

"All records of the judicial branch that discuss, propose, assess, recommend, or require any rule, procedure, or practice to be used by any division, section, or case management unit created to manage, adjudicate, or dispose of foreclosure cases. To the extent this request encompasses records of the judicial branch also requested by Request #4, we do not seek duplicates of those records in response to this request."

Clarification on Request item #4 should be forthcoming shortly. The unresolved issue is how to exclude merely logistical e-mail from the scope of the request. As soon the clarification has been agreed upon, I'll forward the exact language to you.

Sincerely,

Laura Rush

General Counsel

Office of the State Courts Administrator

500 South Duval Street

Tallahassee, FL 32399-1900

(850) 488-1824

3/15/2011

**4th Cir 00601**

**Stelma, Joe**

---

**From:** Laura Rush [RushL@flcourts.org]  
**Sent:** Wednesday, November 17, 2010 2:06 PM  
**To:** Trial Court Administrators  
**Cc:** 'LKearson@jud11.flcourts.org'; Berghorn, Robin; 'Lisa DeBrauwere'  
**Subject:** ACLU Public Records Requests - clarification on item #2

All,

ACLU attorney Larry Schwartz to by November 15 e-mail forwarded the following clarifications for circuit request item #2 – the following is an excerpt from his e-mail:

**Circuit Request #2:** The issue we discussed regarding this request was the concern that, as written, it would require an extremely labor-intensive review of all case files. **Our intent is not to request records specific to individual cases**, but rather the records relating to the rules, procedures, and practices governing all foreclosure cases within a particular circuit. To that end, I think we can adapt the language I provided above for OSCA Request #2. We therefore modify Circuit Request #2 to read:

"All records of the judicial branch that discuss, propose, assess, recommend, or require any rule, procedure, or practice to be used by any division, section, or case management unit created to manage, adjudicate, or dispose of foreclosure cases. To the extent this request encompasses records of the judicial branch also requested by Request #4, we do not seek duplicates of those records in response to this request."

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Sincerely,  
Laura Rush  
General Counsel  
Office of the State Courts Administrator  
500 South Duval Street  
Tallahassee, FL 32399-1900  
(850) 488-1824

3/15/2011

**4th Cir 00602**

**Stelma, Joe**

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**From:** Shore, Brent  
**Sent:** Wednesday, November 17, 2010 11:20 AM  
**To:** Ivey, James; Stelma, Joe  
**Cc:** Moran, Donald R.; Norris, Elizabeth; D'Amour, Rose  
**Subject:** RE: Foreclosure Cases - Courtroom Assignments

I am talking about January. Is there any reason to leave it vacant? 505 is not conducive to our meetings, but we are making it work.

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

**From:** Ivey, James  
**Sent:** Wednesday, November 17, 2010 10:36 AM  
**To:** Stelma, Joe  
**Cc:** Moran, Donald R.; Shore, Brent; Norris, Elizabeth; D'Amour, Rose  
**Subject:** Re: Foreclosure Cases - Courtroom Assignments

I spoke with Judge Soud about that yesterday & he requested if we could leave room 510 as it is now for the time being.

On Nov 17, 2010, at 10:25 AM, "Stelma, Joe" <Jstelma@coj.net> wrote:

> since the foreclosures are now in a courtroom alst of people wnat to  
> use 510 again. lets discuss tomorrow about opening it back up

>  
>  
> Fourth Circuit Court Administrator  
> 330 E. Bay Street, Room 508  
> Jacksonville, Florida 32202  
> Work: (904) 630-1655  
> Fax:(904) 630-8209

>  
>  
> -----Original Message-----  
> **From:** Shore, Brent  
> **Sent:** Wednesday, November 17, 2010 8:31 AM  
> **To:** Stelma, Joe  
> **Subject:** RE: Foreclosure Cases - Courtroom Assignments

>  
>  
> Thanks. Hope you feel better soon.

> -----Original Message-----  
> **From:** Stelma, Joe  
> **Sent:** Tuesday, November 16, 2010 3:22 PM  
> **To:** Shore, Brent  
> **Subject:** Re: Foreclosure Cases - Courtroom Assignments

>  
> I agree. Out with a bad cold and sinus.will follow up with you.  
>  
> Sent from my iPhone  
>  
> On Nov 16, 2010, at 12:19 PM, "Shore, Brent" <BSHORE@coj.net> wrote:

>  
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>> Joe- Since these hearings will now be held in a Courtroom, is there  
> any reason the monthly County Judges' meeting can't be moved back to  
> its original location? Thanks.

>> -----Original Message-----

>> From: Emery, Caroline  
>> Sent: Tuesday, November 16, 2010 12:11 PM  
>> To: CTADM1 JUDGES; CTADM1\_JA'S; Hon Robert Foster; JA Sherry Colson;  
>> Hon Brian J. Davis; JA Agnes Prelow; Hon Grandville C. Burgess; JA  
>> Monica Benischeck; Dot Cook (FCS); 'Conni Lewis'; Hon. William H.  
>> Wilkes; Lenore Dunaway; Hon John H. Skinner; Symantha Juneau; Hon  
>> Timothy R. Collins; Michelle Gipson; Hon Richard R. Townsend; Katie  
>> Wilt; Hon Mack Crenshaw Jr.; Kaye Tate; Hon Daniel Wilensky; Star  
>> Mariano; GM William Grant; Akel, Franklin; Heiney, Mia; Ivey, James;  
>> Marchant, Debra; Harrison, Wanda; D'Amour, Rose; Norris, Elizabeth;  
>> Ellis, Michele; Maurer, Bud; Sourbeer, Jeff  
>> Subject: FW: Foreclosure Cases - Courtroom Assignments  
>>  
>> FYI  
>>  
>>  
>> Caroline Emery, Court Counsel  
>> Duval County Courthouse  
>> Room 220  
>> 330 East Bay Street  
>> Jacksonville, FL 32202  
>> Wk: 904-630-7256  
>>  
>> <img-Y16114217-0001.pdf>

**Stelma, Joe**

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**From:** Stelma, Joe  
**Sent:** Wednesday, November 17, 2010 10:26 AM  
**To:** Moran, Donald R.  
**Cc:** Shore, Brent; Norris, Elizabeth; D'Amour, Rose; Ivey, James  
**Subject:** FW: Foreclosure Cases - Courtroom Assignments

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Fourth Circuit Court Administrator  
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Jacksonville, Florida 32202  
Work: (904) 630-1655  
Fax: (904) 630-8209

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> <img-Y16114217-0001.pdf>

**Stelma, Joe**

---

**From:** Debbie Howells [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  
**Attachments:** Memo to Chief Judges re Mortgage Foreclosure Proceedings.pdf; Letter to Florida Press Assn et al.pdf

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

3/15/2011

**4th Cir 00608**





## 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

Chief Judges of the Circuit Courts  
November 17, 2010  
Page Two

or callers with the correct information about attendance at mortgage foreclosure or other court proceedings.

