

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR
GLADES COUNTY, FLORIDA
CIVIL ACTION

IN RE: FORECLOSURE HEARINGS
SCHEDULED FOR **SEPTEMBER 2010**,
PURSUANT TO NOTICE OF HEARING

ORDER OF REFERRAL TO GENERAL MAGISTRATE

THIS CAUSE came on before the court upon the court's own motion and the Court, being duly advised in the premises, it is

ORDERED that this is referred to General Magistrate **Ed Larsen**, Twentieth Judicial Circuit for further proceedings, pursuant to Rule 1.490 (a) of the Florida Rules of Civil Procedure and current Administrative Orders of the Court. This referral is by and with the consent of all parties, pursuant to Rule 1.490 (c), Florida Rules of Civil Procedure. The General Magistrate shall hold such hearings as deemed necessary. The General Magistrate shall file a master Report with the Clerk as to all hearings conducted each day. Said Report will adopt and incorporate as the findings of the Magistrate the minutes of the clerk of court filed in each case as to each scheduled hearing.

ALL MATTERS REFERRED TO THE MAGISTRATE BY THIS ORDER INCLUDE ANY MOTIONS SPECIFIED BELOW WHICH ARE NOTICED FOR A HEARING BEFORE THE MAGISTRATE AND HEARD DURING THE CALENDAR MONTH INDICATED IN THE CASESTYLE OF THIS ORDER.

IF REQUIRED BY GENERAL MAGISTRATE, THE ATTORNEYS SHALL PREPARE A RECOMMENDED ORDER OF GENERAL MAGISTRATE. FAILURE TO SUBMIT SAID RECOMMENDED ORDER OF GENERAL MAGISTRATE ON A TIMELY BASIS MAY RESULT IN SANCTIONS BEING IMPOSED BY THE CIRCUIT COURT JUDGE.

THIS CASE IS REFERRED TO THE GENERAL MAGISTRATE on the following issues:

Motion for summary judgment	<u> √ </u>	Other _____	<u> √ </u>
Motion to dismiss	<u> √ </u>	Discovery Motion(s)	<u> √ </u>
Motion to amend	<u> √ </u>		
Motion to withdraw	<u> √ </u>		
Motion on surplus funds	<u> √ </u>		
Motion to stay	<u> √ </u>		
Motion to vacate sale	<u> √ </u>		
Motion to vacate judgment	<u> √ </u>		
Objection to sale	<u> √ </u>		
Motion for default judgment	<u> √ </u>		
Motion for deficiency judgment	<u> √ </u>		

AND ANY OTHER MATTER RELATED THERETO.

IT IS FURTHER ORDERED that the above matter(s) and responses are referred to General Magistrate **Ed Larsen** for further proceedings, pursuant to Rule 1.490 (a) of the Florida Civil Rules of Procedure and current administrative orders of the court. The General Magistrate is authorized to administer oaths and conduct hearings which may include taking of evidence and shall file a master

report and recommendations that adopts and incorporates as the findings of the Magistrate the minutes of the clerk of court filed in each case as to each scheduled hearing.

A time and place shall be assigned for the proceedings as soon as reasonably possible after this referral is made and notice shall be given to each of the parties either by the General Magistrate or one or more of the parties.

REVIEW OF THE REPORT AND RECOMMENDATION MADE BY THE GENERAL MAGISTRATE SHALL BE BY EXCEPTIONS AS PROVIDED IN RULE 1.490(h) FLORIDA RULES OF CIVIL PROCEDURE.

YOU ARE ADVISED THAT IN THIS CIRCUIT a party may provide a court reporter at the hearing at that party's expense to create a transcript.

DONE AND ORDERED in Glades County, Florida this _____ day of _____, 2010.

Jack Lundy
Acting Circuit Judge

*,

Plaintiff,

VS.

CASE NO.: *

*,

Defendants.

_____ /

ORDER SETTING CASE FOR DOCKET SOUNDING

THIS CAUSE BEING AT ISSUE IT IS HEREBY

ORDERED AND ADJUDGED

1. Docket Sounding. The Court has set a docket sounding for _____ or as soon thereafter as may be heard. **If this case is appropriate for a Motion for Summary Judgment, either party may Notice the Summary Judgment to be heard at the Docket Sounding.** Otherwise, the day and time certain for the start of trial will be determined at docket sounding and the parties shall receive at least 10 days advance notice of the trial date. A motion to continue can be heard by the Court at docket sounding. No other motions will be heard. All trial attorneys are to be present for docket sounding.

3. Exchange of Expert & Lay Witnesses. If a trial date is set at docket sounding, counsel for the plaintiff shall submit to opposing counsel the names and addresses of **all** plaintiff(s) witnesses within 5 days following the date of the docket sounding. Within 10 days following the date of the docket sounding, the defense counsel shall submit a list of **all** defense witnesses. The witness list shall contain a plain and concise statement regarding the subject matter of the witnesses testimony. No party shall be permitted to call any witness not so disclosed, without prior permission of the Court, or written stipulation executed by all parties.

4. Meeting before Trial. That the attorneys for all parties are directed to meet together by agreement, initiated by counsel for the plaintiff, no later than 7 days before the trial to:
 - a. Mark all exhibits for identification and prepare a chronological exhibit list for use by clerk and the Court at trial (actual exhibits and documentation evidence shall be available for inspection at this time). Any exhibits not so marked will not be admissible absent a stipulation of all parties.
 - b. Agree to admit or not admit evidence and list specific objections, if any.
 - c. Stipulate as to any matter of fact and law about which there is no issue to avoid unnecessary proof, i.e., chain of custody or records custodian.
 - d. Review all depositions which are to be offered for any purpose other than impeachment to resolve objections to the portions to be offered in evidence.

- e. Discuss the possibility of settlement.
 - f. Submit an itemized statement of special damages plaintiff expects to prove.
 - g. Discuss and complete any other matters which may simplify the issues or aid in the speedy disposition of this action.
5. Motions. All **motions in limine**, shall be in writing, filed and served prior to trial. They will be heard the morning of the first day of trial.
 6. Discovery. Counsel shall complete all discovery, prior to the docket sounding. The conduct of discovery subsequent to the docket sounding shall be permitted only on the order of the Court for good cause shown and which will not delay the trial of this cause.
 7. If counsel desires that a proceeding be reported by a court reporter, it is the responsibility of counsel to secure said services.
 8. Instructions. On the first day of the trial, each party shall submit to the Court, with a copy to opposing counsel, written jury instructions and proposed verdict forms. Each jury instruction shall be on a separate sheet of paper; shall be plainly marked with the name and number of the case; shall contain citations of supporting authorities, if any; shall designate the party submitting the instructions; and shall be numbered in sequence. Counsel should confer prior to the trial and attempt to agree as to the jury instructions and verdict forms. This paragraph shall not foreclose the right of each party to modify instructions up to and including the instructions conference at the close of evidence. Any party who intends to request that the Court provide a set of written jury instructions for the jury's consideration, pursuant to Rule 1.470(b), shall be responsible for providing a clean copy of the jury instructions to the Court. If the instructions and jury verdict are done on a word processor, it would be helpful to put them on a floppy disk and bring the disk to the trial to assist in minor last minute adjustments.
 9. Representation and Authority. That in order for the full purpose of the pre-trial procedures to be accomplished, each party shall be represented at all meetings and hearings required herein by an attorney, unless the party is pro se, who will participate in the trial of the cause and who is vested with full authority to make admissions and disclosure of facts, and to bind the clients by agreement in respect to all matters pertaining to the trial of the cause.
 10. Exhibits. All composite exhibits shall be satisfactorily bound to avoid the loss and disintegration of component parts of pages before presentation to the Court. Exhibits to be introduced which are larger than 8 ½ x 11" sheet of paper may be used at trial, but if practicable, same shall be reduced to 8 ½ x 11", and the reduced size copy shall be the exhibit retained by the clerk in the court file. The oversized exhibits so reduced shall be returned to counsel at the close of the trial.
 11. Witnesses. The parties shall assure the availability of their witnesses for the trial or to otherwise preserve their testimony for trial as provided by the Florida Rules of Civil Procedure. The Court is not inclined to allow a witness to testify "out of order", over objection, or to take a recess or adjust its schedule for the convenience of such a witness.
 12. Motions and Stipulations for Continuances. This Court adheres strictly to Rule of Judicial Administration 2.085(c) and Rule of Civil Procedure 1.460. Accordingly, motions for continuance and stipulations must be in writing and set forth:
 - a. The signature of the party as well as the attorney.

- b. A concise statement of the reasons for a continuance. If based on non-availability of a witness, a showing of when it is believed the witness will be available must be stated.

Any stipulation must be approved by the Court and must be heard at least ten (10) days prior to the date of trial, unless otherwise permitted by the Court. No motion will be heard that is not in compliance with this order.

13. Settlement. Counsel shall immediately notify this Court in the event of settlement and submit a stipulation for an order of dismissal and a final disposition form.

14. Notice. Please review this order to see that it was sent to all proper persons at proper addresses.

15. Sanctions. **Failure to comply with the requirements of this order will subject the party and/or attorney to appropriate sanctions.**

DONE AND ORDERED in Chambers, Fort Myers, Lee County, Florida on this ____ day of _____, 2010.

Circuit Judge

Copies furnished to:

*

BY: _____
Judicial Assistant

AMERICANS WITH DISABILITIES ACT

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Ken Kellum, Court Operations Manager whose office is located at Lee County Justice Center, 1700 Monroe Street, Fort Myers, Florida 33901 and whose telephone number is (239) 533-1700, within two working days of your receipt of this notice; if you are hearing or voice impaired, call 711.

CASE NAME: _____ CASE NO. _____

MORTGAGE FORECLOSURE CHECKLIST

DATE REVIEWED: _____

YES	NO						
		Notice of hearing filed Date of Hearing: _____ Date of Service: _____ All Defendants Served with Notice of Hearing					
		Original Note Filed Count to Re-Establish Lost Note (and not dismissed) Affidavit Supporting Lost note					
		Is Plaintiff Original Lender If not, Allonge or Assignment filed					
		Defendants	Served (Note if Dropped)	Type of Service	Answer	Default	Non-Military Affidavit
		Additional page attached					
		Motion for Summary Judgment Filed					
		Supporting Affidavits Filed: Affidavit of Indebtedness Affidavit of Costs Affidavit of Attorney Stating Time/Hours or Flat Fee Affidavit of Reasonable Fees					
		Motion for Summary Judgment timely served on _____ Supporting Affidavits Timely Served on _____ (at least 25 days prior to date of hearing) Affidavits in Opposition filed If so, filed by: _____					
		Final Judgment Amounts Match Amounts in Affidavits Otherwise, in proper form					
		Other Concerns					

IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO/PINELLAS COUNTY, FLORIDA

Plaintiff,
v.

UCN:
Case No.

Defendants.
_____ /

CERTIFICATION OF COMPLIANCE WITH FORECLOSURE PROCEDURES

I hereby certify the following:

Plaintiff's Status:

_____ (initial) **Plaintiff is the original mortgagee and holds original note and:**

_____ (initial) Has previously filed, or is simultaneously filing with this certification, the original note with the Clerk.

_____ (initial) Will file the original note with the foreclosure judgment packet.

_____ (initial) **Plaintiff holds the note and rights there under through assignment, the name of the original lender is _____.**

_____ (initial) Whether the plaintiff is the original mortgagee or holds the note through assignment, **the original note has been lost or destroyed, and** Plaintiff has filed an affidavit attesting to the same in the court file with the Clerk of Circuit Court on _____ (date). **(A copy of the lost note must be attached to the affidavit).**

Borrower's/Defendant's Status:

_____ (initial & yes/no) The property which is the subject matter of this foreclosure is listed on the Public Records as subject to a Homestead Exemption for property tax purposes.

Using the following format provide the name of each borrower/defendant, the date and method of service of process on each defendant, and the current status of each defendant. If the property is listed as homestead for property tax exemption purposes, indicate if a copy of Attachments A and B to Administrative Order No. 2008-081 were provided to the borrower/defendants.

Name of Defendant	Date and method of service [Date followed by personal, publication, or substitute]	Status of this Defendant [Dropped; Default; Represented by (include name) of attorney; or, Filed pro se answer]	Owner/Defendant was provided with a copy of Attachment A & B at the time of service of process.
	___/___/___ -		
	___/___/___ -		
	___/___/___ -		
	___/___/___ -		

Using the following format provide the name of any borrower/defendant who has not answered or filed a motion to dismiss, and indicate whether an affidavit of non-military service or a memorandum for certificate of military service was filed with the clerk and the date of the document filing. Do not include any borrower/defendant for whom the Clerk of Circuit Court has entered a default.

Name of Defendant	Indicate the type of document, i.e., Affidavit of non-military service (Affidavit) or memorandum of military service (Memo)	Date of filing with the Clerk of Circuit Court
		___/___/___
		___/___/___
		___/___/___

Status of other required certifications: I further certify of the following (**Initial next to each completed item**):

_____ (initial) The Motion for Summary Judgment with copies of all supporting affidavits was sent by U.S. Mail to all Defendants on _____ (date) and filed with the Clerk of Circuit Court on _____ (date). The following information is included in the supporting affidavits. (Note, these affidavits and amounts may be in the form of one document, but provide the amount claimed for each):

Document	Amount claimed
Affidavit of Indebtedness/Amount Due* <i>(see note below)</i>	
Affidavit of Attorney's Time Expended	
Affidavit as to Costs	
Affidavit as to Reasonable Attorney's Fees	

** Note: If the Plaintiff seeks a prepayment penalty, the affidavit of indebtedness must include reference to the specific clause in the loan contract that provides for a prepayment penalty in the event of foreclosure, and must specify the amount sought.*

_____ (initial) The proposed final judgment is, or at submission will be, in the form of the Sixth Judicial Circuit's Uniform Final Judgment of Foreclosure and is in compliance with § 45.031, Florida Statutes.

_____ (initial) I have carefully reviewed this Certification of Compliance With Foreclosure Procedures and the supporting documents and I certify that the above styled matter is ready for hearing and summary judgment.

_____ (initial) I certify that a true copy of the foregoing Certification of Compliance with Foreclosure Procedures has been furnished this _____ day of _____, 20__, by facsimile or by regular U.S. Mail to the following: (insert name of each defendant and include his or her address or facsimile number where the copy was furnished or specify the attachment containing that address or facsimile number).

I declare that I have read the foregoing Certification of Compliance with Foreclosure Procedures and the facts stated in it are true.

Attorney Name
Address
Direct telephone number:
Florida Bar No.

ATTACHMENT

The court will not grant a dismissal with this condition “upon return of the Original Note to the attorney of record for Plaintiff, this action shall stand dismissed etc” A provision to return the original note may be included in the order but the dismissal must be clean, i.e. either dismiss the case or don't but the court will not grant a conditional dismissal. If counsel take issue with this position the matter may be set for hearing at which time the court will further explain its reasons and consider counsels

Dated November ____, 2010

James R. Thompson, Senior Circuit Judge

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
LEON COUNTY, STATE OF FLORIDA

Plaintiff,

vs.

Case #: _____

Defendant.

FINAL JUDGMENT OF FORECLOSURE

This action was tried before the court. On the evidence presented

IT IS ADJUDGED that:

1. Plaintiff, _____ (name and address), is due:

Principal \$ _____

Interest to date of this judgment \$ _____

Title search expense \$ _____

Taxes \$ _____

Attorneys' fees

Finding as to reasonable # of hours: _____

Finding as to reasonable hourly rate: \$ _____

Attorneys' fees total \$ _____

Court costs, now taxed \$ _____

Other: \$ _____

Subtotal \$ _____

LESS: Escrow balance \$ _____

LESS: Other: _____ \$ _____

TOTAL \$ _____

that shall bear interest at the rate of _____% a year.

2. Plaintiff holds a lien for the total sum superior to all claims or estates of defendant(s), on the following described property in County, Florida:

(describe property)

3. If the total sum with interest at the rate described in paragraph 1 and all costs accrued subsequent to this judgment are not paid, the clerk of this court shall sell the property at public sale on _____ to the highest bidder for cash, except as prescribed in paragraph 5, at the Leon County Courthouse, 301 South Monroe Street, Suite 100, Tallahassee, FL 32302, in accordance with Section 45.031, Florida Statutes, using the following method (CHECK ONE):

- At the above location, beginning at _____ on the prescribed date.
- By electronic sale beginning at _____ on the prescribed date at the listed website, _____.

4. Plaintiff shall advance all subsequent costs of this action and shall be reimbursed for them by the clerk if plaintiff is not the purchaser of the property for sale, provided, however, that the purchaser of the property for sale shall be responsible for the documentary stamps payable on the certificate of title. If plaintiff is the purchaser, the clerk shall credit plaintiff's bid with the total sum with interest and costs accruing subsequent to this judgment, or such part of it, as is necessary to pay the bid in full.

5. On filing the certificate of title the clerk shall distribute the proceeds of the sale, so far as they are sufficient, by paying: first, all of plaintiff's costs; second, documentary stamps affixed to the certificate; third, plaintiff's attorneys' fees; fourth, the total sum due to plaintiff, less the items paid, plus interest at the rate prescribed in paragraph 1 from this date to the date of the sale; and by retaining any remaining amount pending the further order of this court.

6. On filing the certificate of sale, defendant(s) and all persons claiming under or against defendant(s) since the filing of the notice of lis pendens shall be foreclosed of all estate or claim in the property, except as to claims or rights under chapter 718 or chapter 720, Florida Statutes, if any. Upon the filing of the certificate of title, the person named on the certificate of title shall be let into possession of the property. If any defendant remains in possession of the property, the clerk shall without further order of the court issue forthwith a writ of possession upon request of the person named on the certificate of title.

7. Jurisdiction of this action is retained to enter further orders that are proper including, without limitation, a deficiency judgment.

IF THIS PROPERTY IS SOLD AT PUBLIC AUCTION, THERE MAY BE ADDITIONAL MONEY FROM THE SALE AFTER PAYMENT OF PERSONS WHO ARE ENTITLED TO BE PAID FROM THE SALE PROCEEDS PURSUANT TO THE FINAL JUDGMENT.

IF YOU ARE A SUBORDINATE LIENHOLDER CLAIMING A RIGHT TO FUNDS REMAINING AFTER THE SALE, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN 60 DAYS AFTER

THE SALE. IF YOU FAIL TO FILE A CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING FUNDS.

[If the property being foreclosed on has qualified for the homestead tax exemption in the most recent approved tax roll, the final judgment shall additionally contain the following statement in conspicuous type:] **IF YOU ARE THE PROPERTY OWNER, YOU MAY CLAIM THESE FUNDS YOURSELF. YOU ARE NOT REQUIRED TO HAVE A LAWYER OR ANY OTHER REPRESENTATION AND YOU DO NOT HAVE TO ASSIGN YOUR RIGHTS TO ANYONE ELSE IN ORDER FOR YOU TO CLAIM ANY MONEY TO WHICH YOU ARE ENTITLED. PLEASE CHECK WITH THE CLERK OF THE COURT FOR LEON COUNTY, FLORIDA, WITHIN 10 DAYS AFTER THE SALE TO SEE IF THERE IS ADDITIONAL MONEY FROM THE FORECLOSURE SALE THAT THE CLERK HAS IN THE REGISTRY OF THE COURT.**

IF YOU DECIDE TO SELL YOUR HOME OR HIRE SOMEONE TO HELP YOU CLAIM THE ADDITIONAL MONEY, YOU SHOULD READ VERY CAREFULLY ALL PAPERS YOU ARE REQUIRED TO SIGN, ASK SOMEONE ELSE, PREFERABLY AN ATTORNEY WHO IS NOT RELATED TO THE PERSON OFFERING TO HELP YOU, TO MAKE SURE THAT YOU UNDERSTAND WHAT YOU ARE SIGNING AND THAT YOU ARE NOT TRANSFERRING YOUR PROPERTY OR THE EQUITY IN YOUR PROPERTY WITHOUT THE PROPER INFORMATION. IF YOU CANNOT AFFORD TO PAY AN ATTORNEY, YOU MAY CONTACT THE LEGAL AID FOUNDATION OF THE TALLAHASSEE BAR ASSOCIATION, 301 SOUTH MONROE STREET, ROOM 108, TALLAHASSEE, FL 32301, (850)222-3292, TO SEE IF YOU QUALIFY FINANCIALLY FOR THEIR SERVICES. IF THEY CANNOT ASSIST YOU, THEY MAY BE ABLE TO REFER YOU TO A LOCAL BAR REFERRAL AGENCY OR SUGGEST OTHER OPTIONS. IF YOU CHOOSE TO CONTACT THE LEGAL AID FOUNDATION OF THE TALLAHASSEE BAR ASSOCIATION, 301 SOUTH MONROE STREET, ROOM 108, TALLAHASSEE, FL 32301, (850)222-3292, FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

ORDERED at Tallahassee, Leon County, Florida, on _____.

Circuit Judge

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR LEE COUNTY, FLORIDA - CIVIL ACTION

,

Plaintiff,

v.

Case No. -CA-

, et al.,

Defendant(s)

_____ /

ORDER RESETTING DOCKET SOUNDING

THIS CAUSE comes before the Court on it being appropriate to reset the Docket Sounding previously set by the court. The court being otherwise fully advised in the premises it is

ORDERED AND ADJUDGED as follows:

1. The Docket Sounding previously set by the court is reset for _____.
2. Attendance by telephone conference is not permitted
3. Counsel should engage local or other counsel in the event of conflict.

DONE AND ORDERED at Fort Myers, Lee County, Florida this ____ day of _____ 2010.

James R. Thompson, Senior Circuit Judge

(COURT PREPARED ORDER)

Copies:

2. Information for scheduling foreclosure hearings can be found on webpage: www.ca.cjis20.org (Lee County Foreclosure Information) or by emailing Massforeclosure@leeclerk.org.

FORECLOSURE HEARINGS MUST BE REQUESTED VIA EMAIL TO:
massforeclosure@leeclerk.org.

Request for continuation of docket sounding is denied. Due to short time between docket sounding and this action if Ms. English has a number she may call and advise of denial and that Ms. Taylor need not attend docket sounding but will be bound by actions taken there if she elects not to attend. A lender approved short sale may still be closed if done so prior to a trial or summary judgment.

This letter with denial shall be filed in the court file.

Done this 27th day of August 2010.

James R. Thompson, Senior Circuit Judge

ATTACHMENT TO ORDER SIGNED _____, 2010
CASE NO: _____

Scheduling of cases in Lee County: Motion Guidelines

If you are requesting hearing times for Residential Mortgage Foreclosures, please use the following guidelines established for Lee County.

For hearing time on Uncontested Motions for Summary Judgment, please e-mail Massforeclosure@leeclerk.org. (Please do not place dashes in the case number for e-mailed requests. Example: 04CA20008)

For hearing time on all other Residential Mortgage Foreclosure cases, please e-mail Massforeclosure@leeclerk.org.

In your e-mail please identify the case number, type of Motion(s) to be heard, duration of time requested and any information that would affect the calendaring of your case. Please do not place dashes in the case number, Example: 04ca20008.

You will receive an email confirmation with a hearing date and time. Your case will be scheduled before a Senior Judge or Civil Magistrate. You are required to prepare, mail, and file a Notice of Hearing in your case. If your case is scheduled before a Magistrate, you must prepare an Order of Referral to Magistrate form (please see section below on instructions: Civil Magistrate).

Telephonic Appearances

Attorneys and self-represented parties must be present for hearings. No telephonic appearances will be permitted in foreclosure cases.

FORECLOSURE CHECKLIST REVIEW

From: Magistrate David C. Friedman

March 15, 2010

To: Judges Turner, Murphy, Crown, Carr, Provost and Martin:

The checklist for summary and default judgments in foreclosure is now familiar to you but I attach it for ease of reference. As to each section of the checklist, I have attempted to provide a description of legal issues presented over the course of my twenty-seven months presiding over foreclosure hearings, and how I have arrived at the recommendations regarding some of those issues.

