

(e) Certificate of title – a “genuine” scrivener’s error in the certificate of title can be amended. However, there is no statutory basis for the court to direct the clerk to amend the certificate of title based on post judgment transfers of title, faulty assignments of bid or errors in vesting title instructions.

(1) An error in the certificate of title which originates in the mortgage and is repeated in the deed and notice of sale requires the cancellation of the certificate of title and setting aside of the final judgment. *Lucas v. Barnett Bank of Lee County*, 705 So. 2d 115 (Fla. 2d DCA 1998). (For example, plaintiff’s omission of a mobile home and its vehicle identification number (VIN) included in the mortgage legal description, but overlooked throughout the pleadings, judgment and notice of sale, cannot be amended in the certificate of title.) Due process issues concerning the mobile home require the vacating of the sale and judgment.

### **Mortgage Workout Options**

1. Reinstatement: Repayment of the total amount in default or payments behind and restoration to current status on the note and mortgage.
2. Forbearance: The temporary reduction or suspension of mortgage payments.
3. Repayment Plan: Agreement between the parties whereby the homeowner repays the regularly scheduled monthly payments, plus an additional amount over time to reduce arrears.
4. Loan Modification: Agreement between the parties whereby one or more of the mortgage terms are permanently changed.
5. Short Sale: Sale of real property for less than the total amount owed on the note and mortgage.

(a) If the lender agrees to the short sale, the remaining portion of the mortgage debt, (the difference between the sale price of the property and mortgage balance, the deficiency), may be forgiven by the lender.

(1) Formerly, the amount of debt forgiven was considered income imputed to the seller and taxable as a capital gain by the IRS.

*Parker Delaney*, 186 F. 2d 455, 459 (1st Cir. 1950). However,

federal legislation has temporarily suspended imputation of income upon the cancellation of debt.

6. Deed-in-lieu of Foreclosure: The homeowner's voluntary transfer of the home's title in exchange for the lender's agreement not to file a foreclosure action.

Revised 7/14/10



**Harkey, Sandra D**

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**From:** Callanan, Richard [RCallanan@CA.CJIS20.ORG]  
**Sent:** Monday, February 08, 2010 2:45 PM  
**To:** Kiesel, Lisa; Harkey, Sandra D  
**Subject:** FW: foreclosure mediation training

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**From:** Lisa Goodner[SMTP:GOODNERL@FLCOURTS.ORG]  
**Sent:** Monday, February 08, 2010 2:45:15 PM  
**To:** Trial Court Chief Judges; Trial Court Administrators  
**Subject:** FW: foreclosure mediation training  
**Auto forwarded by a Rule**

I am providing the attached information as requested by Judge Haworth and discussed on our conference call earlier today.

Lisa

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**From:** Janice Houchell [mailto:JHouchell@jud12.flcourts.org]  
**Sent:** Monday, February 08, 2010 1:11 PM  
**To:** Lisa Goodner  
**Subject:** foreclosure mediation training

Judge Haworth asked that I give you the USF website regarding foreclosure mediation training and that you please distribute to all chief judges. <http://www.crc.usf.edu/> Thank you.

*Janice L. Houchell*  
*Judicial Assistant to the*  
*Honorable Lee E. Haworth*  
941-861-7950  
941-861-7914 fax  
[jhouchell@jud12.flcourts.org](mailto:jhouchell@jud12.flcourts.org)  
[www.jud12.flcourts.org](http://www.jud12.flcourts.org)



February 8, 2010

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[About CRC](#)

Email Contacts:

Dr. Gregory Firestone

[cpelist@hsc.usf.edu](mailto:cpelist@hsc.usf.edu)**Current Available Courses**

**Family Mediation Certification Training**  
**February 11, 12, 13, 18, 19 & 20, 2010**  
 University of South Florida  
 Tampa, Florida  
[February 2010 Course Brochure in PDF](#)  
[More Information and to Register >>](#)

**Residential Mortgage Foreclosure Mediation Training (2 parts)**  
**Presented in Collaboration with the Collins Center**  
**Part 1: Online between Feb 20th and March 4th**  
**AND**  
**Part 2: "LIVE" on March 5, 2010**  
 University of South Florida  
 Tampa, Florida  
[2010 Course Brochure](#)  
[More Information and to Register >>](#)