I would also like to take this opportunity to clarify the Supreme Court's understanding of the goals of the Foreclosure and Economic Recovery Funding Initiative, which was partially funded by the Legislature during the 2010 Legislative Session. I have reviewed Judge John Laurent's memorandum of October 28, 2010, a copy of which is attached and incorporated herein by reference. I agree with his description of the 62-percent goal established by the Trial Court Budget Commission as a means to help measure the court system's progress in the initiative and to document how the appropriation for the foreclosure initiative is being spent. There is no reason why the 62-percent goal should interfere with a judge's ability to adjudicate each case fairly on its merits. Each case must be adjudicated in accordance with the law.

Thank you for your ongoing efforts to appropriately administer and resolve the avalanche of mortgage foreclosure cases that have been overwhelming the court system during the past few years. I recognize that the challenge you face in assuring that these cases are resolved properly is unprecedented. I am confident that with the cooperation of all judges and court staff—along with the tools of the revised rules of court procedure, implementation of the managed mediation program, and the influx of court resources through the Foreclosure and Economic Recovery Funding Initiative—the Florida courts will be able to meet this challenge in a manner that protects and preserves the rights of all parties as well as interested observers.

CTC/LG/dgh

Enclosures

cc: Trial Court Administrators



**Florida Press Association**  
336 E. College Avenue, Suite 203  
Tallahassee, FL 32301  
(850) 521-1199  
Fax (850) 577-3629

Chief Justice Charles T. Canady  
Florida Supreme Court  
500 South Duval Street  
Tallahassee, FL 32399-1925

November 12, 2010

Dear Chief Justice Canady,

We write to express our concern that the right to open access to judicial proceedings is being unduly impeded in foreclosure proceedings around the state. Our organizations have received numerous reports that extraordinary barriers to access are preventing members of the general public, as well as representatives of the news media, from observing foreclosure proceedings in judicial circuits around the state. We believe these barriers undercut the transparency of the judicial process; they also violate the strong presumption of open access to judicial proceedings under Florida law. We urge you to take action to secure the public's right to observe the workings of the judicial system.

As you know, Florida law recognizes a strong presumption in favor of open access to judicial proceedings. We have no objection, of course, to ordinary security screening measures. We are concerned, however, that the barriers to access here go far beyond such measures, leaving members of the public and press subject to the discretion of individual foreclosure judges to admit or exclude them.

The reports we have received come from all around the state, and although the precise nature of the barriers to access varies, a troubling pattern emerges: foreclosure divisions recently established by the judicial circuits have been operating under a presumption of closure to members of the general public, rather than the presumption of openness mandated by Florida law. An illustrative, but not exhaustive, list of encounters that have been reported to our organizations since August 2010 follows:

- A court observer in Hillsborough County called the court to ask about the rules governing attendance at foreclosure proceedings and was told that the proceedings were not open to the public.
- A pro se defendant in Duval County was told by a member of court security that she could not access foreclosure proceedings because only attorneys were permitted.
- A court observer called the Orange County courthouse to ask about attending foreclosure proceedings. She was informed that foreclosure hearings were held "in private chambers" and therefore not open to the public.

- In Citrus County, an individual preparing to mount a pro se defense in his own foreclosure case attempted to attend foreclosure hearings in advance of his own so that he could know what to expect when his case was heard. He was told that foreclosure hearings are "private" and take place in judges' chambers, and that he would not be permitted to observe them.
- Most recently, a legal aid attorney in Jacksonville attended a foreclosure proceeding accompanied by a reporter from Rolling Stone Magazine. Neither the attorney nor the reporter did anything disruptive to the proceedings. At one point the reporter left the proceedings in order to interview a pro se litigant whose case had just been heard. Later that day, the judge sent an email to the attorney castigating her for bringing the reporter into the proceedings. He stated that, while "attorneys are welcome in Chambers at their leisure," members of the media are "permitted" entry only upon "proper request to the security officer." He further informed the attorney that she "did not have authority to take anyone back to chambers without proper screening" and stated that her "apparent authorization that the reporter could pursue a property owner immediately out of Chambers into the hallway for an interview" may be "sited [sic] for possible contempt charges in the future."<sup>1</sup>

In raising our concerns about this pattern of exclusion, we rely on the extensive body of case law that has made Florida a model for open government. Systematically excluding members of the press and public from judicial foreclosure proceedings violates the robust guarantee of open access to courts provided by Florida law. This Court has held that "both civil and criminal court proceedings in Florida are public events and adhere to the well established common law right of access to court proceedings and records." *Barron v. Fla. Freedom Newspapers, Inc.*, 531 So. 2d 113, 116 (Fla. 1988); see also Fla. R. Jud. Admin. 2.420 (codifying public right of access to records of the judiciary). *Barron* articulated this right of access in forceful terms. It emphasized that "a strong presumption of openness exists for all court proceedings" and outlined the carefully circumscribed exceptions to this broad rule:

[C]losure of court proceedings or records should occur only when necessary (a) to comply with established public policy set forth in the constitution, statutes, rules, or case law; (b) to protect trade secrets; (c) to protect a compelling governmental interest [e.g., national security; confidential informants]; (d) to obtain evidence to properly determine legal issues in a case; (e) to avoid substantial injury to innocent third parties [e.g., to protect young witnesses from offensive testimony; to protect children in a divorce]; or (f) to avoid substantial injury to a party by disclosure of matters protected by a common law or privacy right not generally inherent in the specific type of civil proceeding sought to be closed.

<sup>1</sup> Since the incident in Duval County was particularly egregious, we have also asked that Chief Judge Moran consider appropriate action.

*Id.*, at 118. Even in these exceptional circumstances, “before entering a closure order, the trial court shall determine that no reasonable alternative is available to accomplish the desired result, and, if none exists, the trial court must use the least restrictive closure necessary to accomplish its purpose.” *Id.*

The protection of public access to judicial proceedings serves fundamental constitutional values. In particular, the “value of openness lies in the fact that people not actually attending trials can have confidence that standards of fairness are being observed; the sure knowledge that *anyone* is free to attend gives assurance that established procedures are being followed and that deviations will become known.” *Sarasota Herald-Tribune v. State*, 924 So. 2d 8, 12 (Fla. 2d DCA 2005) (quoting *Press-Enter. Co. v. Super. Ct.*, 464 U.S. 501, 508 (1984)). “A trial courtroom is a public place where people have a general right to be present, and what transpires in the courtroom is public property.” *Plaintiff B v. Francis*, No. 5:08-cv-79, 2010 WL 503067, \*2 (N.D. Fla. Feb. 5, 2010). Foreclosure proceedings are currently a matter of intense public interest. Indeed, the media has, in recent months, scrutinized them for possible procedural deficiencies. See, e.g., Gretchen Morgenson and Geraldine Fabrikant, *Florida's High-Speed Answer to a Foreclosure Mess*, N.Y. TIMES, Sept. 14, 2010; Polyana da Costa, *Before Foreclosing, Judges Must Hear Out Homeowners*, MIAMI DAILY BUS. REV., Oct. 14, 2010.

