

Jenn C. Lussier

From: Bryan Proshka <BProshka@amstarlit.com>
Sent: Tuesday, November 02, 2010 1:52 PM
To: Julian E. Collins
Subject: Learn Foreclosure Defense & Bankruptcy And Get 27 FL Bar Approved Credit Hours For One Low Price

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- 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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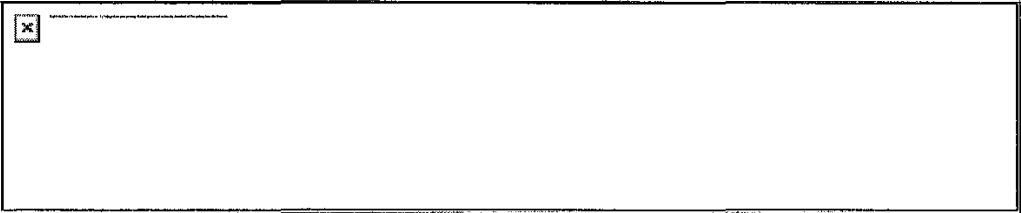
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Jenn C. Lussier

From: FloridaBarCLE@lexisnexis.com <FloridaBarCLE@mail.lexisnexis.com>
Sent: Sunday, October 31, 2010 8:30 PM
To: Julian E. Collins
Subject: The Florida Bar November 1st CLE E-newsletter



The Florida Bar CLE e-Newsletter

November 2010

Your source for information about upcoming [CLE Seminars](#) and new editions of CLE Publications. Reporting date coming soon? [Look for CLE Seminar](#) programs in your area.

Online CLE Catalog Offerings

For maximum flexibility in obtaining your CLE credits, see our listing of upcoming live webcasts, tele-seminars, tele-web seminars, online on-demand courses, as well as CLEtoGo (downloadable audio) seminars [here](#).

November 2010 CLE Seminars

[Family Law Case Law Update 2010](#) | [Bankruptcy Law & Practice: View from the Bench](#) | [Basic Criminal Law 2010](#) | [Practical and Theoretical Aspects of Evidence for the Family Law Practitioner](#) | [Tax Practitioners' Annual Review and Update 2010](#) | [Tips from the "Pros from Dover"*](#) | [Section 1983 for Government Lawyers](#) | [Estate Planning in an Ever Changing Environment Looking Back and Forward in 2010](#) | [Current Issues in Real Property and Mortgage Law: Is That a Light at the End of the Tunnel?](#) | [The New Silk Road: Negotiating China](#) | [Practicing with Professionalism \(Fall 2010\)](#)

Family Law Case Law Update 2010

Course Classification: Intermediate Level
Telephonic Seminar: November 3, 2010 - Noon - 2 p.m. (EST)

Get information about family law cases since January 1, 2010 from attorney Eddie Stephens West Palm Beach.

RELATED FLORIDA BAR CLE PUBLICATION

Drafting Marriage Contracts in Florida, Ninth Edition with CD-ROM

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Drafting a premarital or marital settlement agreement is a delicate process. The final document must not only reflect the intent of the parties but be clear enough to withstand future efforts to modify it and to avoid the assorted tax pitfalls and consequences. *Drafting Marriage Contracts in Florida* guides the practitioner through this potential minefield with chapters discussing general standards for drafting and review, drafting and defending a premarital agreement, what to include in, and how not to arrive at, a marital settlement agreement, tax consequences of alimony, support, and property settlement provisions, use of agreements in estate planning, and challenging, modifying, and enforcing agreements. Detailed forms that can be used to produce a premarital agreement and a marital settlement agreement are provided.



Highlights of the new Ninth Edition's coverage include:

- Effects of amendments to F.S. 61.13 and 61.13001 regarding parenting plans and relocation on marital agreements
- Amendments to Internal Revenue Code including determination of which parent has "custody" for purposes of dependency exemption
- Florida's "portability benefit" and its effect on disposition of the marital home
- Effect of potential decline in net worth on marital agreements
- Enforcement issues for mediated settlement agreements

To receive a 20% discount on future updates for this publication call 1-800-533-1637 to become a subscriber under the Automatic Shipment Subscription Program and to obtain full terms and conditions for that program.

[Click here for more information.](#)

Bankruptcy Law & Practice: View from the Bench

Course Classification: Intermediate Level

2 Live Presentations: November 4, 2010 - Tampa & November 5, 2010 - Miami

This course is designed to provide the practitioner with a look from the judicial perspective. Subjects covered will be: Consumer & BAPCPA Issues, Professional Fees & Chapter 11 Issues and Practice Pointers: A Judicial Perspective.

Basic Criminal Law 2010

Course Classification: Basic Level

2 Live Presentations: November 18, 2010 - Miami & November 19, 2010 - Tampa

An introduction to basic issues of criminal law, including ethics in criminal cases, defending DUI cases, expungements, juvenile representation, cross

examinations, federal practice, and concludes with a judicial panel discussion.

Practical and Theoretical Aspects of Evidence for the Family Law Practitioner

Course Classification: Intermediate Level

Live & Webcast Presentation: November 19, 2010 - Hilton Fort Lauderdale Marina, Fort Lauderdale, FL

Join the Family Law Section as they explore evidence in family law cases.

Tax Practitioners' Annual Review and Update 2010

Course Classification: Advanced Level

Live Presentation: November 5-6, 2010 - Tampa Airport Marriott, Tampa, FL

This seminar includes topics on Choice of Entity Taxation, Taxation of S Corporations, Tax Procedure, International Tax, Tax Exempt Organizations, State and Local Taxation, Individual Taxation, Wealth Transfer Tax, Taxation of C Corporations, Taxation of LLCs and Partnerships, and Taxation of Employee Benefits.

Tips from the "Pros from Dover"*: Section 1983 for Government Lawyers

Course Classification: Intermediate Level

Live Presentation: November 5, 2010 - Florida State University College of Law, Tallahassee, FL

Join government attorneys as they discuss tips for Section 1983. Topics include: Jurisdiction, Venue and Removal to Federal Court; Pleading Requirements, Sufficiency of the Allegations and Elements of a Cause of Actions; Attorneys Fees and Costs; and many more.

Estate Planning in an Ever Changing Environment Looking Back and Forward in 2010

Course Classification: Intermediate Level

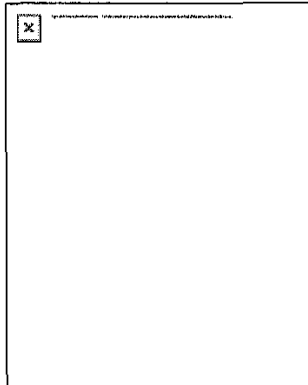
Live & Webcast Presentation: November 19, 2010 - Hilton Orlando, Orlando, FL

This seminar will cover the following topics: Charging Order Status and Planning After Olmstead, Asset Protection Trusts, The Difference Between Modification and Reformation Can be Unexpected Taxes, The Law Changes, Whom do you Tell, Planning Considerations for Out-of-State Property, Roth IRAs - Deciding Whether to Roth your Traditional IRA or Give it to Charity?, Using Trusts in Roth IRA Planning.

RELATED FLORIDA BAR CLE PUBLICATION

Practice Under Florida Probate Code, Sixth Edition with CD-ROM

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Written by skilled Florida probate attorneys, *Practice Under Florida Probate Code* provides comprehensive analysis of all the steps that you need to take to administer an estate in Florida. It features discussions of major changes to the Probate Code made over the past few years, alerts the user to recent changes to the Florida Probate Rules, and also highlights relevant tax considerations. Forms, sample accountings, and charts for basic probate practice enhance the book's practitioner focus.

The companion CD-ROM provides the text of the book plus links to the full text of cited cases and statutes. For full system requirements, click [here](#)

Highlights of the Sixth Edition include:

- Coverage of 2010 legislative changes, including revisions to caveat, homestead, elective share, and safe-deposit box provisions
- Review of recent amendments to Fla.R.Jud.Admin. 2.420, concerning confidentiality of court records
- Comprehensive revision of the forms

To receive a 20% discount on future updates for these publications call 1-800-533-1637 to become a subscriber under the Automatic Shipment Subscription Program and to obtain full terms and conditions for that program.

[Click here for more information.](#)

Current Issues in Real Property and Mortgage Law: Is That a Light at the End of the Tunnel?

Course Classification: Intermediate Level

Live & Webcast Presentation: November 12, 2010 - Tampa Airport Marriott, Tampa, FL

This seminar will provide a wide audience with the latest information on real estate transaction and litigation issues of the day. Whether you handle foreclosures, post-foreclosure sales, short sales or more traditional transactions, this seminar is for you. Topics include the new foreclosure rules, MERS-held mortgages, community association assessments following foreclosure, "hidden liens", tax deeds, the new homestead laws and construction liens. Trends such as non-judicial foreclosures and Chinese investments in U.S. projects will also be explored. Finally, a lively panel will discuss ethics issues presented by a variety of these subjects.

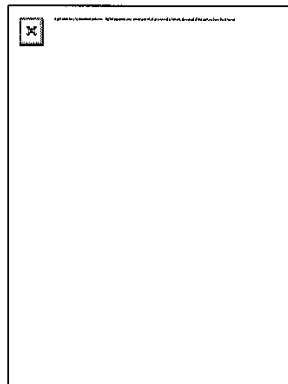
RELATED FLORIDA BAR CLE PUBLICATION

FasTrain - Mortgage Foreclosure and Alternatives, Sixth Edition with CD-ROM

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This quick-training guide explains procedures involved in handling payment defaults on mortgaged property. This accessible and authoritative reference:

- enables you to determine the best action to pursue against the debtor
- discusses the proper parties to a foreclosure action
- outlines the necessary steps required to file and complete a foreclosure action
- provides over 40 forms



In addition, this new edition includes an analysis of the surplus funds provisions, statutes regarding foreclosures against military personnel, and a discussion of the Florida Supreme Court's administrative order mandating mediation. It also addresses pertinent case law and provisions of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 as well as amendments to the Fair Debt Collection Practices Act and special provisions that apply to VA, FHA, and SBA government-insured mortgages. The companion CD-ROM features the full text of the book plus selected Florida statutes and case decisions.

To receive a 20% discount on future updates for these publications call 1-800-533-1637 to become a subscriber under the Automatic Shipment Subscription Program and to obtain full terms and conditions for that program.

[Click here for more information.](#)

The New Silk Road: Negotiating China

Course Classification: Intermediate Level

Webinar Presentation: November 17, 2010 - Noon - 1pm (EST)

Expertise in corporate law and the art of the deal are not enough for the corporate lawyer quarterbacking a multi-million dollar deal in Shanghai. Success in China is dictated by "guanxi," or the "personal touch" necessary in a culture driven by carefully cultivated relationships and a common

understanding of the practice of business and law. This webinar, presented by the co-chairs of the International Law Section China/Asia Committee, will help you understand the most important aspects of doing business in China. In addition to an overview of the specific types of business deals involving China and Chinese parties that the Florida lawyer is likely to encounter, the program will teach critical cultural issues necessary for effective negotiation with Chinese counterparties, and focus on specific approaches for many important contractual elements, including arbitration clauses, choice of law, venue, and currency of payment.

Practicing with Professionalism (Fall 2010)

Course Classification: Basic Level

11 Locations: August 19 - December 14, 2010 - Miami - Tampa - Orlando - West Palm Beach - Tallahassee - Ft. Lauderdale - Jacksonville - Ft. Myers

A one day seminar providing a broad overview of ethical and professional issues designed for new lawyers in fulfillment of phase 1 of the Basic Skills Requirement. The Florida Supreme Court in The Florida Bar Re: Amendment to Rules Regulating The Florida Bar, Rule 6-12 (Basic Skills Course Requirement, 524 So. 2d 634 (Fla. 1988)), made Practicing with Professionalism, mandatory for attorneys admitted to The Florida Bar after October 1, 1988. Effective on May 12, 2005, the Supreme Court of Florida amended Rule 6-12.3 and Rule 6-12.4. These amended rules state that in addition to attending Practicing with Professionalism, new admittees must attend three "basic" level substantive continuing legal education programs presented by the YLD. The Basic Skills Course Requirement must be completed within the initial 3-year continuing legal education cycle after admission to The Florida Bar or within 2 years after the expiration of any exempt status. The Practicing with Professionalism requirement must be met within the first year of admission to The Florida Bar or one year prior to being admitted to The Florida Bar. Out-of-State Practitioners, Military lawyers and Governmental lawyers may be exempt from the Basic Skills Course Requirement and should refer to Rule 6-12.4 to determine eligibility for an exemption.

Visit [The Florida Bar CLE Website](#) for more information about CLE seminars, video tapes and cassettes, online courses, and other information about your CLE requirements.

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Jenn C. Lussier

From: David W. Fina
Sent: Thursday, October 28, 2010 2:24 PM
To: Darren K. Jackson; David W. Fina; Debra P. Sadler; E. Vernon Douglas; Frederick L. Koberlein; Greg S. Parker; H. Wetzel Blair; James R. Bean; Jean Pittman; Julian E. Collins; Leandra G. Johnson; Paul S. Bryan; Sonny Scaff; Tom Coleman; William R. Slaughter
Subject: FW: Foreclosure Initiative
Attachments: 10.27.10.laurent.memo.docx

FYI

David W. Fina
Circuit Court Judge
Third Judicial Circuit

From: Sue Bruce [mailto:bruces@flcourts.org]
Sent: Thursday, October 28, 2010 11:51 AM
To: Trial Court Chief Judges
Cc: Trial Court Budget Commission
Subject: Foreclosure Initiative

Please see the attached memorandum from Judge John Laurent. Thanks!

Sue Bruce
Personal Secretary II
Office of the State Courts Administrator
500 S. Duval Street
Tallahassee, FL 32399
Phone: 850/922-5081
Fax: 850/488-0156



MEMORANDUM

TO: Chief Judges of the Circuit Courts

FROM: John Laurent

DATE: October 28, 2010

SUBJECT: Foreclosure Initiative

*The Honorable
John F. Laurent, Chair*

*The Honorable
Margaret Steinbeck,
Vice-Chair*

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- Paul S. Bryan, Circuit Judge*
- Joseph P. Fatina, Circuit Judge*
- Charles A. Francis, Circuit Judge*
- Mark Mahon, Circuit Judge*
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Justice James E. C. Perry

*Florida State Courts System
500 South Duval Street
Tallahassee, FL 32399-1900
www.flcourts.org*

In follow up to the Judicial Administration Committee conference call held on October 18, 2010, I am writing to reiterate the Trial Court Budget Commission's purpose for tracking the progress of cases the trial courts are hearing using funding provided for the foreclosure and economic recovery initiative. When the Florida Legislature appropriated special funding of \$6 million to help the trial courts with the significant backlog of foreclosure cases, the Trial Court Budget Commission established a measurement of progress that corresponded to the funding received: 62% of the backlog cases potentially could be processed because the Legislature funded 62% of the original request from the courts. A simple case tracking system was set up to monitor the progress and identify any reasons for delays. This is so that we will be able to report to the Legislature on how these funds were used. However, the Legislature has not specifically directed us to make such a report.