After my review I will place the checklist in the front of each file and the checklist is intended to fall within the provisions of Rule 2.420, Florida Rules of Judicial Administration. It is not to remain in the court file for the clerk to file stamp as a public record.

I will not be placing the case name and case number at the top but will indicate the date of my review. I will make note of all pleadings relevant to the checklist which are neither docketed nor filed, and some which are docketed but not filed. There will be documents filed after my review and before the hearing which appear in the file or on the clerk's docket after the date of my review. I have suggested to the court clerks (Donna Woodruff, supervisor) that her staff attach by clip or otherwise to the outside of the file all documents which were filed after my review so that they may draw the attention of the presiding judge. The documents often sent to the clerk's office days before a hearing are the Original Note and Mortgage and the proposed Judgment. On occasion updated Affidavits may also be filed late.

Rather than fill in the spaces on the checklist to include names of all parties, dates and types of service, date of filing of pleadings, etc., I have chosen to note on the checklist only those papers and pleadings which are absent or raise potential issues for the hearing. If no notation is found on the checklist next to a listed pleading or paper I have found nothing in the pleadings filed to bring to your attention - and that is also true if only the date of my review appears on the checklist.

NOTICE OF HEARING:

The Notice must be filed a reasonable time prior to the hearing on the summary judgment. (ten days has been found to be sufficient (See 560 So.2d 1337). Rule 1.510, the summary judgment rule, does not require a specific number days between the service of the Notice and the date of the hearing. For a default judgment under rule 1.500, if no arithmetic calculations are required, the hearing on a default judgment may proceed without service of the notice of hearing.

I will be checking the service list on the Notice of Hearing to examine whether all parties are correctly listed where they were served with initial process, or at the address of any attorney of record.

ORIGINAL NOTE OR LOST NOTE ESTABLISHED

If the Original Note is not in the file and there is a count in the complaint to reestablish a lost Note, the essential provisions of F.S. 673.3091 are to be alleged in the Complaint and the instrument may be reestablished under F. S. 71.011 and 673.3091. The Judgment should provide for indemnification of the borrower or maker. I will examine the Lost Note Affidavit to ensure it comports with the basic requirements of the statute and that it was timely served.

IS PLAINTIFF ORIGINAL LENDER?

I will examine the Note if it is in the file to ensure it contains a blank endorsement on the front or the back of the Note or on an Allonge, or that the instrument is specifically endorsed to the Plaintiff. I will examine any Assignment(s) to ensure that the chain from transferor to transferee of the Note is complete. Sometimes, the Note may not have a specific endorsement to the Plaintiff. Then, to establish standing, the Plaintiff will rely on a valid Assignment of Mortgage which by its specific terms transfers the Note or other obligation listed in the Mortgage along with the Assignment of the Mortgage.

Whether the Plaintiff who is not the originator of the loan had standing as the real party in interest at the time the foreclosure action was filed is best proven by the filing of a copy of a recorded assignment which was executed by a corporate official before the date the action was filed. This does not occur often. Where there was a transfer of the

negotiable instrument (the Note), the Assignment, if filed in the court file, often was executed after the date the action was filed. In my view, this only creates an issue if there is either an affirmative defense or stated opposition to the Motion for Summary Judgment. While a blank endorsement on the Note suffices to establish that the Plaintiff is the holder, what does the Court do when the Assignment reflects that the Mortgage (and the Note) were physically delivered after the action was filed? Does the Court find no material issue of disputed fact as to standing because Florida permits a holder of a Note or Mortgage to file foreclosure, or does the Court deny the Motion without prejudice and afford an evidentiary hearing to the Plaintiff to meet its burden under WM Specialty Mortgage v. Salomon, 874 So.2d 680 (4th DCA 2004) and establish an equitable assignment? I have opted for the latter and postponed a summary judgment hearing or denied the Motion without prejudice because the Plaintiff's own evidence conflicts with the allegation in the complaint that it held or owned the instruments when it filed the suit.

Where there are multiple endorsements on the Note, I have required the Plaintiff to file a copy of each Assignment of Mortgage to establish standing and a clear chain of transfer of the negotiable instrument each step of the way. The Plaintiff must establish that as the assignee of the mortgage it receive those rights the transferor had acquired. (See FL-Mortgages §7-2, an excellent reference) I will draw your attention to this issue when it is apparent.

DEFENDANTS, SERVICE, ANSWER, AFFIRMATIVE DEFENSES, DEFAULT

I will examine the returns of service to ensure each named party-defendant was served and will note if any Affirmative Defenses appear in any Defendant's responsive pleading. The presence or absence of a Default does not prohibit the entry of summary judgment. The Default is of course a prerequisite to a Motion under 1.500.

I will also check the non-military affidavit(s).

The presence of an Affirmative Defense at the hearing on summary judgment requires that the Court ensure that the Moving Party refute by its evidence each and every Affirmative Defense before the Court can determine that there are no material issues of disputed fact. The absence of an Answer and an unresolved Motion for Extension of

Time does not prohibit summary judgment, but the plaintiff has a higher burden to conclusively show that the defendant cannot plead a genuine issue of material fact.

Oft-cited cases by parties opposing summary judgment include the following: Frost v. Regions Bank, 15 So.3rd 905 (3rd DCA 2009), which requires the bank to refute an affirmative defense alleging that the lender did not comply with the condition precedent requiring mailing of the notice of default/notice of intent to accelerate. Also cited is Howdeshell v. First National Bank of Clearwater, 369 So.2d 432 (2d DCA 1979), holding that plaintiff must disprove affirmative defenses or establish their legal insufficiency, particularly as it relates to equitable defenses. Finally, Judge Hugh Hayes' opinion for the 2d DCA in Nard v. Devito, 769 So.2d 1138 (2d DCA 2000), is quoted for the proposition that the possibility or slightest doubt that an issue might exist must be resolved against the moving party. (I also note the opinion contains a footnote from the trial record revealing how not to criticize a conflict in appellate decisions).

MOTION FOR SUMMARY JUDGMENT FILED

I will examine the Motion to ensure that it was timely served at least 20 days prior to the date of the hearing. There are two appellate decisions suggesting that the 5 day mail rule must be added and that therefore 25 days must separate the service date and the date of the hearing (excluding the date of service). Berman in West's Florida Practice Series on Civil Procedure, citing the following two cases, says that five days must be added and that the Motion must be served no less than 25 days prior to the hearing. The first cited case, Nelson v. Balkany, 620 So.2d 1138, is easily distinguishable due to the litany of procedural problems in the short opinion; the other case, Ultimate v. C G Data, 575 So.2d 1138, seems to require demonstrable prejudice to establish a claim of untimeliness. On March 3, 2010, the 2d DCA in Verizzo v. BONY addressed timeliness of both service and filing under 1.510 and, in quoting the 20 day period stated in the rule, did not add the 5 day mailing period. (See case cited in Verizzo, Coastal Caribbean v. Rawlings, 361 So.2d 719, on the 20 day filing interpretation and on affidavit requirements)

In the absence of an objection (demonstrable prejudice) at the hearing it appears that 20 days is sufficient, particularly where there is a default – that is an argument the

lender asserts. I had for a few months early in 2008 required summary judgment hearings to be rescheduled where the Motion was served between 20 and 25 days before the hearing. I came around to agreeing with the lenders that a party not present at the hearing whether defaulted or not, who presented no affirmative defenses and no affidavits in opposition, could be served with the Motion and Affidavits 20 days prior to hearing (exclusive of the date of service). See Azanza v. Private Funding Group, 4th DCA, Oct. 7, 2009)

SUPPORTING AFFIDAVITS FILED

I will examine the Affidavits for several purposes. Are they originals? Are they served at least 20 days prior to the hearing? Are the line items in the proposed judgment (if present at the time of my review) properly supported by the affidavits – I will not be adding the total of each line item, but supplemental affidavits are often filed which may include line items in the proposed judgment not listed on earlier filed affidavits. These later affidavits most often include taxes and insurance made for the escrow account of the defaulted borrower, property inspections and other expenses accruing later during the litigation. There is no requirement that the affidavits list interest accumulated to the date of the hearing – but it helps to see the per diem listed in the affidavit.

Affidavits must be served timely – and appellate decisions hold that a party is entitled to timely service of proof of all sums sought. (Ellis v. Barnett Bank, 341 So.2d 545 (1977)). So, where additional attorney fees, costs, or expenses are included only in affidavits filed untimely, the Plaintiff may reschedule or ask the Court to delete an item or two and reduce the amount of the judgment. The fact that a clerk or judicial default was entered against the Defendant does not change the requirement that a party have timely notice of all sums sought and the evidence supporting the claims.

1.510(e) requires attachment of the document reviewed to support a personal knowledge affidavit. I have, upon an objection to admissibility of an affidavit or an argument in opposition, agreed that the Motion should be denied or continued if the essential documents referred to in an affidavit are not attached. Sworn or certified copies of the documents are required by the Rule.

Some cases helpful in resolving questions regarding admissibility of affidavits include the following: West Edge II v. Kunderas, 910 So2d 953 (2d DCA 2005), Kimball v. Publix, 901 So2d 293 92d DCA 2005), Lenhal Realty v. Transamerica, 615 So2d 207 (4th DCA 1993), and Foster v. Weber, 5778 So2d 857 95th DCA 1991). Also see cases annotated under F.S. 90.803(6), the business records exception to the hearsay rule.

SERVICE AND FILING OF ORIGINAL NOTE

Very often the Note has been filed and not served, and just as often it is filed and served but less than twenty days before the hearing on summary judgment. Untimeliness under 1.510 can be cured over objection if the copy of the Note attached to the complaint or otherwise filed is identical to the Original Note. If standing is asserted as an Affirmative Defense or in opposition at the hearing, and the back (not the front) of the Note has the proof of delivery, I have postponed the hearing if the Defendant objects to untimeliness and an inadequate opportunity to prepare, having never seen the exhibit offered as evidence in support of the Motion.

PENDING DISCOVERY

As a general rule where discovery is pending summary judgment is inappropriate. Where the moving party at summary judgment has objected to discovery the next expected step is a Motion to Compel or a Motion for Protective Order. But there may be occasions where the Court can determine that the pending discovery issues are moot, so insignificant that summary judgment may proceed, or that the non-movant has been dilatory. There are occasions where at the eleventh hour the defense serves discovery upon the plaintiff who may still proceed to obtain summary judgment. The trial court can reach the conclusion that the record is sufficiently clear to disclose that further discovery is not needed to develop significant issues through the discovery process. (as cited in Colby v. Ellis, 562 So.2d 356 (2d DCA 1990), where the Court said a party does not have an unlimited right to discovery before summary judgment; also see 49 Fla. Jur. 2d Summary Judgment, §72, for exceptions to general rule stating it is abuse of discretion to proceed where no opportunity to complete discovery).

FORM OF FINAL JUDGMENT

On February 11, 2010, the Florida Supreme Court amended the form for Final Judgments in foreclosure cases. Some of the bank's firms have already made the changes, but some have not moved as quickly. One of the provisions which still finds its way into some of the proposed judgments requires that the clerk not conduct the judicial sale if the plaintiff or its representative is not present. This has been stricken by me and the Supreme Court in its February 11 opinion also declined to allow it to be inserted.

Often the attorney for the condo or homeowners association will appear at the hearing and had filed affirmative defenses and limited opposition. Under 718.116 and 720.3085 the assessments may have priority over the first mortgagee. The applicable language usually appears at the end of the proposed judgment. Judge Casanueva's opinion for the 2nd DCA on February 19, 2010, in Coral Lakes v. Busey Bank is very helpful in its analysis of some of the issues often raised at summary judgment.

MEDIATION

Rule 1.700(a) permits the Court to order any circuit civil case to mediation. Until the 20th Circuit adopts by Administrative Order the Florida Supreme Court's mandatory mediation order and the managed mediator is selected (to start no later than July 1st according Part H of the Request for Proposal on circuit's website), the Rule governs. I have, with the blessing of our Circuit Judges, sent at least 120 cases to mediation and have used a list of certified civil mediators on rotation. If at a summary judgment hearing, you are inclined to send a case to mediation and postpone the hearing, I will be available to draft the Order for Mediation to the assigned Circuit Judge for execution, as I always have. This will permit the rotation list to continue until the managed mediator is on board.

PROCEDURES FOR MORTGAGE FORECLOSURE HEARINGS
LEE COUNTY, FL

DRAFT

In an effort to meet the high volume of foreclosure cases being filed in Lee County, Florida it is necessary to streamline the court's process and establish the following foreclosure procedures.

Effective January 1, 2009, the following rules shall apply to all residential and commercial mortgage foreclosure proceedings in Lee County, Florida:

1. **MEDIATION** – In cases deemed appropriate for mediation, an Order of Referral to Mediation will be completed and filed in the case. In home-owner occupied residential foreclosures, mediation must be scheduled and completed within 60 days from the date of the Order of Referral to Mediation. In commercial mortgage foreclosure cases, mediation must be scheduled and completed within 120 days from the date of the Order of Referral to Mediation. Requests for an extension of time to complete mediation must be approved by the court.

2. **REQUEST FOR HEARING**
 - A. *Pre-requisite for a hearing*
 1. The original note must be filed with the Clerk of Court before requesting a hearing unless the Complaint seeks to establish a lost note.
 2. Final hearings on complaints seeking to establish a lost note must be preceded by the filing of a copy of the note bearing the appropriate cancelled document stamps as required by F.S. 201.02. Failure to file the original note bearing cancelled document stamps or a copy of the note upon which cancelled document stamps were or have been affixed will result in the hearing being cancelled.
 - 3 In cases referred to mediation prior to a hearing, mediation must be completed with a written notice to the court filed on the outcome of mediation.

 - B. *Procedure to request a hearing*
 1. When setting one or two cases – If you are in compliance with the pre-requisite(s) above, you may contact the Judicial Assistant to obtain a hearing date, time and location.

DIVISION	Judge and Judicial Assistant	Telephone Number
G	Judge Michael T. McHugh Lisa Poulston	(239) 533-2775
H	Judge Jay B. Rosman Cynthia Trammell	(239) 533-9154
I	Judge Sherra Winesett Linda Hayslip	(239) 533-2600
L	Judge Joseph C. Fuller, Jr. Joan Porter	(239) 533-2831
T	Judge Lynn Gerald, Jr. Diana Golden	(239) 533-9152

2. When setting more than 2 cases – If you are in compliance with the pre-requisite(s), you may request a hearing by emailing a written request to the Clerk of Court at ljohnston@leeclerk.org . Your request will be responded to within 2-3 business days. Information must include:
Case Number / Case Style / Judge Assigned
Plaintiff's Attorney Name / Type of Hearing Requested

PHONE CALLS TO SCHEDULE A HEARING ARE NOT NECESSARY OR ALLOWED WHEN SETTING A HIGH VOLUME OF CASES

3. *NOTICE OF HEARING* - It is the responsibility of the Plaintiff to prepare the Notice of Hearing and provide proper notice to all defendants. For hearings scheduled before the Magistrate, it is the responsibility of the Plaintiff to prepare the Notice of Hearing and Order of Referral to the Magistrate with proper notice provided to all defendants. The Order of Referral to the Magistrate may be found on the Twentieth Judicial Circuit's webpage at www.ca.cjis20.org.
4. *TELEPHONIC HEARING*
ALL parties must appear in person at the hearing.
5. *FORECLOSURE INFORMATION*
 - A. It is the responsibility of the plaintiff's attorney to provide a completed Lee County Foreclosure Checklist to the Clerk of Court at least 10 days prior to the scheduled hearing. The Foreclosure Checklist must indicate the date of each activity in the court file. Lee County's Foreclosure Checklist may be found on the Twentieth Judicial Circuit webpage at www.ca.cjis20.org.
 - B. It is the responsibility of the plaintiff's attorney to provide the following at the time of the scheduled hearing:
 1. Proposed Final Judgment of Foreclosure.
 2. Sufficient copies of the judgment for each named party along with pre-addressed stamped envelopes for each party.
 3. Original and copies of the Notice of Sale.
 4. Originals and copies of the Certificate of Sale, Disbursements and Title along with pre-addressed stamped envelopes.
6. *HEARING* -After the scheduled hearing, the proposed Final Judgment will be signed after the court has recessed. If any errors are detected in the proposed judgment, the judgment will not be signed and will be returned to the attorney. The hearing in the case may need to be reset.
7. *FINAL JUDGMENTS*
 - A. Final judgments shall not include language in the judgment which allows the Plaintiff to cancel the sale without obtaining a prior order of the Court. Specifically, the judgment shall not contain language which requires the clerk to cancel and reschedule the sale if a representative of the Plaintiff is not present for the sale.
 - B. The final judgment shall indicate that any advances or additional costs of the Plaintiff may be added to the amount of the Plaintiff's judgment only by one of the following methods:
 1. Pursuant to the language provided in Fla.R.Civ.P.Form 1.996;
 2. By filing with the Clerk of Court an affidavit of the Plaintiff which is served on all parties, including defaulted parties, prior to the date of the sale, which affidavit include proof of payment of any such advances or additional costs; e.g., copies of receipts for expenses; or

3. By filing a motion to amend the judgment and setting a hearing thereon. This motion must be filed and heard by the Court prior to the sale. See Patron v. American National Bank of Jacksonville, 382 So.2d 156 (Fla. 5th DCA 1098).
4. By filing a motion to disburse surplus funds for an owner of record, an order must be submitted along with an “Owner’s Claim for Mortgage Foreclosure Surplus” form.
5. The paragraph in the final judgment regarding disbursements shall be as set forth by the Florida Supreme Court in Fla.R.Civ.P. Form 1.996.

8. CANCELLATION OF FORECLOSURE SALES

Cancellation of foreclosure sales shall be by Court order only. Motions to cancel foreclosure sales shall not be filed on the day of the sale, and will not be accepted by the Court on the day of the sale, except for extenuating circumstances as set forth in the motion, when such circumstances constitute good cause.

FAILURE TO COMPLY WITH THESE PROCEDURES MAY RESULT IN THE HEARING BEING CANCELLED.

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

To: Cambareri, Kimberly
Trammell, Cindy
Thompson, Lucinda
Hamsharie, Deborah
Conderman, Ellen
Rose, Penelope
Arenas, Liliana

CC: McLean, Craig
Pace, Cheryl

Date: 5/20/2010 10:36:00 AM

Subject: ?RE: Foreclosure Information

Thanks Kim

From: Cambareri, Kimberly

Sent: Thursday, May 20, 2010 11:14 AM

To: Golden, Diana; Trammell, Cindy; Thompson, Lucinda; Hamsharie, Deborah; Conderman, Ellen; Rose, Penelope; Arenas, Liliana

Cc: McLean, Craig; Pace, Cheryl

Subject: Foreclosure Information

Good morning,

It has come to my attention that an official email was not sent out in regards to foreclosure changes/notification. There is a new email address that is posted on the internet in regards to scheduling foreclosures. This is the new information :

RESIDENTIAL MORTGAGE FORECLOSURE HEARINGS:

Please note: Attorneys must be present for hearings. No telephonic appearances will be permitted in residential mortgage foreclosure cases.

For hearing time on **Uncontested Motions for Summary Judgment**, please e-mail **Massforeclosure@leeclerk.org**.
(Please do not place dashes in the case number for e-mailed requests. Example: 04CA20008)

For hearing time on **all other Residential Mortgage Foreclosure** cases, please contact Ellen in Judge Schreiber's office at 239-533-2603.

I apologize for not sending an email sooner notifying the Judicial Assistants of the change. Please contact me or Cheryl Pace with any questions.

Kimberly Cambareri
Computer Programmer/Analyst
20th Judicial Circuit Courts
(239) 533-9103 work
(239) 357-4506 mobile
<mailto:kcambareri@ca.cjis20.org>

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

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

Date: 7/8/2010 8:43:02 AM

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

20TH CIR 02368

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
Subject: RE: Question

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=RECIPIENTS/CN=DG2228>

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.

Date: 7/8/2010 10:00:54 AM

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 at may 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

20TH CIR 02370

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
Subject: RE: Question

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=RECIPIENTS/CN=DG2228>

To: Aloia, Nancy K

English, Sharon

CC: Hamsharie, Deborah

Trammell, Cindy

Thompson, Lucinda

Repperger, Kathryn

Conderman, Ellen

Date: 8/4/2010 1:58:02 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

From: Hamsharie, Deborah </O=SAO20/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DHAMSHARIE>
To: Conderman, Ellen
CC:
Date: 3/30/2010 8:31:48 AM
Subject: ?RE: Telephonic Appearances

Will she allow telephonic appearances on M/Dismiss, M/Substitute, M/Withdraw?

From: Conderman, Ellen
Sent: Tuesday, March 30, 2010 9:26 AM
To: JA-Lee
Subject: Telephonic Appearances

Good Morning,

Just want to clarify that Judge Schreiber does not permit any telephonic appearances in our residential foreclosure hearings. We've had several attorney offices tell us they were told we issue orders permitting telephonic appearances. Thanks.

Ellen Conderman

Judicial Assistant

Judge Lee Ann Schreiber

239-533-2603 Lee County

941-833-3033 Charlotte County

econderman@ca.cjis20.org

Plaintiff,

vs.

CASE NO.:

Defendant

_____ /

ORDER SETTING CASE FOR DOCKET SOUNDING

THIS CAUSE BEING AT ISSUE IT IS HEREBY ORDERED AND ADJUDGED

1. Docket Sounding.

The Court has set a docket sounding before the Honorable _____ on _____ at _____, in Courtroom 1, Hendry County Courthouse, 25 E. Hickpoochee, Labelle, FL. 33935, or as soon thereafter as may be heard.

If, this case is appropriate for a Motion for Summary Judgment, either party may Notice the Summary Judgment to be heard at the Docket Sounding. Otherwise, the day and time certain for the start of trial will be determined at docket sounding. The parties will receive at least 30 days advance notice of the trial date. A motion to continue can be heard by the Court at docket sounding. No other motions will be heard. All trial attorneys are to be present for docket sounding.

2. Exchange of Expert & Lay Witnesses. If a trial date is set at docket sounding, counsel for the plaintiff shall submit to opposing counsel the names and addresses of all plaintiff(s) witnesses within 5 days following the date of the docket sounding, the defense counsel shall submit to opposing counsel the names and addresses of all defense witnesses. The witness list shall contain a plain and concise statement regarding the subject matter of the witness' testimony. No party shall be permitted to call any witness not so disclosed, without prior permission of the Court, or written stipulation executed by all parties.

3. Meeting before Trial. The attorneys for all parties, or the party themselves if they are representing themselves (pro se), are directed to meet together by agreement, initiated by counsel for the plaintiff, no later than 7 days before the trial to:
 - a. Mark all exhibits for identification and prepare a chronological exhibit list for use by clerk and the Court at trial (actual exhibits and documentation evidence shall be available for inspection at this time). Any exhibits not so marked will not be admissible absent a stipulation of all parties.
 - b. Agree to admit or not admit evidence and list specific objections, if any.
 - c. Stipulate as to any matter of fact and law about which there is no issue to avoid unnecessary proof, i.e., chain of custody or records custodian.
 - d. Review all depositions which are to be offered for any purpose other than impeachment to resolve objections to the portions to be offered in evidence.
 - e. Discuss the possibility of settlement.
 - f. Submit an itemized statement of special damages plaintiff expects to prove.
 - g. Discuss and complete any other matters which may simplify the issues or aid in the speedy disposition of this action.
4. Motions. All **motions in limine**, shall be in writing, filed and served prior to trial. They will be heard the morning of the first day of trial.
5. Discovery. All discovery shall be completed prior to the docket sounding. The conduct of discovery subsequent to the docket sounding shall be permitted only on the order of the Court for good cause shown and which will not delay the trial of this cause.
6. If counsel desires that a proceeding be reported by a court reporter, it is the responsibility of counsel to secure said services.
7. Representation and Authority. That in order for the full purpose of the pre-trial procedures to be accomplished, each party shall be represented at all meetings and hearings required herein by an attorney, unless they represent themselves (pro se), who will participate in the disclosure of facts, and to bind the clients by agreement in respect to all matters pertaining to the trial of the cause. If a party is pro se they are mandated to be at all meetings and hearings required under this Order.
8. Exhibits. All composite exhibits shall be satisfactorily bound to avoid the loss and disintegration of component parts of pages before presentation to the Court. Exhibits to be introduced which are larger than 8 ½ x 11" sheet of paper may be used at trial, but if practicable, same shall be reduced to 8 ½ x 11", and the reduced size copy shall be returned to counsel, or the pro se litigant, at the close of trial.
9. Witnesses. The parties shall assure the availability of their witnesses for the trial or to otherwise preserve their testimony for trial as provided by the Florida Rules of Civil

Procedure. The Court is not inclined to allow a witness to testify “out of order”, over objection, or to take a recess or adjust its schedule for the convenience of such a witness.