As the examples outlined above show, Florida’s presumption of openness is being inverted in the context of foreclosure proceedings: courts across the state are effectively imposing a presumption of closure, which may be overcome only by special permission to observe proceedings. In effect, only those who actively assert their right of access in the face of initial barriers, and then ultimately receive permission, may exercise their right to observe foreclosure hearings.

Under Florida law, there are few justifications that can counterbalance the right to access. Even when those exceptional circumstances exist, the court must still determine that no more narrowly tailored alternative is available. *Barron*, 531 So. 2d at 118; see also *Globe Newspaper Co. v. Super. Ct. for the County of Norfolk*, 457 U.S. 596 (1982) (invalidating statute closing trials for certain sex offenses involving minors where state had a “compelling” interest in protecting minors’ privacy but where the court “offered no empirical support” that closure would effectively further that interest). There is no indication that closure of foreclosure courts occurs only when such rigorous analysis has taken place. Indeed, the opposite appears to be true: by choosing to conduct foreclosure hearings in “private” conference rooms or judicial chambers and treat those as closed proceedings, the burden shifts to members of the press or public to convince the court to allow access.

We recognize that the heavy volume of foreclosure cases has led to difficulties finding judges and courtrooms to hear the cases. As a result, some cases are being held in chambers for lack of an available traditional courtroom. Nevertheless, the proceedings must be open, even if they are held temporarily in a smaller and less formal physical

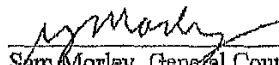
setting than usual. While we understand the necessity for ordinary and uniform security screening procedures, the unavailability of a traditional courtroom cannot justify a deprivation of the rights established under Florida law and the U.S. Constitution.

This Court has noted that the press plays an indispensable role in maintaining "the judicial system's credibility in a free society." *Barron*, 531 So. 2d at 116. That credibility cannot be maintained when members of the public and media are dependent on the indulgence of the presiding judge to allow them to observe important judicial proceedings.

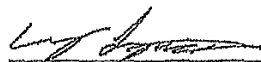
It is our sincere hope that we, and other representatives of the media, will be able to avoid instituting litigation over the issue of access to foreclosure proceedings. We do face certain time constraints, however, because Florida Rule of Appellate Procedure 9.100(d) provides for expedited review of orders excluding the public and media from judicial proceedings, and it requires such petitions to be filed within 30 days of an exclusion order.<sup>2</sup>


Accordingly, we respectfully urge you to take corrective action to ensure citizen and press access as guaranteed by Florida's right-of-access jurisprudence. In particular, we ask that you promulgate an Administrative Order or take other expeditious and appropriate action to ensure that both the public and media may observe proceedings consistent with Florida law and subject only to ordinary security measures

We thank you for your attention to this important matter.

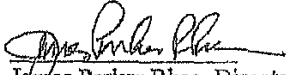
  
Sam Morley, General Counsel  
The Florida Press Association

  
Talbot D'Alemberte, Bar No. 0017529  
The Florida Press Association

  
Larry Schwartz, Staff Attorney  
The American Civil Liberties Union

  
Randall Marshall, Legal Director  
The American Civil Liberties Union of Florida

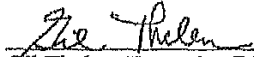
<sup>2</sup> The incident in Duval County occurred on October 26<sup>th</sup>. Accordingly, the last day to file a petition for review pursuant to Rule 9.100(d) is November 29<sup>th</sup>.



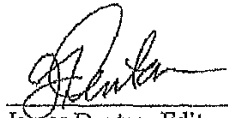
James Parker Rhea, Director & General Counsel  
The First Amendment Foundation



C. Patrick Roberts, President & CEO  
Florida Association of Broadcasters



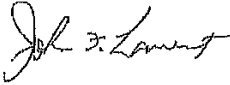
Gil Thelen, Executive Director  
The Florida Society of Newspaper Editors



James Denton, Editor  
The Florida Times-Union



## 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.

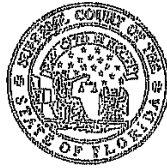
The 62% rate is not a quota. The 62% rate is simply a goal set by the TCBC to help measure the courts' progress in this initiative and document how the appropriation for the foreclosure initiative is being spent. The 62% rate was set before the initiative began and, most notably, before many of the lender 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





## 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 E. 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

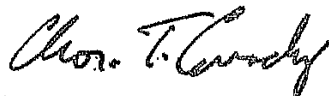
Mr. Sam Morley, et al.  
November 17, 2010  
Page Two

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

CTC/ps

Enclosure

**Stelma, Joe**

---

**From:** Shore, Brent  
**Sent:** Tuesday, November 16, 2010 12:20 PM  
**To:** Stelma, Joe  
**Subject:** FW: Foreclosure Cases - Courtroom Assignments

**Attachments:** img-Y16114217-0001.pdf



img-Y16114217-00C  
1.pdf

Joe- Since these hearings will now be held in a Courtroom, is there any reason the monthly County Judges' meeting can't be moved back to its original location? Thanks.

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

**From:** Emery, Caroline  
**Sent:** Tuesday, November 16, 2010 12:11 PM  
**To:** CTADM1\_JUDGES; CTADM1\_JA'S; Hon Robert Foster; JA Sherry Colson; Hon Brian J. Davis; JA Agnes Prelow; Hon Grandville C. Burgess; JA Monica Benischeck; Dot Cook (FCS); 'Conni Lewis'; Hon. William H. Wilkes; Lenore Dunaway; Hon John H. Skinner; Symantha Juneau; Hon Timothy R. Collins; Michelle Gipson; Hon Richard R. Townsend; Katie Wilt; Hon Mack Crenshaw Jr.; Kaye Tate; Hon Daniel Wilensky; Star Mariano; GM William Grant; Akel, Franklin; Heiney, Mia; Ivey, James; Marchant, Debra; Harrison, Wanda; D'Amour, Rose; Norris, Elizabeth; Ellis, Michele; Maurer, Bud; Sourbeer, Jeff  
**Subject:** FW: Foreclosure Cases - Courtroom Assignments

FYI

Caroline Emery, Court Counsel  
Duval County Courthouse  
Room 220  
330 East Bay Street  
Jacksonville, FL 32202  
Wk: 904-630-7256

# MEMO

**To: All Judges in the Fourth Judicial Circuit**

**From: Chief Judge Donald R. Moran, Jr.** 

**Date: November 16, 2010**

**Re: Foreclosure Cases - Courtroom Assignment**

---

Traditionally, foreclosure proceedings have been handled in chambers in order to minimize any embarrassment for the home owners. However, extensive national media coverage of the foreclosures in recent history has generated substantial interest in these cases. After discussion with Judge A.C. Soud, we recognize that, due to the increased interest, chambers can no longer accommodate the lawyers, the parties, the media, and the public.

At the request of Judge Soud and in recognition of the media interest, we will be moving the proceedings from chambers to Courtroom 59 on the Fifth floor and provide a Bailiff beginning Monday, November 22, 2010 in order to make the proceedings more secure and accessible to all interested persons.