**Circuit Civil Mediation Certification Training**  
**March 19, 20, 21, 27 & 28, 2010**  
 Location: Tampa, Florida  
[March 2010 Course Brochure](#)  
[More Information and to Register >>](#)

**Dependency Mediation Certification Training**  
**April 22, 23, 24, 29, 30, & May 1, 2010**  
 Tampa, Florida  
[April 2010 Course Brochure in PDF](#)  
[More Information and to Register >>](#)

**Negotiating and Mediating Health Care Disputes Course**  
 Tampa, Florida  
 May 13 & 14, 2010  
[May 2010 Course Brochure - Coming Soon](#)  
[May 2009 Course Brochure in PDF](#)  
[More Information and to Register >>](#)

**Parenting Coordination Training**  
 July 15, 16 & 17, 2010  
 University of South Florida  
 Tampa, Florida  
[More Course Information Coming Soon](#)

**Domestic Violence & Mediation: The Basics & Beyond>**

This on-line, videotape presentation qualifies for 4.4 hours of continuing mediation education credit and 4-5 hours of CMEs/CEUs for physicians, mental health professionals and nurses.

**More Information and to Register >>**

**For additional course information or assistance with registration, please (800) 852-5362 or (813) 974-4296 / (800) 852-5362**

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**Continuing Mediator Education**

Most USF Conflict Resolution courses listed on this website (including the mediator certification, healthcare negotiation/mediation and parenting coordination course) are eligible for continuing mediation education (CME) credit up to the maximum length of the course. Since the Dispute Resolution Center (DRC) does not pre-approve continuing mediator education activities, it is up to each mediator to determine if a course meets the CME requirement. Such determination includes considering whether a course has "significant, current intellectual or practical content and shall constitute an organized program of learning directly related to the practice of mediation." (Administrative Order AOSC08-23 In Re: Procedures Governing Certification of Mediators).

Therefore, each mediator must determine if the course would enhance their skills/knowledge as a mediator. For each area of mediator certification, a course may qualify for a different number of CMEs as some courses may more directly apply to one area of certification than another. Mediators are required to self-report hours applied to their areas of certification at the time of their renewal.

For more information on CMEs, please visit:

**[The Florida Dispute Resolution Center](#)**

B4

**Florida Mediation Information**

For information concerning Requirements for Florida Supreme Court Mediator Certification, Florida Rules for Certified and Court Appointed Mediators, Mediator Advisory Committee Opinions, Chapter 44 of the Florida Statutes - Mediation Alternative to Judicial Action, and More please visit:

**[The Florida Dispute Resolution Center](#)**

B4

**Mediation Organizations**

- **Association for Conflict Resolution**
- **American Arbitration Association**
- **ABA Section of Dispute Resolution**
- **Association of Family and Conciliation Courts**
- **CPR Institute for Dispute Resolution**



- **National Association for Community Mediation**
- **Florida Academy of Professional Mediators**
- **Florida Chapter of the Association of Families, Courts and Commu**