10. Motions and Stipulations for Continuances. This Court adheres strictly to Rule of Judicial Administration 2.085(c) and Rule of Civil Procedures 1.460. Accordingly, motions for continuance and stipulations must be in writing and set forth:

- a. The signature of the party as well as the attorney.
- b. A concise statement of the reasons for a continuance. If based on non-availability of a witness, a showing of when it is believed the witness will be available must be stated.

Any stipulation must be approved by the Court and must be heard at least ten (10) days prior to the date of trial, unless otherwise permitted by the Court. No motion will be heard that is not in compliance with this order.

11. Settlement. Counsel, or the pro se litigant, shall immediately notify this Court in the event of settlement and submit a stipulation for an order of dismissal and a final disposition form.

12. Notice. Please review this order to see that it was sent to all proper persons at proper addresses.

13. Sanctions. **Failure to comply with the requirements of this order will subject the party and /or attorney to appropriate sanctions.**

DONE AND ORDERED in chambers, Labelle, Hendry County, Florida on this ____ day of _____, 20__.

Circuit Judge

Copies furnished to:

BY: _____ Date: _____
Judicial Assistant

AMERICANS WITH DISABILITIES ACT

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Sheila Mann, Court Operations Manager, whose office

is located at Hendry County Courthouse, 25 E. Hickpoochee, Labelle, Florida 33935 and whose telephone number is (239) 357-4550, within two working days of your receipt of this notice; if you are hearing or voice impaired, call 711.

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR
HENDRY COUNTY, FLORIDA CIVIL DIVISION

IN RE: FORECLOSURE MOTION AND
SUMMARY JUDGMENT CALENDAR
HEARD AUGUST 28, 2009.

**REPORT AND RECOMMENDATIONS OF THE MAGISTRATE
ON: FORECLOSURE MOTION AND SUMMARY JUDGMENT CALENDAR
DATED AUGUST 28, 2009**

This cause has come on to be heard before Magistrate David Friedman, on August 28, 2009, pursuant to the calendar for foreclosure motions and summary judgments. An Order of Referral was signed by the Circuit Judge and was filed , and no objections were filed or made. The Magistrate has jurisdiction pursuant to Florida Civil Rule of Procedure, 1.490, *et seq.* This Court being otherwise advised, the following Findings of Fact and Conclusions of Law are made:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Attached hereto and incorporated by reference herein is a true and correct copy of the docket for foreclosure motion and summary judgment hearings heard by the Magistrate on August 28, 2009. As to each and every hearing, the recommendation of the Magistrate as pronounced by the Magistrate in open court is reflected on the docket of the Clerk of Court as to each scheduled hearing.

RECOMMENDED ORDER OF THE MAGISTRATE

Based upon the above-stated Findings of Fact and Conclusions of Law, the Magistrate submits the following Recommended Order for the approval of the Court:

1. The Recommendations of the Magistrate reflected on the docket of the Clerk of Court as to each and every hearing should be adopted as an Order of the Court and Judgment should be entered in accordance with said Recommendations.

Dated: August ____ 2009.

David Friedman
Twentieth Judicial Circuit Magistrate

HENDRY MAGISTRATES

- **WHAT WE HAVE THEM DOING RIGHT NOW:**

- **3 DAYS A MONTH:**

1 DAY FOR CIVIL/FAMILY LAW MOTIONS

1 DAY FOR FORECLOSURE HEARINGS

½ case plan acceptance, reunifications, change of visitations, disposition hearings, status hearings, change of placement hearings, motions to terminate supervision, motions for permanent guardianship.

½ FOR FAMILY LAW AND CIVIL MOTIONS,
JUDICIAL CASE MANAGERMENTS ON FAMILY LAW
CASES

- **WHAT WE COULD ADD TO THEIR DOCKET:**

DOR HEARINGS.

FAMILY LAW NON-JURY TRIALS

MARCHMAN ACTS AND BAKER ACTS

20th Circuit Judicial Court (Charlotte County)

Please review all Court rules prior to scheduling any hearings. Motion for Summary Judgment of Foreclosure hearings will now be heard only with Judge Richards on November 2, 4, 9, 11 and December 7, 9, 14 and 16. More dates will be opened in the near future. **Please DO NOT schedule Motion for Summary Judgment of Foreclosure hearings on any other dates.**

Initially when you login to JACS you will use the Attorney Bar Number as your User ID and as your password. If the bar number has a leading zero that makes the bar number longer than 6 digits, *omit the zero during login.*

All telephone hearings MUST be set up with COURTCALL at least 3 business days prior to the scheduled hearing. The telephone hearing option will be available, however, only for the November 2 and 4 dates. *After November 7th all Judgment of Foreclosure hearings must be attended in person.*

Judge Richards

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 weekdays at 9am and 1pm except on Friday. Foreclosure cases that have been noticed for trial on the Court's own motion will be heard before Judge Schreiber. 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.

Judge Schrieber

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 weekdays at 9am and 1pm except on Friday. Foreclosure cases that have been noticed for trial on the Court's own motion will be heard before Judge Schreiber. 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.

Magistrate

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.

Y:\documents - Pt3 - SJE Reviewed and Sorted\2 - manage\JACS-hrg instruct- UPDATE 03-09.doc

Judge Winesett: Hearings to be scheduled effective 08/01/09 – have been changed as follows:

From 8:30 to 9:00 probate petitions will be heard
From 9:00 to 11:00 15-30 minute motions will be heard
From 11:00 to 12:00 Motions for Summary Judgment in **Mortgage Foreclosures only**
From 1:30 to 3:30 15-30 minute motions will be heard
From 3:30 to 5:00 5-10 minute motions will be heard

30 minute hearings will encompass two back to back 15 minutes;

No hearings longer than 30 minutes will be scheduled without

Court approval.

The Judicial Assistant is the only person that can be contacted to schedule a hearing.
Guardianship hearings will be special set by the Judicial Assistant.
Telephonic hearings will be special set by the Judicial Assistant.

Contact hours: 9:30-12:00 and 1:30-3:30 Monday-Friday

Scheduling will take place **Tuesday – Friday 9:30 – 12:00 and 1:30 – 3:30**

(no messages are to be left regarding scheduling; you must talk to JA personally to get the hearing on the schedule)

Closed from 12:00 – 1:00 Monday-Friday

COPIES OF PLEADINGS AND NOTICES OF HEARING ARE NOT REQUIRED

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR
HENDRY COUNTY, FLORIDA CIVIL ACTION

IN RE: FORECLOSURE HEARINGS
SCHEDULED FOR **JUNE**, 2009,
PURSUANT TO NOTICE OF HEARING

ORDER OF REFERRAL TO GENERAL MAGISTRATE

THIS CAUSE came on before the court upon the court's own motion and the Court, being duly advised in the premises, it is

ORDERED that this is referred to General Magistrate Amy Wilson, Twentieth Judicial Circuit for further proceedings, pursuant to Rule 1.490 (a) of the Florida Rules of Civil Procedure and current Administrative Orders of the Court. This referral is by and with the consent of all parties, pursuant to Rule 1.490 (c), Florida Rules of Civil Procedure. The General Magistrate shall hold such hearings as deemed necessary. The General Magistrate shall file a master Report with the Clerk as to all hearings conducted each day. Said Report will adopt and incorporate as the findings of the Magistrate the minutes of the clerk of court filed in each case as to each scheduled hearing.

ALL MATTERS REFERRED TO THE MAGISTRATE BY THIS ORDER INCLUDE ANY MOTIONS SPECIFIED BELOW WHICH ARE NOTICED FOR A HEARING BEFORE THE MAGISTRATE AND HEARD DURING THE CALENDAR MONTH INDICATED IN THE CASESTYLE OF THIS ORDER.

IF REQUIRED BY GENERAL MAGISTRATE, THE ATTORNEYS SHALL PREPARE A RECOMMENDED ORDER OF GENERAL MAGISTRATE. FAILURE TO SUBMIT SAID RECOMMENDED ORDER OF GENERAL MAGISTRATE ON A TIMELY BASIS MAY RESULT IN SANCTIONS BEING IMPOSED BY THE CIRCUIT COURT JUDGE.

THIS CASE IS REFERRED TO THE GENERAL MAGISTRATE on the following issues:

Motion for summary judgment	<u> √ </u>	Other _____	<u> √ </u>
Motion to dismiss	<u> √ </u>	Discovery Motion(s)	<u> √ </u>
Motion to amend	<u> √ </u>		
Motion to withdraw	<u> √ </u>		
Motion on surplus funds	<u> √ </u>		
Motion to stay	<u> √ </u>		
Motion to vacate sale	<u> √ </u>		
Motion to vacate judgment	<u> √ </u>		
Objection to sale	<u> √ </u>		
Motion for default judgment	<u> √ </u>		
Motion for deficiency judgment	<u> √ </u>		

AND ANY OTHER MATTER RELATED THERETO.

IT IS FURTHER ORDERED that the above matter(s) and responses are referred to General Magistrate Amy Wilson for further proceedings, pursuant to Rule 1.490 (a) of the Florida Civil Rules of Procedure and current administrative orders of the court. The General Magistrate is authorized to administer oaths and conduct hearings which may include taking of evidence and shall file a master

report and recommendations that adopts and incorporates as the findings of the Magistrate the minutes of the clerk of court filed in each case as to each scheduled hearing.

A time and place shall be assigned for the proceedings as soon as reasonably possible after this referral is made and notice shall be given to each of the parties either by the General Magistrate or one or more of the parties.

REVIEW OF THE REPORT AND RECOMMENDATION MADE BY THE GENERAL MAGISTRATE SHALL BE BY EXCEPTIONS AS PROVIDED IN RULE 1.490(h) FLORIDA CIVIL RULES OF PROCEDURE.

YOU ARE ADVISED THAT IN THIS CIRCUIT a party may provide a court reporter at the hearing at that party's expense to create a transcript.

DONE AND ORDERED in Hendry County, Florida this _____ day of _____, 2009.

Christine Greider
Circuit Judge

Here is a breakdown of Lee County's 2 month foreclosure schedule.

Proposed July foreclosure dockets:

A. Judge Schreiber

Judge Schreiber will handle hearings on July 1, 19, 20, 21, 22, 23 and 29

B. Senior Judges

Judge Starnes and Judge Thompson will be having hearings and docket soundings in July for a total of 9 days on the following dates: July 19, July 20, July 21, July 22, July 23, July 26, July 27, July 29 and July 30.

Courtroom 5-E will be used for contested hearings and docket soundings on July 19, 20, 21, 22, 26, 27, 29.

Courtroom 5-F will be used for contested hearings and docket soundings on July 23 and July 30

Courtroom 5-E will be used for "Foreclosure Friday" high volume uncontested summary judgment docket on July 23 and July 30

*****Effective August 1, 5-E will be used for "Foreclosure Friday" high volume uncontested summary judgment hearings and 5-F will be used for contested hearings, docket soundings and trials.

C. Full-time Magistrate

Courtroom assigned will be 1-B which is the old J on the first floor

Provide time for new Magistrate to shadow civil judges and any additional time could be used for preparing Trial Orders for future docket soundings

Set docket soundings for the Full-time Magistrate for July 27, July 28 and July 29 with 50 set for 8:30 a.m. and 50 set for 1:00 p.m. Use same Order for Trial as used with Senior Judges but need Order of Referral too.

D. Part-time Magistrate

Courtroom assigned for Part-time Magistrate will be 5-I

Provide time for new Part-time Magistrate to shadow civil judges and any additional time could be used for preparing Trial Orders for future docket soundings

Set docket soundings for Part-time Magistrate for July 27 and 28 with 50 set for 8:30 a.m. and 50 set for 1:00 p.m. Use same Order for Trial as used with Senior Judges but need Order of Referral too.

Proposed August Foreclosure dockets:

- A. **Judge Schreiber has hearings scheduled on August 16, 17, 18, 20, 23, 30 and 31 and Senior Judges will cover.** We will set hearings for 8:30 and 1:00 with up to 75 cases (hearings or docket soundings) in the a.m. and up to 100 cases (hearings and docket soundings) in the p.m. Courtroom 5-F used for these hearings.
- B. **We will always have “Foreclosure Friday” high volume uncontested summary judgment hearings on Fridays of every week with a Senior Judge.** August dates are Aug. 6, 13, 20 and 27. Courtroom 5-E is used for Friday high volume uncontested summary judgments.
- C. **Additional Senior Judges dates in August:**
 - Aug. 9, 10, 11, 12 and 13 and 24: Schedule 50 docket soundings for 8:30 and 50 for 1:00-Courtroom 5-F
 - Aug. 25, 26 and 27 leave open for Senior Judge trial days from previous docket soundings in July-Courtroom 5-F
- D. **Full-time Magistrate:** Set 50 docket soundings in the a.m. at 8:30 and 50 docket soundings in the p.m. at 1:00 on Aug. 10, 11, 12, 17, 18, 19, 24, 25, 26, 31, Sept. 1 and Sept. 2. Leave Aug. 6, 13, 20, 27 and Sept. 3 open for trial referrals. All cases set in 1-B.
- E. **Part-time Magistrate:** Set 50 docket soundings in the a.m. at 8:30 and 50 docket soundings in the p.m. at 1:00 p.m. on Aug. 10, 11, 17, 18, 24, 25, 31 and Sept. 1. Leave Aug. 12, 19 and 26 open in the a.m. at 8:30 for trial referrals. All cases set in 5-I.

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR
HENDRY COUNTY, FLORIDA CIVIL ACTION

IN RE: FORECLOSURE HEARINGS
SCHEDULED FOR **MAY**, 2009,
PURSUANT TO NOTICE OF HEARING

ORDER OF REFERRAL TO GENERAL MAGISTRATE

THIS CAUSE came on before the court upon the court's own motion and the Court, being duly advised in the premises, it is

ORDERED that this is referred to General Magistrate David C. Friedman, Twentieth Judicial Circuit for further proceedings, pursuant to Rule 1.490 (a) of the Florida Rules of Civil Procedure and current Administrative Orders of the Court. This referral is by and with the consent of all parties, pursuant to Rule 1.490 (c), Florida Rules of Civil Procedure. The General Magistrate shall hold such hearings as deemed necessary. The General Magistrate shall file a master Report with the Clerk as to all hearings conducted each day. Said Report will adopt and incorporate as the findings of the Magistrate the minutes of the clerk of court filed in each case as to each scheduled hearing.

ALL MATTERS REFERRED TO THE MAGISTRATE BY THIS ORDER INCLUDE ANY MOTIONS SPECIFIED BELOW WHICH ARE NOTICED FOR A HEARING BEFORE THE MAGISTRATE AND HEARD DURING THE CALENDAR MONTH INDICATED IN THE CASESTYLE OF THIS ORDER.

IF REQUIRED BY GENERAL MAGISTRATE, THE ATTORNEYS SHALL PREPARE A RECOMMENDED ORDER OF GENERAL MAGISTRATE. FAILURE TO SUBMIT SAID RECOMMENDED ORDER OF GENERAL MAGISTRATE ON A TIMELY BASIS MAY RESULT IN SANCTIONS BEING IMPOSED BY THE CIRCUIT COURT JUDGE.

THIS CASE IS REFERRED TO THE GENERAL MAGISTRATE on the following issues:

Motion for summary judgment	<input checked="" type="checkbox"/>	Other _____	<input type="checkbox"/>
Motion to dismiss	<input checked="" type="checkbox"/>	Discovery Motion(s)	<input checked="" type="checkbox"/>
Motion to amend	<input checked="" type="checkbox"/>		
Motion to withdraw	<input checked="" type="checkbox"/>		
Motion on surplus funds	<input checked="" type="checkbox"/>		
Motion to stay	<input checked="" type="checkbox"/>		
Motion to vacate sale	<input checked="" type="checkbox"/>		
Motion to vacate judgment	<input checked="" type="checkbox"/>		
Objection to sale	<input checked="" type="checkbox"/>		
Motion for default judgment	<input checked="" type="checkbox"/>		
Motion for deficiency judgment	<input checked="" type="checkbox"/>		

AND ANY OTHER MATTER RELATED THERETO.

IT IS FURTHER ORDERED that the above matter(s) and responses are referred to General Magistrate David C. Friedman for further proceedings, pursuant to Rule 1.490 (a) of the Florida Civil Rules of Procedure and current administrative orders of the court. The General Magistrate is authorized to administer oaths and conduct hearings which may include taking of evidence and shall

file a master report and recommendations that adopts and incorporates as the findings of the Magistrate the minutes of the clerk of court filed in each case as to each scheduled hearing.

A time and place shall be assigned for the proceedings as soon as reasonably possible after this referral is made and notice shall be given to each of the parties either by the General Magistrate or one or more of the parties.

REVIEW OF THE REPORT AND RECOMMENDATION MADE BY THE GENERAL MAGISTRATE SHALL BE BY EXCEPTIONS AS PROVIDED IN RULE 1.490(h) FLORIDA CIVIL RULES OF PROCEDURE.

YOU ARE ADVISED THAT IN THIS CIRCUIT a party may provide a court reporter at the hearing at that party's expense to create a transcript.

DONE AND ORDERED in Hendry County, Florida this _____ day of _____, 2009.

Christine Greider
Circuit Judge

From: McHugh, Michael </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=MMCHUGH>

To: Gerald, Lynn

Winesett, Sherra

Rosman, Jay

Fuller, Joseph

Schreiber, Lee Ann

CC: Golden, Diana

Hamsharie, Deborah

Trammell, Cindy

Thompson, Lucinda

Conderman, Ellen

Poulston, Lisa

Date: 3/16/2010 9:07:04 AM

Subject: Foreclosure Mail next week

Judge Schrieber is at New Judges College next week. Because of this she will not be able to review the foreclosure paperwork that comes in. I would ask that you keep your foreclosure paperwork as if this was a Charlotte week for Judge Schrieber. If you have any questions feel free to contact me.

Thanks,

Mike.

From: McHugh, Michael </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=MMCHUGH>

To: Winesett, Sherra

Gerald, Lynn

Fuller, Joseph

Schreiber, Lee Ann

Rosman, Jay

CC: Sauls, Sandi

Date: 3/5/2010 10:20:08 AM

Subject: ?RE: Re: Fla. Supreme Ct Cases No SC09-1460 and SC 09-1579 - Amendments to Rules/Form 1.996 re foreclosures

Judge Winesett and I had a conversation about the cancellation and rescheduling of foreclosure sales issue. It was our opinion that since the Supreme Court has promulgated the new form for the cancellation and rescheduling of sales, we should require the plaintiffs in these cases to use it. The rule adopted appears to be purely procedural, therefore not needing any enabling statute. The rule is effective immediately, with the understanding that there is a 60 day comment period. Our proposal is to require the form beginning April 1st. This is roughly consistent with the comment period and will give us an opportunity to make the plaintiff firms aware of our requirement in this regard, presumably through Mr. Hill and Mr. Goetz. This would mostly effect the cancellations that occur when the plaintiff firm calls the clerk's office and asks to cancel the sale before any motion has been filed or order signed. Under the new procedure the clerk's office would decline to cancel the sale and tell them the appropriate motion needs to be filed. Let me know your thoughts on this issue so we can decide the appropriate way to proceed.

Thanks,

Mike.

From: Winesett, Sherra

Sent: Thursday, March 04, 2010 6:12 PM

To: Gerald, Lynn; McHugh, Michael; Fuller, Joseph; Schreiber, Lee Ann; Rosman, Jay; Winesett, Sherra

Subject: Re: Fla. Supreme Ct Cases No SC09-1460 and SC 09-1579 - Amendments to Rules/Form 1.996 re foreclosures

I reviewed the opinion in the consolidated Fla. Sup. Ct. Case No. SC09-1460 entitled In Re: Amendments to the Florida Rules of Civil Procedure and Case No. SC09-1579 entitled In Re: amendments to the Florida Rules of Civil Procedure - Form 1.996 (Final Judgment of Foreclosure).

Case No. SC 09-1460 amends rule 1.110(b) to require verification of mortgage foreclosure complaints involving residential real property, adopts new form 1.924, Affidavit of Diligent Search and Inquiry and new form 1.996(b), Motion to Cancel and Reschedule Foreclosure Sale which provides for a reason to be checked to explain why the foreclosure sale needs to be cancelled and rescheduled. Fla. Sup. Ct. Case SC 09-1579 amends Form 1.996, the Final Judgment of Foreclosure form and numbers it Form 1.996(b).

20TH CIR 02391

As I read the opinion on the consolidated cases, the amendments made by SC 09-1460 were effective immediately upon the release of the opinions on Feb. 11, 2010. However, there is a 60 day period from that date during which comments on the amendments made to form 1.996(a) may be filed.

I think the question is, Is the use of these forms, or the information required by them, mandatory? If so, effective immediately, we need to make sure new Complaints filed are verified, Diligent Search affidavits in compliance with the new rule are filed for constructive service, and a reason is stated in a motion for cancellation of the sale.

You should note in its opinion, the Court rejected including a provision in the Final Judgment form that the sale be cancelled if Plaintiff's representative is not present at the sale, finding that to be in conflict with the new form for Motion to Cancel and Reschedule Foreclosure Sale.

Judge Gerald has suggested that with respect to the Final Judgment Form we require the Plaintiff's attorney to file a certification with the proposed final judgment, listing any provisions in the proposed judgment that are not in Form 1.996(a) so that the presiding judge can quickly review those additional provisions to determine if they are allowable provisions.

Comments or suggestions? Sherra

From: McHugh, Michael </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=MMCHUGH>

To: Schreiber, Lee Ann

CC:

Date: 6/16/2010 8:15:38 AM

Subject: ?RE: reassigned cases - there are 26 mortgage foreclosure cases on this list

They will be assigned to you, but the senior judges will handle them as long as they are residential. It will work just like all the other mortgage foreclosure cases. They will be assigned to an active Circuit Court Judge (in this case you), but the work will be done by the senior judges as long as they are residential. If someone calls to set a hearing on these cases Ellen would refer them to the senior judge.

From: Schreiber, Lee Ann

Sent: Wednesday, June 16, 2010 9:12 AM

To: McHugh, Michael

Subject: reassigned cases - there are 26 mortgage foreclosure cases on this list

Am I supposed to keep the OLD mortgage foreclosure cases or will the Senior judges be doing those?

MEMORANDUM

FROM: Jo-Ann Hendrickx, Judicial Assistant to
Honorable Christine Greider
Circuit Judge
Hendry County Florida

RE: Order of Referral to Magistrate

PLEASE BE ADVISED THAT A MAGISTRATE WILL BE HEARING YOUR MOTION FOR SUMMARY JUDGMENT FOR FORECLOSURE (IN LIEU OF JUDGE GREIDER) IN HENDRY COUNTY. ATTACHED IS AN ORDER OF REFERRAL TO MAGISTRATE THAT NEEDS TO BE ATTACHED TO YOUR NOTICE OF HEARING AND SENT/SERVED TO ALL PARTIES INVOLVED. THE ORIGINAL NOTICE OF HEARING WITH THE ORDER OF REFERRAL SHALL BE FILED WITH THE CLERK OF COURTS.