Florida Press Association  
336 E. College Avenue, Suite 203  
Tallahassee, FL 32301  
(850) 521-1199  
Fax (850) 577-3629

Chief Judge Donald R. Moran  
Fourth Judicial Circuit of the State of Florida  
330 E. Bay Street  
Jacksonville, Florida 32202

RECEIVED NOV 15 2010

November 12, 2010

Dear Chief Judge Moran,

We write to express our concern that the right to open access to judicial proceedings is not being fully protected in the Duval County foreclosure division. It has recently come to our attention that Senior Judge Soud has severely curtailed public access to foreclosure proceedings, including access by members of the media. We urge you to take action to secure the public's right to observe the workings of the judicial system.

As you know, Florida law recognizes a strong presumption in favor of open access to judicial proceedings. We have received a number of reports, however, suggesting that members of the public and press who attempt to observe foreclosure proceedings in Duval County encounter unjustifiable hurdles. We have no objection, of course, to ordinary security screening measures. We are concerned, however, that the barriers to access here go far beyond such measures, leaving members of the public and press subject to the discretion of individual foreclosure judges to admit or exclude them.

This practice of exclusion recently crystallized into an explicit statement of policy by Senior Judge Soud. On October 26, an attorney from Jacksonville Area Legal Aid accompanied a reporter from Rolling Stone Magazine to observe proceedings held in Judge Soud's chambers. Neither the attorney nor the reporter did anything to disrupt the proceedings. At one point the reporter left the proceedings in order to interview a pro se litigant whose case had just been heard and who had left the room. Later that day, Judge Soud sent an email to the attorney castigating her for bringing the reporter into the proceedings. He stated that, while "attorneys are welcome in Chambers at their leisure," members of the media are "permitted" entry only upon "proper request to the security officer." He further informed the attorney that she "did not have authority to take anyone back to chambers without proper screening," and stated that her "apparent authorization that the reporter could pursue a property owner immediately out of Chambers into the hallway for an interview" may be "sited [sic] for possible contempt charges in the future."

Judge Soud's stated policy is irreconcilable with the extensive body of case law that has made Florida a model for open government. He has stated that members of the media may observe foreclosure proceedings only after making a "proper request" and that lawyers who facilitate access by the press may face contempt charges based on a reporter's non-disruptive interview and observation of judicial proceedings. But the Florida Supreme Court has held that "both civil and criminal court proceedings in Florida are public events and adhere to the well established common law right of access to court proceedings and records." *Barron v. Fla. Freedom Newspapers, Inc.*, 531 So. 2d 113, 116 (Fla. 1988); see also Fla. R. Jud. Admin. 2.420

(codifying public right of access to records of the judiciary). *Barron* articulated this right of access in forceful terms. It emphasized that “a strong presumption of openness exists for all court proceedings” and outlined the carefully circumscribed exceptions to this broad rule:

[C]losure of court proceedings or records should occur only when necessary (a) to comply with established public policy set forth in the constitution, statutes, rules, or case law; (b) to protect trade secrets; (c) to protect a compelling governmental interest [e.g., national security; confidential informants]; (d) to obtain evidence to properly determine legal issues in a case; (e) to avoid substantial injury to innocent third parties [e.g., to protect young witnesses from offensive testimony; to protect children in a divorce]; or (f) to avoid substantial injury to a party by disclosure of matters protected by a common law or privacy right not generally inherent in the specific type of civil proceeding sought to be closed.

*Id.*, at 118. Even in these exceptional circumstances, “before entering a closure order, the trial court shall determine that no reasonable alternative is available to accomplish the desired result, and, if none exists, the trial court must use the least restrictive closure necessary to accomplish its purpose.” *Id.*

The protection of public access to judicial proceedings serves fundamental constitutional values. In particular, the “value of openness lies in the fact that people not actually attending trials can have confidence that standards of fairness are being observed; the sure knowledge that *anyone* is free to attend gives assurances that established procedures are being followed and that deviations will become known.” *Sarasota Herald-Tribune v. State*, 924 So. 2d 8, 12 (Fla. 2d DCA 2005) (quoting *Press-Enter. Co. v. Super. Ct.*, 464 U.S. 501, 508 (1984)). “A trial courtroom is a public place where people have a general right to be present, and what transpires in the courtroom is public property.” *Plaintiff B v. Francis*, No. 5:08-cv-79, 2010 WL 503067, \*2 (N.D. Fla. Feb. 5, 2010). Foreclosure proceedings are currently a matter of intense public interest. Indeed, the media has, in recent months, scrutinized them for possible procedural deficiencies. See, e.g., Gretchen Morgenson and Geraldine Fabrikant, *Florida’s High-Speed Answer to a Foreclosure Mess*, N.Y. TIMES, Sept. 14, 2010; Polyana da Costa, *Before Foreclosing, Judges Must Hear Out Homeowners*, MIAMI DAILY BUS. REV., Oct. 14, 2010.

Judge Soud’s policy stands in direct opposition to these principles of open access. Rather than adhere to the “strong presumption of openness,” he does precisely the opposite: he employs a presumption of exclusion that apparently may be overcome only if he gives permission to specific members of the press. Cf. *NYCLU v. NYC Transit Auth.*, 675 F. Supp. 2d 411, 428-39 (S.D.N.Y. 2009) (holding that administrative hearing that can be closed upon request of a party violates the First Amendment right of access). Under Florida law, there are few justifications that can counterbalance the right to access. Even when those exceptional circumstances exist, the court must still determine that no more narrowly tailored alternative is available. *Barron*, 531 So. 2d at 118; see also *Globe Newspaper Co. v. Super. Ct. for the County of Norfolk*, 457 U.S. 596 (1982) (invalidating statute closing trials for certain sex offenses involving minors where state had a “compelling” interest in protecting minors’ privacy but where the court “offered no empirical support” that closure would effectively further that interest). It follows from the enumeration of a narrow set of exceptional circumstances under which proceedings may be

closed that *Barron* precludes a situation where access is contingent on court approval; reversing the presumption of openness is tantamount to exclusion. Judge Soud has failed to engage in the rigorous analysis necessary to establish the prerequisites for court closure.

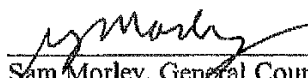
We recognize that the heavy volume of foreclosure cases has led to difficulties finding judges and courtrooms to hear the cases. As a result, some cases are being held in chambers for lack of an available traditional courtroom. Nevertheless, the proceedings must be open, even if they are held temporarily in a smaller and less formal physical setting than usual. While we understand the necessity for ordinary and uniform security screening procedures, the unavailability of a traditional courtroom cannot justify a deprivation of the rights established under Florida law and the U.S. Constitution.


As the Florida Supreme Court has noted, the press plays an indispensable role in maintaining "the judicial system's credibility in a free society." *Barron*, 531 So. 2d at 116. That credibility cannot be maintained when members of the public and media are dependent on the specific permission of the presiding judge to observe important judicial proceedings.

