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Version: 8.5.445 / Virus Database: 271.1.1/3178 - Release Date: 10/05/10 06:34:00

Jenn C. Lussier

From: David W. Fina
Sent: Wednesday, October 06, 2010 9:09 AM
To: Leandra G. Johnson
Subject: RE: Case Management Conference (foreclosure cases)

We work quickly in Suwannee County.

The cases set for C.M. here do not qualify for DWOP. Those matters were handled earlier.

C.M. will be handled @ the discretion of the judge assigned. No circuit wide policy is in place due to issues discussed @ a recent staff meeting. Handle them and schedule as you wish.

I'll let you know how the Suwannee C.M. went if you wish.

From: Leandra G. Johnson
Sent: Tuesday, October 05, 2010 8:53 PM
To: David W. Fina
Cc: Diane B. Hiers
Subject: Case Management Conference (foreclosure cases)

Diane received a phone call today from Ronna asking for time on my calendar to set case management conferences in foreclosure cases. She indicated that in Suwannee County 15 are being set in 30-minute time periods.

I was under the understanding that initially we would be sending notices for lack of prosecution on those cases with no activity for more than 10 months and setting them for hearing if no response is filed. Certainly, those types of cases can be set in large numbers in a short span of time since most likely nobody is going to show up if no one responded to the notice. However, for a case management conference when we are trying to find out the status of the case, discovery issues, referral to mediation, etc., and the plaintiff's attorney is going to be calling in, I'm not sure we can accomplish all that in 2 minutes.

Please let me know how you want to proceed on this and if you have a circuit-wide procedure for how to handle these cases and what Ronna's role is. My goal, of course, is to comply with the directive we are under and to resolve the cases expeditiously.

Jenn C. Lussier

From: PapaGray1@aol.com
Sent: Tuesday, October 05, 2010 10:17 PM
To: bpowell@reasonable-doubt.org; cfine@ffplaw.com; rer@circuit8.org; ellisherb@hotmail.com; David W. Fina; martin@scruggs-carmichael.com; papagray1@aol.com; grmlaw@bellsouth.net; vanvorstlawfirm@gmail.com; chughes@shrlawfirm.com; lucus.taylor@suwanneelawyers.com; aingram@laborattorneys.org; pritchetta@SAO8.org; jsmith@avera.com; sharon@sharonsperling.com; craig@reasonable-doubt.org; mar.ferber@gmail.com
Subject: Re: Our Inns Program

I have 4 foreclosure defense cases right now. The banks are horrible- tricking the owners into letting the foreclosure proceed legally, while the banks contact the owners directly promising they are being considered for "HAMP"- restructuring. What a trick. The General Magistrate, Paul, said "how does that matter?" I would love to be able to prove that the lenders are being paid each time they "consider" HAMP. The last one I have has been through 3 "HAMP" considerations. It's emotional for me.

Jim

In a message dated 10/5/2010 6:27:07 P.M. Eastern Daylight Time, bpowell@reasonable-doubt.org writes:

What about foreclosure?...big issues going on....we also have a new magistrate just to deal with the huge flush of cases in state court...Paul Silverman....? Barbara

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

From: Cherie Elne
To: cfine@ffplaw.com ; rer@circuit8.org ; ellisherb@hotmail.com ; fina.david@jud3.flcourts.org ; martin@scruggs-carmichael.com ; papagray1@aol.com ; grmlaw@bellsouth.net ; vanvorstlawfirm@gmail.com ; chughes@shrlawfirm.com ; lucus.taylor@suwanneelawyers.com ; aingram@laborattorneys.org ; pritchetta@SAO8.org ; jsmith@avera.com ; bpowell@reasonable-doubt.org ; sharon@sharonsperling.com ; craig@reasonable-doubt.org ; mar.ferber@gmail.com
Sent: Tuesday, October 05, 2010 4:28 PM
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Hey everyone:

Beth and Kristine suggested we do something about bankruptcy, since the topic is so timely. What do you think? Or do you have a different suggestion? Send your thoughts "reply all" Once we have the idea we can set meetings to prepare the program ☺ Thanks so much

Cherie

622 NE First Street

Gainesville, Florida 32601

352-372-7777

Fax: 352-372-0049

www.ffplaw.com

cfine@ffplaw.com

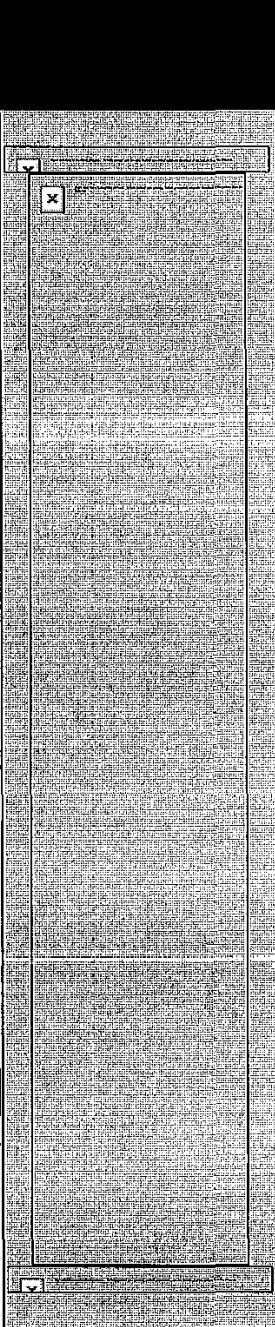
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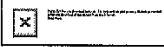
From: Daily Business Review <DBR_Editor@alm.com>
Sent: Tuesday, October 05, 2010 9:52 PM
To: David W. Fina
Subject: Litigation Alert

<p>Subscribe to the Review</p> <p>Subscribe to the print & Web editions</p> <p>Free 30-day Web Trial</p> <p>x x x</p> <p>x</p> <p>Today's Headlines</p> <p>Ian Schrage selling Miami hotels at big discount</p> <p>Cruise line case highlights ethics of switching sides</p> <p>Younger co-defendant says he had access, no ownership of wealth</p> <p>The Rodent: That pesky pre-bill: Is \$10,000 too much, 2.9 hours too little?</p> <p>DailyBusinessReview.com</p>	<p>October 5, 2010</p> <p><input type="checkbox"/> Legal News And Information You Can't Get Anywhere Else</p> <hr/> <p><u>11th Circuit Centennial</u></p> <p>80 years later, Al Capone wins freedom again</p> <p>By: Jose Pagliery</p> <p>Several South Florida attorneys helped celebrate the Miami-Dade Circuit Court centennial by turning back time for a re-enactment of the city's famous 1930 perjury trial of the notorious Al Capone</p> <p>Slideshow: The mock trial of Al Capone</p> <hr/> <p>Sponsor Spotlight</p> <p><u>Expert E-Discovery Advice : How and What should be preserved</u></p> <p>Once the question is asked, the legal practitioner is faced with Pandora's box of techno-legal issues they often wish they had never opened.</p> <hr/> <p><u>Gulf Oil Spill</u></p> <p>South Fla. attorneys vie for plaintiff positions</p> <p>By: Julie Kay and Amanda Bronstad</p>	
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Free Business Leads

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- [Ordinances](#)
- [Public Hearings](#)

Plaintiff lawyers are jockeying for a coveted seat on the multidistrict litigation steering committee for the Deepwater Horizon oil spill.

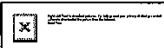


Chinese Drywall

Trial set without banks joining class action suit

By: Jose Pagliery

Banks that own homes in a Homestead neighborhood constructed with defective Chinese drywall are refusing to join a class action to recover repair costs. A trial date has been set without them.

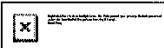


Divorce Battle

Six-week trial begins as Potamkins fight over \$112 million

By: Julie Kay

The long-awaited divorce trial of Alan and Claudia Potamkin is expected to feature dozens of expert witnesses testifying about valuations for Potamkin's wide-ranging holdings, which includes 30 auto dealerships nationwide.

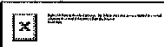


Justice Watch

Trial decides if CEO knowingly made false statements

By: John Pacenti

Only 11 trials claiming violations of the Private Securities Litigation Reform Act have been held since Congress clamped down on shareholder lawsuits in 1995.



Criminal Law

Federal prosecutor accused of exposing himself to minor

By: John Pacenti

Assistant U.S. Attorney Sean Cronin was arrested by Miami police and booked on a felony charge of lewd and lascivious exhibition on a child and a misdemeanor count of resisting arrest without violence.

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Jenn C. Lussier

From: Walt Smith <WSmith@jud12.flcourts.org>
Sent: Sunday, October 03, 2010 9:00 AM
To: Trial Court Administrators; trialcourtchiefjudges@flcourts.org
Subject: FW: two articles on foreclosures

FYI.

Posted on Sun, Oct. 03, 2010

Judges try to get grip on foreclosure chaos

Manatee's backlog of cases has judges taking serious actions

By DUANE MARSTELLER
dmarsteller@bradenton.com

MANATEE — The fifth time was the final straw for Manatee County Circuit Court Judge Janette Dunnigan.

Four times in a 2007 foreclosure case, a Fort Lauderdale law firm representing a bank scheduled a hearing and either did not appear or canceled it at the last minute without telling others. So when it happened again April 13, Dunnigan called Smith, Hiatt and Diaz P.A. and issued a warning: Stop it or I'll hold you in contempt of court.

The threat didn't work: The firm subsequently set two more hearings and didn't show for either one. So Dunnigan found the firm in "deliberate, willful and flagrant" contempt after an Aug. 30 hearing and issued a \$49,000 fine, which the firm is contesting.

Legal observers said they believe Dunnigan's act is the first time a Florida judge has sanctioned a so-called 'foreclosure mill' for its practices. But they said it also illustrates a growing effort by judges to regain control of the foreclosure process after years of chaos.

"The system's overloaded and they've got to do something about it," said Dawn Bates-Buchanan, managing attorney for Gulfcoast Legal Services' Bradenton office. "The judges all are saying, 'No more. We've had enough.'"

That frustration stems from a foreclosure crisis of historic proportions.

Nearly 15,200 foreclosure suits have been filed in Manatee since 2008, according to court records. Mortgage lenders and servicers have initiated foreclosure proceedings against more than 1.33 million Florida homes and repossessed more than 197,300 during that time, according to RealtyTrac, a foreclosure tracking service.

The state courts administrator's office estimated in March that roughly 500,000 foreclosure cases in Florida were still unresolved. The office said it plans to release an updated estimate later this month.

The legal and financial systems were ill-prepared to handle the crush, resulting in massive court backlogs and delays. It also led to the rise of several law firms that file thousands of foreclosure cases a month, which critics have dubbed "foreclosure mills."

Local court officials have tried various measures to streamline the foreclosure process, including requiring law firms to file suits electronically; file all relevant documents when scheduling a hearing; designate a primary contact person; and appear in person at all foreclosure-related hearings.

Court officials also set up an automated system for scheduling court hearings and established "rocket dockets" to expedite uncontested cases. But they acknowledge those efforts have had limited success and that problems with incomplete or missing paperwork, missed hearings and non-compliance with court procedures still persist.

"We've been bugging these people to do it right and follow the rules for quite a while, but we're still having issues," said Chief Judge Lee Haworth, of the 12th Judicial Circuit, which encompasses Manatee, Sarasota and DeSoto counties.

For example, more than one out of every five expedited cases heard during a recent three-week period had some form of paperwork or procedural problem, he said.

That has judges taking a harder stance on those who aren't following the rules.

On Sept. 17, Sarasota County Circuit Court Judge Harry Rapkin dismissed 61 of 258 cases on his docket because bank attorneys did not follow court procedures. Another 32 cases were continued because of similar but minor issues, Haworth said.

The dismissals mean plaintiffs who want to resurrect their cases will have to re-file and pay filing fees of up to \$1,900 for each case.