THE MAGISTRATE WILL BE USING COURT CALL FOR ALL PHONE APPEARANCES. PLEASE CONTACT COURT CALL AT 888-882-6878 SEVEN (7) DAYS PRIOR TO YOUR HEARING TO SCHEDULE YOUR PHONE HEARING.

EVERY MONTH JUDGE GREIDER WILL SIGN AN ORDER OF REFERRAL REFERRING ALL OF THE FORECLOSURE/MOTION FOR SUMMARY JUDGMENT SCHEDULED FOR THAT MONTH TO A MAGISTRATE.

IF YOU HAVE ANY QUESTIONS, PLEASE FEEL FREE TO CONTACT OUR OFFICE AT 863-675-5225.

ALL CORRESPONDENCE FOR ANY OF THE MAGISTRATES SHOULD BE SEND TO OUR OFFICE AND WE WILL MAKE SURE IT GET TO THE CORRECT MAGISTRATE.

PLEASE BE ADVISED THAT ALL HEARINGS WILL BE HELD IN HENDRY COUNTY AT THE HENDRY COUNTY COURTHOUSE AND THE NOTICE OF HEARING SHALL INDICATE THAT THE MAGISTRATE WILL BE PRESIDING AND HEARING WILL BE IN COURTROOM 1

CASE NAME: _____ **CASE NO.:** _____
MORTGAGE FORECLOSURE CHECKLIST **DATE REVIEWED:** _____

<input type="checkbox"/>	<input type="checkbox"/>	Notice of Hearing Filed Date of Hearing: _____ Date Served: _____				
<input type="checkbox"/>	<input type="checkbox"/>	All Defendants Served with Notice of Hearing				
<input type="checkbox"/>	<input type="checkbox"/>	Original Note Filed				
<input type="checkbox"/>	<input type="checkbox"/>	Count to Re-Establish Lost Note (and not dismissed)				
<input type="checkbox"/>	<input type="checkbox"/>	Affidavit Supporting Lost Note				
<input type="checkbox"/>	<input type="checkbox"/>	Is Plaintiff Original Lender				
<input type="checkbox"/>	<input type="checkbox"/>	If not, Allonge or Assignment Filed				
DEFENDANTS		SERVED (Note if dropped)	TYPE OF SERVICE	ANSWER FILED	DEFAULT ENTERED	IF DEFAULT, NON-MILITARY AFFIDAVIT
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
<input type="checkbox"/>	<input type="checkbox"/>	Additional Page Attached				
<input type="checkbox"/>	<input type="checkbox"/>	Motion for Summary Judgment Filed				
<input type="checkbox"/>	<input type="checkbox"/>	Supporting Affidavits Filed:				
<input type="checkbox"/>	<input type="checkbox"/>	Affidavit of Indebtedness				
<input type="checkbox"/>	<input type="checkbox"/>	Affidavit of Costs				
<input type="checkbox"/>	<input type="checkbox"/>	Affidavit of Attorney Stating Time/Hours or Flat Fee				
<input type="checkbox"/>	<input type="checkbox"/>	Affidavit of Reasonable Fees				
<input type="checkbox"/>	<input type="checkbox"/>	Motion Summary Judgment timely served on _____ *				
<input type="checkbox"/>	<input type="checkbox"/>	Supporting Affidavits Timely Served on _____ *				
		*(at least 25 days prior to date of hearing)				
<input type="checkbox"/>	<input type="checkbox"/>	Affidavits in Opposition Filed				
<input type="checkbox"/>	<input type="checkbox"/>	If so, filed by: Defendant(s) #: _____				
<input type="checkbox"/>	<input type="checkbox"/>	Final Judgment				
<input type="checkbox"/>	<input type="checkbox"/>	Amounts Match Amounts in Affidavits & Total is Correct				
<input type="checkbox"/>	<input type="checkbox"/>	Otherwise, in proper form. If not, why not: _____				
<input type="checkbox"/>	<input type="checkbox"/>	Other Concerns				

CASE NAME: _____ **CASE NO.:** _____
MORTGAGE FORECLOSURE CHECKLIST **DATE REVIEWED:** _____

YES	NO					
<input type="checkbox"/>	<input type="checkbox"/>	Notice of Hearing Filed Date of Hearing: _____ Date Served: _____				
<input type="checkbox"/>	<input type="checkbox"/>	All Defendants Served with Notice of Hearing				
<input type="checkbox"/>	<input type="checkbox"/>	Original Note Filed				
<input type="checkbox"/>	<input type="checkbox"/>	Count to Re-Establish Lost Note (and not dismissed)				
<input type="checkbox"/>	<input type="checkbox"/>	Affidavit Supporting Lost Note				
<input type="checkbox"/>	<input type="checkbox"/>	Is Plaintiff Original Lender				
<input type="checkbox"/>	<input type="checkbox"/>	If not, Allonge or Assignment Filed				
DEFENDANTS		SERVED (Note if dropped)	TYPE OF SERVICE	ANSWER FILED	DEFAULT ENTERED	IF DEFAULT, NON-MILITARY AFFIDAVIT
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
<input type="checkbox"/>	<input type="checkbox"/>	Additional Page Attached				
<input type="checkbox"/>	<input type="checkbox"/>	Motion for Summary Judgment Filed				
<input type="checkbox"/>	<input type="checkbox"/>	Supporting Affidavits Filed:				
<input type="checkbox"/>	<input type="checkbox"/>	Affidavit of Indebtedness				
<input type="checkbox"/>	<input type="checkbox"/>	Affidavit of Costs				
<input type="checkbox"/>	<input type="checkbox"/>	Affidavit of Attorney Stating Time/Hours or Flat Fee				
<input type="checkbox"/>	<input type="checkbox"/>	Affidavit of Reasonable Fees				
<input type="checkbox"/>	<input type="checkbox"/>	Motion Summary Judgment timely served on _____ *				
<input type="checkbox"/>	<input type="checkbox"/>	Supporting Affidavits Timely Served on _____ *				
		*(at least 25 days prior to date of hearing)				
<input type="checkbox"/>	<input type="checkbox"/>	Affidavits in Opposition Filed				
<input type="checkbox"/>	<input type="checkbox"/>	If so, filed by: Defendant(s) #: _____				
<input type="checkbox"/>	<input type="checkbox"/>	Final Judgment				
<input type="checkbox"/>	<input type="checkbox"/>	Amounts Match Amounts in Affidavits & Total is Correct				
<input type="checkbox"/>	<input type="checkbox"/>	Otherwise, in proper form. If not, why not: _____				
<input type="checkbox"/>	<input type="checkbox"/>	Other Concerns				

PROCEDURES FOR MORTGAGE FORECLOSURE HEARINGS
LEE COUNTY, FL

In an effort to meet the high volume of foreclosure cases being filed in Lee County, Florida it is necessary to streamline the court’s process and establish the following foreclosure procedures.

Effective January 1, 2009, the following rules shall apply to all residential and commercial mortgage foreclosure proceedings in Lee County, Florida:

1. **MEDIATION** – In cases deemed appropriate for mediation, an Order of Referral to Mediation will be completed and filed in the case. In home-owner occupied residential foreclosures, mediation must be scheduled and completed within 60 days from the date of the Order of Referral to Mediation. In commercial mortgage foreclosure cases, mediation must be scheduled and completed within 120 days from the date of the Order of Referral to Mediation. Requests for an extension of time to complete mediation must be approved by the court.

2. **REQUEST FOR HEARING**

A. Pre-requisite for a hearing

1. Final hearings on complaints seeking to establish a lost note must be preceded by the filing of a lost note affidavit, together with a copy of the note bearing the appropriate cancelled document stamps as required by F.S. 201.02. Failure to file the original note bearing cancelled document stamps or a copy of the note upon which cancelled document stamps were or have been affixed will result in the hearing being cancelled.
2. In cases referred to mediation prior to a hearing, mediation must be completed with a written notice to the court filed on the outcome of mediation.

B. Procedure to request a hearing

1. When setting one or two cases – If you are in compliance with the pre-requisite(s) above, you may contact the Judicial Assistant to obtain a hearing date, time and location.

DIVISION	Judge and Judicial Assistant	Telephone Number
G	Judge Michael T. McHugh Lisa Poulston	(239) 533-2775
H	Judge Jay B. Rosman Cynthia Trammell	(239) 533-9154
I	Judge Sherra Winesett Linda Hayslip	(239) 533-2600
L	Judge Joseph C. Fuller, Jr. Joan Porter	(239) 533-2831
T	Judge Lynn Gerald, Jr. Diana Golden	(239) 533-9152

2. When setting more than 2 cases – If you are in compliance with the pre-requisite(s), you may request a hearing by emailing a written request to the Clerk of Court at ljohnston@leeclerk.org . Your request will be responded to within 2-3 business days. Information must include:

Case Number / Case Style / Judge Assigned
Plaintiff’s Attorney Name / Type of Hearing Requested

PHONE CALLS TO SCHEDULE A HEARING ARE NOT NECESSARY OR ALLOWED WHEN SETTING A HIGH VOLUME OF CASES

3. *NOTICE OF HEARING* - It is the responsibility of the Plaintiff to prepare the Notice of Hearing and provide proper notice to all defendants. For hearings scheduled before the Magistrate, it is the responsibility of the Plaintiff to prepare the Notice of Hearing and Order of Referral to the Magistrate with proper notice provided to all defendants. The Order of Referral to the Magistrate may be found on the Twentieth Judicial Circuit's webpage at www.ca.cjis20.org.
4. *NO TELEPHONIC HEARINGS*
ALL parties must appear in person at the hearing.
5. *FORECLOSURE INFORMATION*
 - A. It is the responsibility of the plaintiff's attorney to provide a completed Lee County Foreclosure Checklist to the Clerk of Court at least 10 days prior to the scheduled hearing. The Foreclosure Checklist must indicate the date of each activity in the court file. Lee County's Foreclosure Checklist may be found on the Twentieth Judicial Circuit webpage at www.ca.cjis20.org.
 - B. It is the responsibility of the plaintiff's attorney to provide the following at the time of the scheduled hearing:
 1. Proposed Final Judgment of Foreclosure.
 2. Sufficient copies of the judgment for each named party along with pre-addressed stamped envelopes for each party.
 3. Original and copies of the Notice of Sale.
 4. Originals and copies of the Certificate of Sale, Disbursements and Title along with pre-addressed stamped envelopes.
6. *HEARING* -After the scheduled hearing, the proposed Final Judgment will be signed after the court has recessed. If any errors are detected in the proposed judgment, the judgment will not be signed and will be returned to the attorney. The hearing in the case may need to be reset.
7. *FINAL JUDGMENTS*
 - A. Final judgments shall not include language in the judgment which allows the Plaintiff to cancel the sale without obtaining a prior order of the Court. Specifically, the judgment shall not contain language which requires the clerk to cancel and reschedule the sale if a representative of the Plaintiff is not present for the sale.
 - B. The final judgment shall indicate that any advances or additional costs of the Plaintiff may be added to the amount of the Plaintiff's judgment only by one of the following methods:
 1. Pursuant to the language provided in Fla.R.Civ.P.Form 1.996;
 2. By filing with the Clerk of Court an affidavit of the Plaintiff which is served on all parties, including defaulted parties, prior to the date of the sale, which affidavit include proof of payment of any such advances or additional costs; e.g., copies of receipts for expenses; or

3. By filing a motion to amend the judgment and setting a hearing thereon. This motion must be filed and heard by the Court prior to the sale. See Patron v. American National Bank of Jacksonville, 382 So.2d 156 (Fla. 5th DCA 1098).
4. By filing a motion to disburse surplus funds for an owner of record, an order must be submitted along with an “Owner’s Claim for Mortgage Foreclosure Surplus” form.
5. The paragraph in the final judgment regarding disbursements shall be as set forth by the Florida Supreme Court in Fla.R.Civ.P. Form 1.996.

8. CANCELLATION OF FORECLOSURE SALES

Cancellation of foreclosure sales shall be by Court order only. Motions to cancel foreclosure sales shall not be filed on the day of the sale, and will not be accepted by the Court on the day of the sale, except for extenuating circumstances as set forth in the motion, when such circumstances constitute good cause.

FAILURE TO COMPLY WITH THESE PROCEDURES MAY RESULT IN THE HEARING BEING CANCELLED.

CASE NAME: _____ **CASE NO.:** _____
MORTGAGE FORECLOSURE CHECKLIST **DATE REVIEWED:** _____

- | | | |
|--------------------------|--------------------------|---|
| YES | NO | |
| <input type="checkbox"/> | <input type="checkbox"/> | Notice of Hearing Filed
Date of Hearing: _____
Date Served: _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | All Defendants Served with Notice of Hearing |
| <input type="checkbox"/> | <input type="checkbox"/> | Original Note Filed or Bring to Court |
| <input type="checkbox"/> | <input type="checkbox"/> | Count to Re-Establish Lost Note (and not dismissed) |
| <input type="checkbox"/> | <input type="checkbox"/> | Affidavit Supporting Lost Note |
| <input type="checkbox"/> | <input type="checkbox"/> | Is Plaintiff Original Lender |
| <input type="checkbox"/> | <input type="checkbox"/> | If not, Allonge or Assignment Filed |

DEFENDANTS	SERVED (Note if dropped)	TYPE OF SERVICE	ANSWER FILED	DEFAULT ENTERED	IF DEFAULT, NON-MILITARY AFFIDAVIT
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

- | | | |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Additional Page Attached |
| <input type="checkbox"/> | <input type="checkbox"/> | Motion for Summary Judgment Filed |
| | | Supporting Affidavits Filed: |
| <input type="checkbox"/> | <input type="checkbox"/> | Affidavit of Indebtedness |
| <input type="checkbox"/> | <input type="checkbox"/> | Affidavit of Costs |
| <input type="checkbox"/> | <input type="checkbox"/> | Affidavit of Attorney Stating Time/Hours or Flat Fee |
| <input type="checkbox"/> | <input type="checkbox"/> | Affidavit of Reasonable Fees |
| <input type="checkbox"/> | <input type="checkbox"/> | Motion Summary Judgment timely served on _____ * |
| <input type="checkbox"/> | <input type="checkbox"/> | Supporting Affidavits Timely Served on _____ * |
| | | *(at least 25 days prior to date of hearing) |
| | | Affidavits in Opposition Filed |
| <input type="checkbox"/> | <input type="checkbox"/> | If so, filed by: Defendant(s) #: _____ |
| | | Final Judgment _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | Amounts Match Amounts in Affidavits & Total is Correct |
| <input type="checkbox"/> | <input type="checkbox"/> | Otherwise, in proper form. If not, why not: _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | Other Concerns |

IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO/PINELLAS COUNTY, FLORIDA

Plaintiff,
v.

UCN:
Case No.

Defendants.
_____ /

CERTIFICATION OF COMPLIANCE WITH FORECLOSURE PROCEDURES

I hereby certify the following:

Plaintiff's Status:

_____ (initial) **Plaintiff is the original mortgagee and holds original note and:**

_____ (initial) Has previously filed, or is simultaneously filing with this certification, the original note with the Clerk.

_____ (initial) Will file the original note with the foreclosure judgment packet.

_____ (initial) **Plaintiff holds the note and rights there under through assignment, the name of the original lender is _____.**

_____ (initial) Whether the plaintiff is the original mortgagee or holds the note through assignment, **the original note has been lost or destroyed, and** Plaintiff has filed an affidavit attesting to the same in the court file with the Clerk of Circuit Court on _____ (date). **(A copy of the lost note must be attached to the affidavit).**

Borrower's/Defendant's Status:

_____ (initial & yes/no) The property which is the subject matter of this foreclosure is listed on the Public Records as subject to a Homestead Exemption for property tax purposes.

Using the following format provide the name of each borrower/defendant, the date and method of service of process on each defendant, and the current status of each defendant. If the property is listed as homestead for property tax exemption purposes, indicate if a copy of Attachments A and B to Administrative Order No. 2008-081 were provided to the borrower/defendants.

Name of Defendant	Date and method of service [Date followed by personal, publication, or substitute]	Status of this Defendant [Dropped; Default; Represented by (include name) of attorney; or, Filed pro se answer]	Owner/Defendant was provided with a copy of Attachment A & B at the time of service of process.
	___/___/___ -		
	___/___/___ -		
	___/___/___ -		
	___/___/___ -		

Using the following format provide the name of any borrower/defendant who has not answered or filed a motion to dismiss, and indicate whether an affidavit of non-military service or a memorandum for certificate of military service was filed with the clerk and the date of the document filing. Do not include any borrower/defendant for whom the Clerk of Circuit Court has entered a default.

Name of Defendant	Indicate the type of document, i.e., Affidavit of non-military service (Affidavit) or memorandum of military service (Memo)	Date of filing with the Clerk of Circuit Court
		___/___/___
		___/___/___
		___/___/___

Status of other required certifications: I further certify of the following (**Initial next to each completed item**):

_____ (initial) The Motion for Summary Judgment with copies of all supporting affidavits was sent by U.S. Mail to all Defendants on _____ (date) and filed with the Clerk of Circuit Court on _____ (date). The following information is included in the supporting affidavits. (Note, these affidavits and amounts may be in the form of one document, but provide the amount claimed for each):

Document	Amount claimed
Affidavit of Indebtedness/Amount Due* <i>(see note below)</i>	
Affidavit of Attorney's Time Expended	
Affidavit as to Costs	
Affidavit as to Reasonable Attorney's Fees	

* Note: If the Plaintiff seeks a prepayment penalty, the affidavit of indebtedness must include reference to the specific clause in the loan contract that provides for a prepayment penalty in the event of foreclosure, and must specify the amount sought.

_____ (initial) The proposed final judgment is, or at submission will be, in the form of the Sixth Judicial Circuit's Uniform Final Judgment of Foreclosure and is in compliance with § 45.031, Florida Statutes.

_____ (initial) I have carefully reviewed this Certification of Compliance With Foreclosure Procedures and the supporting documents and I certify that the above styled matter is ready for hearing and summary judgment.

_____ (initial) I certify that a true copy of the foregoing Certification of Compliance with Foreclosure Procedures has been furnished this _____ day of _____, 20__, by facsimile or by regular U.S. Mail to the following: (insert name of each defendant and include his or her address or facsimile number where the copy was furnished or specify the attachment containing that address or facsimile number).

I declare that I have read the foregoing Certification of Compliance with Foreclosure Procedures and the facts stated in it are true.

Attorney Name
Address
Direct telephone number:
Florida Bar No.

To: SENIOR JUDGES

Important extensions for your reference:

COURT CALL: 888-882-6878

Civil Clerk: Amanda 5204

Foreclosure Clerk: Jennifer 4765

Senior JA: Margo 4714

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR
LEE COUNTY, FLORIDA

CIVIL ACTION

vs. Plaintiff(s),

CASE NO:

Defendant(s).

ORDER OF REFERRAL TO GENERAL MAGISTRATE

THIS CAUSE came on before the court upon the court's own motion and the Court, having been duly advised in the premises, it is now

ORDERED:

That this cause is referred to **Stella Diamond, General Magistrate**, Civil Division, Twentieth Judicial Circuit for further proceedings, pursuant to Rule 1.490(a) of the Florida Rules of Civil Procedure and current Administrative Orders of the Court. Any party wishing to object to the referral to the Magistrate must file a timely objection no later than the date of the scheduled hearing and failure to object shall constitute a waiver of objection.

The General Magistrate shall hold such hearings as deemed necessary and shall file, as soon as practicable, a Recommended Order of General Magistrate.

If required by the General Magistrate, the attorneys shall prepare a Recommended Order of General Magistrate. Failure to submit said Recommended Order of General Magistrate in a timely manner may result in sanctions being imposed by the Circuit Court Judge.

This case is referred to the General Magistrate on the following issues:

**NON-JURY TRIAL ON COMPLAINT TO FORECLOSE MORTGAGE
AND MOTION FOR SUMMARY JUDGMENT, IF FILED IN THIS CASE.**

(As indicated in the ORDER SETTING CASE FOR DOCKET SOUNDING, if this case is appropriate for a Motion for Summary Judgment, either party may Notice the Summary Judgment to be heard at the Docket Sounding. A separate Order of Referral shall not be required on the Motion for Summary Judgment since this matter is being referred to the General Magistrate at this time)

IT IS FURTHER ORDERED and noted that the above matter(s) and responses are specifically referred to the General Magistrate for further proceedings, pursuant to Rule 1.490(a) of the Florida Rules of Civil Procedure and current administrative orders of the court. The General Magistrate is authorized to administer oaths and conduct hearings which may include taking of evidence and shall file a report and recommendations that contain findings of fact, conclusions of law, and the recommendation as to a ruling by the Court.

A time and place shall be assigned for the proceedings as soon as is reasonably possible after this referral is made and notice shall be given to each of the parties either by the General Magistrate or one or more of the parties.

Review of the Report and Recommendation made by the General Magistrate shall be by exceptions as provided in Rule 1.490(h) Florida Rules of Civil Procedure. Any party filing the same will be required to provide the Court with a record sufficient to support the exceptions or the exceptions may be denied. A record ordinarily requires a written transcript of all relevant proceedings. The party seeking review must have the transcript prepared if necessary for the Court's review. All parties are advised that in this Circuit electronic recording is not provided by the court. A party may provide a court reporter at that party's expense.

DONE AND ORDERED in Lee County, Florida on July 8, 2010.

Circuit Court Judge

AMERICANS WITH DISABILITIES ACT

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Ken Kellum, Court Operations Manager whose office is located at Lee County Justice Center, 1700 Monroe Street, Fort Myers, Florida 33901 and whose telephone number is (239) 533-1700, within two working days of your receipt of this notice; if you are hearing or voice impaired, call 711.

CERTIFICATE OF SERVICE

I certify that a copy of this document was mailed to the attorneys of record at their designated mailing addresses, on July 8, 2010.

Administrative Assistant

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR
LEE COUNTY, FLORIDA

CIVIL ACTION

vs. Plaintiff(s),

CASE NO:

Defendant(s).

*** AMENDED ORDER OF REFERRAL TO GENERAL MAGISTRATE**

THIS CAUSE came on before the court upon the court's own motion and the Court, having been duly advised in the premises, it is now

ORDERED:

That this cause is referred to **Amy Hawthorne**, General Magistrate, Civil Division, Twentieth Judicial Circuit for further proceedings, pursuant to Rule 1.490(a) of the Florida Rules of Civil Procedure and current Administrative Orders of the Court. Any party wishing to object to the referral to the Magistrate must file a timely objection no later than the date of the scheduled hearing and failure to object shall constitute a waiver of objection.

The General Magistrate shall hold such hearings as deemed necessary and shall file, as soon as practicable, a Recommended Order of General Magistrate.

If required by the General Magistrate, the attorneys shall prepare a Recommended Order of General Magistrate. Failure to submit said Recommended Order of General Magistrate in a timely manner may result in sanctions being imposed by the Circuit Court Judge.

This case is referred to the General Magistrate for the following:

NON-JURY TRIAL ON COMPLAINT TO FORECLOSURE MORTGAGE AND MOTION FOR SUMMARY JUDGMENT, IF FILED IN THIS CASE. ALL MOTIONS, RESPONSES, AND ANY OTHER MATTER IN THIS CASE ARE NOW BEING REFERRED TO THE MAGISTRATE.

(As indicated in the ORDER SETTING CASE FOR DOCKET SOUNDING, if this case is appropriate for a Motion for Summary Judgment, either party may Notice the Summary Judgment to be heard at the Docket Sounding. A separate Order of Referral shall not be required on the Motion for Summary Judgment since this and all matters in this case are being referred to the General Magistrate at this time)

IT IS FURTHER ORDERED and noted that the above matter(s) and responses are specifically referred to the General Magistrate for further proceedings, pursuant to Rule 1.490(a) of the Florida Rules of Civil Procedure and current administrative orders of the court. The General Magistrate is authorized to administer oaths and conduct hearings which may include taking of evidence and shall file a report and recommendations that contain findings of fact, conclusions of law, and the recommendation as to a ruling by the Court.