B4

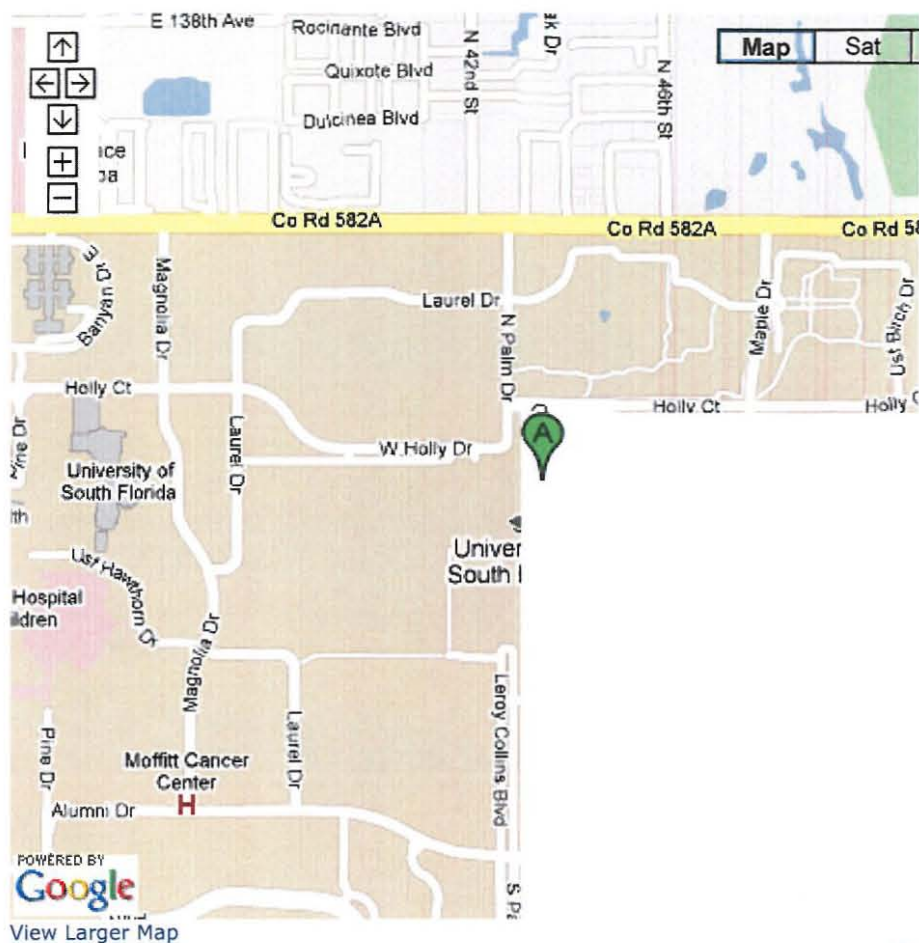
## **USF Marshall Student Center**

### **Directions From I-275**

- Take exit 52, Fletcher Ave/CR-582A and head East for 2.5 miles.
- Turn right at USF Palm Dr.
- Turn left at USF Holly Dr.
- Turn right at USF Cedar Circle.
- There is a parking garage, meters, and handicap parking available. For more information about parking permits and policies, visit the [Parking Services Website](#).

### **From I-75**

- Take exit 266, Fletcher Ave and head West on Fletcher for 4.0 miles.
- Turn left at N Palm Dr/USF Palm Dr.
- Turn left at E Holly Dr.
- Turn right at Cedar Circle.
- There is a parking garage, meters, and handicap parking available. For more information about parking permits and policies, visit the [Parking Services Website](#).



### USF Conflict Resolution Collaborative

The USF Conflict Resolution Collaborative offers Family, Circuit Civil, and De Mediation certification training programs which are approved by the Florida Court and approved by the Florida Bar for CLER. Certification courses meet the Supreme Court training requirement for certification as a mediator in the 13 areas. Additional requirements for mediator certification by the Florida Supreme are described in the Florida Rules for Certified and Court-Appointed Mediators 850/921-2910 for mediation certification requirements.

For More Information Email

**Dr. Gregory Firestone**

or call CPD at (813) 974-4296 or (800) 852-5362.

**For additional course information or assistance with registration, please call (800) 852-5362 or (813) 974-4296 / (800) 852-5362**

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

**To:** Judges-Charlotte

Judges-Collier

Judges-Glades

Judges-Hendry

Judges-Lee

Magistrates-All

**CC:** Kiesel, Lisa

McLean, Craig

Callanan, Richard

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

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

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Good Morning Your Honors and Magistrates:

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

Tenants' Rights in Foreclosures Videoconference

for County Court Judges and Senior Judges

Friday, October 2, 2009

12:15 p.m. - 1:30 p.m. ET

Faculty and Course Content

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

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

**20TH CIR 03101**

\* Correctly apply 12 USC Sec. 5220 to ameliorate some of the issues; and

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

## Location

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

## Continuing Judicial Education Credit (CJE) and Evaluation

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

## How to Register

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

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

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

## Contact Information

Bart Moore, Court Education Senior Attorney  
850-413-9642 or [mooreb@flcourts.org](mailto:mooreb@flcourts.org)