But Dunnigan's contempt order and fine is the strongest rebuke thus far. Besides the missed hearings, she scolded Hiatt, Smith and Diaz for routinely not filing required paperwork.

"The law firm's lack of consideration for the court's calendars, their disobedience for this court's local rules and orders, and their misconduct in handling mortgage foreclosure cases is deliberate, willful and flagrant in nature, and as such is evidence of contempt," she wrote in her Sept. 2 ruling.

Besides the fine, she ordered the firm to pay \$450 to the homeowner for lost wages and interpreter costs and pay the Barrington Ridge Homeowners Association's legal costs for the missed hearings. Scott Petersen, the association's attorney, later said those costs amounted to \$840.

"The abusive practices that the judge attacked have been a serious impediment to the progress of community associations in maintaining financial stability without the benefit of maintenance fees from 'underwater' units that have been abandoned by owners," he said.

Dunnigan also ordered Hiatt, Smith and Diaz to implement a system to assure its attorneys are adequately prepared for and attend scheduled hearings. The firm also was given a Thursday, Sept. 30, deadline to provide signed statements from its lawyers and support staff that they have read the local circuit's rules of procedure or risk additional fines of \$7,000 a day.

The firm disputed her characterization, saying the missed hearings resulted from the local court circuit's rules not being completely loaded into its database. Partner Roy A. Diaz also said the firm has made "extreme changes" in its internal policies and procedures to avoid more missed hearings.

He filed motions asking Dunnigan to recuse herself from the original case because of "prejudice and bias" and either rescind the order or hold another hearing, which Dunnigan denied Friday.

Consumer advocates and defense attorneys are hailing her contempt order and other actions against such large law firms, including judges in Miami-Dade County, Illinois and New York who wiped out homeowners' mortgages because of misconduct.

Those firms' assembly line tactics also have prompted at least three lenders — Bank of America, Ally Financial/GMAC and JP Morgan Chase — to temporarily suspend foreclosure proceedings in at least 23 states, including Florida.

"Crazy things have been happening and the judges are tired of hearing about it," Bates-Buchanan said. "They're holding plaintiff's counsel to the fire. They're trying to regain control of the process."

Dismissing cases, issuing contempt orders and issuing fines aren't the only tactics that local court officials are using, Haworth said.

They're also spending more time reviewing inactive foreclosure cases. For example, the last filing in a foreclosure suit involving companies owned by U.S. Rep. Vern Buchanan and his brother was on May 19, 2009, records show.

In cases where nothing has been filed in at least 10 months, judges and clerks are telling lawyers to either get the case moving or it will be administratively dismissed.

"Our judges are saying enough's enough," Haworth said. "We've heard every excuse and promise (from bank attorneys) under the sun, and nothing's gotten better. We've had to take stronger measures."

Sarasota judge simplifies foreclosure cases

COURTROOM: A checklist of filing errors can bring a case to a halt

By Todd Ruger

Published: Sunday, October 3, 2010 at 1:00 a.m.

Criminal defense attorneys used to call Judge Harry Rapkin "Hang 'Em High Harry" for his tough prison sentences, and his latest crackdown in foreclosure court might have home lenders trying to come up with a similar nickname.

Rapkin unleashed a new order last week, aimed at attorneys for lenders who are still making the kind of simple errors that would be considered ridiculous in any courtroom. A lot is at stake; Rapkin sees hundreds of cases where the lender is minutes away from taking someone's property.

Rapkin's new order completely dismisses foreclosure cases when they do not follow the simplest of rules.

The judge's new order has nine check boxes listing the most common mistakes he sees in foreclosures. The most basic -- not showing up for a hearing -- is listed first. Then there is one for attorneys who filed a motion to win a case that they had previously dismissed, and one for attorneys who filed a motion to win a case they had already won. If one these boxes gets checked, the judge dismisses the case.

The obviousness of the errors is one outcome of the mass volume of foreclosures running through Florida courts and the desire by large legal firms to handle foreclosures en masse, resulting in shoddy practices.

"This isn't brain surgery," said Sarasota attorney Michael Belle, who reviews foreclosure filings for the judges as part of a court-sponsored program.

On Sept. 24, the day Rapkin debuted the order, a quarter of the 250 cases seeking his permission to retake property made one of the errors, 61 in all.

Rapkin's checkboxes give him a quick way to make rulings on the cases. But it also has a twinge of ridicule: as in, can you believe professional attorneys can get things this wrong?

Belle said it is a sad commentary about how a judge feels he must hold the hand of these attorneys just to meet elementary standards.

"Judge Rapkin is now finally saying I can't trust these guys anymore, so here's what I'm going to do," Belle said.

The most direct message gets sent right to the lenders' pocketbooks. The order dismisses the foreclosure, meaning the lender must pay a filing fee up to \$1,900 again if it wants to try to foreclose on the property again.

Attorneys in at least 15 of the 61 cases Rapkin dismissed with the new order have already tried to get a rehearing to try to save their case.

The foreclosure system is still overwhelmed by cases, with attorneys for some lenders each handling thousands of cases.

Foreclosure defense attorneys have decried the paperwork from lenders for years.

Now, problems with paperwork have led some lenders to halt foreclosures in up to 23 states, and the Florida Attorney General's Office is investigating possible fraudulent documents being used to retake homes.

Jenn C. Lussier

From: Ronna M. Cobble
Sent: Friday, October 01, 2010 1:26 PM
To: David W. Fina; Millicent A. Schneider
Subject: Foreclosures: Case Management
Attachments: suw cmc sched. 10-15-10.doc

I am not sure what the procedure is from here, but I wanted to let you know which cases had been scheduled for the 3 time slots on Oct. 15. See attached.

Am I (or my replacement helper) supposed to pull these files for you on or before the hearing date?

Thanks.

Ronna Cobble

Foreclosure Case Manager
Administrative Office of the Courts
Third Judicial Circuit
105 North Ohio Avenue
Live Oak, FL 32064
386-362-1017

9:00 Cases

10-157
10-142
10-139
10-118
10-116
10-113
10-70
10-58
10-110
10-106
10-104
10-87
10-74
10-73
10-77

9:30 Cases

09-403
09-414
09-416
09-420
09-434
09-439
08-297
08-03
09-372
09-200
09-193
09-186
09-178
09-324
08-298

10:00 Cases

09-444
09-442
10-09
10-20
10-19
10-24
10-25
10-28
10-29
10-31
10-35
10-37
10-43
10-50

Jenn C. Lussier

From: Sondra M. Lanier
Sent: Wednesday, September 29, 2010 10:45 AM
To: David W. Fina
Subject: RE: Follow up

Yes, although I think they plan to expand to GPS as well. I was just checking.

From: David W. Fina
Sent: Wednesday, September 29, 2010 10:39 AM
To: Sondra M. Lanier
Subject: RE: Follow up

GPS. wasn't scram for alcohol?

From: Sondra M. Lanier
Sent: Wednesday, September 29, 2010 10:15 AM
To: David W. Fina
Subject: RE: Follow up

What kind of monitoring does Danny plan to discuss? Does this relate to the SCRAM discussion with Ed Depuy?

I will call you in a while to discuss the applications. We will proceed with the case management order you approved. I will e-mail Judge Douglas about Another Way and get back with you.

The only thing that was mentioned about the joint leadership meeting was that it was coming up. Most of the call was devoted to foreclosure case management and whether Chief Judges should release judges' e-mail addresses. They rushed through everything else to get done.

From: David W. Fina
Sent: Wednesday, September 29, 2010 10:10 AM
To: Sondra M. Lanier
Subject: RE: Follow up

Danny is a bondsman and 3rd circuit process server in Dixie.
I sent the app's back but we should discuss.
I don't think the addition language should be added to the case mtg order.
Check w/ j Douglas on the another way issue.
The joint leadership meeting was on the JAC agenda for the 20th. Was it addressed?

From: Sondra M. Lanier
Sent: Wednesday, September 29, 2010 9:48 AM
To: David W. Fina
Subject: RE: Follow up

Do we need to discuss the applications, or should I just send someone to pick them up? (I'm quarantined in my office.)

I have highlighted the additional language on the Parker order and will send a copy down for you to see.

Who is Danny Herring with? What kind of electronic monitoring? Is it the same as what Ed will discuss?

All I know about Another Way is what you told me about the call from the person Judge Douglas invited to the September meeting. I assume that it had something to do with the death review that he mentioned at the meeting in Madison.

I don't know anything about the joint leadership meeting, but my guess would be that it will be about the strategy for the upcoming legislative session (at least in part) because of the timing of it. Isn't that the same as the meeting you attended earlier this year? I wasn't a part of that.

From: David W. Fina
Sent: Wednesday, September 29, 2010 9:27 AM
To: Sondra M. Lanier
Cc: Millicent A. Schneider
Subject: RE: Follow up

I looked @ the applications.
What material differences are on the Parker order?
I also invited Danny Herring to discuss electronic monitoring.
Who and what do we know about the Another way request?
Compensation report from the JAC meeting, foreclosure case mtg., Judicial reporting, E-portal? What is the judicial branch joint leadership meeting on 1/7/11 about?
Am I supposed to attend?

From: Sondra M. Lanier
Sent: Wednesday, September 29, 2010 8:53 AM
To: David W. Fina
Subject: Follow up

Judge Fina,

I am sick but in the office working, and I am trying to talk as little as possible so that maybe my throat will get better. Hence.... This e-mail.

Did you get a chance to look at what I sent yesterday about the case management order?

Ed Depuy is coming to next week's judges' meeting to talk about SCRAM. Should we invite the person from Another Way to come too since last month's meeting was cancelled? I can inform everyone about the upcoming ADA changes and give them some standard language for notices. Is there anything else you can think of now?

Did you look at those applications yet?

Sondra

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I am sick but in the office working, and I am trying to talk as little as possible so that maybe my throat will get better. Hence.... This e-mail.

Did you get a chance to look at what I sent yesterday about the case management order?

Ed Depuy is coming to next week's judges' meeting to talk about SCRAM. Should we invite the person from Another Way to come too since last month's meeting was cancelled? I can inform everyone about the upcoming ADA changes and give them some standard language for notices. Is there anything else you can think of now?

Did you look at those applications yet?

Sondra

Jenn C. Lussier

From: Sondra M. Lanier
Sent: Wednesday, September 29, 2010 10:15 AM
To: David W. Fina
Subject: RE: Follow up

What kind of monitoring does Danny plan to discuss? Does this relate to the SCRAM discussion with Ed Depuy?

I will call you in a while to discuss the applications. We will proceed with the case management order you approved. I will e-mail Judge Douglas about Another Way and get back with you.

The only thing that was mentioned about the joint leadership meeting was that it was coming up. Most of the call was devoted to foreclosure case management and whether Chief Judges should release judges' e-mail addresses. They rushed through everything else to get done.

From: David W. Fina
Sent: Wednesday, September 29, 2010 10:10 AM
To: Sondra M. Lanier
Subject: RE: Follow up

Danny is a bondsman and 3rd circuit process server in Dixie.
I sent the app's back but we should discuss.
I don't think the addition language should be added to the case mtg order.
Check w/ j Douglas on the another way issue.
The joint leadership meeting was on the JAC agenda for the 20th. Was it addressed?

From: Sondra M. Lanier
Sent: Wednesday, September 29, 2010 9:48 AM
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Do we need to discuss the applications, or should I just send someone to pick them up? (I'm quarantined in my office.)

I have highlighted the additional language on the Parker order and will send a copy down for you to see.

Who is Danny Herring with? What kind of electronic monitoring? Is it the same as what Ed will discuss?

All I know about Another Way is what you told me about the call from the person Judge Douglas invited to the September meeting. I assume that it had something to do with the death review that he mentioned at the meeting in Madison.