A time and place shall be assigned for the proceedings as soon as is reasonably possible after this referral is made and notice shall be given to each of the parties either by the General Magistrate or one or more of the parties.

Review of the Report and Recommendation made by the General Magistrate shall be by exceptions as provided in Rule 1.490(h) Florida Rules of Civil Procedure. Any party filing the same will be required to provide the Court with a record sufficient to support the exceptions or the exceptions may be denied. A record ordinarily requires a written transcript of all relevant proceedings. The party seeking review must have the transcript prepared if necessary for the Court's review. All parties are advised that in this Circuit electronic recording is not provided by the court. A party may provide a court reporter at that party's expense.

DONE AND ORDERED in Lee County, Florida this _____ day of _____, 2010.

Circuit Court Judge

AMERICANS WITH DISABILITIES ACT

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Ken Kellum, Court Operations Manager whose office is located at Lee County Justice Center, 1700 Monroe Street, Fort Myers, Florida 33901 and whose telephone number is (239) 533-1700, within two working days of your receipt of this notice; if you are hearing or voice impaired, call 711.

CERTIFICATE OF SERVICE

I certify that a copy of this document was mailed to the parties or counsel if represented, at their designated mailing addresses, on this _____ day of _____, 2010.

Administrative Assistant

**IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND
FOR HENDRY COUNTY, FLORIDA** **CIVIL DIVISION**

IN RE: :
: :
: :
: :
: **Case #** :
: :
: **DOMESTIC RELATIONS CASE** :
: **CIVIL ACTION** :
: **FORECLOSURE CASE** :
:

ORDER SETTING NON-JURY TRIAL

This cause came on to be heard on (insert Court's own Motion/Petitioner/Respondent's Notice for Trial). After reviewing the Court file in its entirety it is:

ORDERED AND ADJUDGED that the Court shall call the above-styled case for **NON-JURY TRIAL** before at the Hendry County Courthouse, 25 E. Hickpochee Avenue, LaBelle, Fl. Hearing Room on at am/pm.

An Order of Referral to the General Magistrate has been filed.

DONE AND ORDERED in LaBelle, Hendry County, Florida on this the _____ day of , 2009.

Judge Christine Greider
Circuit Court Judge

conformed copies provided to:

"If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the Administrative Services Manager, whose office is located at 1700 Monroe Street, Fort Myers, Fl. 33901 and whose telephone number is 239-533-1700, WITHIN TWO WORKING DAYS of your receive of this Notice. If you are hearing or voice-impaired, call 711."

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR HENDRY COUNTY, FLORIDA.

	Plaintiff)	
)	
vs.)	
)	
)	Case No:
)	
	Defendant)	

MOTION, NOTICE OF DISMISSAL

THE COURT FINDS that it does not affirmatively appear from filing of pleadings, Orders of Court or otherwise, for a period of one year, that this action is being prosecuted, it is therefore

ORDER as follows:

1. Good cause shall be shown why the action should not be dismissed for lack of prosecution at least five days before the hearing set in Paragraph 3.
2. The showing of good cause shall be filed with the Clerk of the court in the action, and a copy furnished to the Judge.
3. If a showing of good cause is filed as provided in Paragraph 2, a hearing on the question shall be held on *, at *, before Judge * in the Chambers at the HENDRY County Courthouse, LaBelle, Florida.
4. If no showing of good cause is filed within the time specified in Paragraph 1, this action shall stand dismissed for lack of prosecution.

DONE AND ORDERED in Hendry County, Florida, on
2010.

The Honorable Judge Christine Greider
Hendry County Circuit Court Judge

Copies to: ALL PARTIES

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR HENDRY COUNTY, FLORIDA.

Plaintiff)
vs.)
Defendant)
Case No:)

ORDER OF REFERENCE AS TO WHY FINAL JUDGMENT IS NOT BEING ENTERED

The undersigned Judge has reviewed the proposed Final Judgment of Foreclosure. The proposed Judgment cannot be signed for the following reasons:

INSERT REASONS HERE

Please provide the necessary documentation to address the foregoing and resubmit your foreclosure packet to this office with a copy of this Order attached.

DONE AND ORDERED on this the _____ day of _____, 2010.

The Honorable Judge Christine Greider
Hendry County Circuit Court Judge

CERTIFICATE OF SERVICE

I CERTIFY THAT A COPY OF THE FOREGOING HAS BEEN MAILED TO THE FOLLOWING PARTIES on this the _____ day of _____, 2010.

Insert names and addresses

Marguerite Connell
Judicial Assistant to Judge Greider

Fishbeck, Eric

From: Fishbeck, Eric
Sent: Friday, October 15, 2010 12:45 PM
To: Callanan, Richard
Subject: RE: Foreclosures - Number and Banks cancelling hearings(HIGH PRIORITY)
Attachments: Moratorium-Report-Oct2010.pdf; Moratorium-Report-Oct2010.docx

Importance: Low

Nancy's still cleaning up Kim's report; she provided assurance that it will be here 12:45; however, I didn't want you to not see what we're working towards,

Eric Fishbeck
20th Judicial Circuit
Office: 239.533.1719
Fax: 239.533.1702

From: Callanan, Richard
Sent: Friday, October 15, 2010 11:30 AM
To: Fishbeck, Eric
Subject: RE: Foreclosures - Number and Banks cancelling hearings(HIGH PRIORITY)

Eric

Kim Cambo says she sent Nancy report today...

I have a meeting with Chief at 115

From: Fishbeck, Eric
Sent: Friday, October 15, 2010 11:17 AM
To: Callanan, Richard
Subject: RE: Foreclosures - Number and Banks cancelling hearings(HIGH PRIORITY)

Dear Mr. C.,

I double checked with Sandy, and it seems that Nancy wasn't (yet) to get us a report. I simply misread – I'm currently running a Hyperion report, and I should be able to update you shortly,

Eric Fishbeck
20th Judicial Circuit
Office: 239.533.1719
Fax: 239.533.1702

From: Callanan, Richard
Sent: Wednesday, October 13, 2010 4:31 PM
To: Aloia, Nancy K; Middlebrook, Mark; Mann, Sheila
Cc: Fishbeck, Eric; Cary, G. Keith
Subject: FW: Foreclosures - Number and Banks cancelling hearings(HIGH PRIORITY)

FYI. Here is Charlotte's report on foreclosure cancellations.

From: Shelton, Jeremy
Sent: Monday, October 11, 2010 2:46 PM
To: Callanan, Richard
Cc: Embury, Jon
Subject: RE: Foreclosures - Number and Banks cancelling hearings(HIGH PRIORITY)

Rick,

Attached is a breakdown of the cancellations we've seen for our summary judgment hearings in October. I included the information from JACS for each case cancelled which includes the dates/times cancelled and comments entered by the cancelling attorneys. A majority of the cases is coming from Bank of America, but a number of other banks are cancelling as well, and local counsel have indicated that they are expecting more (some have received instructions to cancel all hearings.)

Our tentative plan is to ensure that these cancelled hearings get scheduled for trial in December.

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: Embury, Jon
Sent: Monday, October 11, 2010 12:22 PM
To: Shelton, Jeremy
Subject: FW: Foreclosures - Number and Banks cancelling hearings(HIGH PRIORITY)
Importance: High

Here is the article I forgot print.

From: Callanan, Richard
Sent: Monday, October 11, 2010 10:52 AM
To: Aloia, Nancy K; Embury, Jon; Mann, Sheila; Middlebrook, Mark
Cc: Fishbeck, Eric; Cary, G. Keith
Subject: FW: Foreclosures - Number and Banks cancelling hearings(HIGH PRIORITY)
Importance: High

Dear All

Chief needs a report from all counties on # of foreclosure cases that have been cancelled, by event and banks/firms cancelling. We should get the report for 10/1/10 to 10/11/10. –if you were getting cancellations prior to then, let us know that and the numbers/banks involved.

EXAMPLE

County: COLLIER

Time period: (9/10-10/10) or other.

Hearing Date	Hearing Type	#Cancelled	Bank (if known)	Next event set/date?
10/4/10	Default/ Summary Judgment Cancelled in JACS 9/28/10	15	GMAC (10), BOA (5)	NONE YET
10/5/10	Contested Hearing/Trial Counsel NO Show/Dismissal	5	GMAC (5)	N/A
10/8/10	Clerk – Foreclose. Sale Cancelled 10/7/10	2	JP Morgan	11/8/10

COMMENTS: GMAC indicates to Case Manager on 10/1/10 that all hearings will be cancelled; No other firms/banks have provided notice of moratorium; No info available from clerk on # sales cancelled prior to 10/8

Please get information to Eric by Thursday 10/14. Call Eric or I if you have any questions. Thanks

*Richard Callanan, Trial Court Administrator
20th Judicial Circuit
1700 Monroe Street
Fort Myers, FL. 33901
239 533-1712*

From: Cary, G. Keith
Sent: Monday, October 11, 2010 9:51 AM
To: Callanan, Richard
Cc: Cary, G. Keith
Subject: Foreclosures
Importance: High

Happy Monday !

I don't feel like I have a real handle on what is happening in our circuit with the recent mortgage "moratorium", of course it all happened so fast I am not sure any of us do. So that we can have a better understanding I am suggesting you appoint someone in AOC to be our point person and collect data on this issue. I would like to have a brief report ready by next Monday for the JAC conference call at noon. This will also allow us to give direction to our staff/magistrates/judges as to our plan of attack.

Questions I have are: What banks have canceled hearings? Number of cancellations? Number of sales canceled? Number of trials canceled or continued? Number of voluntary dismissals? When a bank comes in on a hearing date and says they need time to get a new affidavit are we granting continuances? Are we resetting for another hearing or just setting for trial?

I have attached something from today's NewsPress showing names of banks, do we have anything like this?

I think before we can make decisions on how to move forward we need to know what we are facing. It maybe that the majority of the other banks are not having issues with their files?

FYI...I am here today, gone to Glades tomorrow all day, Jacksonville Wednesday and Thursday for CFA commission meetings, back here on Friday, I am speaker at Bar Lunch, so if we need to get together looks like Monday or Friday.

G. Keith Cary
Chief Judge - Twentieth Judicial Circuit
Lee, Collier, Charlotte, Hendry and Glades Counties
1700 Monroe Street
Fort Myers, FL 33901
Fla. R. Court 2.420
www.ca.cjis20.org

Recipient

Callanan, Richard

Delivery

Delivered: 10/15/2010 12:45 PM

MOTION FOR SUMMARY JUDGMENT CHECKLIST

CASE NUMBER: _____

Date of first review _____ Accepted _____ rejected

Date of second review _____ Accepted _____ rejected

Date completed _____

Case Number & Style: _____ correct _____ incorrect

Plaintiff's certification of residential mortgage foreclosure case _____ submitted _____ not submitted. Status: _____

Date hearing Placed on Calendar _____ Date of MSJ Hearing _____ Calendared by _____

ITEM TO CHECK	First Review	COMMENTS	Second Review
Service of process		See attached list of defendants	
Proper parties served *			
Confirm addresses of defendants and spelling of names			
Service – individual, substitute or publication			
Affidavit of Diligent Search and Inquiry			
Non-military affidavits			
Defaults			
Drops and/or voluntary dismissal of party			
Missing service			
Documents			
Mortgage copy			
Confirm property address/legal description			
Original note			
Assignments/endorsements			
To Plaintiff			
Payable to Plaintiff			
Payable to bearer holder in due course			
Payable to lender/not plaintiff			
Plaintiff is proper mortgagee			
Lost note			
Copy			
Count for Reestablishment			
Lost note affidavit			
Dated & notarized			
*Check Plaintiff's certification of residential mortgage foreclosure case status (or non-homestead status), verifying service on all defendants, dates of service, type of service			
Mediation compliance (after 7/1/10)			
Form A filed			
Mediator's report filed			
Result			
Total fee paid to program manager			
Certificate of compliance filed			
Answer & Affidavits in Opposition to summary judgment			
Affirmative Defenses			
Pending Motions (motions to dismiss)			

ITEM TO CHECK	First Review	COMMENTS	Second Review
Affidavits in Opposition to MSJ			
Motion for Summary Judgment (MSJ) filed			
Dated			
Affidavits attached			
Proper parties/attorneys & addresses on service list			
Packet includes copies and postage paid envelopes			
Affidavits			
a. Affidavit of indebtedness			
Check unpaid principal balance (UPB)			
Check notice of default and default date in complaint			
Check figures & Interest (default thru FJ)			
Make sure per diem interest listed			
Check property address			
Check late fees (pre-acceleration only)			
Confirm notarized signature & person w/custodian of business record			
All figures match FJ			
b. Affidavit of costs			
Check against service, publication			
Check filing fee			
Check title fees			
Check RMFM Program fee			
Notarized and dated			
All figures match FJ			
c. Affidavit of attorneys' fees			
Hours and hourly fee listed			
Signed by attorney			
All figures match FJ			
d. Affidavit as to reasonableness of attorneys' fees			
Signed/notarized by independent practitioner			
Additional counts			
Reformation			
Legal description – need language in FJ			
Lost instrument – reestablishment language in FJ			
Foreclosure omitted parties			
Summary Judgment of Foreclosure form			
Approved form			
Failure to comply with Rule 1.510, Fla. R.C			
Additional comments			

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

To: Schreiber, Lee Ann

Kyle, Keith

CC:

Date: 11/2/2010 2:31:10 PM

Subject: ?RE: new stamp for foreclosure sale...

Ok with me.

George

From: Schreiber, Lee Ann
Sent: Tuesday, November 02, 2010 3:15 PM
To: Kyle, Keith; Richards, George
Subject: new stamp for foreclosure sale...
Importance: High

Is this OK?

Any motions to cancel or reschedule
the sale date set in this Judgment must
be submitted to the Court, along with a
proposed Order, at least seven days prior
to the sale.

Please feel free to edit. I'll then have Ellen order 3 stamps.

TY!

From: Richards, George </O=SAO20/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=GRICHARDS>
To: Schreiber, Lee Ann
CC:
Date: 4/13/2010 1:41:52 PM
Subject: ?RE: CHARLOTTE COUNTY Clerk of Court filings related to foreclosure cases

Vacation is always good, but the paperwork piles up!!

From: Schreiber, Lee Ann
Sent: Tuesday, April 13, 2010 2:38 PM
To: Richards, George
Subject: RE: CHARLOTTE COUNTY Clerk of Court filings related to foreclosure cases

Thanks for the prompt reply. It does not sound like you are having the same problem - that of original docs not being physically placed in the court file prior to hearing when originals were docketed a few weeks before.

Welcome back! I trust you had a great vacation?!

From: Richards, George
Sent: Tuesday, April 13, 2010 1:02 PM
To: Schreiber, Lee Ann; Embury, Jon
Cc: Kyle, Keith
Subject: RE: CHARLOTTE COUNTY Clerk of Court filings related to foreclosure cases

I try to have the attorney file them on the day of hearing. You may get an objection from a defense attorney, but those are few and far between. I also say that if a copy was attached to the complaint then it is not new evidence, thus what is the harm. At worst, it gets reset more than 20 days out. I know Judge Schoonover cancels the note, but other judges do not. Cancelling the note may also cause more problems for the home owner. I have seen where it is "worked out" after the MSJ. There is then a motion cancelling the MSJ and requesting return of the note and mortgage. I believe both Judge Winesett and Gerald allow the return of these documents if the case is dismissed.

I have had the law firm send the note and mortgage to me, and we return them. I also let local counsel know that is wiser filing the original on the day of hearing. Even more reason for not allowing the telephonic hearings on the MSJ and having an attorney present with the documents.

From: Schreiber, Lee Ann
Sent: Tuesday, April 13, 2010 12:43 PM
To: Embury, Jon
Cc: Kyle, Keith; Richards, George
Subject: CHARLOTTE COUNTY Clerk of Court filings related to foreclosure cases

Last week I had 4 cases and yesterday, 2 cases, where the original note and mortgage were docketed (as reflected on docket screen) but were NOT in the Court file at the time of the summary judgment hearing. This was despite the fact that the docketing occurred a few weeks before the hearing.

Last week, the attorney went to the clerk's office and was able to back track where his originals were located.

Yesterday, I asked the trial Clerk to email the Clerks' office for them to locate the originals downstairs and bring them to the Court room. One arrived in about 30 minutes; the other did not arrive until the afternoon session. Technically, the original Note (unless the court determines the instrument is lost) must be tendered to the Court and the court is supposed to stamp the Note as cancelled.

I'm not sure where the originals are being "stored" in the Clerk's office &/or why they are not being placed in the Court filed after they are docketed. I'm not sure if this is an isolated problem or an ongoing one (so I've copied Judge Richards since he has this docket prior to may assuming same), but it is creating inefficiencies which are probably avoidable. I have all the case names & #s of you need them.

George, do you recall such scenarios when you had the foreclosure docket? I just don't want this to be an ongoing (aggravating) problem when there may well be a simple solution.

Thank you,
Lee

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

To: Schreiber, Lee Ann

Davis, Dana

CC:

Date: 7/7/2010 11:02:26 AM

Subject: ?FW: Foreclosures

Dana is looking for the order. There was some information when Dana googled it.

From: Schreiber, Lee Ann
Sent: Wednesday, July 07, 2010 11:59 AM
To: Richards, George
Subject: RE: Foreclosures

The Goetz' were very surprised and have heard nothing of the sort. They thought it sounded odd. Do you have a case #? I'd like to look at the motion/request to cancel sale. The HOAs/condo assns will be up in arms! - Lee

From: Richards, George
Sent: Tuesday, July 06, 2010 4:45 PM
To: Winesett, Sherra; Fuller, Joseph; McHugh, Michael; Gerald, Lynn; Schreiber, Lee Ann; Rosman, Jay; Kyle, Keith; Cary, G. Keith; Carlin, John S.
Cc: Embury, Jon
Subject: Foreclosures

Judges,

Today I saw the first motion and order cancelling a foreclosure sale because of "a moratorium put in place as a result of the Gulf of Mexico oil spill".

Has anyone seen this or related motions, and will it halt all foreclosure matters?

George

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

To: Schreiber, Lee Ann

Embury, Jon

CC: Davis, Dana

Date: 8/31/2010 7:47:58 AM

Subject: Foreclosures

I'm starting to see a number of motions on the following:

Motions to Abate foreclosure case while they "work something out" with the homeowner. Some of these are 2008 cases. I am denying these motions. My position is either dismiss the case and work it out or proceed with the foreclosure. If we abate these cases they could sit on the docket forever.

Motions to Cancel the Foreclosure Sale which are set in mid October. Again, working something out. I'm denying these motions. They have almost two months to work it out.

I think denying these motions will make them reach a resolutions sooner than later.

Your input please. George

From: 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:

- 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 form Defendant's attorneys because they are scheduled to be on other foreclosure trials (Collier County) on older cases than ours)

20TH CIR 02428

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

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

To: Schreiber, Lee Ann

CC:

Date: 9/14/2010 12:22:26 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

20TH CIR 02430

11_16_2010

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
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.

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

To: Schreiber, Lee Ann

Kyle, Keith

CC: Conderman, Ellen

Date: 9/3/2010 12:24:52 PM

Subject: ?RE: Mortgage foreclosure cancellation of sales by P upon ex-parte request

I think it would be good.

George

From: Schreiber, Lee Ann

Sent: Friday, September 03, 2010 12:10 PM

To: Richards, George; Kyle, Keith

Cc: Conderman, Ellen

Subject: Mortgage foreclosure cancellation of sales by P upon ex-parte request

The Circuit Civil Judges in Lee County have recently decided that they will impose a deadline of 10:00 a.m. the day before a scheduled sale in order to consider ex-parte motions to cancel. The motion must be in substantial conformity with the new FL Supreme Court form. The thinking is that the flow of paperwork from delivery to Judge's desk, review/consider ex-parte to a return of Order cancelling sale to clerk, if appropriate.

Do you think we might adopt a similar policy to try to have consistency across the Circuit?

See you next week. Have a nice (long) weekend.

Lee

CASE NO: 08CA

PLAINTIFF,

vs.

DEFENDANT.

_____ /

ORDER SETTING CASE FOR DOCKET SOUNDING

THE COURT ON ITS OWN MOTION DETERMINES THIS CAUSE IS AT ISSUE AND
READY TO BE SET FOR TRIAL
ORDERED AND ADJUDGED

1. Docket Sounding.

The Court has set a docket sounding before the **Honorable James Thompson on August 24, 2010 at 8:30 A.M. in Courtroom 5F**, Lee County Justice Center, 1700 Monroe Street, Fort Myers, FL 33901, or as soon thereafter as may be heard.

If this case is appropriate for a Motion for Summary Judgment, either party may Notice the Summary Judgment to be heard at the Docket Sounding. Otherwise, the day and time certain for the start of trial will be determined at docket sounding. The parties will receive at least 30 days advance notice of the trial date. A motion to continue can be heard by the Court at docket sounding. No other motions will be heard. All trial attorneys are to be present for docket sounding.

2. Exchange of Expert & Lay Witnesses. If a trial date is set at docket sounding, counsel for the plaintiff shall submit to opposing counsel the names and addresses of **all** plaintiff(s) witnesses within 5 days following the date of the docket sounding. Within 10 days following the date of the docket sounding, the defense counsel shall submit to opposing counsel the names and addresses of **all** defense witnesses. The witness list shall contain a plain and concise statement regarding the subject matter of the witnesses testimony. No party shall be permitted to call any witness not so disclosed, without prior permission of the Court, or written stipulation executed by all parties.

3. Meeting before Trial. The attorneys for all parties, or the party themselves if they are representing themselves (pro se), are directed to meet together by agreement, initiated by counsel for the plaintiff, no later than 7 days before the trial to:

- a. Mark all exhibits for identification and prepare a chronological exhibit list for use by clerk and the Court at trial (actual exhibits and documentation evidence shall be available for inspection at this time). Any exhibits not so marked will not be admissible absent a stipulation of all parties.
- b. Agree to admit or not admit evidence and list specific objections, if any.
- c. Stipulate as to any matter of fact and law about which there is no issue to avoid unnecessary proof, i.e., chain of custody or records custodian.

- d. Review all depositions which are to be offered for any purpose other than impeachment to resolve objections to the portions to be offered in evidence.
 - e. Discuss the possibility of settlement.
 - f. Submit an itemized statement of special damages plaintiff expects to prove.
 - g. Discuss and complete any other matters which may simplify the issues or aid in the speedy disposition of this action.
4. Motions. All **motions in limine**, shall be in writing, filed and served prior to trial. They will be heard the morning of the first day of trial.
 5. Discovery. All discovery shall be completed prior to the docket sounding. The conduct of discovery subsequent to the docket sounding shall be permitted only on the order of the Court for good cause shown and which will not delay the trial of this cause.
 6. If counsel desires that a proceeding be reported by a court reporter, it is the responsibility of counsel to secure said services.
 7. Representation and Authority. That in order for the full purpose of the pre-trial procedures to be accomplished, each party shall be represented at all meetings and hearings required herein by an attorney, unless they represent themselves (pro se), who will participate in the trial of the cause and who is vested with full authority to make admissions and disclosure of facts, and to bind the clients by agreement in respect to all matters pertaining to the trial of the cause. If a party is pro se they are mandated to be at all meetings and hearings required under this Order.
 8. Exhibits. All composite exhibits shall be satisfactorily bound to avoid the loss and disintegration of component parts of pages before presentation to the Court. Exhibits to be introduced which are larger than an 8 ½ x 11" sheet of paper may be used at trial, but if practicable, same shall be reduced to 8 ½ x 11", and the reduced size copy shall be the exhibit retained by the clerk in the court file. The oversized exhibits so reduced shall be returned to counsel, or the pro se litigant, at the close of the trial.
 9. Witnesses. The parties shall assure the availability of their witnesses for the trial or to otherwise preserve their testimony for trial as provided by the Florida Rules of Civil Procedure. The Court is not inclined to allow a witness to testify "out of order", over objection, or to take a recess or adjust its schedule for the convenience of such a witness.
 10. Motions and Stipulations for Continuances. This Court adheres strictly to Rule of Judicial Administration 2.085(c) and Rule of Civil Procedure 1.460. Accordingly, motions for continuance and stipulations must be in writing and set forth:
 - a. The signature of the party as well as the attorney.
 - b. A concise statement of the reasons for a continuance. If based on non-availability of a witness, a showing of when it is believed the witness will be available must be stated.