The 62% rate is not a quota. The 62% rate is simply a goal set by the TCBC to help measure the courts' progress in this initiative and document how the appropriation for the foreclosure initiative is being spent. The 62% rate was set before the initiative began and, most notably, before many of the lender moratoriums and other delays occurred. Please assure judges working on this project that the 62% rate was never intended to interfere with their ability to adjudicate each case fairly on its merits.

We will continue to monitor the progress of this initiative because we have an obligation to account for how these funds have been used. But we also will document all issues related to any difficulties that prevent or delay the court from hearing and disposing of cases before them.

JL/ks

cc: TCBC Members

Jenn C. Lussier

From: Julian E. Collins
Sent: Monday, October 25, 2010 5:40 PM
To: Sondra M. Lanier
Subject: RE: Staff News

A lot of people seem to be pitching. What about the batters? After all, the World Series starts Wednesday night. Contrary to almost lifelong prejudices, which almost always have favored the National League, I have to pull for the Rangers

Julian Collins

From: Sondra M. Lanier
Sent: Monday, October 25, 2010 10:25 AM
To: Barb Lussier; Bonnie S. Page; Brenda P. Pryce; Carrina M. Cooper; Casey C. Harrison; Charna E. Raines; Crystal M. Ecker; D. Judd Walden; Debbie A. DeNike; Debbie L. Copeland; Dianna W. Peeler; Duane L. Bestoso; Jackie-Jo Brinson; Jana D. Sullivan; Janice M. Howard; Jennifer R. Kuyrkendall; John Lake; Judy S. Eichar; Junaid X. Savani; June Byers; Kathleen M. Brackney; Laurie A. Chaffin; Lisa L. Butler; Lori A. McKee; Lynn Sapp; Nancy T. Blanton; Ronna M. Cobble; Rosalind Merrick; Sandy A. Ring; Tracy Brantley
Cc: 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: Staff News

Good morning. Please join me in congratulating Janice Howard who will be assuming the duties of family court case manager next week. Janice was first hired as part-time secretary for the Child Support Hearing Officer, and she then moved to the front desk in Lake City when she was promoted to Administrative Assistant II.

Charna Raines will remain at the front desk in the Lake City office, and she will assume all of the responsibility for the phones and assisting walk-in's. We will not have a second person at the front as we have had in the past, so I am asking Lake City staff to pitch in and help as needed.

The Administrative Assistant III and Administrative Services Manager postings close tomorrow. We will be advertising soon for 2 digital court reporters, although we do not expect those positions to be filled until December. We have not yet hired a User Support Analyst to fill Jacob's old position, although we hope to fill that position soon as well.

Ronna Cobble, who is the Foreclosure Case Manager, is able to work only a few hours per week until mid-December. We are pitching in as much as possible to keep the foreclosure cases moving in her absence, but her absence is definitely being felt.

Thanks to all of you who are pitching in to fill the voids created by all of these vacancies, and to those who are being patient as we adjust workloads and do our best to respond to you in a timely manner.

Sondra

Jenn C. Lussier

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Sent: Monday, October 25, 2010 10:25 AM
To: Barb Lussier; Bonnie S. Page; Brenda P. Pryce; Carrina M. Cooper; Casey C. Harrison; Charna E. Raines; Crystal M. Ecker; D. Judd Walden; Debbie A. DeNike; Debbie L. Copeland; Dianna W. Peeler; Duane L. Bestoso; Jackie-Jo Brinson; Jana D. Sullivan; Janice M. Howard; Jennifer R. Kuyrkendall; John Lake; Judy S. Eichar; Junaid X. Savani; June Byers; Kathleen M. Brackney; Laurie A. Chaffin; Lisa L. Butler; Lori A. McKee; Lynn Sapp; Nancy T. Blanton; Ronna M. Cobble; Rosalind Merrick; Sandy A. Ring; Tracy Brantley
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Sondra

Jenn C. Lussier

From: The Florida Bar <careercenter@flabar.org>
Sent: Tuesday, October 19, 2010 5:41 PM
To: Julian E. Collins
Subject: Job Flash: 15 New Legal Jobs

15 new legal jobs from the Florida Bar Career Center | [View this email in your browser.](#)

Job Flash

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15 new legal jobs

Attorney

Abadin Cook - Miami, FL

Seeking lateral contract partners to join our expanding commercial and transactional practice. We offer an excellent platform that will allow you to expand your practice, while working in a small group of diverse, dedicated attorneys. Email resume to mbehar@abadincook.com. [more info...](#)

Senior Level Attorney

Confidential - Orlando, FL

AV rated mid-sized Orlando law firm is seeking a senior level attorney with substantial litigation experience in representing businesses and/or local governments. The ideal candidate will have at least 5 or more years experience in representing businesses and/or local government entities in litigation before DOAH and in state and federal courts, in matters involving the defense of liability claims, employment law, governmental issues, and/or construction disputes. [more info...](#)

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One of Northwest Florida's pre-eminent law firms, seeks an Attorney to join its commercial law department. Practice areas would include commercial litigation, bankruptcy, foreclosure, and collections. Experience is preferred and applicant must be licensed in Florida. Excellent benefit package. Salary commensurate with experience. ES&C is an Equal Opportunity Employer and a Drug Free Workplace. Please submit resume to hr@esclaw.com or fax to (850) 444-3995. [more info...](#)

Nou Kab (We Can) Attorney - Creole Speaker

Florida Immigrant Advocacy Center - Miami, FL

Florida Immigrant Advocacy Center (Miami, FL) seeks a bright, energetic and passionate attorney who speaks Creole fluently to represent Haitian women who are victims of domestic violence. The attorney will

also be responsible for maintaining the project's high visibility in the Haitian community. [more info...](#)

Labor & Employment Associate

Ford & Harrison LLP - Melbourne, FL

All candidates should have 4 years of litigation experience, labor and employment preferred; good academic credentials and strong writing skills. Ford & Harrison is a labor and employment law firm with a national practice in all aspects of labor and employment law. [more info...](#)

Labor & Employment Associate

Ford & Harrison LLP - Tampa, FL

All candidates should have 3-6 years of advanced litigation skills. Substantial experience with labor and employment matters preferred. Ford & Harrison is a national labor and employment firm with close to 200 lawyers in offices throughout the country. [more info...](#)

Prelitigation Personal Injury Attorney

John Bales Attorneys - Tampa Bay, FL

Growing Plaintiff-based personal injury and insurance coverage law firm is seeking professional qualified attorneys. Positions require a minimum of 3 years experience. Highly motivated applicants must have outstanding advocacy and negotiation skills and proficiency at law office computer systems. The firm seeks individuals who are team players, detailed, accomplishment driven, and have a desire to help others. Excellent academic background and proven research and writing skills required. [more info...](#)

Real Estate Litigation Attorney

Kass Shuler - Tampa, FL

This is a 2 to 3 month contract assignment, with the potential opportunity for permanent placement within the firm. Must have a minimum of 2 years experience. Knowledge of the foreclosure process, including the ability to examine title, a must. [more info...](#)

Associate (Collections Dept)

Katzman Garfinkel & Berger - Fort Lauderdale, FL

A premier AV-Rated statewide Community Association law firm is seeking a Florida Bar licensed Attorney with Collections experience to join our growing Fort Lauderdale Collections Department. Named one of the Best Places to Work in 2009 by the South Florida Business Journal. Designated as One of the Most Distinguished Law Firms in America by Martindale-Hubbell. Qualified applicants, send Resume & Cover Letter to: Recruiter@kgblawfirm.com. [more info...](#)

Estate Planning, Probate, Tax, Corporate Attorney

Kirk-Pinkerton P.A. - Sarasota/Bradenton, FL

Estate Planning, Probate, Tax, Corporate attorney with 10 to 20 year experience with high net worth clients. [more info...](#)

Foreclosure Case Load Attorney

Law Offices of Marshall C. Watson P.A. - Fort Lauderdale, FL

Prestigious Florida full service foreclosure law firm, which strictly represents mortgage lenders and servicers throughout Florida is seeking a Foreclosure Attorney. The services our firm provides range from foreclosure, bankruptcy representation and evictions to REO closings and title insurance. Our office provides the highest quality representation available and continually strives to ensure our interests are aligned with those of our clients. [more info...](#)

Litigation Attorney

Parker Waichman Alonso LLP - Bonita Springs, FL

AV-rated Plaintiff's Personal Injury national law firm seeks highly motivated and experienced attorneys with 10 years experience in auto accidents, medical malpractice and products liability for Bonita Springs office. Candidates must be well-versed in all aspects of litigation from case inception through trial. [more info...](#)

Corporate Employment / Benefits Attorney

Paychex, Inc. - St. Petersburg, FL

A leading national professional employer organization is seeking an individual to join our Corporate Legal Team. This position will be located in our main PBS office in St. Petersburg Florida. This attorney will provide primary legal support to our PEO Sales, Operations and Compliance teams including legal advice and support relating to employment law and benefits matters. They will manage litigation and represent PBS and Paychex in agency proceedings. [more info...](#)

Insurance Defense Associate

Powers McNalis Torres & Teebagy - West Palm Beach, FL

A successful insurance defense firm in West Palm Beach. We are seeking a litigation associate with 3-5 years property insurance coverage litigation experience. Ideal candidates are bright, analytical, independent and decisive with strong writing skills. We offer a competitive salary and benefit package. Interest candidates should submit their resume and salary requirements to atorres@powersmcnalis.com or fax (561)588-7960. [more info...](#)

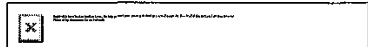
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Jenn C. Lussier

From: N.A.Bacharach <N.A.Bacharach@att.net>
Sent: Monday, October 18, 2010 6:56 PM
To: Judge Robert E. Roundtree; Judge Robert P. Cates; Judge Thomas Jaworski;
Judges@nabjr.com
Subject: Employees of Florida's largest "foreclosure mill" given gifts for altering documents

Witness: Foreclosure firm owner gave gifts for altering documents

By Shannon Behnken
Tampa Bay Online Tampa Bay Online

TAMPA — Some employees of Florida's largest "foreclosure mill" were given jewelry, cars and houses from the firm, in exchange for altering and forging key documents used to obtain foreclosures, according to a statement released today by the Florida Attorney General's Office.

The office released transcripts of two interviews it conducted for its investigation into the law offices of David J. Stern. The sworn statements were from Kelly Scott, a former employee of Stern's and Mary R. Cordova, a former employee of G&Z, a process server used by Stern's office. The women's testimonies appear to back up that of former Stern's employee Tammie Lou Kapusta, whose statement was released last week. The three statements paint a picture of a secret system designed to speed up the foreclosure process. Attorneys and staff members forged signatures, changed dates, passed around notary stamps, the women say in interviews with attorney general's staff.

The two former Sterns employees described long tables where employees would sign as a witness and notarize documents without actually witnessing the signing. Twice a day, Scott said, the company's chief operating officer, Cheryl Samons, would go into the office and sign 500 documents at a time "without reading them.

Scott was Samons' legal assistant.

As a perk of Samons' job, Stern's office would routinely pay her personal mortgage, a car payment, her electric bills and her cell phone bill, according to Scott, who told investigators Stern also bought Samons a new BMW sport utility vehicle every year and gave her and other employees jewelry. Additionally, Stern purchased employee David Vargas a house, a car and a cell phone, Scott claims in her statement.

Scott said the office would move forward with cases, even if they knew the homeowner had not been properly notified of the lawsuit.

Fannie Mae and Freddie Mac were Stern's "babies," Scott said, and they routinely questioned documents and came to the office to check files. Last week Freddie and Fannie said they would audit Stern's files.

Someone inside both organizations would tip Sterns off to the visits, and Stern's staff would then alter client codes and hide files, according to Scott's statement. When Fannie and Freddie employees left, they'd bring the files back out. The other witness, Cordova, worked at G&Z for two months. The firm, which handled service

for various foreclosure law firms, had special instructions for Stern, the firm's main client, according to Cordova's statement.

Every file was billed for at least four people to be served with the foreclosure paperwork, even if the firm knew there weren't that many people with interest in the property. These bills were sent out before the parties were served and, often, Cordova said, the company didn't follow through with the service. These bills are paid by the lenders and, eventually, passed along to the homeowners. Kapusta, whose statement was initially released last week, said she was fired after she questioned procedures. The other two employees said they left on their own.

--

N. Albert Bacharach, Jr.

N. Albert Bacharach, Jr.

N. Albert Bacharach, Jr. P.A.

115 NE 6th Avenue

Gainesville, Florida 32601-3416

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Jenn C. Lussier

From: Sondra M. Lanier
Sent: Friday, October 15, 2010 6:11 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: FW: New Publication Announcement from Judge Mark King Leban, Chair, FCEC Publication Committee
Attachments: Foreclosure Bench Book.pdf

FYI...

From: Melissa Henderson [mailto:HendersM@flcourts.org]
Sent: Thursday, October 14, 2010 12:10 PM
To: Trial Court Chief Judges; Trial Court Administrators
Cc: Susan Leseman; OSCA-JUED; Blan Teagle
Subject: New Publication Announcement from Judge Mark King Leban, Chair, FCEC Publication Committee

To: Chief Judges and Trial Court Administrators

From: Judge Mark King Leban, Chair, Florida Court Education Council's Publications Committee

Re: New Publication: *Residential Foreclosure Bench Book*

The Publications Committee of the Florida Court Education Council is pleased to announce the posting of the *Residential Foreclosure Bench Book* in the Court Education Resource Library on the Florida State Courts intranet. The *Residential Foreclosure Bench Book* was written by the Eleventh Circuit's Judge Jennifer Bailey and Assistant General Counsel Doris Bermudez-Goodrich. Used for a recent judicial education course for judges assigned to hear foreclosure cases, this bench book presents readers with the nuts and bolts of current foreclosure law and procedures.

In addition to this bench book, the Court Education Resource Library, developed by OSCA's Court Education Section and Publications Unit, contains a plethora of judicial education materials, among them, court publications (benchguides, bench books, toolkits, and case summaries); court education program materials; and other useful resources (a catalog of books, manuals, and other publications, including materials by state and-national organizations).

A PDF of the bench book is attached, but you can also access it from the Court Education Resource Library, at https://intranet.flcourts.org/osca/Judicial_Education/Library/librarymain.shtml (As the bench book will be periodically updated to reflect changes in foreclosure law and procedure, please visit the site for update notifications.)

Please share this information with judges and court staff who are handling residential mortgage foreclosure cases.

If you have any questions, contact Susan Leseman, OSCA Publications Attorney, at (850) 922-5085 or lesemans@flcourts.org

RESIDENTIAL FORECLOSURE BENCH BOOK

Prepared by

Honorable Jennifer D. Bailey
Administrative Judge
Circuit Civil Jurisdiction Division
Eleventh Judicial Circuit of Florida

and

Doris Bermudez-Goodrich
Assistant General Counsel
Eleventh Judicial Circuit of Florida

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Introduction

1. Foreclosure is the enforcement of a security interest by judicial sale of collateral. All mortgages shall be foreclosed of equity. § 702.01, Fla. Stat. (2010).