I don't know anything about the joint leadership meeting, but my guess would be that it will be about the strategy for the upcoming legislative session (at least in part) because of the timing of it. Isn't that the same as the meeting you attended earlier this year? I wasn't a part of that.

From: David W. Fina
Sent: Wednesday, September 29, 2010 9:27 AM

To: Sondra M. Lanier
Cc: Millicent A. Schneider
Subject: RE: Follow up

I looked @ the applications.
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Am I supposed to attend?

From: Sondra M. Lanier
Sent: Wednesday, September 29, 2010 8:53 AM
To: David W. Fina
Subject: Follow up

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Jenn C. Lussier

From: Sondra M. Lanier
Sent: Wednesday, September 29, 2010 9:57 AM
To: David W. Fina
Subject: RE: Administrative Order and Applications

Good. I sent a highlighted Parker order down with Barb in an effort to keep my germs to myself.

From: David W. Fina
Sent: Wednesday, September 29, 2010 9:56 AM
To: Sondra M. Lanier
Subject: RE: Administrative Order and Applications

I don't think an AO is needed or required.

From: Sondra M. Lanier
Sent: Tuesday, September 28, 2010 2:58 PM
To: David W. Fina
Subject: Administrative Order and Applications

Judge Fina,

I have attached a draft of the administrative order for the foreclosure case management order. Please let me know what changes you want so that we can get this finalized. I do have 2 related questions though.

- (1) Did you look at Judge Parker's draft? Did you want any of that incorporated into the standard order?
- (2) Is an Administrative Order necessary, or can we say that you instructed us to use that form? I know that you like to be sparing with administrative orders, and it would be easier to modify the form in the future if we determine that a change is needed if we don't have to also amend an administrative order.

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Jenn C. Lussier

From: Daily Business Review <dbr_editor@alm.com>
Sent: Tuesday, September 28, 2010 8:06 PM
To: David W. Fina
Subject: Litigation Alert

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[DailyBusinessReview.com](#)

September 28, 2010

Legal News And Information You Can't Get Anywhere Else

Gay Adoption

3rd DCA upholds gay adoption in Florida

By: Adolfo Pesquera

A Miami appeals court has upheld a ruling that overturns Florida's law banning adoption by gays.

[ACLU and Martin Gill press conference](#)

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Expert E-Discovery Advice : How and What should be preserved

Once the question is asked, the legal practitioner is faced with Pandora's box of techno-legal issues they often wish they had never opened.

Foreclosure Crisis

4th DCA to review sealing of documents in foreclosure case

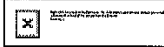
By: Polyana da Costa

After more than a yearlong foreclosure battle with lender SunTrust Mortgage, a Delray

Free Business Leads

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- [Building & Zoning Notices](#)
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Beach couple has encountered hurdles that seem unusual but attorneys say are becoming more common in South Florida courts.

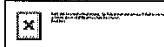


Foreclosure

Miami to try to close out 52,000 cases by next June

By: Jose Pagliery

Miami-Dade Circuit Court is using state funds to change how it handles foreclosures and to eliminate a mountain of 52,000 cases from its clogged docket.

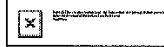


Federal Court

Ex-Palm Beach commissioner wants fraud conviction vacated

By: John Pacenti

Former Palm Beach County Commissioner Tony Masilotti's motion relies on the U.S. Supreme Court opinion in June narrowing the definition of honest services fraud.

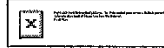


Wrongful Death

Family of child who died from complications during birth, awarded \$10.2 million

By: John Pacenti

A federal judge in Fort Lauderdale awarded \$10.2 million to the parents of a child who died from severe neurological damage suffered during birth at a U.S. Navy hospital.



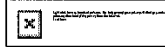
Justice Watch

Clients told to rethink taking IRS amnesty offer

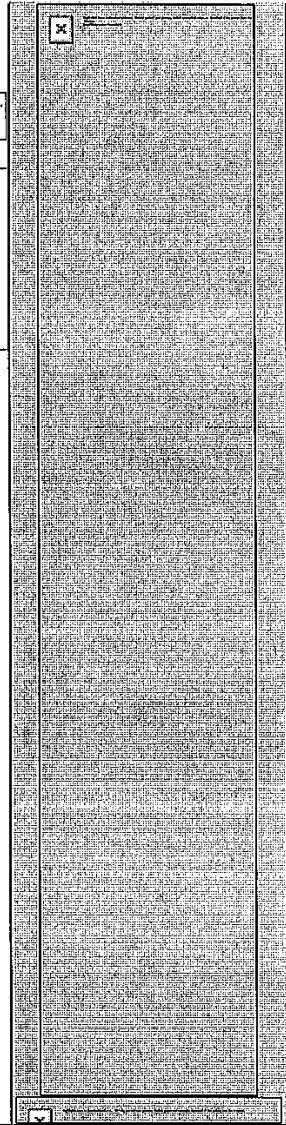
By: John Pacenti

Some tax litigators are rethinking throwing

their clients on the mercy of the Internal Revenue Service when it comes to secret offshore accounts.



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Jenn C. Lussier

From: Sondra M. Lanier
Sent: Tuesday, September 28, 2010 2:58 PM
To: David W. Fina
Subject: Administrative Order and Applications
Attachments: order scheduling case management conference.doc; Case Management Order.docx

Judge Fina,

I have attached a draft of the administrative order for the foreclosure case management order. Please let me know what changes you want so that we can get this finalized. I do have 2 related questions though.

- (1) Did you look at Judge Parker's draft? Did you want any of that incorporated into the standard order?
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Have you reviewed the applications for family case manager yet? We need to get someone hired so that we can give Carrina some relief.

Sondra

IN THE CIRCUIT COURT OF THE THIRD JUDICIAL CIRCUIT
IN AND FOR COUNTY, FLORIDA

CASE NO.

vs.

ORDER SCHEDULING CASE MANAGEMENT CONFERENCE

PLEASE BE ADVISED that, pursuant to Rule 1.200(a), Fla.R.Civ.P., the case listed above will be called up for Case Management Conference:

DATE/TIME:

LOCATION:

JUDGE:

Rule 2.250 of the Florida Rules of Judicial Administration, provides time standards which are presumptively reasonable for the completion of cases. The court records reflect either that the above-styled cause has exceeded these standards or that there are other reasons for case management.

The parties, if not represented by counsel, and counsel of record shall appear as stated above to address the following issues that may aid in the prompt and fair disposition of this action:

1. Schedule or reschedule trial or additional case management conference(s);
2. Schedule or reschedule the service of motions, pleadings and other papers;
3. Coordinate the progress of the action if complex litigation factors are present;
4. Limit, schedule, order or expedite discovery;
5. Schedule disclosure of expert witnesses and discovery of facts known and opinions held by such experts;
6. Require filing of preliminary stipulations if issues can be narrowed;

- 7. Possibilities of settlement;
- 8. Referral to mediation;
- 9. Dismissal;
- 10. Other _____.

DONE AND ORDERED in _____, _____ County, Florida this _____ day of _____, 201__.

 CIRCUIT JUDGE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U.S. First Class Mail to the attorneys of record and pro se parties above this _____ day of _____, 201__.

By _____

AMERICAN WITH DISABILITIES ACT NOTICE

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 Carrina Cooper, Court Administration at 173 NE Hernando Avenue, Room 408, Lake City, Florida 32055, 386-758-2163 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days. If you are hearing and/or voice impaired, call the Florida Relay Service at 711.

**IN THE THIRD JUDICIAL CIRCUIT OF FLORIDA
ADMINISTRATIVE ORDER NO. 2010-008**

ORDER SCHEDULING CASE MANAGEMENT CONFERENCE

WHEREAS, the Florida Legislature has appropriated funds for the purpose of managing foreclosure cases to reduce the backlog throughout the state; and

WHEREAS, the State Courts System has established a target backlog reduction of 62% by June 30, 2011; and

WHEREAS, Article V, section 2(d) of the Florida Constitution, and section 43.26 of the Florida Statutes charges the chief judge of each judicial circuit with the authority and power to do everything necessary to promote the prompt and efficient administration of justice; and

WHEREAS, there is a need for uniformity and standardization within the Third Judicial Circuit in order to expeditiously address the backlogged foreclosure cases and meet the established backlog reduction target;

NOW, THEREFORE, IT IS ORDERED:

The attached Order Scheduling Case Management Conference shall be used throughout the circuit for the purpose of scheduling case management conferences when appropriate according to the provisions of Rule 1.200(a), Florida Rules of Civil Procedure.

DONE and ORDERED this _____ day of September, 2010, in Live Oak, Suwannee County, Florida.

DAVID W. FINA, CHIEF JUDGE

cc: Judges, Third Judicial Circuit
Clerks of Court, Third Judicial Circuit

Jenn C. Lussier

From: Kristine Slayden <slaydenk@flcourts.org>
Sent: Tuesday, September 28, 2010 12:26 PM
To: Kristine Slayden; Trial Court Chief Judges; Trial Court Administrators
Cc: Lisa Goodner; P.J. Stockdale; Arlene Johnson
Subject: RE: Media Requests - Foreclosure Initiative Status Report

Chief Judges and Trial Court Administrators – After receiving feedback from a number of you, we have decided to postpone the release of the Foreclosure Initiative Status Report to the public until we have 3 months of data collected and verified. There was concern that the first month or two of data was not representative of the work because the circuits were just getting started, and a quarterly status report would be more appropriate. The plan is to release the July-September report in late October after everyone has had a chance to review the information more carefully and provide updated information to the OSCA, if needed. Thank you for your continued support of this initiative. Kris

Kris Slayden
Research and Data
Office of the State Courts Administrator
Florida Supreme Court
500 S. Duval Street
Tallahassee, Florida 32399
850-922-5106 (wk)
850-556-2335 (cell)
850-414-1342 (fax)

From: Kristine Slayden
Sent: Thursday, September 23, 2010 2:44 PM
To: Trial Court Chief Judges; Trial Court Administrators
Cc: Lisa Goodner; P.J. Stockdale; Arlene Johnson
Subject: Media Requests - Foreclosure Initiative Status Report
Importance: High

Chief Judges/Trial Court Administrators – As follow-up to the JAC conference call on Monday, September 20th, we are sending the updated status reports out and ask for your critical review of the results. We have received numerous requests for this data from reporters and do not feel comfortable releasing the information until you have had an opportunity to let us know if there are any problems with the data. Since these tables were produced from your first submission of data, we understand that there may need to be some kinks worked out in the system. Also, if you would like us to prepare any detailed reports for your circuit/county, we are available to easily produce custom reports for you.

Please contact me by COB, Monday, September 27th if you have any concerns. Thank you for your help. Kris

Kris Slayden
Research and Data
Office of the State Courts Administrator
Florida Supreme Court

500 S. Duval Street
Tallahassee, Florida 32399
850-922-5106 (wk)
850-556-2335 (cell)
850-414-1342 (fax)

From: Arlene Johnson
Sent: Thursday, September 23, 2010 12:18 PM
To: Kristine Slayden
Subject: status report

Arlene Johnson
OSCA, Research and Data
Telephone 850.922.5103
Facsimile 850.414.1342

Jenn C. Lussier

From: Sondra M. Lanier
Sent: Tuesday, September 28, 2010 8:35 AM
To: David W. Fina
Subject: FW: Foreclosure Case Mgt Order
Attachments: ORDER SCHEDULING CASE MANAGEMENT CONFERENCE.doc

Were there parts of this that you wanted us to incorporate???

From: Greg S. Parker
Sent: Monday, September 27, 2010 4:52 PM
To: Sondra M. Lanier
Cc: David W. Fina
Subject: Foreclosure Case Mgt Order

Here is what I have come up with. I have copied the Chief. Let me know your thoughts or if there is another one in the works.