Any stipulation must be approved by the Court and must be heard at least ten (10) days prior to the date of trial, unless otherwise permitted by the Court. No motion will be heard that is not in compliance with this order.

11. Settlement. Counsel, or the pro se litigant, shall immediately notify this Court in the event of settlement and submit a stipulation for an order of dismissal and a final disposition form.
12. Notice. Please review this order to see that it was sent to all proper persons at proper addresses.
13. Sanctions. **Failure to comply with the requirements of this order will subject the party and/or attorney to appropriate sanctions.**

DONE AND ORDERED in Chambers, Fort Myers, Lee County, Florida on July 7, 2010.

Circuit Judge

Copies furnished to:

Sharon English, Atty., Civil Case Manager, 1700 Monroe Street, Fort Myers, FL 33901

BY:

Administrative Assistant

AMERICANS WITH DISABILITIES ACT

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Ken Kellum, Court Operations Manager whose office is located at Lee County Justice Center, 1700 Monroe Street, Fort Myers, Florida 33901 and whose telephone number is (239) 533-1700, within two working days of your receipt of this notice; if you are hearing or voice impaired, call 711.

From: Sandi Sauls <ssauls@leeclerk.org>

To: Schreiber, Lee Ann

CC:

Date: 5/20/2009 10:17:38 AM

Subject: ?RE: Court clerks

Thanks, Lee.

Thank you,

Sandi C. Sauls
Civil Division Manager
P.O. Box 310
Fort Myers, FL 33902
239-533-9188

From: Schreiber, Lee Ann [mailto:[Fla. R. Court 2.420](mailto:lee.ann.schreiber@leeclerk.org)]

Sent: Wednesday, May 20, 2009 10:45 AM

To: Sandi Sauls

Subject: RE: Court clerks

I was in computer training all day yesterday. I'm hesitant to go it alone without a Clerk. I rely on the Clerks to keep track of evidence identified and offered/admitted, especially in the longer trials. I do rely on the Clerk's minutes as I do look back at the minutes if I don't issue my report right away and I know that the lawyers look at the minutes to prepare proposed Reports. The case managers also rely on the minutes to keep track of the outcome of hearings and trial when a recommended Order or order is not yet in the court file. I do NOT need a clerk for finding cases or images in Odyssey. Sometimes, the related cases are not linked in Odyssey and I find them by happenstance and bring it to the Clerk's attention, so I'd just need some alternate way of communicating to the Clerk's office about related cases. Thanks so much for all you and the Civil Trial Court clerks do to help the Magistrate's be efficient. Have a good day!

Lee

From: Sandi Sauls [mailto:ssauls@leeclerk.org]

Sent: Monday, May 18, 2009 9:44 AM

To: Schreiber, Lee Ann

Subject: FW: Court clerks

20TH CIR 02436

Do you believe you can do w/o a court clerk? If not, do you want them for minutes, finding cases in Odyssey, finding images in cases in Odyssey, all of the above, etc. We just trying to figure out how we're going to schedule clerks with the pending budget cuts. However, if you need a clerk then so be it - we can pursue other areas. Thanks, Lee.

Thank you,

Sandi C. Sauls
Civil Division Manager
P.O. Box 310
Fort Myers, FL 33902
239-533-9188

From: Kantor, Marianne [mailto:Fla. R. Court 2.420]
Sent: Friday, May 01, 2009 9:32 AM
To: Sandi Sauls
Cc: Lee Ann Schreiber; Steve Studybaker; Nancy Aloia; Fernandez, Susana
Subject: RE: Court clerks

Sandi,

I quickly asked Lee for her thoughts and we have some ideas but believe we need to run this past Nancy and Susana since they are our supervisors. I'm also including Steve in this reply.

I know that with the inundation of foreclosure cases, your team has been stretched. We have tried to let them know in advance when we have scheduled vacations or other time when we are not scheduled to be in court so they don't have to plan for that time. But I understand your request appears to be for a more permanent situation.

We will follow up as soon as we can.

Marianne

Sent: Thursday, April 30, 2009 3:55 PM

To: Schreiber, Lee Ann; Kantor, Marianne

Subject: Court clerks

In our efforts to reduce staff we are investigating the necessity of all of the services provided by our office. When I spoke to the Court Clerk team today they suggested that I inquire as to whether the Magistrates need clerks since they take their own notes and have Court Smart as a back-up. What are your thoughts on this?

Thank you,

Sandi C. Sauls
Civil Division Manager
P.O. Box 310
Fort Myers, FL 33902
239-533-9188

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20TH CIR 02438

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

To: Kyle, Keith

Richards, George

CC: Embury, Jon

Date: 11/3/2010 11:11:04 AM

Subject: ?RE: new stamp for foreclosure sale...

We will go "to print" with your revisions . I'll Order 4 stamps rather than 3, so that we can loan one to the Clerk who conforms the final judgments after inserting sale date, unless the Clerk needs to pay for their own? (not sure how this works)

From: Kyle, Keith

Sent: Wednesday, November 03, 2010 12:06 PM

To: Richards, George; Schreiber, Lee Ann

Cc: Embury, Jon

Subject: RE: new stamp for foreclosure sale...

My two cents for whatever its worth: I'd probably rephrase it slightly. I'd also probably have the inkers/stampers use red ink so it stands out.

By Order of the Court:

After the Clerk sets a sale date in conformance with this Order/Judgment, any motion seeking to either cancel or reschedule the sale date must be filed with the Clerk of Court, along with a proposed Order, at least seven days prior to the scheduled sale date.

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

To: Conderman, Ellen

CC:

Date: 2/17/2010 3:03:46 PM

Subject: make a note re processing Orders Directing Scheduled Mediation

When I issue an Order referring a foreclosure case to mediation, the ORIGINAL of the Order goes back to the MEDIATION OFFICE. They make copies and prep envelopes and serve/mail copies and then MEDAITION OFFICE files original Order with Clerk.

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 02442

(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 02443

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 [REDACTED]. 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

(239) 357-4506 mobile

<mailto:kcambareri@ca.cjis20.org>

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

To: Kyle, Keith

Embury, Jon

CC: Conderman, Ellen

Date: 4/9/2010 1:51:58 PM

Subject: ?RE: CHARLOTTE COUNTY Foreclosure docket

The Lee Clerk of Court sets my Wednesday (mass) dockets only (and she also sets the retired Judge's Friday (mass) dockets. The problem with allowing the attorneys offices to set hearings in JACs will be the same as we are encountering in Charlotte County, namely, someone other than my office is running my docket in a manner most conducive to their schedules which results in gaps of unused time/down time/unproductive time. I think the schedule is tighter and more streamlined when we set the hearings (like in Lee County)

The lawyers all pretty much know that I handle all residential foreclosure hearings, so they don't necessarily call the assigned judge's office first (though I suspect some still start with the assigned Judge and then get routed to us)

As far as having the JAs of the assigned Judge setting the hearings, that might be an option for the times when I am in Charlotte County.

Ellen, do you see any down side to having the JAs for the assigned Judge scheduling times on my JACs schedule during the 2 weeks we are in Charlotte County? HOW TO implement that is a whole other question. Also Ellen, please weigh in here if you know how the phone call routing works in Lee County as you have more familiarity with that subject.

We do need to keep in mind that one Lee County Friday each month (the Friday just prior to the 2 weeks in Charlotte), we actually spend it in Charlotte County doing Charlotte County work. Where we really need the resources is in file review which a case manager (if one is there to be gotten) could do. Also the volunteer law students/interns would take the burden off of both Ellen and myself, freeing up our time to do other more productive tasks.

Have a good weekend everyone!

P.S. Judge Kyle, I plan to observe you as duty judge on Sunday. I'll be there by 8:00 a.m. (yuk!) and find you or go to Courtroom C at 8:30 (if I'm running late). If something changes with your schedule for Sunday A.M., my cell phone # is 239-119.071, F.S.

Lee

From: Kyle, Keith
Sent: Thursday, April 08, 2010 4:48 PM

20TH CIR 02445

11_16_2010

To: Schreiber, Lee Ann, Embury, Jon

Cc: Conderman, Ellen

Subject: RE: CHARLOTTE COUNTY Foreclosure docket

Lee County has JACS but they don't use it for scheduling... maybe you could suggest they OK it for foreclosure hearings only. My understanding from prior discussions with folks in Lee County was that the Lee County foreclosure hearings were scheduled through the Clerk of Court... was that ever the case and it changed or was I given bad information? I really think consideration should be given to asking/arranging for JACS to be utilized for Lee County cases as well – for foreclosures only, or perhaps the JA for the Judge to whom any given Lee County foreclosure file is assigned should be given access to your calendar and they can schedule since you are doing their work. How is it that the calls are routed to you – do they call the assigned judge only to be told to call you (?) – that seems like a double waste of time. Lee County already gets you a whole extra month in terms of time (28 weeks to our 24) and apparently a lot more than 28 weeks in terms of your JA's time if she's constantly fielding calls up here from Lee County because they do not use automated scheduling for foreclosure hearings like we do up here. 100+ calls a day is nuts; there has to be a better way!

From: Schreiber, Lee Ann

Sent: Thursday, April 08, 2010 4:37 PM

To: Embury, Jon; Kyle, Keith

Cc: Conderman, Ellen

Subject: CHARLOTTE COUNTY Foreclosure docket

There is one other point I just thought of after lunch which may impact the efficiency with which we process the CHARLOTTE COUNTY cases...

Ellen spends A GREAT DEAL OF TIME ON THE PHONE fielding calls and setting hearings on LEE COUNTY foreclosure cases, as we have been instructed to do via call forwarding. Ellen conservatively estimates 100 calls per day, since she sets the LEE COUNTY hearings (for Mon/Tues/Thurs & Fri ; it is not self scheduling in JACs). Paperwork processing of Lee County cases in nominal while we are in Charlotte because the assigned Circuit Judges sign their own paperwork the 2 weeks we are here.

IF Ellen were not on the phone tending to Lee County cases while here in Charlotte, her time would be significantly freed up to review files, to the extent that I could give up a Friday "office day," at least for the time being, to hear summary judgment motions or set trials in order to dispo more cases. Ellen and I DO USE ONE DEDCIATED LEE COUNTY DAY EACH MONTH TO RVIEW CHARLOTTE CONTY FILES, so that may be the trade off in terms of allocating our time in both counties.

This is just an additional piece of information to factor into the mix. We are content to do whatever is needed to keep the cases moving.

Lee

20TH CIR 02446

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

To: Kantor, Marianne
Studybaker, Steven
Fernandez, Susana
Aloia, Nancy K

CC:

Date: 5/20/2009 9:49:58 AM

Subject: ?FW: Court clerks

This is the second inquiry I received from Sandy Sauls on the same subject. That last emial of 4/30/09 she sent to both Kantor and me which we shared with this group. There were some email discussions between the five of us, but, based on Sandy's follow up inquiry, no one communicated to her the outcome of our discussions. Thus, I am communicating directly to her on this second inquiry.

From: Schreiber, Lee Ann
Sent: Wednesday, May 20, 2009 10:45 AM
To: Sauls, Sandi
Subject: RE: Court clerks

I was in computer training all day yesterday. I'm hesitant to go it alone without a Clerk. I rely on the Clerks to keep track of evidence identified and offered/admitted, especially in the longer trials. I do rely on the Clerk's minutes as I do look back at the minutes if I don't issue my report right away and I know that the lawyers look at the minutes to prepare proposed Reports. The case managers also rely on the minutes to keep track of the outcome of hearings and trial when a recommended Order or order is not yet in the court file. I do NOT need a clerk for finding cases or images in Odyssey. Sometimes, the related cases are not linked in Odyssey and I find them by happenstance and bring it to the Clerk's attention, so I'd just need some alternate way of communicating to the Clerk's office about related cases. Thanks so much for all you and the Civil Trial Court clerks do to help the Magistrate's be efficient. Have a good day!

Lee

From: Sandi Sauls [mailto:ssauls@leeclerk.org]
Sent: Monday, May 18, 2009 9:44 AM
To: Schreiber, Lee Ann
Subject: FW: Court clerks

Do you believe you can do w/o a court clerk? If not, do you need them for minutes, finding cases in Odyssey, finding images in cases in Odyssey, all of the above, etc. We just trying to figure out how we're going to schedule clerks with the pending budget cuts. However, if you need a clerk then so be it - we can pursue other areas. Thanks, Lee.

20TH CIR 02448

Thank you,

Sandi C. Sauls
Civil Division Manager
P.O. Box 310
Fort Myers, FL 33902
239-533-9188

From: Kantor, Marianne [mailto:[Fla. R. Court 2.420](mailto:Fla.R.Court.2.420)]
Sent: Friday, May 01, 2009 9:32 AM
To: Sandi Sauls
Cc: Lee Ann Schreiber; Steve Studybaker; Nancy Aloia; Fernandez, Susana
Subject: RE: Court clerks

Sandi,

I quickly asked Lee for her thoughts and we have some ideas but believe we need to run this past Nancy and Susana since they are our supervisors. I'm also including Steve in this reply.

I know that with the inundation of foreclosure cases, your team has been stretched. We have tried to let them know in advance when we have scheduled vacations or other time when we are not scheduled to be in court so they don't have to plan for that time. But I understand your request appears to be for a more permanent situation.

We will follow up as soon as we can.

Marianne

From: Sandi Sauls [mailto:ssauls@leeclerk.org]
Sent: Thursday, April 30, 2009 3:55 PM
To: Schreiber, Lee Ann; Kantor, Marianne
Subject: Court clerks

20TH CIR 02449

In our efforts to reduce staff we are investigating the necessity of all of the services provided by our office. When I spoke to the Court Clerk team today they suggested that I inquire as to whether the Magistrates need clerks since they take their own notes and have Court Smart as a back-up. What are your thoughts on this?

Thank you,

Sandi C. Sauls
Civil Division Manager
P.O. Box 310
Fort Myers, FL 33902
239-533-9188

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www.symantec.com

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

To: Fernandez, Susana

Kantor, Marianne

Studybaker, Steven

Aloia, Nancy K

CC:

Date: 5/20/2009 12:25:04 PM

Subject: ?RE: Court clerks

Great and thank you for keeping us up to date.

From: Fernandez, Susana

Sent: Wednesday, May 20, 2009 11:19 AM

To: Schreiber, Lee Ann; Kantor, Marianne; Studybaker, Steven; Aloia, Nancy K

Subject: RE: Court clerks

I understand this issue is being address with Judge Carlin at this present time. He was provided with a summary of the feedback I received from our email discussions. Judge Carlin conveyed to me that he was going to personally respond to her email. I will follow up with Judge Carlin today on this, in the mean time, please forward any emails reg. this subject to my attention.

Thank you

From: Schreiber, Lee Ann

Sent: Wednesday, May 20, 2009 10:50 AM

To: Kantor, Marianne; Studybaker, Steven; Fernandez, Susana; Aloia, Nancy K

Subject: FW: Court clerks

This is the second inquiry I received from Sandy Sauls on the same subject. That last emial of 4/30/09 she sent to both Kantor and me which we shared with this group. There were some email discussions between the five of us, but, based on Sandy's follow up inquiry, no one communicated to her the outcome of our discussions. Thus, I am communicating directly to her on this second inquiry.

From: Schreiber, Lee Ann

Sent: Wednesday, May 20, 2009 10:45 AM

To: Sauls, Sandi

Subject: RE: Court clerks

20TH CIR 02451

I was in computer training all day yesterday. I'm hesitant to go it alone without a Clerk. I rely on the Clerks to keep track of evidence identified and offered/admitted, especially in the longer trials. I do rely on the Clerk's minutes as I do look back at the minutes if I don't issue my report right away and I know that the lawyers look at the minutes to prepare proposed Reports. The case managers also rely on the minutes to keep track of the outcome of hearings and trial when a recommended Order or order is not yet in the court file. I do NOT need a clerk for finding cases or images in Odyssey. Sometimes, the related cases are not linked in Odyssey and I find them by happenstance and bring it to the Clerk's attention, so I'd just need some alternate way of communicating to the Clerk's office about related cases. Thanks so much for all you and the Civil Trial Court clerks do to help the Magistrate's be efficient. Have a good day!

Lee

From: Sandi Sauls [mailto:ssauls@leeclerk.org]
Sent: Monday, May 18, 2009 9:44 AM
To: Schreiber, Lee Ann
Subject: FW: Court clerks

Do you believe you can do w/o a court clerk? If not, do you need them for minutes, finding cases in Odyssey, finding images in cases in Odyssey, all of the above, etc. We just trying to figure out how we're going to schedule clerks with the pending budget cuts. However, if you need a clerk then so be it - we can pursue other areas. Thanks, Lee.

Thank you,

Sandi C. Sauls
Civil Division Manager
P.O. Box 310
Fort Myers, FL 33902
239-533-9188

From: Kantor, Marianne [mailto:**Fla. R. Court 2.420**]
Sent: Friday, May 01, 2009 9:32 AM
To: Sandi Sauls
Cc: Lee Ann Schreiber; Steve Studybaker; Nancy Aloia; Fernandez, Susana
Subject: RE: Court clerks

20TH CIR 02452

I quickly asked Lee for her thoughts and we have some ideas but believe we need to run this past Nancy and Susana since they are our supervisors. I'm also including Steve in this reply.

I know that with the inundation of foreclosure cases, your team has been stretched. We have tried to let them know in advance when we have scheduled vacations or other time when we are not scheduled to be in court so they don't have to plan for that time. But I understand your request appears to be for a more permanent situation.

We will follow up as soon as we can.

Marianne

From: Sandi Sauls [mailto:ssauls@leeclerk.org]
Sent: Thursday, April 30, 2009 3:55 PM
To: Schreiber, Lee Ann; Kantor, Marianne
Subject: Court clerks

In our efforts to reduce staff we are investigating the necessity of all of the services provided by our office. When I spoke to the Court Clerk team today they suggested that I inquire as to whether the Magistrates need clerks since they take their own notes and have Court Smart as a back-up. What are your thoughts on this?

Thank you,

Sandi C. Sauls
Civil Division Manager
P.O. Box 310
Fort Myers, FL 33902
239-533-9188

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

To: Richards, George

Embury, Jon

CC: Davis, Dana

Date: 8/31/2010 7:55:12 AM

Subject: ?RE: Foreclosures

I agree with you. On the more recent filings, I am willing to abate for a specific period of time – 90 days max and I cc the case manager for follow up after 90 days. All filings after July 1 will require the “managed mediation,” in essence front ending the efforts to “work it out.” I suspect we will see fewer abatement requests in light of the Supreme Court mandated mediation.

From: Richards, George

Sent: Tuesday, August 31, 2010 8:48 AM

To: Schreiber, Lee Ann; Embury, Jon

Cc: Davis, Dana

Subject: Foreclosures

I’m starting to see a number of motions on the following:

Motions to Abate foreclosure case while they “work something out” with the homeowner. Some of these are 2008 cases. I am denying these motions. My position is either dismiss the case and work it out or proceed with the foreclosure. If we abate these cases they could sit on the docket forever.

Motions to Cancel the Foreclosure Sale which are set in mid October. Again, working something out. I’m denying these motions. They have almost two months to work it out.

I think denying these motions will make them reach a resolutions sooner than later.

Your input please. George

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.

20TH CIR 02456

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

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

To: Richards, George

Kyle, Keith

CC: Conderman, Ellen

Date: 9/3/2010 11:09:46 AM

Subject: Mortgage foreclosure cancellation of sales by P upon ex-parte request

The Circuit Civil Judges in Lee County have recently decided that they will impose a deadline of 10:00 a.m. the day before a scheduled sale in order to consider ex-parte motions to cancel. The motion must be in substantial conformity with the new FL Supreme Court form. The thinking is that the flow of paperwork from delivery to Judge's desk, review/consider ex-parte to a return of Order cancelling sale to clerk, if appropriate.

Do you think we might adopt a similar policy to try to have consistency across the Circuit?

See you next week. Have a nice (long) weekend.

Lee

SENIOR JUDGE STATUS REPORT
AS OF NOVEMBER 30, 2008

	LEE`	COLLIER	CHARLOTTE
DAYS ALLOCATED	240	61	37
DAYS USED THROUGH 11/30/2008	115	21	7
FUTURE DAYS COMMITTED (12/1/08 THROUGH 6/30/08)	105	26	6
BALANCE	20	14	24

* Original allocation – 391 days
Days lost due to budget cuts – 53
Total Days to be allocated 338

LEE COUNTY BREAKDOWN:

Traffic:	16
Felony:	74
Foreclosure:	46
Domestic Violence:	26
EID:	20 through June 2009
Shenko:	3
TOTAL:	175

SENIOR JUDGE STATUS REPORT
FORECLOSURES
AS OF SEPTEMBER 30, 2010

	LEE	COLLIER	CHARLOTTE	HENDRY	GLADES
DAYS ALLOCATED	180	162	40	18	38
DAYS USED THROUGH 09/30/10	58	25	2	5	1
FUTURE DAYS COMMITTED	63	28	10	7	2
BALANCE	59	109	28	6	35

* Original allocation – 438 days

From: Shelton, Jaremy </O=SAO20/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=JSHELTON>

To: Conderman, Ellen

CC:

Date: 10/28/2010 12:49:20 PM

Subject: ?RE: Foreclosure hearing time in JACS

Judge Pellecchia just cancelled his senior judge day on Dec. 30. This means he will only be here one day in December, the 28th. That entire day is now open for MSJs and is the only day open in December.

Sorry about all the confusion and I'll get all of Judge Schreiber's December trials onto JACS asap.

Thanks

From: Conderman, Ellen
Sent: Thursday, October 28, 2010 10:46 AM
To: Shelton, Jaremy
Subject: RE: Foreclosure hearing time in JACS

That will take care of it then, thank you.

Ellen Conderman

Judicial Assistant

Judge Lee Ann Schreiber

239-533-2603 Lee County

941-833-3033 Charlotte County

econderman@ca.cjis20.org

From: Shelton, Jaremy
Sent: Thursday, October 28, 2010 10:39 AM
To: Conderman, Ellen
Subject: RE: Foreclosure hearing time in JACS

20TH CIR 02461

I haven't opened anything for Judge Pellecchia in December yet because he was unsure of what days he could be here (just received confirmation from him today.) He will be here only two days in December, the 28th and 30th. I will be opening time on those days today, so you can direct requests for hearings to those dates.

Because of mass cancellations, we've only had 15-30 MSJs per day, down from the original 150 a day we were doing. November 23 only has 8 scheduled, so there shouldn't be too many complaints from attorneys not being able to get hearing time.

I reblocked the time slots on Dec. 8. I have 70 trials scheduled for that day (also on the 6th, 13th, and 15th) that I will be putting on JACS today and tomorrow. Sorry I didn't get them on there faster.

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: Conderman, Ellen
Sent: Thursday, October 28, 2010 10:09 AM
To: Shelton, Jaremy
Subject: Foreclosure hearing time in JACS

Hi Jaremy,

Can you tell me why there are no hearing timeslots in JACS for Judge Pelleccia? I had a call to set a Dec hearing. I opened some slots for Dec 8th but I'm not sure if I was supposed to?