2. **Definitions:**

(a) **Mortgage:** any written instrument securing the payment of money or advances including liens to secure payment of assessments for condominiums, cooperatives and homeowners' associations. § 702.09, Fla. Stat. (2010).

A mortgage creates only a specific lien against the property; it is not a conveyance of legal title or of the right of possession. § 697.02, Fla. Stat. (2010); *Fla. Nat'l. Bank & Trust Co. of Miami v. Brown*, 47 So. 2d 748 (1949).

(b) **Mortgagee:** refers to the lender; the secured party or holder of the mortgage lien. § 721.82(6), Fla. Stat. (2010).

(c) **Mortgagor:** refers to the obligor or borrower; the individual or entity who has assumed the obligation secured by the mortgage lien. § 721.82(7), Fla. Stat. (2010). The mortgagor holds legal title to the mortgaged property. *Hoffman v. Semet*, 316 So. 2d 649, 652 (Fla. 4th DCA 1975).

3. To foreclosure the mortgage lien and extinguish equities of redemption, secured parties must file a civil action. § 45.0315, Fla. Stat. (2010).

Lender's Right to Foreclose

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

(a) Right unaffected by defendant's misfortune. *Lee County Bank v. Christian Mut. Found., Inc.*, 403 So. 2d 446, 449 (Fla. 2d DCA 1981); *Morris v. Waite*, 160 So. 516, 518 (Fla. 1935).

(b) Right not contingent on mortgagor's health, good fortune, ill fortune, or the regularity of his employment. *Home Owners' Loan Corp. v. Wilkes*, 178 So. 161, 164 (Fla. 1938).

(c) Contract impairment or imposition of moratorium is prohibited by court. *Lee County Bank v. Christian Mut. Foundation, Inc.*, 403 So. 2d 446, 448 (Fla. 1981).

Jenn C. Lussier

From: Bryan Proshka <BProshka@amstarlit.com>
Sent: Friday, October 08, 2010 11:55 AM
To: Julian E. Collins
Subject: Your CLE Hours

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- Training Presentation – Chapter 7 Frequently Asked Questions
- Training Presentation – Chapter 13 Facts and Foreclosures in Chapter 13
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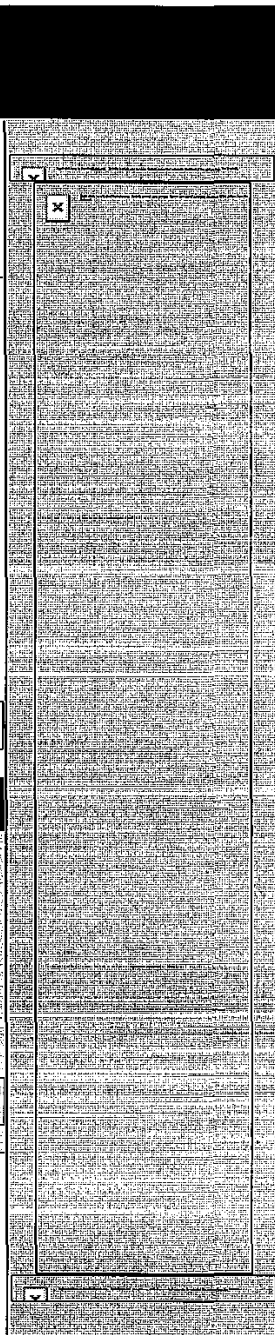
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Jenn C. Lussier

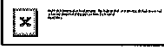
From: Daily Business Review <DBR_Editor@alm.com>
Sent: Tuesday, October 05, 2010 12:07 PM
To: Julian E. Collins
Subject: Litigation Alert

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

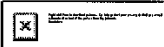


Chinese Drywall

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.

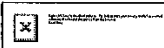


Divorce Battle

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.

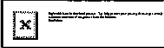


Justice Watch

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: Julian E. Collins
Sent: Tuesday, September 28, 2010 7:58 AM
To: Ronna M. Cobble
Subject: RE:

Great news, indeed. Where did you go to medical school? Just kidding. JEC

Julian Collins

From: Ronna M. Cobble
Sent: Monday, September 27, 2010 11:18 AM
To: Julian E. Collins; Candice T. Herring
Subject:

Great news. Barb showed me how to scan and send my notes. You should be able to have a more clear copy now.

The "grayed" out cases are ones that have been closed already and entered in our FERCTS report. Any other "stray marks" are really of no consequence. Of course, if you need any clarification on the notes give me a call or email. I'll do my best to help.

As you see, I also sent a copy to Candice.
I will let you know as soon as the circuit-wide case management notice is ready.
Enjoy!! ☺

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: Ronna M. Cobble
Sent: Monday, September 27, 2010 11:18 AM
To: Julian E. Collins; Candice T. Herring
Attachments: Judge Collins' Foreclosures.PDF

Great news. Barb showed me how to scan and send my notes. You should be able to have a more clear copy now.

The "grayed" out cases are ones that have been closed already and entered in our FERCTS report. Any other "stray marks" are really of no consequence. Of course, if you need any clarification on the notes give me a call or email. I'll do my best to help.

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Enjoy!! ☺

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

Judge Collins' Pending Foreclosures as of June 30, 2010

Case Number	Date Initiated	Last Action	
122008CA000680CAXXX	10/29/2008	8/10/10	NOTICE OF L.O.P./MOTION TO DISMISS
✓ 122008CA000671CAXXX	10/23/2008	8/20/09	NOTICE OF CANCELLATION - 4/12/09 HEARING ON MOTION FOR SUMMARY JUDGMENT
122008CA000665CAXXX	10/21/2008	8/11/10	NOTICE OF L.O.P./MOTION TO DISMISS
✓ 122008CA000581CAXXX*	9/12/2008	8/30/10	DISMISSED
✓ 122007CA000040CAXXX	1/26/2007	2/9/07	ANSWER
122007CA000043CAXXX	1/26/2007		LEEN - HOMEOWNERS' FEES - EXCLUDE
122008CA000566CAXXX	9/9/2008	1/7/10 2/1/10	MOTION TO DISMISS ALIAS SUMMONS SERVED
✓ 122007CA000079CAXXX	2/16/2007	2/23/2007	Summons Served
122008CA000509CAXXX	8/12/2008	8/11/2010	notice of LOP/motion to dismiss
✓ 122008CA000497CAXXX	8/6/2008	12/23/2008	notice of cancellation of hearing (12-23-2008)
✓ 122007CA000106CAXXX	3/6/2007	3/6/2007	complaint
122008CA000486CAXXX	8/4/2008	8/11/2010	notice of L.O.P./Motion to dismiss
122008CA000483CAXXX	8/4/2008	8/11/2010	notice of LOP/Motion to dismiss

> 16 mo.

> 3y 7m

?

> 3y

> 1y 8m

> 3y

✓ 122007CA000193CAXXX	5/14/2007	7/16/2007	Summons served	> 3y
122008CA000474CAXXX	7/30/2008	8/11/2010	notice of L.O.P. / Motion to dismiss	
122008CA000468CAXXX	7/29/2008	8/11/2010	notice of L.O.P. / Motion to dismiss	
122009CA00060CAXXX	1/27/2009	8/30/2010	notice of foreclosure sale	
✓ 122007CA000352CAXXX	8/16/2007	9/13/2007	Summons served	> 3y
✓ 122007CA000405CAXXX	9/13/2007	11/8/2007	Answer and affirmative defenses Answer to counterclaim and crossclaim	> 10m
122009CA000255CAXXX	4/6/2009	8/20/2010	notice of hearing (10-19-2010)	
122007CA000429CAXXX	9/26/2007	8/16/10	*exclude → not a foreclosure voluntary dismissal	*
122008CA000396CAXXX	6/25/2008	8/11/2010	notice of L.O.P. / motion to dismiss	
122008CA000393CAXXX	6/25/2008	9/2/2010	Plaintiff showing good cause in response to court's intent to dismiss	ly 1m
✓ 122008CA000304CAXXX	5/15/2008	8/7/2009	notice of voluntary dismissal w/o prejudice of Court II	foreclosure
for FERETS is this FS? ✓ 122009CA000141CAXXX	3/2/2009	4/22/2009	conditional final judgement	
122009CA000222CAXXX	3/30/2009	7/28/2010	notice of filing plaintiffs affidavit in support of motion for summary judgement	
122009CA000230CAXXX	3/30/2009	8/12/2010	Final Judgement	
✓ 122007CA000558CAXXX	12/6/2007	12/7/2007	Summons issued	> 2y 8m
✓ 122008CA000289CAXXX	5/9/2008	6/10/2008	answer from defendant	> 2y
122008CA000043CAXXX	1/17/2008	8/27/2010	order granting sanctions	

✓ 122009CA000228CAXXXX	3/30/2009	3/30/09	SUMMONS ISSUED	> 1y 5m
122009CA000153CAXXXX	3/3/2009	8/12/2010	motion for permission to file an amended answer	
122009CA000156CAXXXX	3/4/2009	8/19/2010	motion for default and default entered	
✓ 122009CA000162CAXXXX	3/5/2009	5/8/2009	cancellation of hearing (5-7-2009)	> 1y 4m
✓ 122009CA000210CAXXXX	3/25/2009	7/9/2009	motion to dismiss	> 1y 2m
122008CA000214CAXXXX	4/4/2008		exclude - not a foreclosure ☆	
✓ 122008CA000202CAXXXX	4/1/2008	9/8/2008	notice of cancellation of hearing (10-1-08)	> 2y
✓ 122008CA000196CAXXXX	3/31/2008	3/31/2008	summons issued	> 2y 5m
✓ 122008CA000713CAXXXX	11/17/2008	3/19/2009	motion for summary final judgement of foreclosure	> 1y 5m
✓ 122008CA000199CAXXXX	3/31/2008	5/16/2008	summons served	> 2y
122009CA000852CAXXXX	12/30/2009	5/14/2010	notice of service of interrogatories	
122009CA000855CAXXXX	12/30/2009	9/10/2010	Notice of hearing - 10/1st 2010 Motion for final judgement	
122008CA000743CAXXXX	11/24/2008	8/10/2010	notice of L.O.P. / motion to dismiss	
122008CA000784CAXXXX	12/11/2008	7/30/2010	notice of hearing (9-22-2010)	
✓ 122009CA000327CAXXXX	5/12/2009	6/9/2009	summons served	> 1y 3m
122009CA000327CAXXXX	5/28/2009	8/13/2010	voluntary dismissal	
✓ 122009CA000411CAXXXX	6/11/2009	9/23/09	notice of cancellation of hearing (9-21-09)	11 m

122009CA000426CAXXXX	6/22/2009	5/26/2010	agreed order setting aside default entered against def.	
122009CA000432CAXXXX	6/25/2009	7/22/2009 3/12/2010	summons served order to substitute party plaintiffs	
122009CA000444CAXXXX	7/1/2009	7/17/2009	summons served	> 1y 1m
122009CA000447CAXXXX	7/2/2009	8/19/2010	amended complaint	
122009CA000453CAXXXX	7/7/2009	11/25/2009	notice of cancellation of hearing (1-5-2010)	
122009CA000495CAXXXX	7/28/2009	8/21/2009	answer from def.	> 1y
122009CA000501CAXXXX	7/31/2009	8/24/2009	summons served	> 1y
122009CA000531CAXXXX	8/12/2009	10/16/2009	Plaintiff's motion for summary judgment/hearing	> 10
122009CA000558CAXXXX	8/21/2009	8/26/2010	motion for default + default entered	
122009CA000567CAXXXX	8/27/2009	12/7/2009	notice of cancellation of hearing (1-5-2010)	> 9m
122009CA000570CAXXXX	8/27/2009	7/21/2010 8/25/2010	Final judgement Certificate of sale	
122009CA000573CAXXXX	8/28/2009	12/7/2009	notice of cancellation of hearing (12-7-09)	> 9m
122009CA000582CAXXXX	8/31/2009	8/30/2010 8/30/2010	final judgement notice of foreclosure sale 9-29-10	
122009CA000587CAXXXX	9/10/2009	7/21/10 8/25/10	final judgement certificate of sale	
122009CA000606CAXXXX	9/11/2009	4/5/2010	suggestion of bankruptcy	
122009CA000615CAXXXX	9/21/2009	1/6/2010	summons served	
122009CA000644CAXXXX	10/2/2009	8/19/2010	Judger worksheet → appears to say going to mediation	?

ck
sept
PERFECTS
INPUT

122009CA000679CAXXXX	10/13/2009	8/30/2010 8/30/2010	final judgement notice of foreclosure sale (9-29-2010)	
✓ 122009CA000679CAXXXX	10/15/2009	11/6/2009	summons served	> 10m
✓ 122009CA000706CAXXXX	10/27/2009	1/6/2010	summons served	
✓ 122009CA000712CAXXXX	10/29/2009	11/17/2009	answer from def.	79m
122009CA000718CAXXXX	10/30/2009	8/30/2010 8/30/2010	final judgement notice of foreclosure sale (9-29-10)	
✓ 122009CA000732CAXXXX	11/6/2009	12/8/2009	summons unserved	79m
122009CA000741CAXXXX	11/10/2009	2/5/2010	cancellation of hearing (3-8-2010)	
122009CA000750CAXXXX	11/13/2009	2/3/2010	notice of cancellation of hearing (1-26-2010)	
✓ 122009CA000774CAXXXX	11/23/2009	6/25/2010	answer of defendant (Mortg. Elec. Registr. Systems)	
122009CA000798CAXXXX	12/7/2009	1/21/2010	plaintiff's motion for summary judgement	
122009CA000813CAXXXX	12/14/2009	8/13/2010	defendant's motion to mediate	
122009CA000825CAXXXX	12/16/2009	3/24/2010	plaintiff's response to defendant's motion to dismiss	
✓ 122009CA000837CAXXXX	12/21/2009	1/26/2010	answer from defendants	
122009CA000840CAXXXX	12/22/2009	8/10/2010	order dismissing case and cancelling of lis pendens	
122009CA000849CAXXXX	12/29/2009	5/11/2010	order releasing original documents dismissing action	
122009CA000857CAXXXX	7/17/2008	8/3/2010	dismissed after hearing	
122009CA000857CAXXXX	8/14/2009	12/08/2009 3/29/2010	final judgement certificate of sale	