IN THE CIRCUIT COURT, THIRD JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

Plaintiffs,

vs.

CASE NO.

Defendant.

_____ /

**ORDER SCHEDULING CASE MANAGEMENT CONFERENCE
IN FORECLOSURE ACTION**

PLEASE BE ADVISED that, pursuant to Rule 1.200(a), Fla. R. Civ. Proc., the cases above listed will be called up for Case Management Conference at the _____, Florida, before the Honorable_____. The Court records reveal either that the above-styled cause is a mortgage foreclosure action and that there is concern regarding the timely progress of the case or there are other compelling reasons for case management.

HEARING DATE:

Matters to be considered at the Case Management Conference include matters that may aid in the prompt disposition of the action including, but not limited to:

1. Schedule or reschedule trial or additional case management conference;
2. Schedule or reschedule the service of motions, pleadings and other papers;
3. Coordinate and discuss the progress of the action in general.
4. Limit, schedule, order or expedite discovery;
5. Requiring filing of preliminary stipulations if issues can be narrowed;
6. Possibilities of settlement;
7. Dismissal without prejudice.
8. Status of post final judgment matters including but not limited to the conducting of a sale of the property.

Attorneys must be present in person before the Court at this hearing unless otherwise authorized by the Court. Incarcerated parties without legal counsel may contact the court at _____ no later than 48 hours prior to the hearing to arrange a telephonic appearance. Inmates will not be transported.

ON FAILURE OF THE PARTIES OR COUNSEL TO ATTEND THE CONFERENCE, THE COURT MAY DISMISS THE ACTION, STRIKE PLEADINGS, LIMIT PROOF OR WITNESSES OR TAKE ANY OTHER APPROPRIATE ACTION AS PROVIDED IN RULE 1.200(c).

THIS CASE MANAGEMENT CONFERENCE MAY BE CANCELLED ONLY WITH THE COURT'S WRITTEN PERMISSION.

STIPULATIONS TO CONTINUE WILL BE GRANTED ONLY UPON A SHOWING OF GOOD CAUSE

NOTE: HEARING MAY BE CANCELLED IF COURT RECEIVES COPY OF VOLUNTARY DISMISSAL, SUGGESTION OF BANKRUPTCY OR IF TRIAL OR SUMMARY JUDGMENT HEARING, IS SCHEDULED PRIOR TO ABOVE DATE, BUT ONLY UPON WRITTEN PERMISSION FROM THE COURT.

DONE AND ORDERED in _____, _____ County, Florida this ____ day of _____, 20____.

CIRCUIT JUDGE

Copies Provided to Counsel and Pro Se Parties

*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 ADA Coordinator, _____, FL _____, phone number _____ within 2 working days of your receipt of this Order Scheduling **Case Management** conference; if you are hearing impaired, call _____*

Jenn C. Lussier

From: Bryan Proshka <BProshka@amstarlit.com>
Sent: Monday, September 27, 2010 5:05 PM
To: David W. Fina
Subject: Your CLE Hours

AmStar is pleased to present our \$495 CLE Bundle.

With one simple purchase of the AmStar CLE Bundle, you will save thousands of dollars and gain access to our most-demanded CLE courses; which when completed will satisfy 25.5 hours of general CLE requirements + 1.5 hours of required Ethics. ***That's a grand total of 27 hours of Florida Bar approved CLE credits!***

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- "Advanced Bankruptcy Techniques as Foreclosure Defense Strategies" - Audio Course - 7.50 CLE Credits + 1.0 Ethics = 8.50
- "Car Loans in Chapter 7 – Redeem, Surrender or Reaffirm?" - Audio Visual Course - 2.50 CLE Credits

Plus, as a SPECIAL BONUS, you will receive these critical marketing tools, audio visual training presentations, and valuable whitepapers to help you accelerate your firm's growth:

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- Training Presentation – The Means Test
- Training Presentation – The Initial Consultation
- Training Presentation – Understanding Exemptions
- Training Presentation – Understanding Preferences and Fraudulent Conveyances
- Training Presentation – Chapter 7 Frequently Asked Questions
- Training Presentation – Chapter 13 Facts and Foreclosures in Chapter 13
- Whitepaper – "The Seven Deadly Sins of Consumer Bankruptcy Practice"
- Whitepaper – "How to Convert Bankruptcy Leads When Your Prices are Higher Than Your Competition"

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- A Free premium Listing on www.ForeclosureDefenseHelp.com – the nation’s premier search directory for Foreclosure Defense attorneys (a \$495 value)

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Jenn C. Lussier

From: Greg S. Parker
Sent: Monday, September 27, 2010 4:52 PM
To: Sondra M. Lanier
Cc: David W. Fina
Subject: Foreclosure Case Mgt Order
Attachments: ORDER SCHEDULING CASE MANAGEMENT CONFERENCE.doc

Here is what I have come up with. I have copied the Chief. Let me know your thoughts or if there is another one in the works.

IN THE CIRCUIT COURT, THIRD JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

Plaintiffs,

vs.

CASE NO.

Defendant.
_____ /

**ORDER SCHEDULING CASE MANAGEMENT CONFERENCE
IN FORECLOSURE ACTION**

PLEASE BE ADVISED that, pursuant to Rule 1.200(a), Fla. R. Civ. Proc., the cases above listed will be called up for Case Management Conference at the _____, Florida, before the Honorable _____. The Court records reveal either that the above-styled cause is a mortgage foreclosure action and that there is concern regarding the timely progress of the case or there are other compelling reasons for case management.

HEARING DATE:

Matters to be considered at the Case Management Conference include matters that may aid in the prompt disposition of the action including, but not limited to:

1. Schedule or reschedule trial or additional case management conference;
2. Schedule or reschedule the service of motions, pleadings and other papers;
3. Coordinate and discuss the progress of the action in general.
4. Limit, schedule, order or expedite discovery;
5. Requiring filing of preliminary stipulations if issues can be narrowed;
6. Possibilities of settlement;
7. Dismissal without prejudice.
8. Status of post final judgment matters including but not limited to the conducting of a sale of the property.

Attorneys must be present in person before the Court at this hearing unless otherwise authorized by the Court. Incarcerated parties without legal counsel may contact the court at _____ no later than 48 hours prior to the hearing to arrange a telephonic appearance. Inmates will not be transported.

ON FAILURE OF THE PARTIES OR COUNSEL TO ATTEND THE CONFERENCE, THE COURT MAY DISMISS THE ACTION, STRIKE PLEADINGS, LIMIT PROOF OR WITNESSES OR TAKE ANY OTHER APPROPRIATE ACTION AS PROVIDED IN RULE 1.200(c).

THIS CASE MANAGEMENT CONFERENCE MAY BE CANCELLED ONLY WITH THE COURT'S WRITTEN PERMISSION.

STIPULATIONS TO CONTINUE WILL BE GRANTED ONLY UPON A SHOWING OF GOOD CAUSE

NOTE: HEARING MAY BE CANCELLED IF COURT RECEIVES COPY OF VOLUNTARY DISMISSAL, SUGGESTION OF BANKRUPTCY OR IF TRIAL OR SUMMARY JUDGMENT HEARING, IS SCHEDULED PRIOR TO ABOVE DATE, BUT ONLY UPON WRITTEN PERMISSION FROM THE COURT.

DONE AND ORDERED In _____, _____ County, Florida this ____ day of _____, 20____.

CIRCUIT JUDGE

Copies Provided to Counsel and Pro Se Parties

*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 ADA Coordinator, _____, FL _____, phone number _____ within 2 working days of your receipt of this Order Scheduling **Case Management** conference; if you are hearing impaired, call _____*

Jenn C. Lussier

From: Sondra M. Lanier
Sent: Friday, September 24, 2010 10:04 AM
To: Leandra G. Johnson
Cc: Ronna M. Cobble; David W. Fina
Subject: FW: Case Management Notice
Attachments: Order Scheduling Case Management Conference (revised by LGJ 9-23-10).doc; Order Setting Case Management Conference (LGJ's short version).doc

Judge Johnson,

Thanks so much for your input on this subject. I am meeting with Judge Fina in a little while and hope to finalize this very soon.

As far as the ADA notice, Brenda has been serving as our ADA coordinator which is a designation required by OSCA. Those responsibilities are largely administrative, including serving as the point of contact with state courts, etc. However, Carrina is the person who arranges for interpreters and makes other accommodations when needed. Carrina also has more responsibility with forms and documents that require the ADA language. Therefore, we are in the process of transitioning all of the ADA responsibilities to Carrina and this is the reason her name is on the notices. We use the main Court Administration number on notices to be sure that people speak to a person when they call rather than getting a voice mailbox.

The ADA requirements are changing on January 1, 2011, and the language on the form Ronna prepared is in compliance with the new laws. Rather than having to request accommodations within 2 days of receipt of a notice/order, the parties only have to notify us 7 days before the court date or immediately upon receiving the notification if less than 7 days. The 711 number is pursuant to direction from OSCA. That number serves as a portal for both hearing and voice impaired, and that makes it easier for the parties to call for assistance. Beginning in January, notices must be printed in either Times New Roman or Courier fonts with a size of 14 points.

We will be providing this information to all of the judges before the effective date, but we made the changes to these forms so that we will already be in compliance without a need for changing them later.

I hope that this information helps. We will be in touch soon regarding approval of the form.

Sondra

From: Ronna M. Cobble
Sent: Friday, September 24, 2010 8:38 AM
To: Sondra M. Lanier
Subject: FW: Case Management Notice

Ronna Cobble
Foreclosure Case Manager
Administrative Office of the Courts
Third Judicial Circuit
105 North Ohio Avenue
Live Oak, FL 32064
386-362-1017

From: Leandra G. Johnson
Sent: Thursday, September 23, 2010 7:56 PM
To: Ronna M. Cobble
Cc: David W. Fina; Diane B. Hiers
Subject: FW: Case Management Notice

Attached for consideration is a very simple one-page order setting case management conference.

LGJ

From: Leandra G. Johnson
Sent: Thursday, September 23, 2010 7:37 PM
To: Ronna M. Cobble
Cc: David W. Fina; Diane B. Hiers
Subject: RE: Case Management Notice

Ronna,

I've reviewed the sample order you sent me yesterday and I've made some suggested revisions as attached and explained below. The revisions or additions are in red. I'm copying Judge Fina with this message since he should address and approve the suggested revisions.

1. I think that the date/time should be listed first, then the location, then the name of the judge presiding.
2. The notice, as initially drafted does not "order" the parties or their attorneys to appear. Therefore, I added a sentence (while revising what was there) commanding the parties and/or their counsel to appear.
3. I deleted the title of the person sending the copies on the certificate of service, as the title is irrelevant. The person sending it may add it, nevertheless.
4. Regarding the ADA Notice, has Carrina Cooper been designated as the person to contact in Court Administration regarding ADA requests? If so, I don't recall being notified of this. The last designation made was to contact Brenda Pryce. I included, for consideration, the ADA notice I use in all my notices of court proceedings. It also includes the numbers to call for hearing and voice impairment. The proposed order you sent me indicates to call "711" if impaired, and I have no idea what that means. All of this needs to be confirmed with court administration to make sure we don't send out erroneous information.

Thank you for the work you are doing.

Leandra Johnson
Circuit Judge

From: Ronna M. Cobble
Sent: Thursday, September 23, 2010 1:01 PM
To: Leandra G. Johnson
Subject: Case Management Notice

Good afternoon, Judge Johnson. Judge Fina said that you were looking over the Case Management Notice to see if there were changes you wanted to suggest. Have you had a chance to look at it? Please let me know where that stands as I will begin Notices for Suwannee as soon as I get it. Since he wants the notice to be circuit wide for case management, I want to be sure to hold off on sending out any notices until you have had a chance to review it.
Thanks.