Ellen Conderman

Judicial Assistant

Judge Lee Ann Schreiber

239-533-2603 Lee County

941-833-3033 Charlotte County

econderman@ca.cjis20.org

From: Shelton, Jeremy </O=SAO20/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=JSHELTON>

To: Conderman, Ellen

CC:

Date: 8/25/2010 3:34:02 PM

Subject: ?RE: Summary Judgements on Foreclosure hearings

Right now, the September 21 and September 28 are still available within 25 days. My strategy was to wait as long as possible before opening new dates. This Friday (8/27) I'll open the first available day in October (10/19) so you can tell him that date will be available on JACS as of end of day Friday.

I wasn't sure I was the one to ask either! Your earlier message went around in a circle until it got to me, so I guess I am. I didn't mean to hijack the whole process!

Thanks

From: Conderman, Ellen
Sent: Wednesday, August 25, 2010 4:28 PM
To: Shelton, Jeremy
Cc: Embury, Jon
Subject: RE: Summary Judgements on Foreclosure hearings

Hi Jeremy,

He needs 25 days out for proper service and wanted more than one date to coordinate. I'll just tell him to wait. I didn't know you were the one to ask, thank you.

Ellen Conderman

Judicial Assistant

Judge Lee Ann Schreiber

239-533-2603 Lee County

941-833-3033 Charlotte County

econderman@ca.cjis20.org

From: Shelton, Jeremy
Sent: Wednesday, August 25, 2010 4:17 PM
To: Conderman, Ellen
Cc: Embury, Jon
Subject: RE: Summary Judgements on Foreclosure hearings

Ellen,

I'm planning to open the Senior Judge days in October on JACS for MSJ hearings soon, but I'm waiting a few more days to try to force the attorneys to use the available times in September. There are still over 200 MSJ timeslots available in September.

Beginning next week, I'm going to begin opening the October days, probably one at a time, to try to coerce the attorneys to schedule earlier rather than later, and to avoid days where only a few motions are scheduled.

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: Embury, Jon
Sent: Wednesday, August 25, 2010 4:04 PM
To: Shelton, Jaremy
Subject: FW: Summary Judgements on Foreclosure hearings

It looks like Ellen is getting calls about October time. You may want to give her a call. Maybe we can convince the attorney to use the last date in September..

Jon

From: Mause, Denise
Sent: Wednesday, August 25, 2010 2:58 PM
To: Embury, Jon
Subject: FW: Summary Judgements on Foreclosure hearings

Jon – I'm not sure what to tell Ellen.....

Respectfully,
Denise P. Mause
Administrative Assistant
Administrative Office of the Courts
Twentieth Judicial Circuit
(941) 637-2110
Fax: (941) 637-2283
dmause@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: Conderman, Ellen
Sent: Wednesday, August 25, 2010 2:53 PM
To: Mause, Denise

20TH CIR 02466

Hi Denise,

I know the Senior Judges will be hearing MSJ's beginning the end of September. I got a call asking for October dates but I don't see anything open yet. Can you find out if they can set up the dates for them in October?

Ellen Conderman

Judicial Assistant

Judge Lee Ann Schreiber

239-533-2603 Lee County

941-833-3033 Charlotte County

econderman@ca.cjis20.org

From: Shelton, Jeremy </O=SAO20/OU=EXCHANGE 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

20TH CIR 02468

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
www.lowndes-law.com

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[v4.30]

From: Sloan, James D </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=JDS5227>

To: Gutshall, Tilena

CC:

Date: 5/6/2010 3:32:16 PM

Subject: ?FW: Civil Case Management/Foreclosure program-20th-Awesome Progress--Next Steps!

The one you don't have is the Civil CMGuidelines.

From: Mann, Sheila

Sent: Wednesday, May 05, 2010 2:16 PM

To: Sloan, James D

Cc: Greider, Christine

Subject: FW: Civil Case Management/Foreclosure program-20th-Awesome Progress--Next Steps!

Judge Sloan,

This just came out. I have not reviewed the documents as of yet. We will need to discuss/formulate a plan to submit to the Chief Judge by 5/30/10. I am asking the clerk to provide the necessary reports to assist us in getting baseline information.

I will be out next week, but perhaps we could meet the week after?

Thank you.

Sheila

From: Callanan, Richard

Sent: Wednesday, May 05, 2010 12:22 PM

To: Aloia, Nancy K; Middlebrook, Mark; Embury, Jon; Mann, Sheila; Mravic, Deborah; Cambareri, Kimberly; McLean, Craig

Cc: Fishbeck, Eric; Ederr, Suzanne; Kiesel, Lisa

Subject: FW: Civil Case Management/Foreclosure program-20th-Awesome Progress--Next Steps!

Dear All

I apologize for sending what may be the longest email of all time, but I wanted to send you these latest model Civil DCM Orders/Forms (attachments) developed by Collier and Lee working groups so we all have the latest version. I also want to lay out next steps to keep this rocking. You are all making amazing progress with judges and stakeholder groups, and I can't tell you how appreciative I am.

Just so we stay on track, here is a recap of next steps, which we can discuss in more detail at the next June 11th Civil DCM meeting :

1. Civil DCM Administrative Order (Suzanne working with Mark and Nancy)

Once we have model forms finalized and plans, we will develop a Circuit AO to implement the full DCM program effective 10/1/10. Lee and Collier look like a 10/1 start date is set, but if you believe that more time is needed in your county to go to the full DCM model, you can request a delayed start date and we will keep it flexible. I am asking Suzanne Ederr to work with you, using the Criminal DCM AO as a model, to get this in draft form by July 1, 2010.

2. Model Forms on Website (Craig/Kim Cambo/Nancy)

We will want to create a Civil DCM Project link on our homepage that describes the Civil DCM/Backlog Reduction program goals and provides a link for the Bar and staff to the model Civil DCM forms and the Civil DCM AO. If possible they should be "drop down forms" that can be completed on-line. If not possible yet, pdf would be a start.

20TH CIR 02471

I would ask Craig to take lead on this and try to have forms up and linked by July 1.

3. DCM Guidelines/Backlog Plans (Mark, Nancy, Jon & Sheila)

Backlog reduction plans (which most of you have already done in draft form) need to be submitted to the Chief Judge per the guidelines by 5/30/10. This is not just busy work, it is important that we have written Civil Backlog and DCM plans so that we have a baseline of where we started, goals set, staffing and activities to be implemented so we can demonstrate results.

Backlog Reduction Plans can be concise and address the following:

20th Circuit Civil DCM/Backlog Reduction Plan

County: _____

Submitted by: _____

Date: _____

a. Civil Case Management Stakeholder Working Group

A local Civil Case Management Stakeholder Working Group should be established by the Circuit Administrative Judge or Civil Presiding Judge to coordinate backlog reductions efforts. The working group should include Circuit Civil and County Civil judges and representatives from the local Bar, Clerks office and Court case management staff to ensure consultation with key stakeholders in the process;

Describe local approach and activities:

b. Analysis of Civil Backlog - Identification of Delayed/Backlog Target Cases

Each plan should provide an analysis of the trends in circuit civil and county civil filings, dispositions and baseline data on the number and types of Circuit Civil cases pending over 18 months, County Civil pending over 12 months and the number of Circuit Civil Foreclosure filings, dispositions and number of cases pending over 12 months.

Describe filing trends, clearance rates and baseline data on pending Circuit Civil over 18 months, Foreclosure cases over 12 months(from the date you began your backlog reduction program) attach charts on baseline data:

c. Backlog Reduction Goals

Based on the analysis of the existing situation, the plan should set realistic goals to achieve 20-50% reduction in backlog (cases pending over goal) based upon the nature and volume of cases pending in excess of time standards (Circuit Civil over 18 months and Non-Jury cases pending over 12 months). Progress should be tracked monthly.

Goals set for Circuit Civil, Foreclosure and County Civil backlog reduction:

- d. Updated Dismissal Lists for Inactivity should be developed in cooperation with the Clerk's Office on an ongoing basis.

Describe local approach to purging cases that are shown as active pending but should be dismissed or otherwise disposed:

- e. Case Management/Settlement Conferences

The plan should set procedures for use of Magistrate, Senior Judges or Case Manager to screen, identify and assist judges in holding case management or status conferences in backlog or delayed cases. Steps to ensure coordination with the local Clerks staff on scheduling, case tracking procedures and MIS reporting should be described. The use of Senior Judges to assist with expedited foreclosure dockets or other backlog reduction activities planned should be described.

Describe your backlog reduction activities planned for July 2010- June 2011, and/or what is already underway(i.e. Use of Sr Judges for expedited Foreclosure dockets, Case management reviews by Case managers, Settlement of case conferences in older cases, etc.:

- f. Procedures and Form of Order for Referral to Magistrate and Order Setting Case Management Conference should be developed based upon the circuit model forms to the extent practical;

Describe how cases will be referred to Magistrate/Case Manager for CMC's in older cases. If you are planning to use orders/forms other than the circuit models describe and provide copies:

4. Model Case Management Tracking/Aging Reports (Eric/Klm)

Eric will be working with you on a description of elements and format of the key model case management reports/information that we will need to develop with the Clerks. Many of you are already getting these aging reports in some form, but you will need the aging information more regularly in order to manage the CM process. I would like to get these report formats to the Clerks and linked on the website by July 1st.

- a. Monthly Age of Pending Civil Cases Report by Case type
- b. Monthly Civil Case Pending Report – Exception List of Civil Cases Pending over Time Goal (18 months)
- c. Monthly Report of Number of Cases Filed and Disposed by Case Type/Docket
- d. Non-Service Report of Cases Pending over 120 days without service(Dismissal list)
- e. Monthly Report-Answered Cases over 120 days without filed Counsel Stipulated Case Management Plan

20TH CIR 02473

Thanks again for all your great work on this.

*Richard Callanan, Trial Court Administrator
20th Judicial Circuit
1700 Monroe Street
Fort Myers, FL. 33901
239 533-1712*

From: Starnes, Hugh E </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=HES2257>

To: Winesett, Sherra

Thompson, James

Gerald, Lynn

CC: Hamsharie, Deborah

Aloia, Nancy K

English, Sharon

Date: 10/30/2010 10:16:36 AM

Subject: ?RE: Case Caption

The most effective way to handle this would probably be for Sharon English to call the lead contact person with each of the mass foreclosure law firms and tell them to change their pleadings. Nancy Aloia has told me they have good contacts with most all of these firms and they are actually pretty responsive when we go through their designated representative.

From: Winesett, Sherra

Sent: Friday, October 29, 2010 5:16 PM

To: Thompson, James; Gerald, Lynn; Starnes, Hugh E

Cc: Hamsharie, Deborah

Subject: RE: Case Caption

I agree with you. The comments to Florida Rule of Civil Procedure 1.100(c) entitled "Pleadings and Motions - Caption" states: "Only the first party on each side need be stated in the caption, **and these are not changed regardless of changes in parties.**" Also, see Trawicks, Section 6.2 which states in the 4th paragraph, "**The names of the parties in the caption are never changed** even when all original parties have cease to be parties."

Like you, I also got tired of striking out the direction to the clerk to change the caption so I had stamps made for me and my judicial assistant which state: "THE STYLE OF THE CASE SHALL REMAIN UNCHANGED AS ORIGINALLY FILED. SEE FLA.R.CIV.P. 1.100 AND COMMENTS THERETO." If you will stop by, Debbie will give you the stamps to you for you and Judge Starnes to use. Sherra

From: Thompson, James

Sent: Friday, October 29, 2010 4:49 PM

To: Gerald, Lynn; Winesett, Sherra; Starnes, Hugh E

Subject: Case Caption

Need legal advice. I was taught, or thought I was taught, that the caption of a case was fixed on filing and despite the fact the parties may be changed by substitution the original caption never changed. I think I got it from Trawick. Question – was that ever the law and if so, is it still the law? I am getting a lot of orders that substitute parties and that direct clerk to change the caption. I am tired of striking out the change of caption part of these orders, particularly if I am wrong.

Jim

From: Studybaker, Steven </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=SSTUDYBAKER>

To: Schreiber, Lee Ann

CC:

Date: 5/20/2009 9:54:18 AM

Subject: ?RE: Court clerks

Thanks. I did not follow the email chain carefully and thought we did ans.

From: Schreiber, Lee Ann

Sent: Wednesday, May 20, 2009 10:50 AM

To: Kantor, Marianne; Studybaker, Steven; Fernandez, Susana; Aloia, Nancy K

Subject: FW: Court clerks

This is the second inquiry I received from Sandy Sauls on the same subject. That last emial of 4/30/09 she sent to both Kantor and me which we shared with this group. There were some email discussions between the five of us, but, based on Sandy's follow up inquiry, no one communicated to her the outcome of our discussions. Thus, I am communicating directly to her on this second inquiry.

From: Schreiber, Lee Ann

Sent: Wednesday, May 20, 2009 10:45 AM

To: Sauls, Sandi

Subject: RE: Court clerks

I was in computer training all day yesterday. I'm hesitant to go it alone without a Clerk. I rely on the Clerks to keep track of evidence identified and offered/admitted, especially in the longer trials. I do rely on the Clerk's minutes as I do look back at the minutes if I don't issue my report right away and I know that the lawyers look at the minutes to prepare proposed Reports. The case managers also rely on the minutes to keep track of the outcome of hearings and trial when a recommended Order or order is not yet in the court file. I do NOT need a clerk for finding cases or images in Odyssey. Sometimes, the related cases are not linked in Odyssey and I find them by happenstance and bring it to the Clerk's attention, so I'd just need some alternate way of communicating to the Clerk's office about related cases. Thanks so much for all you and the Civil Trial Court clerks do to help the Magistrate's be efficient. Have a good day!

Lee

From: Sandi Sauls [mailto:ssauls@leeclerk.org]

Sent: Monday, May 18, 2009 9:44 AM

20TH CIR 02476

To: Schreiber, Lee Ann

Subject: FW: Court clerks

Do you believe you can do w/o a court clerk? If not, do you need them for minutes, finding cases in Odyssey, finding images in cases in Odyssey, all of the above, etc. We just trying to figure out how we're going to schedule clerks with the pending budget cuts. However, if you need a clerk then so be it - we can pursue other areas. Thanks, Lee.

Thank you,

Sandi C. Sauls
Civil Division Manager
P.O. Box 310
Fort Myers, FL 33902
239-533-9188

From: Kantor, Marianne [mailto:**Fla. R. Court 2.420**]
Sent: Friday, May 01, 2009 9:32 AM
To: Sandi Sauls
Cc: Lee Ann Schreiber; Steve Studybaker; Nancy Aloia; Fernandez, Susana
Subject: RE: Court clerks

Sandi,

I quickly asked Lee for her thoughts and we have some ideas but believe we need to run this past Nancy and Susana since they are our supervisors. I'm also including Steve in this reply.

I know that with the inundation of foreclosure cases, your team has been stretched. We have tried to let them know in advance when we have scheduled vacations or other time when we are not scheduled to be in court so they don't have to plan for that time. But I understand your request appears to be for a more permanent situation.

We will follow up as soon as we can.

Marianne

20TH CIR 02477

From: Sandi Sauls [mailto:ssauls@leeclerk.org]
Sent: Thursday, April 30, 2009 3:55 PM
To: Schreiber, Lee Ann; Kantor, Marianne
Subject: Court clerks

In our efforts to reduce staff we are investigating the necessity of all of the services provided by our office. When I spoke to the Court Clerk team today they suggested that I inquire as to whether the Magistrates need clerks since they take their own notes and have Court Smart as a back-up. What are your thoughts on this?

Thank you,

Sandi C. Sauls
Civil Division Manager
P.O. Box 310
Fort Myers, FL 33902
239-533-9188

Florida has a very broad Public Records Law. Most written communications to or from State and Local Officials regarding State or Local business are public records available to the public and media upon request. Your email communications may therefore be subject to public disclosure. {Token}

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

From: Studybaker, Steven </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=SSTUDYBAKER>

To: Fernandez, Susana

Kantor, Marianne

Schreiber, Lee Ann

CC:

Date: 5/6/2009 7:37:12 AM

Subject: ?RE: Court clerks

1. Attys sometimes rely on court minutes during the interval between the hrgs and the filing of the ROs, whether prepared by attys or the GMs, to answer questions regarding actions that need to be taken and in advising clients. I assume but I am not certain attys rely on the mins in preparing orders even though attys take notes. In some instances attys have attached copies of mins to letters in which the attys question the correctness of ROs prepared by other attys.
2. I believe we each take detailed, comprehensive notes; however, there are times when I view the mins for clarification or confirmation.
3. From the perspective of the GMs, the discs would provide an adequate substitute for notes assuming ECR and Ct Admin would not be upset or annoyed if the number of requests for discs ?.
4. If we are provided w/the exhibit labels, we can admit the exhibits at the hrgs, but we would have to take them to the clerk's office; someone would have to be assigned to receive the exhibits on a regular basis. Furthermore, I assume we would have to prepare the exhibit lists that become part of the court file.
5. I don't know if the presence of clerks is required by statute or court rule. In Collier one of the judges for whom I served is adamant the GMs check mins. The judge takes the position the mins are the official record and must be accurate.
6. The clerks take the mins, mark the exhibits, take the exhibits back to the clerk's office for proper storage, prepare the exhibit list, and sometimes help in other ways during hrgs. For example, during yesterday's hrg my clerk printed a family case Hx bec back child was an issue and neither party brought a Hx. I think we can function w/o the clerks, and the mortgage foreclosures place tremendous burdens on the clerks. However, we and the system function better when clerks are present.
7. Our notes are not public records pursuant to Fla.R.Jud.Admin. 2.420(c) (1)
8. Someone should check w/the appellate clerks to confirm there are no acts the trial clerks take that we would take that would affect the preparation of the appellate record. I assume if we prepare the exhibit lists, there would be no effect on the record preparation for appeals.

From: Fernandez, Susana
Sent: Tuesday, May 05, 2009 6:52 PM
To: Kantor, Marianne; Schreiber, Lee Ann; Studybaker, Steven
Subject: RE: Court clerks

20TH CIR 02479

I would like to hear your ideas before answering this email. How are they presently assisting you now in the courtroom?

They mentioned on the email below that you take your own notes but that does not serve the same purpose as the clerks minutes which are public in the court file. Do attys. rely on the clerk minutes to prepare the R&R?

What do you think about the whole idea?

From: Kantor, Marianne
Sent: Friday, May 01, 2009 9:32 AM
To: Sauls, Sandi
Cc: Schreiber, Lee Ann; Studybaker, Steven; Aloia, Nancy K; Fernandez, Susana
Subject: RE: Court clerks

Sandi,

I quickly asked Lee for her thoughts and we have some ideas but believe we need to run this past Nancy and Susana since they are our supervisors. I'm also including Steve in this reply.

I know that with the inundation of foreclosure cases, your team has been stretched. We have tried to let them know in advance when we have scheduled vacations or other time when we are not scheduled to be in court so they don't have to plan for that time. But I understand your request appears to be for a more permanent situation.

We will follow up as soon as we can.

Marianne

From: Sandi Sauls [mailto:ssauls@leeclerk.org]
Sent: Thursday, April 30, 2009 3:55 PM
To: Schreiber, Lee Ann; Kantor, Marianne
Subject: Court clerks

In our efforts to reduce staff we are investigating the necessity of all of the services provided by our office. When I spoke to the Court Clerk team today they suggested that I inquire as to whether the Magistrates need clerks since they take their own notes and have Court Smart as a back-up. What are your thoughts on this?

Thank you,

Sandi C. Sauls
Civil Division Manager
P.O. Box 310
Fort Myers, FL 33902
239-533-9188

Florida has a very broad Public Records Law. Most written communications to or from State and Local Officials regarding State or Local business are public records available to the public and media upon request. Your email communications may therefore be subject to public disclosure. {Token}

From: Thompson, James </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=JRT2831>

To: Carlin, John S.

McHugh, Michael

Aloia, Nancy K

Starnes, Hugh E

CC:

Date: 10/29/2010 7:03:16 AM

Subject: Good of the Order (??)

The envelopes with many of the foreclosure orders I sign do not contain any return address. I think a better practice would be to stamp these with some return address (Office of Magistrates ? Something) with "Return Service Requested" then when the mail does not reach the addressee it would be returned and could be placed in the court file providing a record of its non delivery.

This is not a big deal for me. Especially since many of the return addresses are for the attorneys and those would not end up in the court file when there is no delivery. Just a thought.

Jim

From: Thompson, James </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=JRT2831>

To: Aloia, Nancy K

CC:

Date: 8/4/2010 12:51:32 PM

Subject: Forecl order Leave to Amend.doc

Nancy,

This is a draft of a possible form order if we have many improper Motions to Amend.

Judge Thompson

From: Thompson, James </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=JRT2831>

To: Rose, Penelope

CC:

Date: 8/4/2010 7:15:48 AM

Subject: ?RE: Sr Judge form

Thanks. Will bring it down latter today.

I am in for Judge Hayward but do not anticipate it requiring all day so I am available as needed to sign any foreclosure stuff.

Judge Thompson

From: Rose, Penelope

Sent: Tuesday, August 03, 2010 9:48 AM

To: Thompson, James

Subject: FW: Sr Judge form

Good Morning Your Honor:

I had a conference call with the State yesterday regarding the Senior Judge Foreclosure Allocation Funds.

In case we are audited by the State, you will need to complete the attached " SrJudge.pdf" every two weeks for foreclosure work only. And then send it to me via email for my files.

So going forward, I will need one on August 15 and the next one August 31. You will be paid twice per month for the foreclosures.

All other SJ work (EID, Shelters, Felony, Family, DV) can be submitted by regular email to me at the end of the month which we presently do. The money for foreclosure work comes from a separate State fund.

So you will receive 3 payments each month. Two for foreclosure related work and one for everything else.

20TH CIR 02484

I will fill out your July foreclosure work and leave it for you to sign.

Penelope

From: Pace, Cheryl
Sent: Monday, August 02, 2010 3:40 PM
To: Rose, Penelope
Subject: Sr Judge form

Penelope –

Matt should be down in a bit to get you the latest adobe downloaded. I hope this takes care of it. Here's the latest – I know there are no Japanese characters in the document, but I'm sure the latest version has support for them if there is.

Thank You,

Cheryl Pace

Internet/Intranet Manager

(239) 533-2915 work

(239) 826-4983 mobile

<mailto:cpace@ca.cjis20.org>

From: Thompson, Lucinda </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=LTHOMPSON>

To: Golden, Diana

Repperger, Kathryn

Trammell, Cindy

Hamsharie, Deborah

Conderman, Ellen

CC: Cambareri, Kimberly

Pace, Cheryl

Date: 7/7/2010 8:28:04 AM

Subject: Please note the changes listed below...

RESIDENTIAL MORTGAGE FORECLOSURE HEARINGS:

Please note: Attorneys must be present for hearings. No telephonic appearances will be permitted in residential mortgage foreclosure cases.

- For hearing time on **all Residential Mortgage Foreclosure**, please e-mail massforeclosure@leeclerk.org.
(Please do not place dashes in the case number for e-mailed requests. Example: 04CA20008)

Please be advised that I have asked Kim and Cheryl in IT to make the above changes to JACS. Judge Schreiber's office is no longer scheduling any residential foreclosure hearings.

*Lucinda Thompson
Judicial Assistant to Judge Fuller
Lee County Justice Center
1700 Monroe Street
Fort Myers, FL 33901
(239) 533-2831*

CASE NO:

Plaintiff(s),
 vs.
 Defendant(s).

_____ /

UNIFORM FINAL JUDGMENT OF MORTGAGE FORECLOSURE

THIS action was heard before the Court on the Plaintiff’s motion for summary final judgment.

Based on the evidence presented and being otherwise fully informed in the premises, it is

ORDERED AND ADJUDGED that:

1. The Plaintiff’s motion for summary final judgment is **GRANTED**.
2. **Service of Process.** Service of process has been duly and regularly obtained over the

following Defendants:

3. **Amount Due.** There is due and owing to the Plaintiff the following:

Description	Amount
Unpaid principal balance due on the note secured by the mortgage foreclosed as of	\$
Interest from _____ through _____	\$
Pre-Acceleration Late Charges	\$

DONE AND ORDERED in Chambers at Fort Myers, Lee County, Florida, on _____.