It is our sincere hope that we, and other representatives of the media, will be able to avoid instituting litigation over the issue of access to foreclosure proceedings. We do face certain time constraints, however, because Florida Rule of Appellate Procedure 9.100(d) provides for expedited review of orders excluding the public and media from judicial proceedings, and it requires such petitions to be filed within 30 days of an exclusion order.<sup>1</sup>

Accordingly, we urge you to take corrective action to ensure citizen and press access as required by Florida law. In particular, we ask that you promulgate an Administrative Order or take other expeditious and appropriate action setting forth clear procedures governing public access to foreclosure proceedings in the Fourth Judicial Circuit.<sup>2</sup> Those procedures should ensure that both the public and media can observe proceedings subject only to ordinary security measures.

We thank you for your attention to this important matter.

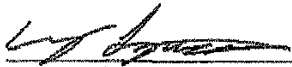
  
\_\_\_\_\_  
Sam Morley, General Counsel  
The Florida Press Association

  
\_\_\_\_\_  
Talbot D'Alemberte, Bar No. 0017529  
The Florida Press Association

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<sup>1</sup> The incident described in this letter occurred on October 26<sup>th</sup>. Accordingly, the last day to file a petition for review pursuant to Rule 9.100(d) is November 29<sup>th</sup>.

<sup>2</sup> Although the incident described herein is particularly disturbing, barriers to public access to foreclosure proceedings have been reported statewide, and for that reason we have also sent a letter to Chief Justice Canady requesting that he take action to ensure open access to foreclosure proceedings across the state.




Larry Schwartzol, Staff Attorney  
The American Civil Liberties Union



Randall Marshall, Legal Director  
The American Civil Liberties Union of Florida



James Parker Rhea, Director & General Counsel  
The First Amendment Foundation



C. Patrick Roberts, President & CEO  
Florida Association of Broadcasters



Gil Thelen, Executive Director  
The Florida Society of Newspaper Editors



James Denton, Editor  
The Florida Times-Union



**Stelma, Joe**

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**From:** Emery, Caroline  
**Sent:** Tuesday, November 16, 2010 12:00 PM  
**To:** 'Lisa Goodner'; Stelma, Joe  
**Subject:** Foreclosure Cases - Courtroom Assignments

**Attachments:** img-Y16114217-0001.pdf



img-Y16114217-000  
1.pdf

FYI - From Chief Judge Moran in the Fourth Judicial Circuit.

Caroline Emery, Court Counsel  
Duval County Courthouse  
Room 220  
330 East Bay Street  
Jacksonville, FL 32202  
Wk: 904-630-7256  
Fax: 904-630-8334

CEmery@coj.net

# MEMO

**To: All Judges in the Fourth Judicial Circuit**

**From: Chief Judge Donald R. Moran, Jr.** 

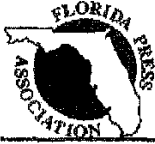
**Date: November 16, 2010**

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RECEIVED NOV 15 2010

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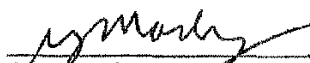
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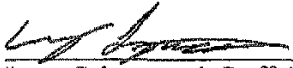
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\_\_\_\_\_  
Sam Morley, General Counsel  
The Florida Press Association

  
\_\_\_\_\_  
Talbot D'Alemberte, Bar No. 0017529  
The Florida Press Association

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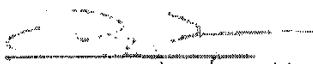
Larry Schwartztol, Staff Attorney  
The American Civil Liberties Union



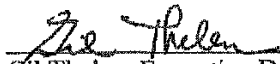
Randall Marshall, Legal Director  
The American Civil Liberties Union of Florida



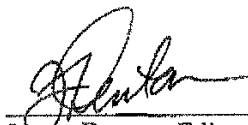
James Parker Rhea, Director & General Counsel  
The First Amendment Foundation



C. Patrick Roberts, President & CEO  
Florida Association of Broadcasters



Gil Thelen, Executive Director  
The Florida Society of Newspaper Editors



James Denton, Editor  
The Florida Times-Union

**Stelma, Joe**

---

**From:** Emery, Caroline  
**Sent:** Monday, November 15, 2010 2:43 PM  
**To:** Stelma, Joe  
**Subject:** RE: ACLU Public Records Request - clarifications

Thanks!

Caroline Emery, Court Counsel  
Duval County Courthouse  
Room 220  
330 East Bay Street  
Jacksonville, FL 32202  
Wk: 904-630-7256  
Fax: 904-630-8334

[CEmery@coj.net](mailto:CEmery@coj.net)

---

**From:** Stelma, Joe  
**Sent:** Monday, November 15, 2010 2:26 PM  
**To:** Emery, Caroline  
**Subject:** FW: ACLU Public Records Request - clarifications

***Fourth Circuit Court Administrator***

330 E. Bay Street, Room 508  
Jacksonville, Florida 32202  
Work: (904) 630-1655  
Fax:(904) 630-8209

---

**From:** Laura Rush [mailto:[RushL@flcourts.org](mailto:RushL@flcourts.org)]  
**Sent:** Friday, November 05, 2010 3:18 PM  
**To:** Trial Court Administrators  
**Cc:** 'Berghorn, Robin'; Kearson, Linda  
**Subject:** ACLU Public Records Request - clarifications

All,

I spoke with ACLU attorney Larry Schwartztol yesterday afternoon. Following are the clarifications we discussed:

**1. Time frame from January 1, 2009 to the present:**

ACLU's interest in pre-July 1, 2010, records is narrowly focused on those records specifically relating to any specialized foreclosure divisions or special foreclosure courts that were established prior to the \$6 million

3/15/2011

**4th Cir 00631**

appropriation becoming available this past July to process the foreclosure case backlog. ACLU is not interested in any records relating to non-specialized foreclosure courts.

Therefore, ACLU is looking for pre-July 1, 2010, records only as to those circuits that had specialized foreclosure divisions or special foreclosure courts before July 1, 2010. If a circuit had a specialized foreclosure division or special foreclosure court prior to July 1, 2010, ACLU's request encompasses those records relating to the planning and establishment of the specialized division or court. If a circuit did not have a specialized foreclosure division or foreclosure court prior to July 1, 2010, it need not produce records prior to July 1, 2010, in response to any of the six requests listed in the Oct. 19 letter.

**2. Request items #2 and #4.**

ACLU will send out revised, clarified records requests for items #2 and #4. With respect to individual case records that could be responsive to item #2, Mr. Schwartztol indicated there were some individual case records ACLU will want to have encompassed within the request, but he will clarify that point in writing. There was no indication that ACLU is looking for individual case records in response to item #1.

**3. Definition of "clerks" in Item #2.**

The term "clerks" should be broadly interpreted to include any type of clerk, including clerk of court, law clerk, or a clerical position, assigned to a specialized foreclosure division, section or case management unit.

**4. Task Force or Managed Mediation Program records**

ACLU is not interested in records relating to the task force or managed mediation programs. Their request is directed strictly to records relating to the adjudicatory process.

Hope this is helpful. If I missed anything, or you would like me to pursue further clarification, please let me know. I anticipate talking with Mr. Schwartztol again.