Ronna Cobble

Foreclosure Case Manager
Administrative Office of the Courts
Third Judicial Circuit
105 North Ohio Avenue
Live Oak, FL 32064
386-362-1017

IN THE CIRCUIT COURT OF THE THIRD JUDICIAL CIRCUIT
IN AND FOR COLUMBIA COUNTY, FLORIDA

CASE NO.

_____ /
TO:

ORDER SCHEDULING CASE MANAGEMENT CONFERENCE

PLEASE BE ADVISED that, pursuant to Rule 1.200(a), Fla.R.Civ.P., the case listed above will be called up for Case Management Conference:

DATE/TIME:

LOCATION:

JUDGE:

Rule 2.250, Florida Rules of Judicial Administration, provides time standards which are presumptively reasonable for the completion of cases. The court file reveals either that the above-styled cause has exceeded these standards or that there are other compelling reasons for case management.

The parties and/or their counsel shall appear at the noted date and time to address the following issues that may aid in the prompt and fair disposition of this action:

1. Schedule or reschedule trial or additional case management conference(s);
2. Schedule or reschedule the service of motions, pleadings and other papers;
3. Coordinate the progress of the action if complex litigation factors are present;
4. Limit, schedule, order or expedite discovery;
5. Schedule disclosure of expert witnesses and discovery of facts known and opinions held by such experts;
6. Require filing of preliminary stipulations if issues can be narrowed;

7. Possibilities of settlement;
8. Referral to mediation;
9. Dismissal.

DONE AND ORDERED in _____, County, Florida this _____ day of _____, 201__.

CIRCUIT JUDGE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U.S. First Class Mail to the parties named above this _____ day of _____, 201__.

By _____

AMERICAN WITH DISABILITIES ACT NOTICE

Any individual who has a disability and needs a reasonable accommodation to participate in this proceeding should immediately contact Carrina Cooper at the Administrative Office of the Courts, 173 NE Hernando Ave., Room 408, Lake City, Florida 32055; telephone 386-758-2163 [or if hearing impaired at 711].

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 Brenda Pryce, Human Resources Manager for the Third Judicial Circuit, 173 NE Hernando Avenue, Room 408, Lake City, FL 32055,, 386-719-7576 within two working days of your receipt of this Order; if you are hearing impaired call 1-800-955-8771; if you are voice impaired call 1-800-955-8770.

IN THE CIRCUIT COURT OF THE THIRD JUDICIAL CIRCUIT
IN AND FOR COLUMBIA COUNTY, FLORIDA

CASE NO.

_____ /

TO:

ORDER SCHEDULING CASE MANAGEMENT CONFERENCE

Notice is hereby given to the parties in this action that a Case Management Conference shall be held as follows:

DATE/TIME:

LOCATION:

JUDGE:

The parties and/or their counsel shall appear at the noted date and time to report on the status of the case and be prepared to address issues for the prompt and fair disposition of the case.

DONE AND ORDERED in _____, County, Florida this _____ day of _____, 201__.

CIRCUIT JUDGE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U.S. First Class Mail to the parties named above this _____ day of _____, 201__.

By _____

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Jenn C. Lussier

From: Leandra G. Johnson
Sent: Thursday, September 23, 2010 7:56 PM
To: Ronna M. Cobble
Cc: David W. Fina; Diane B. Hiers
Subject: FW: Case Management Notice
Attachments: Order Scheduling Case Management Conference (revised by LGJ 9-23-10).doc; Order Setting Case Management Conference (LGJ's short version).doc

Attached for consideration is a very simple one-page order setting case management conference.

LGJ

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Sent: Thursday, September 23, 2010 7:37 PM
To: Ronna M. Cobble
Cc: David W. Fina; Diane B. Hiers
Subject: RE: Case Management Notice

Ronna,

I've reviewed the sample order you sent me yesterday and I've made some suggested revisions as attached and explained below. The revisions or additions are in red. I'm copying Judge Fina with this message since he should address and approve the suggested revisions.

1. I think that the date/time should be listed first, then the location, then the name of the judge presiding.
2. The notice, as initially drafted does not "order" the parties or their attorneys to appear. Therefore, I added a sentence (while revising what was there) commanding the parties and/or their counsel to appear.
3. I deleted the title of the person sending the copies on the certificate of service, as the title is irrelevant. The person sending it may add it, nevertheless.
4. Regarding the ADA Notice, has Carrina Cooper been designated as the person to contact in Court Administration regarding ADA requests? If so, I don't recall being notified of this. The last designation made was to contact Brenda Pryce. I included, for consideration, the ADA notice I use in all my notices of court proceedings. It also includes the numbers to call for hearing and voice impairment. The proposed order you sent me indicates to call "711" if impaired, and I have no idea what that means. All of this needs to be confirmed with court administration to make sure we don't send out erroneous information.

Thank you for the work you are doing.

Leandra Johnson
Circuit Judge

From: Ronna M. Cobble
Sent: Thursday, September 23, 2010 1:01 PM
To: Leandra G. Johnson
Subject: Case Management Notice

Good afternoon, Judge Johnson. Judge Fina said that you were looking over the Case Management Notice to see if there were changes you wanted to suggest. Have you had a chance to look at it? Please let me know where that stands as I will begin Notices for Suwannee as soon as I get it. Since he wants the notice to be circuit wide for case management, I want to be sure to hold off on sending out any notices until you have had a chance to review it.
Thanks.

Ronna Cobble

Foreclosure Case Manager
Administrative Office of the Courts
Third Judicial Circuit
105 North Ohio Avenue
Live Oak, FL 32064
386-362-1017

IN THE CIRCUIT COURT OF THE THIRD JUDICIAL CIRCUIT
IN AND FOR COLUMBIA COUNTY, FLORIDA

CASE NO.

_____ /

TO:

ORDER SCHEDULING CASE MANAGEMENT CONFERENCE

PLEASE BE ADVISED that, pursuant to Rule 1.200(a), Fla.R.Civ.P., the case listed above will be called up for Case Management Conference:

DATE/TIME:

LOCATION:

JUDGE:

Rule 2.250, Florida Rules of Judicial Administration, provides time standards which are presumptively reasonable for the completion of cases. The court file reveals either that the above-styled cause has exceeded these standards or that there are other compelling reasons for case management.

The parties and/or their counsel shall appear at the noted date and time to address the following issues that may aid in the prompt and fair disposition of this action:

1. Schedule or reschedule trial or additional case management conference(s);
2. Schedule or reschedule the service of motions, pleadings and other papers;
3. Coordinate the progress of the action if complex litigation factors are present;
4. Limit, schedule, order or expedite discovery;
5. Schedule disclosure of expert witnesses and discovery of facts known and opinions held by such experts;
6. Require filing of preliminary stipulations if issues can be narrowed;

7. Possibilities of settlement;
8. Referral to mediation;
9. Dismissal.

DONE AND ORDERED in _____, County, Florida this _____ day of _____, 201____.

CIRCUIT JUDGE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U.S. First Class Mail to the parties named above this _____ day of _____, 201____.

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IN THE CIRCUIT COURT OF THE THIRD JUDICIAL CIRCUIT
IN AND FOR COLUMBIA COUNTY, FLORIDA

CASE NO.

_____ /

TO:

ORDER SCHEDULING CASE MANAGEMENT CONFERENCE

Notice is hereby given to the parties in this action that a Case Management Conference shall be held as follows:

DATE/TIME:

LOCATION:

JUDGE:

The parties and/or their counsel shall appear at the noted date and time to report on the status of the case and be prepared to address issues for the prompt and fair disposition of the case.

DONE AND ORDERED in _____, County, Florida this _____ day of _____, 201__.

CIRCUIT JUDGE

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By _____

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Jenn C. Lussier

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Sent: Thursday, September 23, 2010 7:37 PM
To: Ronna M. Cobble
Cc: David W. Fina; Diane B. Hiers
Subject: RE: Case Management Notice
Attachments: Order Scheduling Case Management Conference (revised by LGJ 9-23-10).doc

Ronna,

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1. I think that the date/time should be listed first, then the location, then the name of the judge presiding.
2. The notice, as initially drafted does not "order" the parties or their attorneys to appear. Therefore, I added a sentence (while revising what was there) commanding the parties and/or their counsel to appear.
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Thank you for the work you are doing.

Leandra Johnson
Circuit Judge

From: Ronna M. Cobble
Sent: Thursday, September 23, 2010 1:01 PM
To: Leandra G. Johnson
Subject: Case Management Notice

Good afternoon, Judge Johnson. Judge Fina said that you were looking over the Case Management Notice to see if there were changes you wanted to suggest. Have you had a chance to look at it? Please let me know where that stands as I will begin Notices for Suwannee as soon as I get it. Since he wants the notice to be circuit wide for case management, I want to be sure to hold off on sending out any notices until you have had a chance to review it.
Thanks.

Ronna Cobble
Foreclosure Case Manager
Administrative Office of the Courts
Third Judicial Circuit
105 North Ohio Avenue
Live Oak, FL 32064
386-362-1017

IN THE CIRCUIT COURT OF THE THIRD JUDICIAL CIRCUIT
IN AND FOR COLUMBIA COUNTY, FLORIDA

CASE NO.

_____ /

TO:

ORDER SCHEDULING CASE MANAGEMENT CONFERENCE

PLEASE BE ADVISED that, pursuant to Rule 1.200(a), Fla.R.Civ.P., the case listed above will be called up for Case Management Conference:

DATE/TIME:

LOCATION:

JUDGE:

Rule 2.250, Florida Rules of Judicial Administration, provides time standards which are presumptively reasonable for the completion of cases. The court file reveals either that the above-styled cause has exceeded these standards or that there are other compelling reasons for case management.

The parties and/or their counsel shall appear at the noted date and time to address the following issues that may aid in the prompt and fair disposition of this action:

1. Schedule or reschedule trial or additional case management conference(s);
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5. Schedule disclosure of expert witnesses and discovery of facts known and opinions held by such experts;
6. Require filing of preliminary stipulations if issues can be narrowed;

7. Possibilities of settlement;
8. Referral to mediation;
9. Dismissal.

DONE AND ORDERED in _____, County, Florida this _____ day of _____, 201__.

CIRCUIT JUDGE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U.S. First Class Mail to the parties named above this _____ day of _____, 201__.

By _____

AMERICAN WITH DISABILITIES ACT NOTICE

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Jenn C. Lussier

From: Sondra M. Lanier
Sent: Thursday, September 23, 2010 4:06 PM
To: 'Kristine Slayden'
Cc: David W. Fina
Subject: RE: Media Requests - Foreclosure Initiative Status Report

Kris,

The only thing I see that doesn't look right is 700 Inactive-Other cases. We only have about 3 that are still in that category. Everything else is active, because we have reviewed every case in every county and that should be reflected in the report that was submitted in September.

Sondra

From: Kristine Slayden [mailto:slaydenk@flcourts.org]
Sent: Thursday, September 23, 2010 2:44 PM
To: Trial Court Chief Judges; Trial Court Administrators
Cc: Lisa Goodner; P.J. Stockdale; Arlene Johnson
Subject: Media Requests - Foreclosure Initiative Status Report
Importance: High

Chief Judges/Trial Court Administrators – As follow-up to the JAC conference call on Monday, September 20th, we are sending the updated status reports out and ask for your critical review of the results. We have received numerous requests for this data from reporters and do not feel comfortable releasing the information until you have had an opportunity to let us know if there are any problems with the data. Since these tables were produced from your first submission of data, we understand that there may need to be some kinks worked out in the system. Also, if you would like us to prepare any detailed reports for your circuit/county, we are available to easily produce custom reports for you.