Circuit Judge

IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT
 IN AND FOR PASCO/PINELLAS COUNTY, FLORIDA
 CIVIL DIVISION

Plaintiff(s),

REF: _____

UCN: _____

vs.

Defendant(s).

_____ /

UNIFORM FINAL JUDGMENT OF FORECLOSURE

THIS MATTER was heard before the Court on Plaintiff's Motion for Summary Final Judgment of Foreclosure on _____, 20___. After consideration of all evidence presented, this Court rules as follows:

IT IS ADJUDGED that:

1. Plaintiff has complied with all elements of law and guidelines in procuring a summary foreclosure and has submitted a Certification of Compliance with Foreclosure Procedures in compliance with Administrative Order No. 2008-081 PA/PI-CIR.
2. The following amounts are due and owed to the Plaintiff:

Principal due on the note secured by the mortgage foreclosed:	\$
Interest on the note and mortgage from _____ to _____	\$
Per diem interest at _____ % from _____ to _____	\$
Late charges	\$
Escrow advances	\$
Title search expenses	\$
Taxes for the year(s) of _____	\$
Insurance premiums	\$
Court costs:	\$
Filing fee	\$
Service of process \$ _____ per defendant	\$
Publication for _____	\$
SUBTOTAL	\$
Additional costs	\$
SUBTOTAL	\$

Attorney's fees based upon ____ hours at \$ _____ per hour	\$
Less: Undisbursed escrow funds	\$
Less: Unearned insurance premiums	\$
Less: Miscellaneous deductions or credits	\$
TOTAL SUM	\$

3. The total sum in Paragraph 2 shall bear interest from this date forward at the prevailing statutory interest rate of ____ percent.

4. Plaintiff, whose address is _____, holds a lien for the total sum specified in Paragraph 2 herein. The lien of the plaintiff is superior in dignity to any right, title, interest, or claim of the defendants and all persons, corporations, or other entities claiming by, through, or under the defendants, or any of them and the property will be sold free and clear of all claims of the defendants, with the exception of any assessments that are superior pursuant to Sections 718.116 and 720.3085, Florida Statutes or _____ [describe other surviving lien]. The plaintiff's lien encumbers the subject property located in Pasco County/Pinellas County, Florida and described as:

 _____ (LEGAL DESCRIPTION)
 Property Address: _____

5. If the total sum with interest at the rate described in Paragraph 3 and all costs accrued subsequent to this judgment are not paid, the Clerk of Circuit Court shall sell the subject property at public sale on ____ day of _____, 20 __, at 11:00 a.m. to the highest bidder for cash, except as prescribed in Paragraph 6, at the [mark the applicable location]:

- First Floor of the St. Petersburg Judicial Building in the lobby located at 545 First Avenue North, St. Petersburg, Florida 33701
- Clearwater Courthouse, 315 Court Street, Clearwater, Florida, 33756
- Pasco County Courthouse, 38053 Live Oak Avenue, Dade City, Florida, 33523
- West Pasco Judicial Center, 7530 Little Road, New Port Richey, FL 34654
- in an online sale as specified in the following paragraph

after having first given notice as required by Section 45.031, Florida Statutes. At least three (3) days prior to the sale, Plaintiff must pay the costs associated with the Notice of Publication.

Sales may be conducted online by the Clerk of Circuit Court for Pasco County. When this service is provided, the sale may be accessed through the Clerk's website at <http://www.pascoclerk.com/>.

A sale should not be held in the absence of the Plaintiff's Attorney or other representative. Plaintiff or its attorney may also cancel or postpone the sale by notifying the Clerk of the Court of such cancellation or postponement via a fax sent to the Clerk prior to the sale being conducted.

6. Plaintiff shall advance all subsequent required costs of this action and shall be reimbursed for them by the Clerk if plaintiff is not the purchaser of the property for sale. If Plaintiff is the purchaser, the Clerk shall credit plaintiff's bid with the total sum with interest and costs accruing subsequent to this judgment, or such party of it, as is necessary to pay the bid in full. If a third party bidder is the purchaser, the third party bidder must pay the documentary stamps attached to the certificate of title in addition to the bid.

7. If the Plaintiff incurs additional expenses subsequent to the entry of this final judgment but prior to the sale date specified in Paragraph 5 herein, Plaintiff may, by written motion served on all parties, seek to amend this final judgment to include said additional expenses.

8. On the filing of the Certificate of Title, the Clerk shall distribute the proceeds of the sale, so far as they are sufficient, by paying: first, all of the plaintiff's costs; second, documentary stamps affixed to the Certificate, unless the property is purchased by a third party bidder; third, plaintiff's attorneys' fees; fourth, the total sum due to the plaintiff, less the items paid, plus interest at the rate prescribed in Paragraph 3 from this date to the date of the sale; and by retaining any remaining amount pending further Order of this Court.

9. On filing of the Certificate of Title, defendant and all persons claiming under or against defendant since the filing of the Notice of Lis Pendens shall be foreclosed of all estate or claim in the property and the purchaser at sale shall be let into possession of the property. On filing of the Certificate of Sale, defendant's right of redemption as provided by Section 45.0315, Florida Statutes shall be terminated.

10. The Court finds, based upon the affidavits presented and upon inquiry of counsel for the plaintiff, that _____ hours were reasonably expended by plaintiff's counsel and that and hourly rate of \$_____ is appropriate. PLAINTIFF'S COUNSEL CERTIFIES THAT THE ATTORNEY FEE AWARDED DOES NOT EXCEED ITS CONTRACT FEE WITH PLAINTIFF. The Court finds that there are no reduction or enhancement factors for consideration by the Court pursuant to *Florida Patient's Compensation v. Rowe*, 427 So.2d 1145 (Fla. 1985).

OR

The Court finds, based upon the affidavits presented and upon inquiry of counsel for the Plaintiff, that the flat fee of \$_____ is reasonable and appropriate for the Plaintiff's counsel's attorney's fees. The Court finds that there are no reasons for either reduction or enhancement pursuant to *Florida Patient's Compensation Funds v. Rowe* 472 So.2d 1145 (Fla. 1985), and the Court therefore has awarded reasonable attorney's fees in the amount indicated in Paragraph 2 of this Judgment.

11. **IMPORTANT INFORMATION PROVIDED** pursuant to Section 45.031, Florida Statutes:

IF THIS PROPERTY IS SOLD AT PUBLIC AUCTION, THERE MAY BE ADDITIONAL MONEY FROM THE SALE AFTER PAYMENT OF PERSONS WHO ARE ENTITLED TO BE PAID FROM THE SALE PROCEEDS PURSUANT TO THIS FINAL JUDGMENT.

IF YOU ARE A SUBORDINATE LIEN HOLDER CLAIMING A RIGHT TO FUNDS REMAINING AFTER THE SALE, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN 60 DAYS AFTER THE SALE. IF YOU FAIL TO FILE A CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING FUNDS.

If the property has qualified for the homestead tax exemption in the most recent approved tax roll, also include the following two paragraphs:

IF YOU ARE THE PROPERTY OWNER, YOU MAY CLAIM THESE FUNDS YOURSELF. YOU ARE NOT REQUIRED TO HAVE A LAWYER OR ANY OTHER REPRESENTATION AND YOU DO NOT HAVE TO ASSIGN YOUR RIGHTS TO ANYONE ELSE IN ORDER FOR YOU TO CLAIM ANY MONEY TO WHICH YOU ARE ENTITLED. PLEASE CHECK WITH EITHER THE PINELLAS CLERK OF CIRCUIT COURT AT 315 COURT STREET, CLEARWATER, FL 33756, (727) 464-3267, OR THE PASCO CLERK OF CIRCUIT COURT AT 38053 LIVE OAK AVENUE, DADE CITY, FL 33523, (352) 521-4517 OR 7530 LITTLE ROAD, NEW PORT RICHEY, FL 34654, (727) 847-8176 WITHIN TEN (10) DAYS AFTER THE SALE TO SEE IF THERE IS ADDITIONAL MONEY FROM THE FORECLOSURE SALE THAT THE CLERK HAS IN THE REGISTRY OF THE COURT.

IF YOU DECIDE TO SELL YOUR HOME OR HIRE SOMEONE TO HELP YOU CLAIM THE ADDITIONAL MONEY, YOU SHOULD READ VERY CAREFULLY ALL PAPERS YOU ARE REQUIRED TO SIGN, ASK SOMEONE ELSE, PREFERABLY AN ATTORNEY WHO IS NOT RELATED TO THE PERSON OFFERING TO HELP YOU, TO MAKE SURE THAT YOU UNDERSTAND WHAT YOU ARE SIGNING AND THAT YOU ARE NOT TRANSFERRING YOUR PROPERTY OR THE EQUITY IN YOUR PROPERTY WITHOUT THE PROPER INFORMATION. IF YOU CANNOT AFFORD TO PAY AN ATTORNEY, YOU MAY CONTACT A LEGAL SERVICES OFFICE, SUCH AS: GULF COAST LEGAL SERVICES, INC., 314 S. MISSOURI AVE., SUITE 109, CLEARWATER, FL 33756, (727) 443-0657 / COMMUNITY LAW PROGRAM, 501 FIRST AVE N., ROOM 511, ST. PETERSBURG, FL 33701 / BAY AREA LEGAL SERVICE, INC., 2600 MARTIN LUTHER KING, JR. ST N., SUITE 401, ST. PETERSBURG, FL 33704, (727) 490-4040 / BAY AREA LEGAL SERVICE, INC., 37718 MERIDIAN AVENUE, DADE CITY, FL 33532 (352) 567-9044 / BAY AREA LEGAL SERVICE, INC., 8406 MASSACHUSETTS AVE, STE B-2, NEW PORT RICHEY, FL 34653, (727) 847-5494 / OR THE FLORIDA BAR'S

FLORIDA ATTORNEYS SAVING HOMES toll-free hot line (866-607-2187) TO SEE IF YOU QUALIFY FINANCIALLY FOR THEIR SERVICES. IF THEY CANNOT ASSIST YOU, THEY MAY BE ABLE TO REFER YOU TO A LOCAL BAR REFERRAL AGENCY OR SUGGEST OTHER OPTIONS. IF YOU CHOOSE TO CONTACT ONE OF THESE SERVICES FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

12. **The Plaintiff may assign the judgment and credit bid by the filing of an assignment without further Order of the Court.**

13. The Court retains jurisdiction of this action to enter further Orders that are proper, including without limitation, **Orders authorizing writs of possession and an award of attorney's fees, and to enter deficiency judgments if the borrower has not been discharged in bankruptcy.**

(ANY ADDITIONAL PROVISIONS OR MODIFICATIONS TO THIS FINAL JUDGMENT SHOULD BE SET FORTH IN BOLD TYPE AND CONSECUTIVELY NUMBERED PARAGRAPHS).

14. (Optional) The Mortgage Note is hereby re-established pursuant to Section 673.3091, Florida Statute.

DONE AND ORDERED, in New Port Richey/Dade City, Pasco County /
St. Petersburg/Clearwater, Pinellas County, Florida on this
_____ day of _____ 20__.

CIRCUIT JUDGE

Copies furnished to:

From: Winesett, Sherra </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=SWINESETT>

To: Schreiber, Lee Ann

CC:

Date: 3/3/2010 5:55:56 PM

Subject: In re: Amendments to the Fla. Rules of Civil Proc/FJ Form relating to Foreclosures

Lee, Since you'll be handling the residential foreclosures, if you're not already aware of the Amendments made by the Fla. Supreme Court to the Civil rules of Procedure and Final Judgment of Foreclosure Form, you'll want to get a copy of the Court's Opinion No.SC09-1460 and No. SC09-1579 and review it. Looks like it's effective immediately. I just found out about it today Judge McHugh and wanted to bring it to your attention just in case you weren't aware of it. If you need a copy, have your ja contact Debbie. Sherra

From: Winesett, Sherra </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=SWINESETT>

To: McHugh, Michael

Gerald, Lynn

Fuller, Joseph

Schreiber, Lee Ann

Rosman, Jay

CC: Sauls, Sandi

English, Sharon

Crongeyer, Robert L.

Date: 3/5/2010 11:20:10 AM

Subject: ?RE: Fla. Supreme Ct Cases No SC09-1460 and SC 09-1579 - Amendments to Rules/Form 1.996 re foreclosures

As I read the opinion, the 60 day comment period only applies to the new final judgment form, Form 1.996(a), not the new form on the Motion to Cancel and Reschedule Foreclosure Sale, so its effective as of 2/11/10. However, I do agree we need to give a prospective date when we will require the new form. Otherwise, we're going to have a lot of motions to set aside sales that didn't get cancelled under the prior procedures allowed, or worse, hearings on whether the form is procedural and not mandatory.

I've also copied our new case manager and magistrate with this e-mail because they attended the meeting where the Sup.Ct. opinion was brought up, and although we don't anticipate them being involved with foreclosures, they should be in the loop. Sorry, I overlooked you on the first e-mail.

From: McHugh, Michael

Sent: Friday, March 05, 2010 10:20 AM

To: Winesett, Sherra; Gerald, Lynn; Fuller, Joseph; Schreiber, Lee Ann; Rosman, Jay

Cc: Sauls, Sandi

Subject: RE: Fla. Supreme Ct Cases No SC09-1460 and SC 09-1579 - Amendments to Rules/Form 1.996 re foreclosures

Judge Winesett and I had a conversation about the cancellation and rescheduling of foreclosure sales issue. It was our opinion that since the Supreme Court has promulgated the new form for the cancellation and rescheduling of sales, we should require the plaintiffs in these cases to use it. The rule adopted appears to be purely procedural, therefore not needing any enabling statute. The rule is effective immediately, with the understanding that there is a 60 day comment period. Our proposal is to require the form beginning April 1st. This is roughly consistent with the comment period and will give us an opportunity to make the plaintiff firms aware of our requirement in this regard, presumably through Mr. Hill and Mr. Goetz. This would mostly effect the cancellations that occur when the plaintiff firm calls the clerk's office and asks to cancel the sale before any motion has been filed or order signed. Under the new procedure the clerk's office would decline to cancel the sale and tell them the appropriate motion needs to be filed. Let me know your thoughts on this issue so we can decide the appropriate way to proceed.

Thanks,

Mike.

20TH CIR 02495

11_16_2010

From: Winesett, Sherra

Sent: Thursday, March 04, 2010 6:12 PM

To: Gerald, Lynn; McHugh, Michael; Fuller, Joseph; Schreiber, Lee Ann; Rosman, Jay; Winesett, Sherra

Subject: Re: Fla. Supreme Ct Cases No SC09-1460 and SC 09-1579 - Amendments to Rules/Form 1.996 re foreclosures

I reviewed the opinion in the consolidated Fla. Sup. Ct. Case No. SC09-1460 entitled In Re: Amendments to the Florida Rules of Civil Procedure and Case No. SC09-1579 entitled In Re: amendments to the Florida Rules of Civil Procedure - Form 1.996 (Final Judgment of Foreclosure).

Case No. SC 09-1460 amends rule 1.110(b) to require verification of mortgage foreclosure complaints involving residential real property, adopts new form 1.924, Affidavit of Diligent Search and Inquiry and new form 1.996(b), Motion to Cancel and Reschedule Foreclosure Sale which provides for a reason to be checked to explain why the foreclosure sale needs to be cancelled and rescheduled. Fla. Sup. Ct. Case SC 09-1579 amends Form 1.996, the Final Judgment of Foreclosure form and numbers it Form 1.996(b).

As I read the opinion on the consolidated cases, the amendments made by SC 09-1460 were effective immediately upon the release of the opinions on Feb. 11, 2010. However, there is a 60 day period from that date during which comments on the amendments made to form 1.996(a) may be filed.

I think the question is, Is the use of these forms, or the information required by them, mandatory? If so, effective immediately, we need to make sure new Complaints filed are verified, Diligent Search affidavits in compliance with the new rule are filed for constructive service, and a reason is stated in a motion for cancellation of the sale.

You should note in its opinion, the Court rejected including a provision in the Final Judgment form that the sale be cancelled if Plaintiff's representative is not present at the sale, finding that to be in conflict with the new form for Motion to Cancel and Reschedule Foreclosure Sale.

Judge Gerald has suggested that with respect to the Final Judgment Form we require the Plaintiff's attorney to file a certification with the proposed final judgment, listing any provisions in the proposed judgment that are not in Form 1.996(a) so that the presiding judge can quickly review those additional provisions to determine if they are allowable provisions.

Comments or suggestions? Sherra

20TH CIR 02496

From: Winesett, Sherra </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=SWINESETT>

To: Fuller, Joseph

Gerald, Lynn

Rosman, Jay

McHugh, Michael

Schreiber, Lee Ann

Winesett, Sherra

CC: English, Sharon

Date: 5/7/2010 11:38:56 AM

Subject: ?FW: mortgage form

Here is Sharon's e-mail with the uniform form attached.

From: English, Sharon

Sent: Thursday, May 06, 2010 3:01 PM

To: Winesett, Sherra

Subject: mortgage form

I found the same form you provided me on the 12th Circuit's website. I guess what I'm trying to find out is if you would like your form to also have drop boxes, etc (the shaded areas on the form for litigants to fill out)? Thanks.

Sharon English
Civil Case Manager

239-533-2801

From: Winesett, Sherra </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=SWINESETT>

To: Fuller, Joseph

Gerald, Lynn

Rosman, Jay

McHugh, Michael

Schreiber, Lee Ann

Winesett, Sherra

CC: English, Sharon

Date: 5/7/2010 11:36:56 AM

Subject: ?RE: Foreclosure motions/Uniform Final Judgment Needed?

This just points out the need for a standard form final judgment. Judge Gerald has suggested a certification by the plaintiff's attorney listing any nonstandard provisions in the proposed final judgment. In working on his suggestion, I learned of a uniform final judgment form used in other circuit and asked our civil case manager to see if we could develop one for our circuit. Sharon located the form on the website of the 12th judicial circuit. I am forwarding her e-mail with the form attached to you. The attorney fills in the information in the areas allowed and can't modify other provisions. Other than the names & numbers any modifications or changes to the form must be listed in Item #8. That would make the judge's job a lot easier. Currently we have to review the entire form for such provisions as George points out are being inserted by attorneys.

Please let me know if you would like us to work on developing a uniform form for this circuit. You will note that the 12th's form says it's been updated to comply with the new final judgment form.

Sherra

From: Fuller, Joseph

Sent: Friday, May 07, 2010 11:08 AM

To: Winesett, Sherra; Gerald, Lynn; Rosman, Jay; McHugh, Michael; Schreiber, Lee Ann

Subject: FW: Foreclosure motions

From: Richards, George

Sent: Friday, May 07, 2010 9:45 AM

To: Fuller, Joseph

Subject: Foreclosure motions

Judge Fuller,

20TH CIR 02499

I have been seeing the following on Ex Parte Foreclosure motions from some of the big firms.

This may not be the exact wording, and I did not keep copies. If you need examples please just let me know.

Motion to cancel upcoming foreclosure sale, they are now adding something like, "should the sale have already occurred, then it will be set aside without further hearing or order". Due process??!

On motions to set aside the Final Summary Judgment, dismiss the case, and return the original documents, I have seen one or both of the following,

1. Should the case need to be reopened for any reason it will be at no cost to the Plaintiff.
2. If the note and mortgage are marked or cancelled, upon the return they will remain if full force and effect. The markings and cancellation are null and void.

Thanks George

From: Winesett, Sherra </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=SWINESETT>

To: Schreiber, Lee Ann

CC: English, Sharon

Thompson, James

Date: 6/3/2010 5:01:54 PM

Subject: ?RE: Fl Supreme Court DENIED Motions for rehearing on the their Feb 11 mortgage foreclosure opinion

Lee, Thanks for the up to date information on this. I forwarded a copy to Judge J. Thompson since he's doing foreclosures. Judge Starnes and Judge Schoonover don't have e-mails but should have the information if they're doing foreclosures. Also, I'm sending a copy to our case manager since I know she's been checking on these amendments.

As an aside, I had a new issue in a foreclosure trial today. The Plaintiff did not have the original note at trial. Plaintiff also had no count in the complaint to reestablish a lost note but represented wouldn't have helped because the note was not lost, just in transit and couldn't be obtained by trial time. They did have a copy of the note and certified copy of the mortgage and assignment to the plaintiff. Plaintiff argued neither the original note nor reestablishment is required if plaintiff seeks only an in rem judgment and the court does not retain jurisdiction to enter a deficiency judgment. The case law cited was Lovinggood v. Butler const. Co., 100 Fla. 1252, 131 So. 126 (Fla 1930) See Headnote [7] and Lawyers Title Insurance co. v. Novastar Mortgage, Inc., 862 So.2d 793 (Fla. 4th DCA 2003) See Headnote [5][6][7]. Just to make sure, no one would seek a deficiency judgment, I titled the final judgment as IN REM FINAL JUDGMENT OF FORECLOSURE and instead of just not retaining jurisdiction to enter a deficiency judgment, I specifically so stated.

From: Schreiber, Lee Ann

Sent: Thursday, June 03, 2010 5:27 PM

To: McHugh, Michael; Winesett, Sherra; Rosman, Jay; Fuller, Joseph; Gerald, Lynn

Cc: Richards, George

Subject: Fl Supreme Court DENIED Motions for rehearing on the their Feb 11 mortgage foreclosure opinion

Earlier today, the Florida Supreme Court denied the motion for rehearing filed by Ben-Ezra & Katz, P.A. and the Motion for Rehearing/Clarification filed by Shapiro & Fishman as it relates to the Amendments to the Florida Rules of Civil Procedure on Foreclosures and the Forms (Final Judgment of Foreclosure).

I have had a number of contested hearings about whether the opinions were binding since the time for rehearing had not expired and the original opinion stated that the opinion is "not final until time expires to file rehearing motion and, if filed, determined."

Since rehearing was denied, the opinions set forth in SC09-1460 and SC09-1579 are final. We should thus expect to see VERIFIED Complaints on residential property, use of the new form "Affidavit of Diligent Search & Inquiry", new approved Form for "Mo cancel/Re-set Foreclosure Sales", (uniform) Final Judgments which are in substantial conformity with the approved Form 1.996(a) and a bigger push for managed mediation on homestead property.

Today's Supreme Court Decision can be found at www.flcourts.org. click on Supreme Court, then Court Opinions, then Supreme Court opinions, then click on year (2010) and look under the 06/03/09 opinions.

Please feel free to pass along to fellow Circuit Judges who preside over foreclosure cases in other counties as I do not have the docket assignments memorized for counties other than the two where I preside.

Lee

From: Winesett, Sherra </O=SAO20/OU=CACJIS/CN=RECIPIENTS/CN=SWINESETT>

To: Richards, George

Fuller, Joseph

McHugh, Michael

Gerald, Lynn

Schreiber, Lee Ann

Rosman, Jay

Kyle, Keith

Cary, G. Keith

Carlin, John S.

CC: Embury, Jon

Date: 7/7/2010 5:17:14 PM

Subject: ?RE: Foreclosures

I haven't seen anything re such a moratorium. Do you have any additional details you can provide?

From: Richards, George

Sent: Tuesday, July 06, 2010 4:45 PM

To: Winesett, Sherra; Fuller, Joseph; McHugh, Michael; Gerald, Lynn; Schreiber, Lee Ann; Rosman, Jay; Kyle, Keith; Cary, G. Keith; Carlin, John S.

Cc: Embury, Jon

Subject: Foreclosures

Judges,

Today I saw the first motion and order cancelling a foreclosure sale because of "a moratorium put in place as a result of the Gulf of Mexico oil spill".

Has anyone seen this or related motions, and will it halt all foreclosure matters?

George