✓	122005CA000521CAXXXX	12/27/2005	9/30/2009	order granting intervenor's claim for mort. ^{foreclosure} supp	> 11m surplus
✓	122005CA000521CAXXXX	4/30/2009	9/21/2009 11/9/2009	final judgement certificate of title	> 10m
✓	122009CA000015CAXXXX	1/9/2009	8/30/2010	Final judgement of mortgage foreclosure	?
	122006CA000483CAXXXX	11/21/2006	5/7/2010	judgment on the pleadings on 3 rd party complaint	
	122009CA000792CAXXXX	12/2/2009	8/27/2010	amended order setting cause for trial	
	122009CA000768CAXXXX	11/19/2009	3/9/2010 8/23/2010	final judgement Certificate of title	
✓	122008CA000250CAXXXX	4/22/2008	12/29/2009	suggestion of bankruptcy	
	122008CA000659CAXXXX	10/20/2008	2/16/2010	final order dismissing case/canceling foreclosure sale/ canceling lis pendens/setting aside final summary judgement	
✓	122009CA000546CAXXXX	8/18/2009	4/27/2010 8/25/2010	final judgement Certificate of sale	
✓	122008CA000716CAXXXX	11/18/2008	8/25/2009 11/9/2009	final judgement certificate of title	> 10m
	122010CA000438CAXXXX	6/29/2010	8/26/2010	motion for default and default entered	
	122010CA000006CAXXXX	1/6/2010	6/8/2010	answer and consent to foreclosure judgement in REM	
✓	122010CA000249CAXXXX	4/8/2010	4/28/2010	summons served	
	122010CA000249CAXXXX	4/5/2010	8/30/2010	final disposition form: dismissed before hearing	
	122010CA000432CAXXXX	6/25/2010	8/16/2010	answer from defendants	
	122010CA000429CAXXXX	6/24/2010	7/26/2010	notice of mediation conf. (8-31-2010)	
✓	122010CA000429CAXXXX	6/24/2010	8/12/2010	dismissed before hearing - pursuant to mediated settlement	

part judgement
open 8-22-10

into
affidavit
file

can't
find

122010CA000231CAXXXX	4/1/2010	7/1/2010	service of interrogatories to plaintiff
✓ 122010CA000252CAXXXX	4/9/2010	4/22/10	answer from defendants
122010CA000227CAXXXX	4/1/2010	5/20/2010	answer from defendant
122010CA000033CAXXXX	1/14/2010	3/8/2010	answer from defendant
122010CA000423CAXXXX	6/23/2010	8/24/2010	motions for default and default entered (3 defendants)
122010CA000417CAXXXX	6/22/2010	7/30/2010	motion for entry of default
122010CA000036CAXXXX	1/15/2010	4/26/2010	motion for extension of time
✓ 122010CA000261CAXXXX	4/13/2010	5/21/2010	summons served
✓ 122010CA000222CAXXXX	3/31/2010	8/18/2010	notice of filing appearance to advise court and counsel of bankrup. filing
122010CA000411CAXXXX	6/17/2010	6/28/2010	answer from defendant
✓ 122010CA000042CAXXXX	1/19/2010	2/10/2010	summons served
122010CA000408CAXXXX	6/17/2010	6/17/2010	complaint
122010CA000031CAXXXX	3/29/2010	7/22/2010 8/30/2010	final judgement certificate of title
122010CA000402CAXXXX	6/15/2010	7/02/2010	answer from defendant
122010CA000264CAXXXX	4/14/2010	7/21/2010	motion for default / default entered by 3 defendants
122010CA000048CAXXXX	1/20/2010	7/30/2010	plaintiff's motion for summary judgement / hearing
122010CA000393CAXXXX	6/11/2010	7/7/2010	defendant's motion to dismiss (deal worked w/ plaintiff)?

		7/21/2010	final judgement
	1/21/2010	8/25/2010	certificate of sale
✓	122010CA000210CAXXX	3/26/2010	4/28/2010 summons served
	122010CA000390CAXXX	6/10/2010	9/1/2010 unserved summons ?
✓	122010CA000384CAXXX	6/7/2010	7/6/2010 return of service
✓	122010CA000057CAXXX	1/22/2010	3/22/2010 answer to complaint
	122010CA000378CAXXX	6/4/2010	7/21/2010 motion for default / default entered
	122010CA000207CAXXX	3/26/2010	4-16, 29-2010 served summons (2) 5/25/2010 unserved summons (2) ?
	122010CA000063CAXXX	1/25/2010	3/1/2010 reply to defendant
	122010CA000066CAXXX	1/26/2010	4/16/2010 motion to abate proceeding
	122010CA000273CAXXX	4/20/2010	6/1/2010 plaintiff request for production
	122010CA000372CAXXX	6/3/2010	8/20/2010 answer (agrees to RMFM)
✓	122010CA000369CAXXX	6/2/2010	6/21/2010 answer
	122010CA000072CAXXX	1/27/2010	4/21/2010 affidavit of diligent search/inquiry
✓	122010CA000246CAXXX	4/8/2010	4/8/2010 summons issued
	122010CA000279CAXXX	4/26/2010	8/30/2010 This is commercial property ← notice of foreclosure sale ?
	122010CA000165CAXXX	3/2/2010	8/16/2010 notice of hearing (9-7-2010)
		6/2/2010	Exclude - this is sheriff's forfeiture, not foreclosure *

122010CA000363CAXXXX	5/27/2010	8/18/2010	motion for default / default not signed by clerk def's
122010CA000204CAXXXX	3/26/2010	8/5/2010	plaintiff's motion for summary judgement + hearing
✓ 122010CA000090CAXXXX	2/3/2010	2/25/2010	summons served
122010CA000093CAXXXX	2/3/2010	6/17/2010	plaintiff's motion for summary judgement / hearing
122010CA000201CAXXXX	3/24/2010	8/17/2010	6/9/2010 1 summons served - 4/6/2010 > answers ? Form A 4/22/2010
✓ 122010CA000360CAXXXX	5/26/2010	6/21/2010	answer
✓ 122010CA000105CAXXXX	2/8/2010	4/5/2010	summons served
122010CA000108CAXXXX	2/9/2010	2/24/2010 8/27/2010	answer subpoena for deposition
122010CA000357CAXXXX	5/25/2010	8/31/2010	plaintiff's motion for summary judgement / hearing
122010CA000195CAXXXX	3/19/2010	7/22/2010	motion for default / default entered
122010CA000111CAXXXX	2/10/2010	8/27/2010	motion for default / default entered
122010CA000282CAXXXX	4/26/2010	8/24/2010	summons served
✓ 122010CA000354CAXXXX	5/24/2010	6/24/2010	summons served
122010CA000114CAXXXX	2/11/2010	7/9/2010	amended complaint
122010CA000192CAXXXX	3/17/2010	8/30/2010	cancellation of hearing (8-30-2010)
✓ 122010CA000189CAXXXX	3/16/2010	5/12/2010	summons served
✓ 122010CA000291CAXXXX	4/28/2010	5/24/2010	answer

122010CA000123CAXXXX	2/15/2010	8/19/2010	second request for production to plaintiff
122010CA000345CAXXXX	5/20/2010	7/7/2010	answer
✓ 122010CA000186CAXXXX	3/15/2010	4/16/2010	answer
122010CA000126CAXXXX	2/17/2010	5/13/2010	notice of cancellation of hearing (6-14-2010)
✓ 122010CA000342CAXXXX	5/20/2010	7/20/2010	Summons served
122010CA000297CAXXXX	5/4/2010	9/1/2010	motion for default / default entered
122010CA000132CAXXXX	2/19/2010	7/30/2010	motion for summary final judgement
✓ 122010CA000339CAXXXX	5/19/2010	5/19/2010	summons issued
122010CA000336CAXXXX	5/19/2010	7/14/2010	• summons served, notice of borrower non-participation w/ RMFM
122010CA000300CAXXXX	5/5/2010	7/19/2010	final disposition form - dismissed before hearing
122010CA000324CAXXXX	5/12/2010	8/31/2010	motion for summary judgement incl. hearing
122010CA000303CAXXXX	5/5/2010	6/17/2010	motion for default/def entered
122010CA000144CAXXXX	2/24/2010	7/1/2010	amended notice of lis pendens
122010CA000144CAXXXX	2/24/2010	4/28/2010	summons served
122010CA000144CAXXXX	2/24/2010	7/14/2010	notice of action
122010CA000318CAXXXX	5/10/2010	7/27/2010	final judgement
122010CA000318CAXXXX	5/10/2010	8/23/2010	certificate of title *? lease w/ option
122010CA000177CAXXXX	3/9/2010	7/21/2010	answer
122010CA000315CAXXXX	5/10/2010	8/10/2010	nonparticipation w/ RMFM
122010CA000306CAXXXX	5/6/2010	6/4/2010	motion to dismiss
122010CA000306CAXXXX	5/6/2010	6/14/2010	motion for default
122010CA000306CAXXXX	5/6/2010	7/20/2010	letter stating full satisfaction of mortgage made ?

122010CA000156CAXXX	2/26/2010	4/5/2010	answer
122010CA000309CAXXX	5/7/2010	8/26/2010	answer

✓

Jenn C. Lussier

From: Ronna M. Cobble
Sent: Thursday, September 23, 2010 10:03 AM
To: Julian E. Collins
Subject: Foreclosures

Good morning, Judge. You may find it hard to believe, based on my limited correspondence with you, but I have been working intensely on these foreclosure cases for our circuit. I do have some information for you today. First of all, I have received a copy of the Lack of Prosecution Notice that has been used in Columbia County in the past and plan to use that unless I hear from you to the contrary. Secondly, Judge Fina is finalizing a Case Management Notice that will be used circuit-wide. I request from you a date, time and parameters for how you want to schedule/hear the Lack of Prosecution and Case Management cases. Furthermore, once I complete the Case Management notices, I will need your signature. At that time, will you want to see the physical file, a CCIS progress docket or my spreadsheet recording the last action on the case? Currently, I show 25 cases that will receive Lack of Prosecution Notices and 36 needing a Case Management conference. Let me also tell you the qualifiers used to determine which cases are receiving notices. I used the same standards as requested by Judge Fina; that is as follows:

1. If there was service of summons , no other action and 30 days has passed- case management conference
2. If there was an answer and no other action for 90 days- case management conference
3. If no court action has occurred for 10+ months, lack of prosecution.

You have 3 cases with suggestions of bankruptcy. One is from 12/28/09, the other 2 are 2010 cases. Would you like the 2009 case to come for a status conference?

If these guidelines are acceptable to you, I will not make changes to the notice list.
Please advise how you would like me to proceed. Please email or call with any questions.
Thank you. Enjoy your day.

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: N.A.Bacharach <N.A.Bacharach@att.net>
Sent: Wednesday, September 22, 2010 12:28 PM
To: Judges@nabjr.com
Subject: ABA Journal Foreclosure Issue

http://www.abajournal.com/news/article/ally_employees_admission_could_pave_way_to_nationwide_foreclosure_challenge/

Posted Sep 22, 2010 10:55 AM CDT

By [Debra Cassens Weiss](#)

A mortgage employee charged with reviewing 10,000 foreclosure cases a month to make sure they were legally justified now admits he never read the paperwork, opening the door to foreclosure challenges across the country.

Ally Financial employee Jeffrey Stephan made the admission in a deposition, spurring his employer to halt evictions of homeowners in 21 states this week, the [Washington Post](#) reports. Other companies, including Fannie Mae and Freddie Mac, may also be affected because they used Ally, formerly known as GMAC, to service their loans.

Stephan, who headed Ally's document processing team, was supposed to read the documents for accuracy and legal justification, and to sign them in front of a notary. He admitted he signed the documents, but didn't carry out the other duties. With 10,000 documents clearing his desk a month, he had only 1.5 minutes to review each document, based on an eight-hour day.

"How the nation's foreclosure system became reliant on the tedious work of a few corporate bureaucrats is still a matter that mortgage lenders are trying to answer," the story says.

Iowa Assistant Attorney General Patrick Madigan told the Post that Stephan's actions could be considered an unfair and deceptive practice—and it has huge implications. "If servicers are submitting court documents that aren't true or that have not been verified, that is of great concern," said Madigan, chair of a national foreclosure prevention group made up of state attorneys general and lenders.

--

N. Albert Bacharach, Jr.

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N. Albert Bacharach, Jr. P.A.

115 NE 6th Avenue

Gainesville, Florida 32601-3416

Phone: (352) 378-9859

Fax: (352) 338-1858

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Jenn C. Lussier

From: Ronna M. Cobble
Sent: Tuesday, January 11, 2011 12:07 PM
To: Julian E. Collins; Candice T. Herring
Subject: Hearing dates/Court room

For the dates of Jan. 24 and March 15- if we are indeed using the Telecourt system, might I suggest open court in the courtroom as we did last time. Having said that, could someone please confirm that a courtroom is reserved for those dates and times.

Thanks.

Ronna Cobble
Foreclosure Case Manager
Administrative Office of the Courts
Third Judicial Circuit
105 North Ohio Avenue
Live Oak, FL 32064
386-362-2661

Jenn C. Lussier

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Thanks.

Ronna Cobble
Foreclosure Case Manager
Administrative Office of the Courts
Third Judicial Circuit
105 North Ohio Avenue
Live Oak, FL 32064
386-362-2661

Jenn C. Lussier

From: Jason Warman <JWarman@amstarlit.com>
Sent: Wednesday, January 05, 2011 12:10 AM
To: Julian E. Collins
Subject: Learn Foreclosure Defense & Bankruptcy And Get 27 FL Bar Approved Credit Hours For One Low Price

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- Training Presentation – Understanding Preferences and Fraudulent Conveyances
- Training Presentation – Chapter 7 Frequently Asked Questions
- Training Presentation – Chapter 13 Facts and Foreclosures in Chapter 13
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Jenn C. Lussier

From: Sondra M. Lanier
Sent: Friday, December 10, 2010 3:28 PM
To: Sonny Scaff
Subject: RE: Public Records Request

Thanks.

From: Sonny Scaff
Sent: Friday, December 10, 2010 3:23 PM
To: Sondra M. Lanier
Subject: RE: Public Records Request

You can log into my computer.
Sonny

From: Sondra M. Lanier
Sent: Friday, December 10, 2010 2:37 PM
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
Cc: Jenn D. Lussier; John Lake
Subject: Public Records Request

Good afternoon. There was one matter that we forgot to mention at this morning's meeting. We are preparing a response to the ACLU's public records request regarding foreclosures, and we have to retrieve e-mails that were sent or received on the subject. The server on which this information was stored experienced a failure, so we need to get the information from each of our computers. There are 2 ways to accomplish this, so please let me know which you prefer:

Option 1: You can do a search of your e-mails using the search term "foreclosure", and then forward each of those e-mails to Lussier.jen@jud3.flcourts.org so that Jenn can print and compile them.

Option 2: You can let me know that you prefer to have John log in to your account remotely and conduct the search for you. If this is your choice, we will print the e-mails and handle it all without anything being required of you (except your permission).

We need to complete this task by the end of next week, so please let me know your preference.

Thanks,
Sondra

Jenn C. Lussier

From: Sonny Scaff
Sent: Friday, December 10, 2010 3:23 PM
To: Sondra M. Lanier
Subject: RE: Public Records Request

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Subject: Public Records Request

Good afternoon. There was one matter that we forgot to mention at this morning's meeting. We are preparing a response to the ACLU's public records request regarding foreclosures, and we have to retrieve e-mails that were sent or received on the subject. The server on which this information was stored experienced a failure, so we need to get the information from each of our computers. There are 2 ways to accomplish this, so please let me know which you prefer:

Option 1: You can do a search of your e-mails using the search term "foreclosure", and then forward each of those e-mails to Lussier.jen@jud3.flcourts.org so that Jenn can print and compile them.

Option 2: You can let me know that you prefer to have John log in to your account remotely and conduct the search for you. If this is your choice, we will print the e-mails and handle it all without anything being required of you (except your permission).

We need to complete this task by the end of next week, so please let me know your preference.