Please contact me by COB, Monday, September 27th if you have any concerns. Thank you for your help. Kris

Kris Slayden
Research and Data
Office of the State Courts Administrator
Florida Supreme Court
500 S. Duval Street
Tallahassee, Florida 32399
850-922-5106 (wk)
850-556-2335 (cell)
850-414-1342 (fax)

From: Arlene Johnson
Sent: Thursday, September 23, 2010 12:18 PM
To: Kristine Slayden
Subject: status report

Arlene Johnson
OSCA, Research and Data
Telephone 850.922.5103
Facsimile 850.414.1342

Jenn C. Lussier

From: Kristine Slayden <slaydenk@flcourts.org>
Sent: Thursday, September 23, 2010 2:44 PM
To: Trial Court Chief Judges; Trial Court Administrators
Cc: Lisa Goodner; P.J. Stockdale; Arlene Johnson
Subject: Media Requests - Foreclosure Initiative Status Report
Attachments: Status Report for September 2010 Transmission.pdf

Importance: High

Chief Judges/Trial Court Administrators – As follow-up to the JAC conference call on Monday, September 20th, we are sending the updated status reports out and ask for your critical review of the results. We have received numerous requests for this data from reporters and do not feel comfortable releasing the information until you have had an opportunity to let us know if there are any problems with the data. Since these tables were produced from your first submission of data, we understand that there may need to be some kinks worked out in the system. Also, if you would like us to prepare any detailed reports for your circuit/county, we are available to easily produce custom reports for you.

Please contact me by COB, Monday, September 27th if you have any concerns. Thank you for your help. Kris

Kris Slayden
Research and Data
Office of the State Courts Administrator
Florida Supreme Court
500 S. Duval Street
Tallahassee, Florida 32399
850-922-5106 (wk)
850-556-2335 (cell)
850-414-1342 (fax)

From: Arlene Johnson
Sent: Thursday, September 23, 2010 12:18 PM
To: Kristine Slayden
Subject: status report

Arlene Johnson
OSCA, Research and Data
Telephone 850.922.5103
Facsimile 850.414.1342

**Foreclosure and Economic Recovery
Real Property/Mortgage Foreclosure Cases Disposed
Status Report¹**

Circuit	Case Dispositions Target ²	July 2010 Dispositions		August 2010 Dispositions
		Total July 2010 SRS Dispositions ³	Total July 2010 Application Dispositions ⁴	Total August 2010 Application Dispositions ⁴
1	8,035	457	8	81
2	2,719	203	16	29
3	822	66	39	25
4	13,344	1,016	NA	NA
5	12,357	2,260	145	319
6 ⁵	24,424	1,208	179	1,205
7	13,383	951	945	1,316
8	1,597	206	178	133
9	31,372	2,712	1,859	2,564
10	8,047	1,129	990	1,126
11	54,532	1,826	1,733	1,290
12	15,845	1,081	320	336
13	23,672	1,348	310	1,830
14	2,873	276	253	237
15	39,309	4,440	4,110	2,980
16	1,656	58	14	54
17	35,659	2,827	2,159	3,543
18	19,252	746	524	504
19	12,844	574	373	79
20	25,423	3,326	1,184	964
Total	347,165	26,710	15,339	18,615

¹ Status Report based on September 2010 Transmission.

² Case Dispositions Target represent 62 percent of the estimated total backlog for real property/mortgage foreclosure cases during Session 2010. These statistics were based on SRS filings and dispositions reported by the Clerk of Court.

³ Total July 2010 SRS Dispositions includes dynamic SRS data for all real property/mortgage foreclosure cases reported by the Clerk of Court. Please note that the dynamic SRS data provided above may be amended by the Clerk of Court at a later date.

⁴ Total July 2010 Application Dispositions and Total August 2010 Application Dispositions are based on the FERCTS data that is provided to the OSCA on a monthly basis by each trial court. These data represent the reported information on cases disposed in July 2010 and August 2010 using the new resources. In addition, Desoto and Okeechobee Counties did not receive Foreclosure and Economic Recovery funding and are not included above; Circuit 4 has not submitted data using the FERCTS application; and Circuit 20 does not include Charlotte County.

⁵ Circuit 6 does not include complete SRS disposition data for Pasco County.

Jenn C. Lussier

From: Leandra G. Johnson
Sent: Tuesday, September 21, 2010 4:46 PM
To: Ronna M. Cobble
Cc: David W. Fina
Subject: RE: Foreclosure Case Management Notice

Rona,

There was no attachment to your e-mail.

Regarding the sample notices you left with me last week, I spoke with Judge Fina this morning and he was going to review them all and make a decision to use a uniform form in all foreclosure cases. I'm sending him a copy of this message to make sure that was my understanding and for him to tell us if something different needs to be done.

Thanks!

Leandra Johnson
Circuit Judge





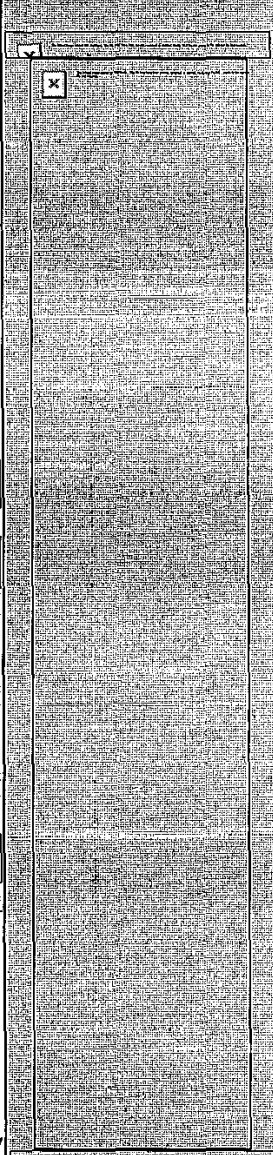
From: Ronna M. Cobble
Sent: Tuesday, September 21, 2010 3:53 PM
To: Leandra G. Johnson
Subject: Foreclosure Case Management Notice

Good afternoon. As a result of meeting with Judge Fina this afternoon, I was asked to forward this notice for case management to you for your review. If you want to make changes, please do. If you like the language, let me know and we will begin preparing some notices for case management. Also, let me know if you have reached a decision about your 10 month/LOP notices that we left for your review last week. Thanks.

Ronna Cobble
Foreclosure Case Manager
Administrative Office of the Courts
Third Judicial Circuit
105 North Ohio Avenue
Live Oak, FL 32064
386-362-1017

Jenn C. Lussier

From: Daily Business Review <DBR_Editor@alm.com>
Sent: Tuesday, September 21, 2010 12:41 PM
To: David W. Fina
Subject: Litigation Alert

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Multimedia: Joanna Krupa

Trust Accounts

Attorney: Ruling may hurt future foreign investment

By: Jose Pagliery

A federal judge's decision to exclude some of Scott Rothstein's fraud victims from restitution could have a chilling effect on the use of law firm trust accounts by foreign investors, according to an attorney representing Venezuelan investors who lost \$1.4 million entrusted to the scamster's firm.

Bankruptcy

Judge asked to order return of estate's missing money

By: John Pacenti

Real estate agent Marika Tolz, once a trusted South Florida receiver and trustee, is being asked to return money in many forms.

Justice Watch

Salvage company fights state to expand search area

By: John Pacenti

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Federal Court

Bayer begins settling cases involving Trasylol

By: Amaris Elliott-Engel

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side effects from use of the clotting drug Trasylol. About 1,800 cases have been filed in the multi-district litigation before U.S. District Judge Donald Middlebrooks in West Palm Beach.

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

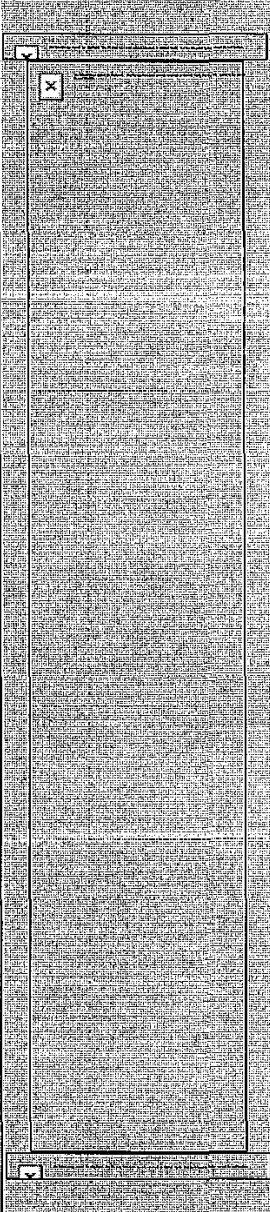
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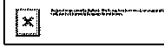
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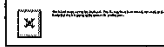


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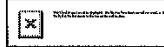


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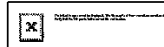


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Jenn C. Lussier

From: David W. Fina
Sent: Friday, September 10, 2010 1:29 PM
To: Greg S. Parker
Subject: FW: Notes from August Judges' Meeting

Info on electronic signatures as promised.

From: Sondra M. Lanier
Sent: Friday, September 10, 2010 11:42 AM
To: David W. Fina
Subject: FW: Notes from August Judges' Meeting

This included the information about electronic signatures.

From: Sondra M. Lanier
Sent: Tuesday, August 24, 2010 11:01 AM
To: Candice T. Herring; Darren K. Jackson; David W. Fina; Debbie J. Saunders; Debra P. Sadler; Diane B. Hiers; Donna D. Moore; Donna K. Jones; E. Vernon Douglas; Frederick L. Koberlein; Greg Parker; H. Wetzel Blair; Heather J. Norris; James R. Bean; Jean Pittman; Joyce Cameron; Julian E. Collins; Leandra G. Johnson; Linda H. Morgan; Marcie A. Kemp; Melanie A. Vaughn; Millicent A. Schneider; Pam K. Ring; Paul S. Bryan; Sonny Scaff; Sybil C. Powell; Tom Coleman; William R. Slaughter
Subject: Notes from August Judges' Meeting

Good morning. Following are some notes from the August Judges' Meeting that was held in Madison on Friday, August 13.

- Junaid Savani and Jackie-Jo Brinson started at the beginning of the month as law clerks, and their office is in Suwannee County. Sara Hall did a great job as a law clerk intern for the summer and is now going back to college. Crystal Ecker, Sara Hall, and Debbie DeNike have been working diligently to address the backlog of post-conviction motions, and we look forward to great things from our current staff as well.

Vacancies currently being advertised include a temporary case manager and secretary to work on the foreclosure case management project. These positions were funded through a special appropriation for this specific purpose, and although we are advertising for both, we expect to hire only one person. We are advertising for both positions to give us more options when making a hiring decision. We are also advertising for a user support analyst to replace Jacob Bell, and for a family court case manager to replace Jill Hoblick. The case manager will handle Taylor and Dixie Counties, as well as Judge Collins' portion of the Columbia County caseload.

- Judge Bryan reported on the recent Trial Budget Commission meeting and provided an update on the present status of our state courts' budget. Foreclosure filing fees continue to be the primary single source of funding for the courts. Our salary budget is stable, in large part due to the controls (i.e. waiting periods for filling vacant positions) that are remaining in place for the current fiscal year.
- Judge Fina reported on the recent Chief Judges' meeting. He emphasized the importance of foreclosure case management and backlog reduction, along with the legislative implications of this project. Judge Fina also discussed some pay and benefits issues, and judges can call him for more information on that subject. The legislature is requiring a report, by judge, regarding the number of cases disposed during the current year. We will be working with the clerks to ensure that these numbers are as accurate as possible.