Sincerely,  
Laura Rush  
General Counsel  
Office of the State Courts Administrator  
500 South Duval Street  
Tallahassee, FL 32399-1900  
(850) 488-1824

3/15/2011

**4th Cir 00632**



**Stelma, Joe**

---

**From:** Lisa Goodner [goodnerl@flcourts.org]  
**Sent:** Monday, November 15, 2010 9:51 AM  
**To:** Trial Court Chief Judges; Trial Court Administrators  
**Cc:** OSCA-MANAGERS  
**Subject:** FW: Letter to Chief Justice Canady  
**Attachments:** Ltr to Chief Justice Canady.FINAL.pdf

FYI.

Lisa

---

**From:** Larry Schwartztol [mailto:lschwartztol@aclu.org]  
**Sent:** Friday, November 12, 2010 7:07 PM  
**To:** Craig Waters  
**Subject:** Letter to Chief Justice Canady

Craig,

I hope this email finds you well. As I mentioned earlier today, the ACLU is working with a coalition of organizations representing members of the Florida news media to protest barriers to access to foreclosure proceedings around the state of Florida. The attached letter will be delivered by UPS to the Chief Justice on Monday morning, and we expect to issue a press release that afternoon. In order to give the Chief Justice advance notice, we wanted to send this to you now. If you wouldn't mind forwarding this to the Chief Justice, I would greatly appreciate it.

Best,

Larry

Larry Schwartztol | Staff Attorney  
*Racial Justice Program*  
**The American Civil Liberties Union**  
125 Broad Street, 18<sup>th</sup> Floor | New York, NY 10004  
Phone: 212-519-7849

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3/15/2011

**4th Cir 00633**



**Florida Press Association**  
336 E. College Avenue, Suite 203  
Tallahassee, FL 32301  
(850) 521-1199  
Fax (850) 577-3629

Chief Justice Charles T. Canady  
Florida Supreme Court  
500 South Duval Street  
Tallahassee, FL 32399-1925

November 12, 2010

Dear Chief Justice Canady,

We write to express our concern that the right to open access to judicial proceedings is being unduly impeded in foreclosure proceedings around the state. Our organizations have received numerous reports that extraordinary barriers to access are preventing members of the general public, as well as representatives of the news media, from observing foreclosure proceedings in judicial circuits around the state. We believe these barriers undercut the transparency of the judicial process; they also violate the strong presumption of open access to judicial proceedings under Florida law. We urge you to take action to secure the public's right to observe the workings of the judicial system.

As you know, Florida law recognizes a strong presumption in favor of open access to judicial proceedings. We have no objection, of course, to ordinary security screening measures. We are concerned, however, that the barriers to access here go far beyond such measures, leaving members of the public and press subject to the discretion of individual foreclosure judges to admit or exclude them.

The reports we have received come from all around the state, and although the precise nature of the barriers to access varies, a troubling pattern emerges: foreclosure divisions recently established by the judicial circuits have been operating under a presumption of closure to members of the general public, rather than the presumption of openness mandated by Florida law. An illustrative, but not exhaustive, list of encounters that have been reported to our organizations since August 2010 follows:

- A court observer in Hillsborough County called the court to ask about the rules governing attendance at foreclosure proceedings and was told that the proceedings were not open to the public.
- A pro se defendant in Duval County was told by a member of court security that she could not access foreclosure proceedings because only attorneys were permitted.
- A court observer called the Orange County courthouse to ask about attending foreclosure proceedings. She was informed that foreclosure hearings were held "in private chambers" and therefore not open to the public.

- In Citrus County, an individual preparing to mount a pro se defense in his own foreclosure case attempted to attend foreclosure hearings in advance of his own so that he could know what to expect when his case was heard. He was told that foreclosure hearings are “private” and take place in judges’ chambers, and that he would not be permitted to observe them.
- Most recently, a legal aid attorney in Jacksonville attended a foreclosure proceeding accompanied by a reporter from Rolling Stone Magazine. Neither the attorney nor the reporter did anything disruptive to the proceedings. At one point the reporter left the proceedings in order to interview a pro se litigant whose case had just been heard. Later that day, the judge sent an email to the attorney castigating her for bringing the reporter into the proceedings. He stated that, while “attorneys are welcome in Chambers at their leisure,” members of the media are “permitted” entry only upon “proper request to the security officer.” He further informed the attorney that she “did not have authority to take anyone back to chambers without proper screening” and stated that her “apparent authorization that the reporter could pursue a property owner immediately out of Chambers into the hallway for an interview” may be “sited [sic] for possible contempt charges in the future.”<sup>1</sup>

In raising our concerns about this pattern of exclusion, we rely on the extensive body of case law that has made Florida a model for open government. Systematically excluding members of the press and public from judicial foreclosure proceedings violates the robust guarantee of open access to courts provided by Florida law. This Court has held that “both civil and criminal court proceedings in Florida are public events and adhere to the well established common law right of access to court proceedings and records.” *Barron v. Fla. Freedom Newspapers, Inc.*, 531 So. 2d 113, 116 (Fla. 1988); *see also* Fla. R. Jud. Admin. 2.420 (codifying public right of access to records of the judiciary). *Barron* articulated this right of access in forceful terms. It emphasized that “a strong presumption of openness exists for all court proceedings” and outlined the carefully circumscribed exceptions to this broad rule:

[C]losure of court proceedings or records should occur only when necessary (a) to comply with established public policy set forth in the constitution, statutes, rules, or case law; (b) to protect trade secrets; (c) to protect a compelling governmental interest [e.g., national security; confidential informants]; (d) to obtain evidence to properly determine legal issues in a case; (e) to avoid substantial injury to innocent third parties [e.g., to protect young witnesses from offensive testimony; to protect children in a divorce]; or (f) to avoid substantial injury to a party by disclosure of matters protected by a common law or privacy right not generally inherent in the specific type of civil proceeding sought to be closed.

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<sup>1</sup> Since the incident in Duval County was particularly egregious, we have also asked that Chief Judge Moran consider appropriate action.

*Id.*, at 118. Even in these exceptional circumstances, “before entering a closure order, the trial court shall determine that no reasonable alternative is available to accomplish the desired result, and, if none exists, the trial court must use the least restrictive closure necessary to accomplish its purpose.” *Id.*

The protection of public access to judicial proceedings serves fundamental constitutional values. In particular, the “value of openness lies in the fact that people not actually attending trials can have confidence that standards of fairness are being observed; the sure knowledge that *anyone* is free to attend gives assurance that established procedures are being followed and that deviations will become known.” *Sarasota Herald-Tribune v. State*, 924 So. 2d 8, 12 (Fla. 2d DCA 2005) (quoting *Press-Enter. Co. v. Super. Ct.*, 464 U.S. 501, 508 (1984)). “A trial courtroom is a public place where people have a general right to be present, and what transpires in the courtroom is public property.” *Plaintiff B v. Francis*, No. 5:08-cv-79, 2010 WL 503067, \*2 (N.D. Fla. Feb. 5, 2010). Foreclosure proceedings are currently a matter of intense public interest. Indeed, the media has, in recent months, scrutinized them for possible procedural deficiencies. *See, e.g.*, Gretchen Morgenson and Geraldine Fabrikant, *Florida’s High-Speed Answer to a Foreclosure Mess*, N.Y. TIMES, Sept. 14, 2010; Polyana da Costa, *Before Foreclosing, Judges Must Hear Out Homeowners*, MIAMI DAILY BUS. REV., Oct. 14, 2010.