## Website

[http://intranet.flcourts.org/osca/Judicial\\_Education/DistanceLearning/2009TenantsRights/main.html](http://intranet.flcourts.org/osca/Judicial_Education/DistanceLearning/2009TenantsRights/main.html)

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for County Court Judges and Senior Judges

Friday, October 2, 2009

12:15 p.m. - 1:30 p.m. ET

Faculty and Course Content

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

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

**20TH CIR 03103**

\* Correctly apply 12 USC Sec. 5220 to ameliorate some of the issues; and

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

## Location

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

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**To:** Judges-Charlotte

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Magistrates-All

**CC:** Kiesel, Lisa

McLean, Craig

Callanan, Richard

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

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

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Good Morning Your Honors and Magistrates:

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

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

**To:** Judges-Charlotte

Judges-Collier

Judges-Glades

Judges-Hendry

Judges-Lee

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

**To:** Gerald, Lynn

Winesett, Sherra

**CC:**

**Date:** 1/14/2010 10:30:38 AM

**Subject:** Foreclosures and Mediation

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Lynn & Sherra,

I am doing the foreclosure docket tomorrow. The Supreme Court has come out with its report/rules/whatever since I last did foreclosures. Whatever it is I have not read it yet. Are either of you aware of anything I need to know or read before tomorrow (Friday)? Thanks

Jim

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

**To:** Jim Thompson (jimthompson93@comcast.net)

**CC:**

**Date:** 6/3/2010 5:03:34 PM

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

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From: Winesett, Sherra

Sent: Thursday, June 03, 2010 5:44 PM

To: Thompson, James

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

Jim – FYI since you weren't on the e-mail list. Sherra

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](http://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.

20TH CIR 03108

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

**To:** Ederr, Suzanne

English, Sharon

**CC:** Bauer, Terri

**Date:** 7/29/2010 12:56:46 PM

**Subject:** Materials from judges Conf

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I just returned from the judges conference. They ran out of foreclosure materials but as soon as I have a chance to sort them out I will make copies.

I do have the materials on Postconviction relief and as I expect to never never see one of these things again you all are welcome to them if you want them. I will leave them on my desk with a "take me" note and if you want them Terri can pick them up on a run.

Judge Thompson

#### Determining whether a case should be set for docket sounding

1. Is the case Disposed? Is the status disposed (closed) or filed (open). If the case is disposed, don't set it for docket sounding.
2. Lien v mortgage foreclosure: check your list. Do not set Lien cases for docket sounding.
3. Abatement: check your list. Do not set for docket sounding if it is set for abatement and the parties have not filed anything since the Notice of Prosecution was filed.
4. Bankruptcy: If the defendant has filed a "Suggestion of Bankruptcy," the case is considered frozen and it can't be set for docket sounding. UNLESS: the plaintiff (bank) gets an order from the bankruptcy court lifting the stay ("Notice of Filing Bankruptcy Documents").
5. Notice of Unavailability: a notice filed by an attorney of when they are not available to come to court for this case. If you see a notice of unavailability filed, check the dates. Don't set the case for docket sounding during the time the attorney is unavailable. Send Shari an email w/ the case #.
6. Commercial v residential foreclosure: Don't set commercial foreclosures for docket sounding. We are only setting residential foreclosures for docket sounding. Look at the Defendant's name – if it's a business name it might be a commercial foreclosure. Another place to check is the complaint – see how much \$\$\$ the plaintiff is saying they're owed. High \$ usually = commercial.

#### Determining who is a party

If a party is represented by an attorney, the attorney is included on the order – not the party. Go to the "parties" tab. Attorneys are in the right hand column, parties are in the left. If a party doesn't have an attorney, include the party on the certificate of service.

If a party/attorney is in gray – they are no longer a part of the lawsuit and shouldn't be included in the certificate of service.

When a party is represented by an attorney, send to the law firm not the attorney. Always check the firm address from the recent court documents.

Always check the "service" tab to see who was served.

If there are unknown tenants or occupants named as parties, include them on the certificate of service (look for an address on the service tab).