- Sondra has been meeting with judges and clerks to determine how to best handle foreclosure case management in each of the counties. Because we received funding for positions under this initiative and the clerks only received expense money, we are doing whatever we can to minimize the additional workload on clerks' staff. The courts are required to eliminate 62% of our backlog, and our success will be measured based on the number of cases on which no additional court action is required. The clerks will be measured on sales and issuance of certificates of title.
- Protocol for duty judge was discussed, and Judge Fina will be sending a memo to all of the agencies that may need a judge on the weekend. The memo will explain the protocol and ask that the agency heads share the memo with all of their staff/officers who may need to know about it. Weekly reminders will then be sent to clerks and dispatch for each of the sheriff's departments, and they can serve as the point of contact when an emergency judge is needed.
- Judges are asked to provide dates for every Thursday on which they are available for the dinner with the clerks at Judge Fina's house.
- During the meeting, a couple of legal questions arose. Debbie DeNike researched those issues, and her summary is provided below for your information. If a more formal memo is required, I can ask her to prepare that for distribution:

Electronic signatures - In *Haire v. Fla. Dept. of Agriculture and Consumer Services*, 870 So.2d 774 (Fla. 2004), the Supreme Court affirmed the 4th DCA's holding that when a judge issuing a warrant directs the use of an electronic signature, it is clear that the judge is attesting to the act of issuing the warrant and that the use of the electronic signature is "within the discretion of the issuing magistrate". In so holding, the Supreme Court stated that reasoning was consistent with the general rule that absent a statute or rule prescribing the method of a signature, a signature may be validly affixed in a variety of ways. This is also consistent with §688.004, Fla.Stat. (2003), which states: "[u]nless otherwise prohibited by law, an electronic signature may be used to sign a writing and shall have the same force and effect as a written signature" and the Rules of Judicial Administration, Rule 2.515.

Court seal - As to the use of the court seal on search warrants, §933.07, Fla.Stat. does not require affixing of a seal. Further, in *Johnson v. State of Florida*, 339 So.2d 667 (Fla. 2nd DCA 1976), the court stated the failure of the judge to affix a seal or the name of her office to the search warrant pursuant to s. 933.07, Fla.Stat. (1973), did not vitiate the warrants validity.

- Since the meeting, we have scheduled a retirement ceremony and reception for Judge Slaughter and the Court Christmas Luncheon.

Thursday, December 9 from 4:00 until 6:00 – Judge Slaughter's retirement ceremony reception at the Suwannee County Courthouse

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Please let me know if you have any questions or need more information on any of these subjects.

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Jonn C. Lussier

From: The Florida Bar <careercenter@flabar.org>
Sent: Wednesday, September 08, 2010 7:08 AM
To: David W. Fina
Subject: Job Flash: 14 new legal jobs

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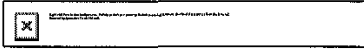
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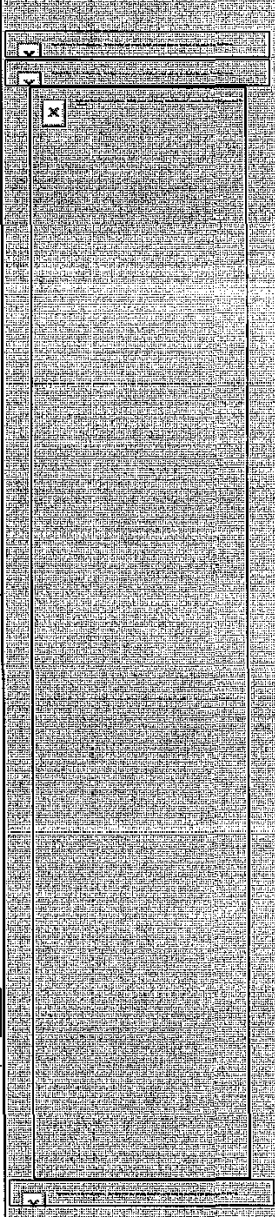

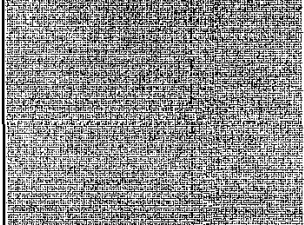


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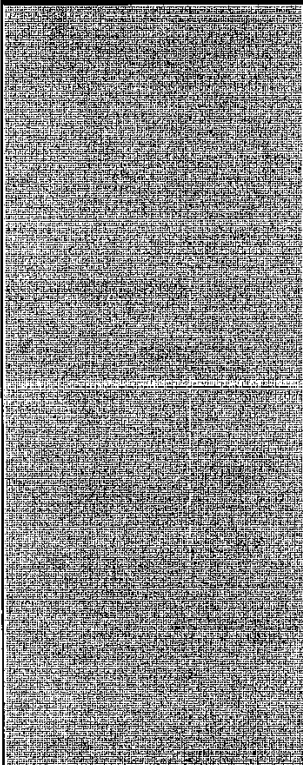
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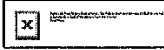
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By: Julie Kay

U.S. Bankruptcy Judge John Olson in Fort Lauderdale is at the center of a controversy involving his refusal to recuse himself from a case with representation by a law firm where his fiancé works.

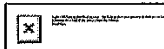


Rothstein Fallout

RRA business clients get restitution priority

By: John Pacenti

While most of the victims of Scott Rothstein will recover pennies on the dollar, about three dozen clients will be made whole, U.S. District Judge James I. Cohn ruled.

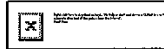


Class Action

Coke faces Miami federal suit over drink claims

By: John Pacenti

Two South Florida men have filed a federal lawsuit against Coca-Cola, claiming the company's Vitaminwater line deceives consumers by promoting the drink as a healthier alternative to soda.

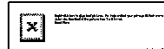


Appeals

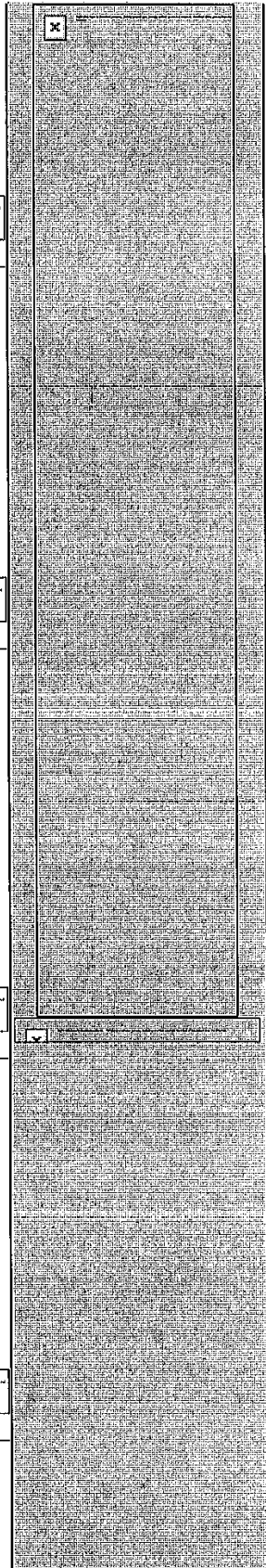
Ban on travel to state sponsors of terrorism upheld

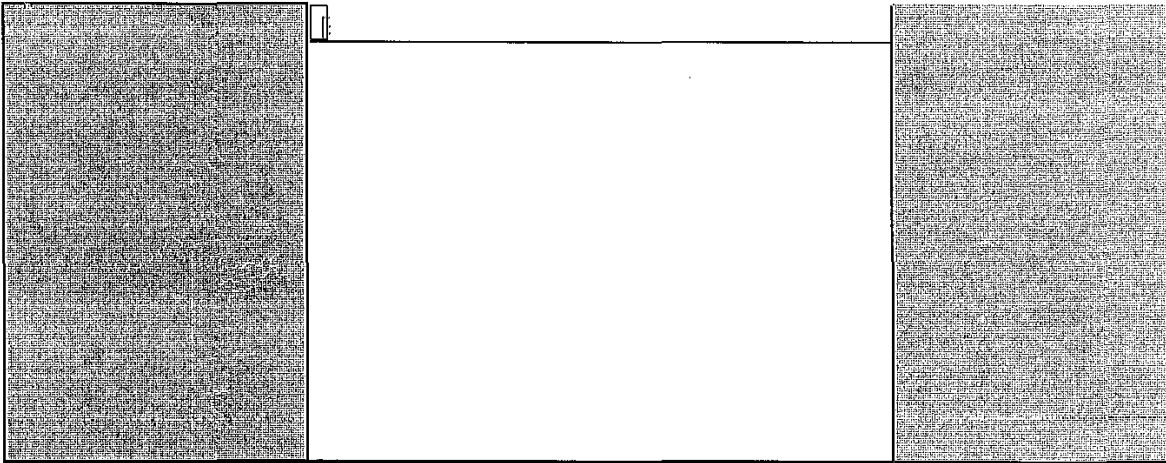
By: Leigh Jones

The 11th U.S. Circuit Court of Appeals upholds a Florida law that cut off funding for academic research by Florida International University in Cuba.



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From: Florida Bar CLE <onlinecle@flabar.org>
Sent: Thursday, September 02, 2010 8:39 AM
To: David W. Fina
Subject: The Florida Bar Online CLE Program Update September

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	<p>Five Star Reviews:</p> <p>"Very good instructors across the board." (Miami, FL)</p> <p>"MUCH BETTER THAN LIVE OR TAPED SESSIONS." (Gainesville, FL)</p> <p>"Great Video..." (Orlando, FL)</p> <p>"Really fine program. Please produce more seminars. Thank you. Alan Kelman" (BOCA RATON, FL)</p> <p>"I was very pleased because you can really fit it into a busy schedule." (Davie, FL)</p> <p>"I really appreciate the online program because it allowed me to take the course over several days which was very helpful due to family and work commitments" (Tampa, FL)</p> <p>"Especially like the portion on opening/closing arguments/voir dire & preservation of issues for appeal. Excellent</p>

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panel of speakers. Excellent material and case citations." (Boca Raton, FL)

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Jenn C. Lussier

From: David W. Fina
Sent: Tuesday, August 31, 2010 2:44 PM
To: Sondra M. Lanier
Subject: RE: Emergency Duty Judge Protocol

Anytime today and we can discuss user support.

From: Sondra M. Lanier
Sent: Thursday, August 26, 2010 12:24 PM
To: David W. Fina
Subject: Emergency Duty Judge Protocol

Judge Fina,

I took the notes you had made on my draft and took another stab at the memo. I have attached a copy for your review.

Please let me know when you want to get back together about this and foreclosure case management. I'm sorry that I have been rescheduling so much on you. I keep having things come up that require my attention and take me away from the projects I'm working on. It should get better when we are able to hire a foreclosure person.

Sondra

Jenn C. Lussier

From: Bryan Proshka <BProshka@amstarlit.com>
Sent: Tuesday, August 31, 2010 12:56 PM
To: David W. Fina
Subject: Foreclosure Defense Help

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[Push is on to make counsel more diverse](#)

[The Rodent: Referrals, whether blessing or curse, can save the bottom line](#)

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August 31, 2010

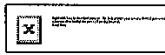
Legal News And Information You Can't Get Anywhere Else

Justice Watch

Chemical agents may not be used to subdue prisoners

By: John Pacenti

The 11th U.S. Circuit Court of Appeals upheld a decision by a Jacksonville judge ruling out pepper spray, tear gas and other chemical agents to subdue disruptive state prison inmates as unconstitutional cruel and unusual punishment.