Thanks,
Sondra

Jenn C. Lussier

From: Carrina M. Cooper
Sent: Tuesday, November 30, 2010 9:36 AM
To: Sonny Scaff
Subject: RE: Get me the Proposed Docket for Dec 17, Hamilton....If there are not friend/family conflicts on the docket, I may be able to take it....

Ok, thank you for trying.

Carrina

From: Sonny Scaff
Sent: Tuesday, November 30, 2010 9:34 AM
To: Carrina M. Cooper
Subject: RE: Get me the Proposed Docket for Dec 17, Hamilton....If there are not friend/family conflicts on the docket, I may be able to take it....

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Too many former clients/personal relationships on here.
Cannot do.
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12/17/2010 09:30AM	FINAL HEARING	Hamilton : JUDGE'S CHAMBERS : 101	1 CASE/S
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\$	242010DR000293DRXXX [10000293DR]	07/13/2010	DISSOLUTION			PENDING

[PLAINTIFF=WILLIAMS, LASHANDA I, DEFENDANT=WILLIAMS, DARREN LORENZO]
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[Court Events]

12/17/2010 10:00AM	HEARING	Hamilton : JUDGE PARKER'S OFF : 101	1 CASE/S
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12/17/2010 03:15PM SHOW CAUSE HEARING Hamilton : JUDGE'S CHAMBERS : 101 1 CASE/S

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Jenn C. Lussier

From: David W. Fina
Sent: Tuesday, November 23, 2010 2:25 PM
To: Debra P. Sadler; Darren K. Jackson; David W. Fina; Debra P. Sadler; E. Vernon Douglas; Frederick L. Koberlein; Greg S. Parker; H. Wetzel Blair; James R. Bean; Jean Pittman; Julian E. Collins; Leandra G. Johnson; Paul S. Bryan; Sonny Scaff; Tom Coleman; William R. Slaughter
Cc: Ronna M. Cobble
Subject: MFCM

Colleagues,

I held our second round of mortgage foreclosure case management hearings in Suwannee County last Friday. Pursuant to our discussion @ our November meeting, my brief report follows.

The case files were properly tabbed prior to the hearings.

We again scheduled 15 cases every 30 minutes.

The docket was completed on schedule and ran rather smoothly.

The hearings were again held in the courtroom as opposed to a hearing room. Little down time for positioning parties and counsel.

Attorneys were permitted to appear by tele-court.(this made life much easier on Millie, Ronna and me)

After the hearings I met with Ronna, our case manager. She briefed me on the process used currently around the circuit.

If you are not using tele-court, I urge you again to please reconsider.

Please share your experiences with us all so that we can continue to better address these matters.

Thanks,

David W. Fina
Circuit Court Judge
Third Judicial Circuit

Jenn C. Lussier

From: David W. Fina
Sent: Tuesday, November 23, 2010 1:53 PM
To: Barry Baker <barryb@suwclerk.org> (barryb@suwclerk.org); 'Ricky Lyons'; 'Greg Godwin'; 'P. DeWitt Cason'; 'Dana Johnson'; 'Annie Mae Murphy'; 'Tim Sanders'; Tony Cameron (sheriff@suwanneesherriff.com) (sheriff@suwanneesherriff.com); Debra P. Sadler; Darren K. Jackson; David W. Fina; Debra P. Sadler; E. Vernon Douglas; Frederick L. Koberlein; Greg S. Parker; H. Wetzel Blair; James R. Bean; Jean Pittman; Julian E. Collins; Leandra G. Johnson; Paul S. Bryan; Sonny Scaff; Tom Coleman; William R. Slaughter
Subject: FW: Mortgage Foreclosure Proceedings
Attachments: Memo to Chief Judges re Mortgage Foreclosure Proceedings.pdf; Letter to Florida Press Assn et al.pdf

Please see attached the directive I have received from our chief justice. Pursuant to said directive, remember that mortgage foreclosure proceedings are open to the public. Please continue to ensure the public has open access to these hearings.

Thanks for your continued cooperation.

David W. Fina
Circuit Court Judge
Third Judicial Circuit

From: Debbie Howells [mailto:howellsd@flcourts.org]
Sent: Wednesday, November 17, 2010 8:03 AM
To: Trial Court Chief Judges
Cc: Trial Court Administrators; Lisa Goodner; Blan Teagle; Laura Rush; Kristine Slayden; Brenda Johnson; Judge John Laurent
Subject: Mortgage Foreclosure Proceedings

Please see the attached memorandum from Chief Justice Canady regarding mortgage foreclosure proceedings.

Also attached is a copy of Chief Justice Canady's letter to The Florida Press Association.

Debbie Howells
Office of the State Courts Administrator
500 S. Duval Street
Tallahassee, FL 32399-1900
Phone 850-922-4370
Fax 850-488-0156
Email howellsd@flcourts.org



Supreme Court of Florida

500 South Duval Street
Tallahassee, Florida 32399-1925

CHARLES T. CANADY
CHIEF JUSTICE
BARBARA J. PARIENTE
R. FRED LEWIS
PEGGY A. QUINCE
RICKY L. POLSTON
JORGE LABARGA
JAMES E.C. PERRY
JUSTICES

THOMAS D. HALL
CLERK OF COURT

KEVIN WHITE
ACTING MARSHAL

MEMORANDUM

TO: Chief Judges of the Circuit Courts

FROM: Chief Justice Charles T. Canady *CTC*

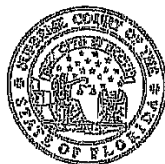
DATE: November 17, 2010

SUBJECT: Mortgage Foreclosure Proceedings

Enclosed for your review and action is a letter dated November 12, 2010, that I received from the Florida Press Association and other organizations. The letter alleges that in some instances, members of the public and/or press either have been advised that they cannot attend mortgage foreclosure proceedings or have been prevented from attending such proceedings.

As the chief administrative officer of the Florida judicial branch, I am directing all chief judges to examine the current practices within their respective circuits to ensure that those practices are entirely consistent with the constitutional, statutory, procedural rule, and case law requirements of this state regarding the presumption that state court proceedings are open to the public.

I also ask that you communicate with all judges and court staff in your circuit to remind them of the relevant provisions relating to open court proceedings. It is important for you to communicate with the clerks of court and bailiffs within your circuit as well to ensure that those offices provide any visitors



Supreme Court of Florida

500 South Duval Street
Tallahassee, Florida 32399-1925

CHARLES T. CANADY
CHIEF JUSTICE
BARBARA J. PARIENTE
R. FRED LEWIS
PEGGY A. QUINCE
RICKY POLSTON
JORGE LABARGA
JAMES B. C. PERRY
JUSTICES

THOMAS D. HALL
CLERK OF COURT

KEVIN WHITE
ACTING MARSHAL

November 17, 2010

Mr. Sam Morley
General Counsel
The Florida Press Association
336 East College Avenue, Suite 203
Tallahassee, Florida 32301

Mr. Talbot D'Alemberte
Mr. Larry Schwartztol
Mr. Randall Marshall
Mr. James Parker Rhea
Mr. C. Patrick Roberts
Mr. Gil Thelen
Mr. James Denton

Gentlemen:

Thank you for your letter of November 12, 2010, regarding public access to Florida foreclosure proceedings. As you know, judicial ethics rules prohibit me from intervening in actual legal disputes pending or likely to be filed in lower courts, including the possible future litigation you mentioned with regard to an incident in Duval County.

But Canon 3C(3) of the Florida Code of Judicial Conduct expressly says that "[a] judge with supervisory authority for the judicial performance of other judges shall take reasonable measures to assure . . . the proper performance of their other judicial responsibilities." Under the Florida Constitution, article V, section 2(b), I

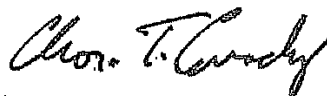
Mr. Sam Morley, et al.
November 17, 2010
Page Two

am the chief administrative officer of the state courts system. I write you solely in that capacity.

The courts of Florida belong to the people of Florida. The people of Florida are entitled to know what takes place in the courts of this state. No crisis justifies the administrative suspension of the strong legal presumption that state court proceedings are open to the public.

Today I have sent to the chief judges of Florida's twenty judicial circuits a supervisory memorandum—a copy of which is enclosed—setting forth my administrative directive on this matter. Under that directive, the chief judges shall ensure that the judges they supervise and the staff who report to those judges, as well as bailiffs and employees of the clerks of court, are not violating the rights of Floridians by improperly closing judicial proceedings to the public. The chief judges shall promptly exercise their administrative and supervisory authority to countermand closures or impediments to access that are inconsistent with Florida law.

Sincerely,



Charles T. Canady

GTC/ps

Enclosure

Jenn C. Lussier

From: Sondra M. Lanier
Sent: Friday, November 12, 2010 4:35 PM
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; 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
Cc: Debbie A. DeNike; Carrina M. Cooper
Subject: Notes from Judges' Meeting

Good afternoon. Following are notes from today's judges' meeting (with a few additional pieces of information).

Court Administration Update

- Jackie Jo Brinson and Junaid Savani, two of our law clerks, presented information about WestLaw Next. Jackie Jo demonstrated some of the features of the new program and advised that Debbie DeNike is working to bring some training to the circuit. Judge Fina asked that the training be on the day of a future judges' meeting for the convenience of those who choose to participate.
- Sondra advised that in the past 6 months the law clerks have reduced the backlog of post-conviction motions from 501 to 297. They expect that all motions filed prior to 2009 will be completed by the end of this year. A backlog has existed for several years, and the situation was aggravated by turnover and hiring freezes. Debbie DeNike and the law clerks have done a wonderful job of organizing and prioritizing the cases so that the backlog continues to be reduced.
- Staff positions are being filled, and court administration expects to be back up to full staff by the end of the year. An updated employee directory has not been produced because of staff turnover and vacancies, but a new one will be published and distributed in early 2011.

Judge Case Count Reporting Requirement

- The clerks of court are supposed to be cleaning up the data in CCIS so that the case count by judge report will be as accurate as possible when it is presented to the Legislature. Some of the clerks have been in contact with the judges in their counties about this, but access to this information through CCIS will not be available to judges and court administration until December 1. At that time, we should be able to access the "appropriations" report through CCIS. Court administration staff will review the data and work with each judge to address whatever issues may exist. This is the data that will be used to prepare the alternative report by division to be prepared and submitted by the court administrator. Staff should be able to look at reopened cases and determine how many were VOP's so that those proceedings will be properly accounted for, and we will work with each judge to determine the other factors that need to be considered in order to present the most accurate picture of workload in each county/division.

E-Portal Update

- A memo regarding the recently established ePortal Interlocal Authority was provided to the judges. The Florida E-Filing Authority is the public body that will own the new Statewide E-Filing Court Records Portal through which attorneys and litigants will be able to file pleadings. The portal is to be up and running by January 1, 2011. The

e-filing plans for probate court in all of the counties in our circuit have been approved. Taylor County recently submitted an application for most of the other divisions in their county, and we expect the other counties to submit a coordinated plan for their other divisions soon. Additional equipment and training will be provided before the judges are expected to begin using the system.

Courtroom Space

- Judge Fina reminded everyone that when you are scheduling a hearing in a courthouse other than where you are primarily assigned, please remind your JA's to notify courthouse security in advance. Also, please remember to coordinate with the local judges as well to be sure that courtroom space is available.

Mortgage Foreclosure Case Management Issues

- Because of a "disparity in judicial philosophies" regarding mortgage foreclosure case management, Judge Fina advised the judges to work with Ronna Cobble in Court Administration to manage their cases as they see fit. Judge Fina described how he handled his first foreclosure case management docket, and he asked other judges to share their experiences after their hearings as well. Although there was no consensus on a circuit-wide form, Ronna has examples of notices/orders that other judges in our circuit have used.

Duty Judge Protocol

- Judge Fina discussed the duty judge protocol again and asked for input regarding whether the protocol should be continued. The consensus was that it should be continued. Judge Fina emphasized the importance of judges being available when they are the duty judge, including answering their cell phones when called and being in proximity to the technology necessary for them to receive, sign, and return emergency petitions, search warrants, etc. Also, Judge Fina asked that judges be sure their JA's are familiar with the protocol and follow it appropriately.

County Funding

- The judges reviewed the options available to address the issue of counties not paying their portion of the technology and/or facilities budgets for the courts. (For more information, please contact Judge Fina.) There will be a 15-minute meeting prior to the Christmas luncheon to follow up on this.

Judicial Assignments for July

- There will be a Chief Judge election in February, and judicial assignments will be made accordingly.

Court Calendar

- Once again, Judge Fina reminded judges of the importance of reviewing the draft master calendar when it is sent out for comments. If you have concerns, including scheduling around certain holidays, etc., those should be addressed with Carrina at that time rather than after the calendar has been finalized.

FUTURE MEETINGS: December – There will be a 15-minute meeting prior to the Christmas luncheon at Melody Christian Center.

January – We will invite our legislative delegation to attend this meeting, which will be held in Live Oak. Lin Williams' investiture may be held after lunch on the same day, but this has not been confirmed.

February – The meeting will be held in Hamilton County in February.

Jenn C. Lussier

From: David W. Fina
Sent: Thursday, October 28, 2010 2:24 PM
To: Darren K. Jackson; David W. Fina; Debra P. Sadler; E. Vernon Douglas; Frederick L. Koberlein; Greg S. Parker; H. Wetzel Blair; James R. Bean; Jean Pittman; Julian E. Collins; Leandra G. Johnson; Paul S. Bryan; Sonny Scaff; Tom Coleman; William R. Slaughter
Subject: FW: Foreclosure Initiative
Attachments: 10.27.10.laurent.memo.docx

FYI

David W. Fina
Circuit Court Judge
Third Judicial Circuit

From: Sue Bruce [mailto:bruces@flcourts.org]
Sent: Thursday, October 28, 2010 11:51 AM
To: Trial Court Chief Judges
Cc: Trial Court Budget Commission
Subject: Foreclosure Initiative

Please see the attached memorandum from Judge John Laurent. Thanks!

Sue Bruce
Personal Secretary II
Office of the State Courts Administrator
500 S. Duval Street
Tallahassee, FL 32399
Phone: 850/922-5081
Fax: 850/488-0156



MEMORANDUM

TO: Chief Judges of the Circuit Courts

FROM: John Laurent

DATE: October 28, 2010

SUBJECT: Foreclosure Initiative

The Honorable John F. Laurent, Chair

The Honorable Margaret Steinbeck, Vice-Chair

Members

- Catherine Brunson, Circuit Judge
Paul S. Bryan, Circuit Judge
Joseph P. Farina, Circuit Judge
Charles A. Francis, Circuit Judge
Mark Mahon, Circuit Judge
J. Thomas McGrady, Circuit Judge
Wayne M. Miller, County Judge
Belvin, Perry, Jr., Circuit Judge
Robert E. Roundtree, Jr., Circuit Judge
Clayton D. Simmons, Circuit Judge
Elijah Smiley, Circuit Judge
Patricia V. Thomas, Circuit Judge
Mike Bridenback, Court Administrator
Tom Genung, Court Administrator
Sandra Lonergan, Court Administrator
Carol Lee Ortman, Court Administrator
Walt Smith, Court Administrator
Mark Weinberg, Court Administrator
Robin Wright, Court Administrator

Ex-Officio Members

- The Honorable Kevin M. Emas
Florida Conference of Circuit Court Judges
The Honorable Susan F. Schaeffer
Chair Emeritus

Supreme Court Liaison

Justice James E. C. Perry

Florida State Courts System
500 South Duval Street
Tallahassee, FL 32399-1900
www.flcourts.org

In follow up to the Judicial Administration Committee conference call held on October 18, 2010, I am writing to reiterate the Trial Court Budget Commission's purpose for tracking the progress of cases the trial courts are hearing using funding provided for the foreclosure and economic recovery initiative. When the Florida Legislature appropriated special funding of \$6 million to help the trial courts with the significant backlog of foreclosure cases, the Trial Court Budget Commission established a measurement of progress that corresponded to the funding received: 62% of the backlog cases potentially could be processed because the Legislature funded 62% of the original request from the courts. A simple case tracking system was set up to monitor the progress and identify any reasons for delays. This is so that we will be able to report to the Legislature on how these funds were used. However, the Legislature has not specifically directed us to make such a report.

