wasko,* So. 2d 10, 1 Fla. 5th C 1 .

b Court of e uity may e tend time to redeem. *Pere . Kosso ,* 02 So. 2d 1 2 Fla. d C 1 2 .

2. To redeem, mortgagor must pay the entire mortgage debt, including costs of foreclosure and attorney fees. *CS Realty, nc. . Eurobuilding Corp.,* 25 So. 2d 12 5, 12 Fla. d C 1 45.0 15, Fla. Stat. 200 .

. Right to redeem is incident to e ery mortgage and can be assigned by anyone claiming under him. *SR ndus., nc. . Martin Properties, nc.,* 1 So. 2d 554, 55 Fla. 4th C 200 . There is no statutory prohibition against the assignment, including the assignment of bid at sale.

a Right of redemption e tends to holders of subordinate interests. Junior mortgage has an absolute right to redeem from senior mortgage. *Marina Funding roup, nc. . Peninsula Prop. oldings, nc.,* 50 So. 2d 42 , 42 Fla. 4th C 200 *uinn Plumbing Co. . e Miami Shores Corp.,* 12 So. 0, 4 Fla. 1 0 .