As the examples outlined above show, Florida’s presumption of openness is being inverted in the context of foreclosure proceedings: courts across the state are effectively imposing a presumption of closure, which may be overcome only by special permission to observe proceedings. In effect, only those who actively assert their right of access in the face of initial barriers, and then ultimately receive permission, may exercise their right to observe foreclosure hearings.

Under Florida law, there are few justifications that can counterbalance the right to access. Even when those exceptional circumstances exist, the court must still determine that no more narrowly tailored alternative is available. *Barron*, 531 So. 2d at 118; *see also Globe Newspaper Co. v. Super. Ct. for the County of Norfolk*, 457 U.S. 596 (1982) (invalidating statute closing trials for certain sex offenses involving minors where state had a “compelling” interest in protecting minors’ privacy but where the court “offered no empirical support” that closure would effectively further that interest). There is no indication that closure of foreclosure courts occurs only when such rigorous analysis has taken place. Indeed, the opposite appears to be true: by choosing to conduct foreclosure hearings in “private” conference rooms or judicial chambers and treat those as closed proceedings, the burden shifts to members of the press or public to convince the court to allow access.

We recognize that the heavy volume of foreclosure cases has led to difficulties finding judges and courtrooms to hear the cases. As a result, some cases are being held in chambers for lack of an available traditional courtroom. Nevertheless, the proceedings must be open, even if they are held temporarily in a smaller and less formal physical

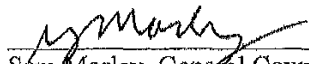
setting than usual. While we understand the necessity for ordinary and uniform security screening procedures, the unavailability of a traditional courtroom cannot justify a deprivation of the rights established under Florida law and the U.S. Constitution.


This Court has noted that the press plays an indispensable role in maintaining "the judicial system's credibility in a free society." *Barron*, 531 So. 2d at 116. That credibility cannot be maintained when members of the public and media are dependent on the indulgence of the presiding judge to allow them to observe important judicial proceedings.

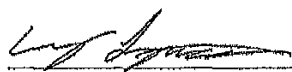
It is our sincere hope that we, and other representatives of the media, will be able to avoid instituting litigation over the issue of access to foreclosure proceedings. We do face certain time constraints, however, because Florida Rule of Appellate Procedure 9.100(d) provides for expedited review of orders excluding the public and media from judicial proceedings, and it requires such petitions to be filed within 30 days of an exclusion order.<sup>2</sup>

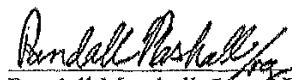
Accordingly, we respectfully urge you to take corrective action to ensure citizen and press access as guaranteed by Florida's right-of-access jurisprudence. In particular, we ask that you promulgate an Administrative Order or take other expeditious and appropriate action to ensure that both the public and media may observe proceedings consistent with Florida law and subject only to ordinary security measures

We thank you for your attention to this important matter.

  
Sam Morley, General Counsel  
The Florida Press Association

  
Talbot D'Alemberte, Bar No. 0017529  
The Florida Press Association

  
Larry Schwartz, Staff Attorney  
The American Civil Liberties Union

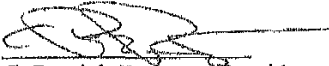
  
Randall Marshall, Legal Director  
The American Civil Liberties Union of Florida

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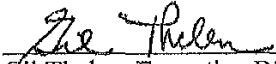
<sup>2</sup> The incident in Duval County occurred on October 26<sup>th</sup>. Accordingly, the last day to file a petition for review pursuant to Rule 9.100(d) is November 29<sup>th</sup>.



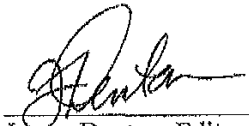
James Parker Rhea, Director & General Counsel  
The First Amendment Foundation



C. Patrick Roberts, President & CEO  
Florida Association of Broadcasters



Gil Thelen, Executive Director  
The Florida Society of Newspaper Editors



James Denton, Editor  
The Florida Times-Union

**Stelma, Joe**

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**From:** Gardner, James  
**Sent:** Monday, November 15, 2010 9:43 PM  
**To:** Stelma, Joe; Emery, Caroline  
**Subject:** Fwd: Fla. Supreme Court/ Press Statement, 11/15/2010, 2:40 pm ET

Sent from my iPad

Begin forwarded message:

**From:** Craig Waters <[watersc@flcourts.org](mailto:watersc@flcourts.org)>  
**Date:** November 15, 2010 2:40:23 PM EST  
**To:** Craig Waters <[watersc@flcourts.org](mailto:watersc@flcourts.org)>  
**Subject:** Fla. Supreme Court/ Press Statement, 11/15/2010, 2:40 pm ET

Craig Waters

Director, Public Information Office

Florida Supreme Court

(850) 414-7641

[watersc@flcourts.org](mailto:watersc@flcourts.org)

In response to the ACLU letter and news release issued earlier this afternoon about access to foreclosure hearings, Florida Chief Justice Charles T. Canady has issued the following statement:

"I have received the letter and am deeply concerned about the allegations it makes. Today I am directing the Office of the State Courts Administrator to make recommendations concerning appropriate corrective actions."

The ACLU release is at:

<http://www.aclu.org/racial-justice/aclu-calls-florida-judges-ensure-state-foreclosure-court-proceedings-are-open-public>

3/15/2011

**4th Cir 00639**

**Stelma, Joe**

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**From:** Janocko, Eve  
**Sent:** Monday, November 15, 2010 9:06 AM  
**To:** Stelma, Joe  
**Subject:** RE: Foreclosure Status (Update)

We need to submit the reports to OSCA. We can work with Clay and Nassau to see if they can review some of the older cases on the list. I will talk to Jeff about the process.

Eve Janocko  
Court Operations Program Assistant  
Duval County Courthouse  
330 East Bay Street, Room 512B  
Jacksonville, Florida 32202  
Voice: (904)-630-1644  
Fax: (904)-301-3810  
ejanocko@coj.net

---

**From:** Stelma, Joe  
**Sent:** Monday, November 15, 2010 9:04 AM  
**To:** Janocko, Eve  
**Subject:** RE: Foreclosure Status (Update)

now what

***Fourth Circuit Court Administrator***  
330 E. Bay Street, Room 508  
Jacksonville, Florida 32202  
Work: (904) 630-1655  
Fax:(904) 630-8209

---

**From:** Janocko, Eve  
**Sent:** Monday, November 15, 2010 8:45 AM  
**To:** Stelma, Joe  
**Cc:** Sourbeer, Jeff  
**Subject:** RE: Foreclosure Status (Update)

Looks like Duval corrected the areas I identified. Clay and Nassau on cursory review look OK but they have quite a few older cases that do not have an original disposition date nor reopened activity that are keeping them on the report as inactive but pending.