The 62% rate is not a quota. The 62% rate is simply a goal set by the TCBC to help measure the courts' progress in this initiative and document how the appropriation for the foreclosure initiative is being spent. The 62% rate was set before the initiative began and, most notably, before many of the lender moratoriums and other delays occurred. Please assure judges working on this project that the 62% rate was never intended to interfere with their ability to adjudicate each case fairly on its merits.

We will continue to monitor the progress of this initiative because we have an obligation to account for how these funds have been used. But we also will document all issues related to any difficulties that prevent or delay the court from hearing and disposing of cases before them.

JL/ks

cc: TCBC Members

Jenn C. Lussier

From: Sondra M. Lanier
Sent: Monday, October 25, 2010 10:25 AM
To: Barb Lussier; Bonnie S. Page; Brenda P. Pryce; Carrina M. Cooper; Casey C. Harrison; Charna E. Raines; Crystal M. Ecker; D. Judd Walden; Debbie A. DeNike; Debbie L. Copeland; Dianna W. Peeler; Duane L. Bestoso; Jackie-Jo Brinson; Jana D. Sullivan; Janice M. Howard; Jennifer R. Kuyrkendall; John Lake; Judy S. Eichar; Junaid X. Savani; June Byers; Kathleen M. Brackney; Laurie A. Chaffin; Lisa L. Butler; Lori A. McKee; Lynn Sapp; Nancy T. Blanton; Ronna M. Cobble; Rosalind Merrick; Sandy A. Ring; Tracy Brantley
Cc: 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: Staff News

Good morning. Please join me in congratulating Janice Howard who will be assuming the duties of family court case manager next week. Janice was first hired as part-time secretary for the Child Support Hearing Officer, and she then moved to the front desk in Lake City when she was promoted to Administrative Assistant II.

Charna Raines will remain at the front desk in the Lake City office, and she will assume all of the responsibility for the phones and assisting walk-in's. We will not have a second person at the front as we have had in the past, so I am asking Lake City staff to pitch in and help as needed.

The Administrative Assistant III and Administrative Services Manager postings close tomorrow. We will be advertising soon for 2 digital court reporters, although we do not expect those positions to be filled until December. We have not yet hired a User Support Analyst to fill Jacob's old position, although we hope to fill that position soon as well.

Ronna Cobble, who is the Foreclosure Case Manager, is able to work only a few hours per week until mid-December. We are pitching in as much as possible to keep the foreclosure cases moving in her absence, but her absence is definitely being felt.

Thanks to all of you who are pitching in to fill the voids created by all of these vacancies, and to those who are being patient as we adjust workloads and do our best to respond to you in a timely manner.

Sondra

Jenn C. Lussier

From: Sondra M. Lanier
Sent: Friday, October 15, 2010 6:11 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: FW: New Publication Announcement from Judge Mark King Leban, Chair, FCEC Publication Committee
Attachments: Foreclosure Bench Book.pdf

FYI...

From: Melissa Henderson [mailto:HendersM@flcourts.org]
Sent: Thursday, October 14, 2010 12:10 PM
To: Trial Court Chief Judges; Trial Court Administrators
Cc: Susan Leseman; OSCA-JUDED; Blan Teagle
Subject: New Publication Announcement from Judge Mark King Leban, Chair, FCEC Publication Committee

To: Chief Judges and Trial Court Administrators

From: Judge Mark King Leban, Chair, Florida Court Education Council's Publications Committee

Re: New Publication: Residential Foreclosure Bench Book

The Publications Committee of the Florida Court Education Council is pleased to announce the posting of the *Residential Foreclosure Bench Book* in the Court Education Resource Library on the Florida State Courts intranet. The *Residential Foreclosure Bench Book* was written by the Eleventh Circuit's Judge Jennifer Bailey and Assistant General Counsel Doris Bermudez-Goodrich. Used for a recent judicial education course for judges assigned to hear foreclosure cases, this bench book presents readers with the nuts and bolts of current foreclosure law and procedures.

In addition to this bench book, the Court Education Resource Library, developed by OSCA's Court Education Section and Publications Unit, contains a plethora of judicial education materials, among them, court publications (benchguides, bench books, toolkits, and case summaries); court education program materials; and other useful resources (a catalog of books, manuals, and other publications, including materials by state and national organizations).

A PDF of the bench book is attached, but you can also access it from the Court Education Resource Library, at https://intranet.flcourts.org/osca/Judicial_Education/Library/librarymain.shtml (As the bench book will be periodically updated to reflect changes in foreclosure law and procedure, please visit the site for update notifications.)

Please share this information with judges and court staff who are handling residential mortgage foreclosure cases.

If you have any questions, contact Susan Leseman, OSCA Publications Attorney, at (850) 922-5085 or lesemans@flcourts.org

RESIDENTIAL FORECLOSURE BENCH BOOK

Prepared by

Honorable Jennifer D. Bailey
Administrative Judge
Circuit Civil Jurisdiction Division
Eleventh Judicial Circuit of Florida

and

Doris Bermudez-Goodrich
Assistant General Counsel
Eleventh Judicial Circuit of Florida

Jenn C. Lussier

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

Friday, December 17 – Christmas luncheon for judges and Court Staff – Details to be announced soon.

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

Sondra

Jenn C. Lussier

From: Sondra M. Lanier
Sent: Saturday, June 12, 2010 3:16 PM
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
Cc: Lisa L. Butler; Brenda P. Pryce
Subject: Notes from Friday's Meeting

Good afternoon. Following are notes from Friday's meeting. Information in italics is related but supplemental to what was discussed at the meeting.

- Jacob Bell's last day is June 18, and he is moving away to Colorado. Harold Blakley's replacement (Duane Bestoso) will begin work on June 14. Judd Walden is also working in IT as an intern for the summer.
- Crystal Ecker and Sara Hall are doing a great job as law clerks. Crystal is the law clerk who was hired in April, and Sara is an intern for the summer. Debbie DeNike is supervising the law clerks, and they are working diligently to organize the pending motions and clear up as much backlog as possible. Jackie Jo Brinson and Junaid Savani have been hired as law clerks and will begin work on August 2 when the 90-day hold on those positions is lifted.
- Judy Eichar is retiring for health reasons, and although she is in the office until the end of June she is no longer able to work in the courtroom. Her position cannot be filled until October, so we will only have 2 stenographers until that time. Lynn Sapp will be out for surgery during a portion of that time, so we will only have 1 stenographer at times. We will use stenographers whenever available, and they will be assigned based on the prioritization established by the Supreme Court and our circuit's administrative order. However, we will have to depend on digital court reporters more often in those cases for which the Supreme Court has determined that digital is acceptable and meets our due process requirements. If an attorney/defendant requests a stenographer in a case for which the Supreme Court has determined that digital is acceptable, the attorney/defendant is responsible for hiring and paying for the court reporter.
- *Donations are being collected for a retirement gift for Judy. Lisa Butler will be purchasing a gift card for Judy on Wednesday, June 16, so please forward your donations to Lisa in the Live Oak office by Tuesday, June 15. If you work in Lake City, your donations can be given to Brenda Pryce for forwarding to Lisa.*
- Our state budgets remain basically the same as last year, so there should be no operational changes when our new fiscal year begins on July 1. The state courts trust fund was a key to our stability during the 2010 legislative session, and it will hopefully carry us through next year when the state's budget situation is expected to be even worse than this year.
- Judge Fina asked that judges remember to show appreciation to court staff who have now gone without a raise for almost 5 years. They have been working under difficult circumstances, and there is little else that we can do as an organization to help them.
- The county budgets for technology, facilities, and communications have been submitted to the counties. In order to assist the counties during the rough economic times they are facing, we have reduced the amounts requested from them by utilizing some of the unspent funds from previous years. We will be replacing some of our older computers and other equipment soon using reserves in our technology fund.
- Foreclosure and Economic Recovery funding has been made available to each circuit in order to address the statewide backlog in foreclosure cases. *This funding was allocated from the state courts trust fund, by the Legislature, at the request of the State Courts System. The courts, in partnership with the Bar, the banking*

industry, and other business leaders, lobbied the Legislature on this issue with the goal of moving foreclosure cases through the system to get properties back on the market to stimulate the economy. This project is going to be closely monitored and audited, with reports going back to the Legislature in the upcoming session to show that the courts utilized the funding to achieve its intended purpose.

Our circuit's backlog was calculate by the OSCA by subtracting the number of dispositions from the number of filings from 2006-2007 through 2009-2010 (projections used for the current year based on prior performance). According to the OSCA, our circuit has a backlog of 1,325 cases, and we have been instructed to dispose of 822 cases, or 62% of our total backlog. We have received a case manager position which is currently being advertised, and we were also appropriated a secretary position that we are not planning to fill at this time. The case manager will identify the cases making up the "backlog", determine the status of each, and report to the presiding judge for direction on further actions to be taken.

The original proposal included the management of contract/indebtedness cases and small claims cases from \$5,001 to \$15,000. However, the Trial Court Budget Commission determined that the funding should be used only for foreclosure cases until the circuit meets its target reduction. At that time, the circuit will be allowed to request permission from the TCBC to expand to include the other case types.

- The Clerks and Judges are planning a cookout at Judge Fina's house on the river in September. The proposed date was September 16, but that may need to be changed. Please let Judge Fina know your availability on Thursday evenings in September.
- Judge Fina asked for volunteers to complete the training necessary to become a mentor for new judges. Please let Judge Fina or Sondra know if you are willing to serve in this capacity.

Sondra Lanier

Trial Court Administrator
Third Judicial Circuit
(386)758-2163 Lake City
(386)362-1017 Live Oak
(386)362-2658 Fax

Jenn C. Lussier

From: Sondra M. Lanier
Sent: Friday, April 09, 2010 5:10 PM
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; Tom Coleman; William R. Slaughter
Cc: Lisa L. Butler
Subject: Today's Meeting

Good afternoon. Following is a summary of the items discussed at today's Judges' Meeting.

- The House Budget includes a 3% salary reduction for everyone. If enacted, the Chief Justice may choose to instead impose layoffs, reclassifications, terminations, or salary reductions or adjustments in order to keep the Branch within its appropriation. The Senate Budget does not include any cuts to salary or benefits. However, JA's would be required to pay \$5 per month for individual health insurance coverage or \$18 per month for family coverage. JA's hired after April 30, 2010 would pay \$25 for individual or \$90 for family coverage. The differences between the House and Senate budgets will be worked out in conference.
- Bills affecting state employees' retirement will not be passed this year, but actuarial analyses will be conducted over the summer, and the issues will be revisited during next year's session. (The 2011 session will last for 6 months because of redistricting.)
- A bill requiring employee contributions of .25% for all classes of membership in the Florida Retirement System, including DROP participants, has passed and will go to the Governor. (The employee contribution would be \$355.45 annually for Circuit Judges and \$335.70 for County Judges)
- Another bill would affect Senior Judges by not allowing them to receive payment for work as a Senior Judge AND their retirement check for 12 months after their retirement date.
- The Residential Foreclosure Mediation order has been signed and is available on our website at http://www.jud3.flcourts.org/admin_orders/Admin_Order_2010-003.pdf.
- The User Support Analyst and Digital Court Reporter position announcements have closed, and interviews will be conducted soon.
- Crystal Ecker has begun work as a law clerk, and Jackie Jo Brinson will begin interning soon (and officially start work with us in August).
- The announcement for our 3rd law clerk position has closed, and we have approximately 30 applicants. Interviews will begin at 9:00 on May 14, and we will have a brief Judges' Meeting following those interviews. Please let us know if you plan to participate in the interviews so that we can plan accordingly. Also, please let us know if you would like the application packets for those to be interviewed in advance of the meeting.
- The judicial training scheduled for June will not be held because we were unable to secure presenters. This was due to the restrictions placed on the funding, coupled with the fact that so many presenters are already committed to and preparing for AJS and summer conferences. Some of our judges are interested in training on Baker and Marchman Act cases, and we will attempt to secure a trainer to provide a workshop on those topics in conjunction with a future Judges' Meeting.
- The Clerks of Court have indicated an interest in having an after hours event with the Judges, and Judge Fina has offered to host an event at his river house in June. Additional details will be forthcoming.

We look forward to seeing you at the May interviews/meeting.