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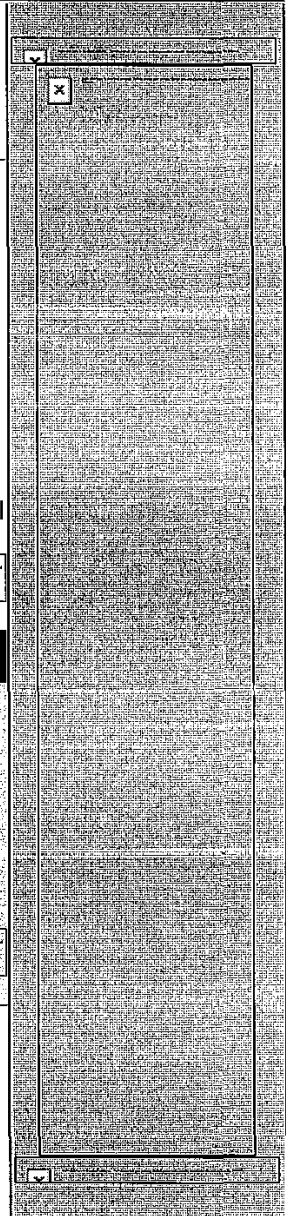


Appeals

3rd DCA erases most of jury verdict

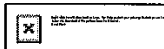
By: Adolfo Pesquera

The 3rd District Court of Appeal reversed



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most of a \$413,434 jury verdict, citing inflammatory language by an injured man's attorney.

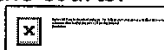


Foreclosure Crisis

New strategy attacks validity of affidavits

By: Paola Iuspa-Abbott

In a new foreclosure defense strategy, some homeowners and their lawyers are attacking the validity of affidavits that owners of delinquent notes must file with the courts.

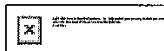


Investigations

Firms fight back against state subpoenas

By: Julie Kay

Two of three South Florida foreclosure law firms under investigation by Florida's Attorney General have filed motions to quash the state's subpoenas against them.

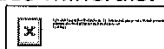


Litigation

Federal, state judges team up to settle suits

By: Andy Peters

A federal judge in Alabama had help from a state judge in Georgia on multi-district litigation that produced 222 settlements in cases claiming Total Body liquid vitamin consumers overdosed on two trace minerals.



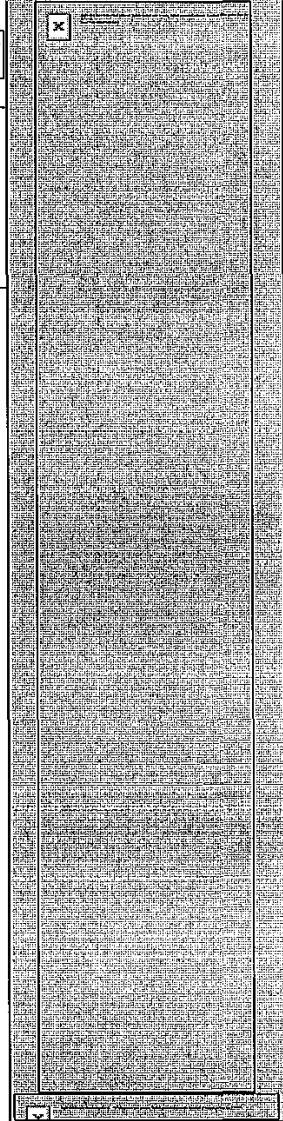
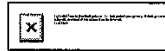
Discrimination

11th Circuit: 'Boy' doesn't prove racial bias

By: Alyson M. Palmer

A racial discrimination case generated a 2-1 unsigned opinion at the 11th Circuit, sending the case back to trial court for judgment in

favor of Tyson Foods.



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Jenn C. Lussier

From: Walt Smith <WSmith@jud12.flcourts.org>
Sent: Tuesday, August 31, 2010 8:34 AM
To: TrialCourtChiefJudges@flcourts.org
Subject: FW: Foreclosure mill fined - fyi

Meant to include you on this, but used the wrong email.
Walt

From: Walt Smith
Sent: Tuesday, August 31, 2010 7:14 AM
To: Trial Court Administrators; chiefjudges@flcourts.org
Cc: judykreeger@gmail.com; goodnerl@flcourts.org
Subject: Foreclosure mill fined - fyi

Judge fines major legal firm for foreclosure conduct

Lawyers to pay \$49,000 for not showing up at scheduled hearings

By *Todd Ruger*

Published: Tuesday, August 31, 2010 at 1:00 a.m.

A circuit judge singled out a Fort Lauderdale foreclosure firm on Monday, finding its business model violates legal ethics and leveling a \$49,000 fine for scheduling hearings and then not showing up in court.

In a judicial district that has taken a hard line on fraudulent or messy foreclosure filings, the judge's ruling is the first time a court officer has openly attacked the methods of one of the firms responsible for thousands of foreclosures statewide.

Circuit Judge Janette Dunnigan scolded five lawyers from the Smith, Hiatt and Diaz firm in connection with a Manatee County foreclosure case filed in 2007. The firm is one of several "foreclosure mills" filing thousands of foreclosure cases monthly.

The firm's attorneys filed what amounted to "sham" paperwork setting seven hearings over two years, and then failed to appear in court or tell the judge or other parties when they were canceled. The case is still unresolved.

The behavior is willful, deliberate and flagrant and violates oaths of professional practice for lawyers, Dunnigan said. The firm also routinely does not comply with local court rules about how foreclosure cases should be handled, Dunnigan ruled.

"It is disrespectful and inconsiderate of the court's time and impedes judicial administration," Dunnigan said.

Sarasota attorney Michael Belle, who is trying to clean up the foreclosure process, said it was the first major penalty from a state judge about how the so-called "foreclosure mills" do business.

The firms handle the majority of foreclosure cases for lenders, bidding against each other to handle large numbers of cases.

"If every judge did what Judge Dunnigan just did, we would have a lot less congestion in the court system," Belle said. "The judiciary has finally said, 'You've pushed too far.'"

Dunnigan brought the contempt of court herself, and threatened to push forward on a criminal contempt of court against the attorneys.

The firm's partner, Roy Diaz, told the judge Monday that the firm had changed its practices to correct the issues Dunnigan brought up in her motion for contempt, such as reviewing all cases 20 days before a hearing to make sure the firm has the paperwork ready and will not have to cancel. He said his high-volume firm would have to increase staff by 500 percent to deal with the foreclosure crisis.

But Dunnigan said the firm's new policies must not be working too well -- the firm and one of its attorneys failed to show up for a foreclosure hearing in another case Monday morning. Diaz had no explanation.

"What you're telling me is you pay lip service to me but yet I have not seen one single actual corrected policy procedure, you're telling me your volume practice is going to remain because you can't afford it," Dunnigan said.

"There is no reasonable justification for noncompliance, the way you run your business is not an excuse or justification to the court to practice law the way you do," Dunnigan said. "If you can't handle it, sir, get more lawyers or throw it to the local lawyers."

The firm will be fined \$7,000 a day until it provides Dunnigan with a description of a new policy that attorneys cannot set hearings without having all documents ready. Also, every lawyer in the firm must sign documentation that they understand the new policies.

The firm must also review all cases scheduled in Manatee County and have the attorney that will appear at that hearing sign a paper that they will do so.

After the hearing, Diaz said the ruling showed a disconnect between the reality of handling cases as a crisis hits the real estate market and the rules change constantly.

The case turned out well for the homeowner. The law firm voluntarily dismissed the case, and must pay the owner \$450 in lost wages for showing up at the last hearing.

Jenn C. Lussier

From: Jason Warman <JWarman@amstarlit.com>
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Jenn C. Lussier

From: Sondra M. Lanier
Sent: Thursday, August 26, 2010 12:24 PM
To: David W. Fina
Subject: Emergency Duty Judge Protocol
Attachments: Emergency Duty Judge.docx

Judge Fina,

I took the notes you had made on my draft and took another stab at the memo. I have attached a copy for your review.

Please let me know when you want to get back together about this and foreclosure case management. I'm sorry that I have been rescheduling so much on you. I keep having things come up that require my attention and take me away from the projects I'm working on. It should get better when we are able to hire a foreclosure person.

Sondra

Date: August 27, 2010

To: Apalachee Mental Health
Clerks of Court
Florida Department of Agriculture
Florida Department of Children and Families
Florida Department of Fish and Wildlife Conversation
Florida Department of Juvenile Justice
Florida Department of Transportation – Motor Carrier Compliance
Florida Highway Patrol
Judges
Judicial Assistants
Meridian Behavioral Healthcare
Police Departments
Public Defender
Sheriffs
State Attorney

From: Chief Judge David W. Fina

CC: Office of Court Administration

Re: Emergency Duty Judge Protocol

The purpose of this memorandum is to amend and clarify the protocol to be used when a judge is needed after hours or on the weekend, or during business hours when a local judge is unavailable for an extended period of time. Please forward this correspondence to all of your employees who may have a need to reach a judge under these circumstances.

- The judge assigned to the applicable division shall be contacted first. Should that judge be unavailable, the county's other resident judge(s) shall be contacted to see if he/she is available to handle the matter. If the assigned judge AND resident judge(s) are unavailable, the emergency duty judge should be contacted.
- Each Clerk of Court and dispatch for each Sheriff's Office in the circuit will be provided with contact information for the emergency duty judge each week. Any agency needing to contact a judge should call dispatch for their county's Sheriff's Office, and dispatch will relay a message to the emergency duty judge so that he/she may contact the agency representative needing assistance.

- Court Administration will notify the Clerks of Court and dispatch of any changes in the published schedule, as well as sending a weekly reminder on Monday of each week. For the purposes of emergency duty judge, the week begins at 8:00 a.m. on Monday and ends at 8:00 a.m. on the following Monday.

Jenn C. Lussier

From: Daily Business Review <DBR_Editor@alm.com>
Sent: Tuesday, August 24, 2010 1:32 PM
To: David W. Fina
Subject: Litigation Alert

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August 24, 2010

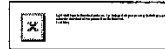
Legal News And Information You Can't Get Anywhere Else

Florida Supreme Court

Law firms challenge Bar's website proposals

By: Julie Kay

Eight large law firms have banded together to protest proposed Florida Bar rules regulating law firm websites.



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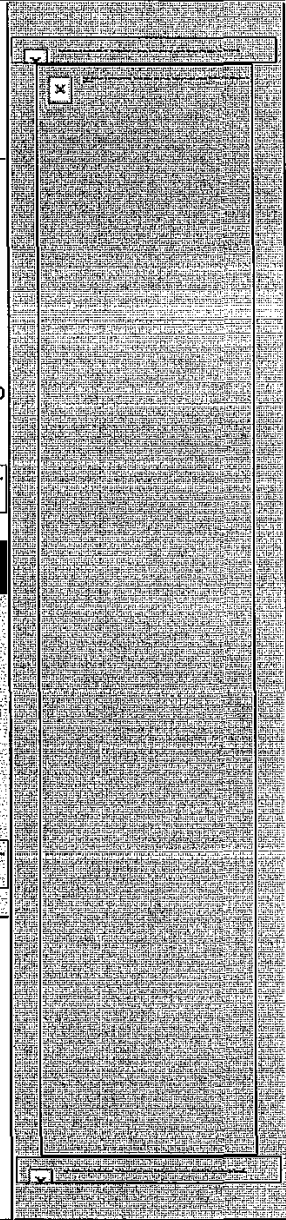


Securities Fraud

South African biotechnology company ordered to pay \$188 million

By: Jose Pagliery

A Miami federal judge has ordered a South African biotechnology company to pay a U.S. firm \$188 million in a securities fraud case, a



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conclusion he reached after the foreign corporation's lawyers withdrew as counsel.

Class Actions

Boca lawyer says juice maker deceives consumers

By: Alison Frankel

A Boca Raton attorney has filed a statewide consumer class action claiming juice maker POM Wonderful has deceived Florida juice buyers with claims that POM products can help people live longer and healthier.

Bankruptcy

Cielo developer wins key concession

By: Erik Bojnansky

The investor holding the mortgage on the troubled Cielo on the Bay condo project has agreed to the release of \$550,000 to the developer.

Justice Watch

Spending could be focus if Rosenfeldt is indicted

By: John Pacenti

Sources say that the government is aiming to have Scott Rothstein's equity partner, Stuart Rosenfeldt, indicted.

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