Sondra Lanier

Trial Court Administrator
Third Judicial Circuit
(386)758-2163 Lake City
(386)362-1017 Live Oak
(386)362-2658 Fax

Jenn C. Lussier

From: Lisa L. Butler
Sent: Friday, April 09, 2010 3:53 PM
To: Darren K. Jackson; David W. Fina; E. Vernon Douglas; Frederick L. Koberlein; Greg S. Parker; H. Wetzel Blair; James R. Bean; Julian E. Collins; Leandra G. Johnson; Paul S. Bryan; Sonny Scaff; Tom Coleman; William R. Slaughter; Candice T. Herring; Cathy M. Hall; Debbie J. Saunders; Debra P. Sadler; Diane B. Hiers; Donna K. Jones; Donna Moore; Jean Pittman; Joyce Cameron; Linda H. Morgan; Liz B. Sullivan; Marcie A. Kemp; Melanie Vaughn; Millicent A. Schneider; Pam K. Ring
Subject: Residential Foreclosure Mediation Order
Attachments: image.pdf; image.txt

Good afternoon. Please find attached Administrative Order 2010-003. Below is the link that will take you directly to the order which is posted on our website.

http://www.jud3.flcourts.org/ao_mediation.htm

Lisa Butler
Administrative Assistant III
Administrative Office of the Courts
Third Judicial Circuit of Florida
105 North Ohio Avenue
Live Oak, Florida 32064
Office: (386)362-1017
Fax: (386)362-2658

IN THE THIRD JUDICIAL CIRCUIT OF FLORIDA

OFFICE OF THE CHIEF JUDGE

ADMINISTRATIVE ORDER NUMBER 2010 – 003

**ADMINISTRATIVE ORDER FOR CASE MANAGEMENT OF
RESIDENTIAL FORECLOSURE CASES AND MANDATORY REFERRAL
OF MORTGAGE FORECLOSURE CASES INVOLVING HOMESTEAD
RESIDENCES TO MEDIATION**

Whereas, pursuant to Article V, section 2(d) of the Florida Constitution, and section 43.26, Florida Statutes, the chief judge of each judicial circuit is charged with the authority and power to do everything necessary to promote the prompt and efficient administration of justice, and rule 2.215(b)(3), Florida Rules of Judicial Administration, mandates the chief judge to “develop an administrative plan for the efficient and proper administration of all courts within the circuit;” and

Whereas, rule 2.545 of the Rules of Judicial Administration requires that the trial courts “...take charge of all cases at an early stage in the litigation and...control the progress of the case thereafter until the case is determined...”, which includes “...identifying cases subject to alternative dispute resolution processes;” and

Whereas, Chapter 44, Florida Statutes, and Rules 1.700-1.750, Florida Rules of Civil Procedure, provide a framework for court-ordered mediation of civil actions, except those matters expressly excluded by Rule 1.710(b), which does not exclude residential mortgage foreclosure actions; and

Whereas, residential mortgage foreclosure case filings have increased substantially in the Third Judicial Circuit, and state and county budget constraints have limited the ability of the courts in the Third Judicial Circuit to manage these cases in a timely manner; and

Whereas, high residential mortgage foreclosure rates are damaging the economies of the counties in the Third Judicial Circuit; and

Whereas, the Supreme Court of Florida has determined that mandatory mediation of homestead residential mortgage foreclosure actions prior to the matter being set for final hearing will facilitate the laudable goals of communication, facilitation, problem-solving between the parties with the emphasis on self-determination, the parties’ needs and interests, procedural flexibility, full disclosure, fairness, and confidentiality. Referring these cases to mediation will also facilitate and provide a more efficient use of limited judicial and clerk resources in a court system that is already overburdened; and

Whereas, Suwannee Valley Foreclosure Mediation, Inc. is an independent, nonpartisan, nonprofit organization that has demonstrable ability to assist the courts with managing the large number of residential mortgage foreclosure actions that recently have been filed in the Third

Jenn C. Lussier

From: Sondra M. Lanier
Sent: Thursday, April 08, 2010 10:40 AM
To: Sonny Scaff; 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 S. 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; Tom Coleman; William R. Slaughter
Subject: RE: Tomorrow's Judges' Meeting

There will also be a discussion of Foreclosure Mediation tomorrow.

Sondra Lanier

Trial Court Administrator
Third Judicial Circuit
(386)758-2163 Lake City
(386)362-1017 Live Oak
(386)362-2658 Fax

From: Sonny Scaff
Sent: Thursday, April 08, 2010 10:38 AM
To: Sondra M. Lanier; 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 S. 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; Tom Coleman; William R. Slaughter
Subject: RE: Tomorrow's Judges' Meeting

I have 86 Traffic and MM Cases in the morning.
Will not make meeting.
Sonny

From: Sondra M. Lanier
Sent: Thursday, April 08, 2010 9:42 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; Tom Coleman; William R. Slaughter
Subject: Tomorrow's Judges' Meeting

Good morning.

The items on the agenda for tomorrow's meeting are Legislative Update (Funding, Pay and Benefits, and Senior Judges). I will e-mail an agenda to you when the server is operating again. John and Jacob have been working diligently on the server problems and expect to have things up and running this morning.

The meeting will be held in the Suwannee County Courthouse at 10:30 a.m. tomorrow.

Sondra Lanier

., Trial Court Administrator
Third Judicial Circuit
(386)758-2163 Lake City
(386)362-1017 Live Oak
(386)362-2658 Fax

Jenn C. Lussier

From: Sondra M. Lanier
Sent: Monday, March 15, 2010 11:10 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; Tom Coleman; William R. Slaughter
Subject: Notes from Friday's Meeting

Good morning Judges,

Following are some of the issues discussed at the Judges' Meeting on Friday, March 12, 2010.

- Judge Fina expects to enter an administrative order related to Foreclosure Mediations within approximately a week. The issue has been discussed on Chief Judges' calls, and the circuits were asked to coordinate their orders in order to ensure as much uniformity as possible among the circuits. We will be reviewing orders from the 4th, 11th, and 19th circuits, comparing them to the Supreme Court's model order, and drafting an order for our circuit based on those samples.
- An agreement between the 3rd and 8th Judicial Circuits allowing for juvenile detention hearings from Columbia, Dixie, Hamilton, Lafayette, and Suwannee Counties to be held in Gainesville on the weekends has expired, and it is currently under review and reconsideration. Judges in the 8th Judicial Circuit have expressed concern about a lack of follow-up by DJJ after juvenile detention hearings are held in Gainesville on the weekends. The 8th circuit will continue to conduct hearings for 90 days to allow for a new agreement to be reached if possible. A copy of Chief Judge Martha Lott's memo regarding this issue is attached for your information.
- Three bills under consideration by the Legislature have the potential to do away with judicial immunity, further reduce judges' salaries, and prevent judges from serving as senior judges for one year following their date of retirement. We will continue to monitor these bills and keep you informed as decisions are made.
- Silvia Harris is no longer employed by the Third Circuit as a Digital Court Reporter.
- Interviews were conducted on Friday afternoon for the Child Support Hearing Officer position.
- Crystal Ecker, our new law clerk, will begin on April 1; Adam and Lucas will leave on May 1; Jackie Jo Brinson will start as a law clerk on August 1; and we will be interviewing soon for a third law clerk to begin on August 1.
- *(Not mentioned at Judges' Meeting, but also staff news)* We are currently advertising for the User Support Analyst position previously held by Harold Blakley, and we expect to conduct interviews and fill that position soon.
- Debbie DeNike was in attendance at the meeting and reported to the judges that she expects to have time to take on new responsibilities as soon as a Child Support Hearing Officer is hired and begins work. Family court and foreclosures were discussed as two possible areas that she might add to her probate workload.
- Judge Fina reminded everyone that any requests for changes in assignments for the July 2010 – June 2011 calendar be made to him by the end of the day on Friday March 12th.

Sondra Lanier

Trial Court Administrator
Third Judicial Circuit
(386)758-2163 Lake City
(386)362-1017 Live Oak

(386)362-2658 Fax

Jenn C. Lussier

From: Sonny Scaff
Sent: Tuesday, March 02, 2010 10:44 AM
To: Sondra M. Lanier; Greg S. Parker
Cc: David W. Fina
Subject: RE: Trust Fund Collections

No clue as to any of this.

“Christie Morgan” is the best person in the Clerk’s Office to contact should Greg not be available...

From: Sondra M. Lanier
Sent: Tuesday, March 02, 2010 10:07 AM
To: Sonny Scaff; Greg S. Parker
Cc: David W. Fina
Subject: Trust Fund Collections

Good morning. OSCA has contacted us with questions about State Courts Revenue Trust Fund and Mediation Trust Fund deposits from Hamilton County.

State Courts Revenue Trust Fund – Nothing has been remitted for adjudication withheld fines and for the \$25 speeding fine increase for the period of June – December 2009.

Mediation Trust Fund – Nothing has been remitted for actions relating to mortgage foreclosures, county civil claims, or circuit and county proceedings for the period of June – December 2009.

Are you aware of this? There are so many categories with no collections that this appears to be an accounting issue. Would one of you mind checking on this? I don’t mind checking on it if you think it’s OK, but I may not be the best person to do it at this point. I will follow your suggestions.

Sondra

Jenn C. Lussier

From: Sondra M. Lanier
Sent: Tuesday, March 02, 2010 10:32 AM
To: Greg S. Parker
Subject: RE: Trust Fund Collections

OK. I will trust your judgment and take care of it.

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

From: Greg S. Parker
Sent: Tuesday, March 02, 2010 10:31 AM
To: Sondra M. Lanier
Subject: Re: Trust Fund Collections

I think Greg Godwin might wonder why you did not come to him directly. He is a great guy. If there is any problem I will become involved. Parker

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

From: Sondra M. Lanier
To: Greg S. Parker
Sent: Tue Mar 02 10:14:57 2010
Subject: RE: Trust Fund Collections

I don't have a problem just handling it as long as you think the political climate is OK. You know.... the whole clerk thing. They like you guys better than me these days, but I don't mind doing it since it's really my job.

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

From: Greg S. Parker
Sent: Tuesday, March 02, 2010 10:14 AM
To: Sondra M. Lanier
Subject: Re: Trust Fund Collections

I don't mind but is there a problem with you contacting Greg Godwin in advance? Seems to me that would be the protocol. But I don't have a problem doing the first approach to him. Just think about and let me know.

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

From: Sondra M. Lanier
To: Sonny Scaff; Greg S. Parker
Cc: David W. Fina
Sent: Tue Mar 02 10:07:19 2010
Subject: Trust Fund Collections

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Sondra

Jenn C. Lussier

From: Sondra M. Lanier
Sent: Tuesday, March 02, 2010 10:15 AM
To: Greg S. Parker
Subject: RE: Trust Fund Collections

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

From: Greg S. Parker
Sent: Tuesday, March 02, 2010 10:14 AM
To: Sondra M. Lanier
Subject: Re: Trust Fund Collections

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From: Sondra M. Lanier
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Cc: David W. Fina
Sent: Tue Mar 02 10:07:19 2010
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Sondra

Jenn C. Lussier

From: Adam L. Morrison
Sent: Friday, February 26, 2010 10:20 AM
To: Darren K. Jackson; David W. Fina; E. Vernon Douglas; Frederick L. Koberlein; Greg S. Parker; H. Wetzel Blair; Julian E. Collins; Leandra G. Johnson; Lucas J. Taylor; Paul S. Bryan; Sonny Scaff; Tom Coleman; William R. Slaughter; James R. Bean
Subject: FW: 16 Crim.L.Rept. #8
Attachments: XVI8.pdf

From: Kurt Erlenbach [mailto:Amadeas@cfl.rr.com]
Sent: Thursday, February 25, 2010 6:50 PM
To: Undisclosed-Recipients
Subject: 16 Crim.L.Rept. #8

AMADEAS
LEGAL PUBLICATIONS, INC.

FLORIDA CRIMINAL LAW
Weekly Report

Vol. XVI, No. 8

February 26, 2010

Written by Kurt Erlenbach

Attached is 16 Crim.L.Wkly.Report # as an Adobe PDF file, which can be read using free Adobe Acrobat Reader software. If you do not have the necessary software, check <http://www.adobe.com/acrobat/>, where you can download the software. Please contact Amadeas Legal Publications at (321) 269-2293 or Amadeas@cfl.rr.com if you have any other difficulties with this file.

SCOTUS reverses *Powell*

In *S. v. Powell*, 969 So. 2d 1060 (Fla. 2d DCA 2007), the Second DCA set off a wave confession suppressions in Hillsborough County based on a faulty *Miranda* warning used by the sheriff's department. The warnings stated, "You have the right to remain silent. If you give up the right to remain silent, any-thing you say can be used against you in court. You have the right to talk to a lawyer before answering any of our questions. If you cannot afford to hire a lawyer, one will be appointed for you without cost and before any questioning. You have the right to use any of these rights at any time you want during this interview." *Powell* alleged that the failure to inform the suspect that he had the right to an attorney during questioning, as well as "before answering" any ques-tions, provided an inadequate description of his fifth amendment right against self-incrimination.

In *S. v. Powell*, 998 So. 2d 531 (Fla. 2008), the Florida Supreme Court affirmed the Second DCA, and on February 23, the US Supreme Court reversed in a 7-2 decision.

The Court began with a ruling that the FSC's decision in *Powell* rested not solely on independent state grounds. "Powell notes that 'state courts are absolutely free to interpret state constitutional provisions to accord greater protection to individual rights than do similar provisions of the United States Constitution.' Brief for Respondent 19-20 ... Powell is right in this regard. Nothing in our decision today, we emphasize, trenches on the Florida Supreme Court's authority to impose, based on the State's Constitution, any additional protections against coerced confessions it deems appropriate. But because the Florida Supreme Court's decision does not 'indicat[e] clearly and expressly that it is alternatively based on bona fide separate, adequate, and independent [state] grounds,' *Long*, 463 U. S., at 1041, we have jurisdiction to decide this case."

Turning to the substance of the argument, the Court held, "The four warnings *Miranda* requires are invariable, but this Court has not dictated the words in which the essential information must be conveyed. ... In determining whether police officers adequately conveyed the four warnings, we have said, reviewing courts are not required to examine the words employed "as if construing a will or defining the terms of an easement. The inquiry is simply whether the warnings reasonably 'conve[y] to [a suspect] his rights as required by *Miranda*.'" *Duckworth*, 492 U. S. at 203 (quoting *Prysock*, 453 U. S., at 361).

...
"The Tampa officers did not 'entirely omi[t],' post, at 9, any information *Miranda* required them to impart. They informed Powell that he had 'the right to talk to a lawyer before answering any of [their] questions' and 'the right to use any of [his] rights at any time [he] want[ed] during th[e] interview.' App. 3. The first statement communicated that Powell could consult with a lawyer before answering any particular question, and the second statement confirmed that he could exercise that right while the interrogation was underway. In combination, the two warnings reasonably conveyed Powell's right to have an attorney present, not only at the outset of interrogation, but at all times. "To reach the opposite conclusion, i.e., that the attorney would not be present throughout the interrogation, the suspect would have to imagine an unlikely scenario: To consult counsel, he would be obliged to exit and reenter the interrogation room between each query. ...

"The Florida Supreme Court found the warning misleading because it believed the temporal language—that Powell could 'talk to a lawyer before answering any of [the officers'] questions'—suggested Powell could consult with an attorney only before the interrogation started. 998 So. 2d, at 541. See also Brief for Respondent 28-29. In context, however, the term 'before' merely conveyed when Powell's right to an attorney became effective—namely, before he answered any questions at all. Nothing in the words used indicated that counsel's presence would be restricted after the questioning commenced. Instead, the warning communicated that the right to counsel carried forward to and through the interrogation: Powell could seek his attorney's advice before responding to 'any of [the officers'] questions' and 'at any time . . . during th[e] interview.' App. 3 (emphasis added). Although the warnings were not the clearest possible formulation of *Miranda*'s right-to-counsel advisement, they were sufficiently comprehensive and comprehensible when given a commonsense reading."

The majority decision was written by Justice Ginsberg, and Justices Stevens and Breyer dissented.

Tenth Circuit Assistant Public Defenders Cynthia Dodge and Deborah Kucer Brueckheimer participated with the brief, and APD Brueckheimer did the oral argument. AAG Joseph Jacquot argued for the state.

Supremes detail woeful state of Florida's judicial system

Using the constitutional requirement to certify each year the need for new judgeships in each circuit and county as its mouthpiece, the Florida Supreme Court Chief Justice Peggy Quince February 25 **described how** "court operations have been significantly hampered by the loss of positions that provide direct support to our judges."

"In order to comply with the legislative request to reduce its budget, Florida's court system over the last three budget years has lost or eliminated 103.25 case managers, 23.75 magistrates and associated administrative staff, 38.5 law clerks, 18.5 due process positions (i.e., court reporters, court interpreters, and expert witnesses), and 106.5 positions from court administration, appellate clerks' offices, and appellate marshals' offices. Of the 290.5 total positions lost in the judicial branch, 249 trial court positions have been eliminated throughout the state. Also substantially reduced were contractual dollars used to hire Civil Traffic Infraction Hearing Officers (CTIHO). As a result, much work previously performed by CTIHOs was absorbed by our county court judges.

...

"Other factors contributing to circuit court work-load include the mortgage foreclosure crisis previously mentioned which continues to overwhelm Florida's court system. ... Over a 36-month period (Fiscal Year 2005-2006 to Fiscal Year 2007-2008), real property/mortgage foreclosure filings increased by 396 percent in our trial courts. During the same time period, the clearance rate for real property/mortgage foreclosure cases decreased by 52 percent, from 94 percent in Fiscal Year 2005-2006 to 42 percent in Fiscal Year 2007-2008. According to Realty Trac, Florida has the third highest rate of mortgage foreclosures in the country with one in every 158 housing units in foreclosure. Condominium foreclosures are contributing to the crisis.

...

"This Court also remains concerned about the staffing levels of state attorney and public defender offices, the Offices of Regional Counsel, and the offices of the Capital Collateral Representatives. The need persists to reconcile the certification of new judgeships with sufficient staffing for these entities. This is a systemic issue and should be approached as such. We encourage the Legislature to consider the needs of the state attorneys, public defenders, Offices of Regional Counsel, and Capital Collateral Representatives if new judgeships are authorized for our criminal divisions, particularly in light of the staffing reductions they have experienced in recent years.

...

"From Fiscal Year 2006-2007 to Fiscal Year 2007-2008 total filings have increased by 21 percent in circuit court. Growth in civil filings by 85 percent is the main contributing factor to the statewide increase in circuit court. Real property and mortgage foreclosure case filings have more than doubled from the previous fiscal year, representing an increase of 171,426 filings. Product liability, condominium, and contract and indebtedness case filings have also risen considerably, by 267 percent, 117 percent, and 29 percent respectively.

"Substantial growth in filings in felony case types also contributed to an overall rise in circuit court filings from Fiscal Year 2006-2007 to Fiscal Year 2007-2008. The largest felony case type in terms of number of filings, property crime (including burglary, theft, worthless checks, and other felonies)

increased by five percent. Additionally, capital murder and robbery case filings also rose by a considerable percentage, six and 15 percent respectively.

...

"Further, the overall statewide circuit court clearance rate from Fiscal Year 2006-2007 to Fiscal Year 2007-2008 has decreased by ten percent. Clearance rates in all divisions dropped in Fiscal Year 2007-2008, with the lone exception of the circuit criminal division. The chief judges of the trial courts are ensuring that all due process (e.g., speedy trials) and other constitutional requirements related to felony proceedings are being met. This often requires the redeployment of judicial resources from other court divisions. The circuit civil division experienced a significant clearance rate decline of nineteen percent, statewide. Similarly, the county court clearance rate decreased by four percent with the county civil division declining by five percent.

...

"Florida's court system remains under duress. The state and national recession of the last two years and the resulting budget reductions for the courts are taking a sustained toll on Florida's judges, court staff, and most importantly those who are accessing our courts. Case filings are up and clearance rates are down. Judicial dockets are full, scheduling is problematic, and case processing times are delayed.

"Florida's court system has now gone three years without the authorization of any new judgeships despite a demonstrated and sustained need. The absence of new judgeships is now being felt by all sectors of our society who seek justice through the court system.

"We submit this opinion recognizing that it is difficult for the Legislature to fund the many competing critical issues confronting our state given the fiscal crisis the state is enduring. If funds become available, we encourage the Legislature to authorize those judgeships certified in our circuit and county courts. Additionally, while we have identified our judicial need in this opinion, we are equally concerned with the allocation of adequate court support staff and supplemental resources in the statutorily defined court elements that will enable the courts to respond effectively to the needs of children, families, the business sector, and the public."

6 Attorney for defendant: generally

The tests used to determine whether the state can get a defense attorney disqualified in a criminal case are different than those used in civil cases because criminal cases involved the 6th amendment right to counsel. To get a defense attorney disqualified, the state must show that there is an actual conflict of interest or the serious likelihood of a conflict.

Where defense counsel was a former assistant statewide prosecutor who left that office four years prior, but had worked on the investigation that led to her client's charges, the court properly denies a motion to disqualify counsel when the evidence shows that her involvement in defendant's investigation was minor.

De La Oso, ___ So. 3d ___, 35 F.L.W. D455 (4th DCA 2/24/2010)

26 Crimes: homicide: 1st degree murder

The court properly imposes a life sentence on a 15-year old convicted of being the wheelman in a robbery in which a co-perpetrator killed the victim.

Arrington v. S., ___ So. 3d ___, 35 F.L.W. D327 (2d DCA 2/19/2010)

35 Crimes: miscellaneous substantive crimes

The offense of animal fighting under §828.122 requires some evidence that the animals were engaged in fighting. Evidence that defendant possessed roosters that could have been used for fighting and items that are commonly possessed by those engaged in grooming roosters for fighting is not sufficient to sustain a conviction in the absence of evidence that the roosters actually had been used in a fight.

Rodriguez v. S., ___ So. 3d ___, 35 F.L.W. D448 (4th DCA 2/24/2010)

36 Crimes: resisting officer

LEO was attempting to serve a Marchman Act order, and went to a house occupied by defendant. Defendant told the officer that the subject was not there, and the officer searched, finding her in a closet. Defendant was charged with resisting without violence. Held: Under the circumstances the words alone used by defendant were sufficient to sustain a conviction for resisting.

(See this case for discussion of when words alone can constitute resisting.)

S. v. Legnosky, ___ So. 3d ___, 35 F.L.W. D428 (2d DCA 2/19/2010)

40 Crimes: sex offenses: lewd battery, etc. on a child

When defendant is convicted of offenses which are not properly allowed under double jeopardy rules (here, lewd battery and lewd molestation), the court must vacate one of the convictions. The court errs in withholding adjudication on the crime, rather than vacating.

Bolding v. S., ___ So. 3d ___, 35 F.L.W. D442 (1st DCA 2/24/2010)

44 Crimes: traffic offenses

To convict for leaving the scene of an accident involving unattended property under §316.063(1), the state must show that the defendant damaged other property. The fact that defendant's car was damaged, but failed to show that another property was damaged, gets reversal.

Powell v. S., ___ So. 3d ___, 35 F.L.W. D443 (1st DCA 2/24/2010)

47 Defenses: generally and misc.

For purposes of the duress defense, a threatened harm is "imminent" and "impending" if it is about to take place, and cannot be guarded against by calling for the protection of the law. The defense does not apply when the defendant has the ability to escape the danger without breaking the law.

When the evidence supporting the defense (here, only defendant's testimony) is impeached and is not unequivocal, the court does not err in refusing to grant a JOA.

(See this case for application of a duress defense to the crime of fleeing and eluding.)

Turner v. S., ___ So. 3d ___, 35 F.L.W. D446 (4th DCA 2/24/2010)

54 Double jeopardy and collateral estoppel

When defendant is convicted of offenses which are not properly allowed under double jeopardy rules (here, lewd battery and lewd molestation), the court must vacate one of the convictions. The court errs in withholding adjudication on the crime, rather than vacating the conviction.

Bolding v. S., ___ So. 3d ___, 35 F.L.W. D442 (1st DCA 2/24/2010)

58 Evidence: defendant's statements: *Miranda*

The *Miranda* warnings struck down in *S. v. Powell* 998 So. 2d 531 (Fla. 2008), adequately informed the suspect of his right to have an attorney present with him during questioning, and the decision in that case and *Powell v. S.*, 969 So. 2d 1060 (Fla. 2d DCA 2007), are reversed.

(See this case for an extensive discussion of the language needed to give adequate *Miranda* warnings.)

Florida v. Powell, U.S. (2010), 35 F.L.W. Fed. S ___ (2/23/2010)

reversing *S. v. Powell*, 998 So. 2d 531 (Fla. 2008), and *Powell v. S.*, 969 So. 2d 1060 (2d DCA 2007)

60 Evidence: generally

Allowing a police witness to give his opinion about the credibility of another witness is especially harmful. Where the conviction rests on the testimony of a codefendant, a police officer's testimony that he believed the codefendant would tell the truth gets murder conviction and death sentence reversed.

Tumblin v. S., ___ So. 3d ___, 35 F.L.W. S133 (Fla. 2/25/2010)

62.08 Evidence: hearsay: exceptions: prior consistent statements

A prior consistent statement is inadmissible to bolster or corroborate a witness' testimony because it is hearsay. The statement can be admitted if offered to rebut an express or implied charge against the declarant of improper motive, influence, or recent fabrication.

A decision to admit a prior consistent statement is reviewed on an abuse of discretion standard.

A person was implicated in a murder. The officer's located him, and he immediately stated he wanted to talk to a specific officer. The person eventually confessed to playing a role in the murder, and flipped on his co-perpetrator, the defendant. The witness pled and was to receive a 25-year sentence. During cross, counsel implicitly charged that the witness testified as he did due to improper influence and that he was fabricating to preserve his plea deal, and the state then introduced his prior statement. Held: The court properly admits the prior consistent statements.

Tumblin v. S., ___ So. 3d ___, 35 F.L.W. S133 (Fla. 2/25/2010)

74 Jurisdiction

A 3.850 motion alleging that the statewide prosecutor did not have authority to bring a case because all the elements occurred within a single circuit is governed by the 2-year time limit of the rule, and a motion filed 5 years after the plea is untimely. The fact that the motion attacks the court's jurisdiction does not allow it to be raised at any time.

When the statewide prosecutor files an information without authority, it fails to invoke the jurisdiction of the court. That issue can be raised by postconviction relief, and the error would be fundamental (concurring opinion).

Carbajal v. S., ___ So. 3d ___, 35 F.L.W. D437 (2d DCA 2/24/2010)

78 Juveniles: juveniles prosecuted as adults

The court properly imposes a life sentence on a 15-year old convicted of being the wheelman in a robbery in which a co-perpetrator killed the victim.

Arrington v. S., ___ So. 3d ___, 35 F.L.W. D327 (2d DCA 2/19/2010)

Juvenile was prosecuted as an adult and was sentenced to a juvenile commitment facility. After completing the program and most of aftercare, he was charged with several new offenses and the commitment was re-voked under §985.565(4)(c). At sentencing, the state asked for adult sanctions and presented evidence of the new charges. Held: A resentencing after the revocation of commitment is not like a VOP hearing. The court can sentence based only on the original offense, and may not take into account unproven allegations of new offenses.

Mirutil v. S., ___ So. 3d ___, 35 F.L.W. D468 (3d DCA 2/24/2010)

86 Post-conviction relief: 3.800 motions: 3.800(b) correction of sentencing errors

A claim that the court sentenced defendant vindictively for exercising his right to a VOP hearing is not something that needs to be preserved by a rule 3.800(b) motion. The claim does not raise an error in the sentencing order.

Mendez v. S., ___ So. 3d ___, 35 F.L.W. D426 (2d DCA 2/19/2010)

89 Post-conviction relief: 3.850 motions: generally and miscellaneous

A 3.850 motion alleging that the statewide prosecutor did not have authority to bring a case because all the elements occurred within a single circuit is governed by the 2-year time limit of the rule, and a motion filed 5 years after the plea is untimely. The fact that the motion attacks the court's jurisdiction does not allow it to be raised at any time.

When the statewide prosecutor files an information without authority, it fails to invoke the jurisdiction of the court. That issue can be raised by postconviction relief, and the error would be fundamental (concurring opinion).

Carbajal v. S., ___ So. 3d ___, 35 F.L.W. D437 (2d DCA 2/24/2010)

An order dismissing a 3.850 motion with leave to amend is not an appealable final order, and a notice on the order indicating the need to file an appeal within 30 days is in error.

Havens v. S., ___ So. 3d ___, 35 F.L.W. D436 (2d DCA 2/24/2010)

97 Search and seizure: encounters

LEOs saw defendant and other people standing in the parking lot of a closed business late at night in a high crime area. The officers got out and approached the group, and defendant started to walk away. The officer called defendant back, and he asked whether he possessed anything illegal. The defendant gave him a bag of marijuana. Held: The incident was a Terry stop and not an encounter. The fact that the officer called defendant back to the area, and the fact that there were several officers in the lot conducting a sweep, would indicate to a reasonable person that he was not free to leave.

F.E.H. v. S., ___ So. 3d ___, 35 F.L.W. D451 (4th DCA 2/24/2010)

107 Search and seizure: Terry stops

LEO observed defendant in a drug dealing area get into a car with another person, move around, and

then exit. He observed no hand-to-hand transaction or any money. Held: Court errs in refusing to suppress (but see dissent).

Benemerito v. S., ___ So. 3d ___, 35 F.L.W. D456 (4th DCA 2/24/2010)

LEOs saw defendant and other people standing in the parking lot of a closed business late at night in a high crime area. The officers got out and approached the group, and defendant started to walk away. The officer called defendant back, and he asked whether he possessed anything illegal. The defendant gave him a bag of marijuana. Held: The incident was a Terry stop and not an encounter. The fact that the officer called defendant back to the area, and the fact that there were several officers in the lot conducting a sweep, would indicate to a reasonable person that he was not free to leave.

F.E.H. v. S., ___ So. 3d ___, 35 F.L.W. D451 (4th DCA 2/24/2010)

120 Sentencing: generally

A claim that the court sentenced defendant vindictively for exercising his right to a VOP hearing is not something that needs to be preserved by a rule 3.800(b) motion. The claim does not raise an error in the sentencing order.

Where the court offered a 3 1/2 year sentence before a VOP hearing, the state offered 4 years, and defendant rejected both, imposing a 5-year sentence after a hearing shows a presumption of vindictiveness.

Mendez v. S., ___ So. 3d ___, 35 F.L.W. D426 (2d DCA 2/19/2010)

131 Sentencing: probation and community control: violations

The court errs in failing to file a written order indicating which conditions of probation defendant violated.

Manis v. S., ___ So. 3d ___, 35 F.L.W. D422 (5th DCA 2/19/2010)

136 State attorneys: generally

A 3.850 motion alleging that the statewide prosecutor did not have authority to bring a case because all the elements occurred within a single circuit is governed by the 2-year time limit of the rule, and a motion filed 5 years after the plea is untimely. The fact that the motion attacks the court's jurisdiction does not allow it to be raised at any time.

When the statewide prosecutor files an information without authority, it fails to invoke the jurisdiction of the court. That issue can be raised by postconviction relief, and the error would be fundamental (concurring opinion).

Carbajal v. S., ___ So. 3d ___, 35 F.L.W. D437 (2d DCA 2/24/2010)

149 Trial conduct: judgment of acquittal

If defendant's testimony establishing a defense is reasonable and un rebutted, and the testimony completely exonerates the defendant, the court must grant a JOA. But if the testimony is not reasonable on its face, is not un rebutted, or is impeached, the trier of fact can reject the testimony and find the defendant guilty if the elements are otherwise established.

Turner v. S., ___ So. 3d ___, 35 F.L.W. D446 (4th DCA 2/24/2010)