Eve Janocko  
Court Operations Program Assistant  
Duval County Courthouse  
330 East Bay Street, Room 512B  
Jacksonville, Florida 32202  
Voice: (904)-630-1644  
Fax: (904)-301-3810  
ejanocko@coj.net

3/15/2011

**4th Cir 00640**



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**From:** Stelma, Joe  
**Sent:** Monday, November 15, 2010 8:39 AM  
**To:** Janocko, Eve  
**Subject:** RE: Foreclosure Status (Update)

we need to get this right

***Fourth Circuit Court Administrator***

330 E. Bay Street, Room 508  
Jacksonville, Florida 32202  
Work: (904) 630-1655  
Fax: (904) 630-8209

---

**From:** Janocko, Eve  
**Sent:** Monday, November 15, 2010 8:16 AM  
**To:** Sourbeer, Jeff  
**Cc:** Stelma, Joe  
**Subject:** RE: Foreclosure Status (Update)

Good Morning Jeff,

The reports are late. I am wondering why Jill never responded to my two inquiries. How has the data been submitted previously? Are all the report sent separately? Are they reviewed prior to submission? I need to understand the process for submission and review.

Thanks,

Eve

Eve Janocko  
Court Operations Program Assistant  
Duval County Courthouse  
330 East Bay Street, Room 512B  
Jacksonville, Florida 32202  
Voice: (904)-630-1644  
Fax: (904)-301-3810  
ejanocko@coj.net

---

**From:** Sourbeer, Jeff  
**Sent:** Wednesday, November 10, 2010 2:36 PM  
**To:** Stelma, Joe  
**Cc:** Moran, Donald R.; Norris, Elizabeth; Janocko, Eve  
**Subject:** Foreclosure Status (Update)

I just received the October 2010 submission from Duval County. Eve Janocko now has all three County worksheets.

3/15/2011

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I received the foreclosure worksheets from Clay and Nassau County this afternoon for the October 2010 submission to OSCA. I have an e-mail into the Clerk's IT staff regarding Duval's submission.

3/15/2011

**4th Cir 00642**

**Stelma, Joe**

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**From:** Janocko, Eve  
**Sent:** Monday, November 15, 2010 8:45 AM  
**To:** Stelma, Joe  
**Cc:** Sourbeer, Jeff  
**Subject:** RE: Foreclosure Status (Update)

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330 East Bay Street, Room 512B  
Jacksonville, Florida 32202  
Voice: (904)-630-1644  
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ejanocko@coj.net

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**From:** Stelma, Joe  
**Sent:** Monday, November 15, 2010 8:39 AM  
**To:** Janocko, Eve  
**Subject:** RE: Foreclosure Status (Update)

we need to get this right

***Fourth Circuit Court Administrator***  
330 E. Bay Street, Room 508  
Jacksonville, Florida 32202  
Work: (904) 630-1655  
Fax:(904) 630-8209

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**Sent:** Monday, November 15, 2010 8:16 AM  
**To:** Sourbeer, Jeff  
**Cc:** Stelma, Joe  
**Subject:** RE: Foreclosure Status (Update)

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3/15/2011

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Duval County Courthouse  
330 East Bay Street, Room 512B  
Jacksonville, Florida 32202  
Voice: (904)-630-1644  
Fax: (904)-301-3810  
ejanocko@coj.net

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**From:** Sourbeer, Jeff  
**Sent:** Wednesday, November 10, 2010 2:36 PM  
**To:** Stelma, Joe  
**Cc:** Moran, Donald R.; Norris, Elizabeth; Janocko, Eve  
**Subject:** Foreclosure Status (Update)

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3/15/2011

**4th Cir 00644**

**Stelma, Joe**

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**From:** Janocko, Eve  
**Sent:** Monday, November 15, 2010 8:16 AM  
**To:** Sourbeer, Jeff  
**Cc:** Stelma, Joe  
**Subject:** RE: Foreclosure Status (Update)

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Thanks,

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Eve Janocko  
Court Operations Program Assistant  
Duval County Courthouse  
330 East Bay Street, Room 512B  
Jacksonville, Florida 32202  
Voice: (904)-630-1644  
Fax: (904)-301-3810  
ejanocko@coj.net

---

**From:** Sourbeer, Jeff  
**Sent:** Wednesday, November 10, 2010 2:36 PM  
**To:** Stelma, Joe  
**Cc:** Moran, Donald R.; Norris, Elizabeth; Janocko, Eve  
**Subject:** Foreclosure Status (Update)

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3/15/2011

**4th Cir 00645**

**Stelma, Joe**

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**From:** Janocko, Eve  
**Sent:** Monday, November 15, 2010 8:13 AM  
**To:** Sourbeer, Jeff; Stelma, Joe  
**Cc:** Moran, Donald R.; Norris, Elizabeth  
**Subject:** RE: Foreclosure Status (Update)

What is the process for submission to OSCA?

Eve Janocko  
Court Operations Program Assistant  
Duval County Courthouse  
330 East Bay Street, Room 512B  
Jacksonville, Florida 32202  
Voice: (904)-630-1644  
Fax: (904)-301-3810  
ejanocko@coj.net

---

**From:** Sourbeer, Jeff  
**Sent:** Wednesday, November 10, 2010 2:36 PM  
**To:** Stelma, Joe  
**Cc:** Moran, Donald R.; Norris, Elizabeth; Janocko, Eve  
**Subject:** Foreclosure Status (Update)

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3/15/2011

**4th Cir 00646**

**Stelma, Joe**

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**From:** Sourbeer, Jeff  
**Sent:** Wednesday, November 10, 2010 2:36 PM  
**To:** Stelma, Joe  
**Cc:** Moran, Donald R.; Norris, Elizabeth; Janocko, Eve  
**Subject:** Foreclosure Status (Update)

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3/15/2011

**4th Cir 00647**

**Stelma, Joe**

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**From:** Janocko, Eve  
**Sent:** Wednesday, November 10, 2010 12:48 PM  
**To:** Stelma, Joe  
**Subject:** FW: Divisional Assignment Case Count Report

Hope this was OK to send to PJ. I just wanted him to know we were addressing the reporting requirement.

Eve Janocko  
Court Operations Program Assistant  
Duval County Courthouse  
330 East Bay Street, Room 512B  
Jacksonville, Florida 32202  
Voice: (904)-630-1644  
Fax: (904)-301-3810  
ejanocko@coj.net

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**From:** Janocko, Eve  
**Sent:** Wednesday, November 10, 2010 12:47 PM  
**To:** 'P.J. Stockdale'  
**Cc:** Stelma, Joe; Norris, Elizabeth; Sourbeer, Jeff  
**Subject:** RE: Divisional Assignment Case Count Report

Hi PJ,

Looks like this opened up quite a bit of input from the field. In our circuit we have separate divisions for foreclosure cases that are handled by senior judges. I am working with the clerk to determine the case count reporting and whether these cases are first assigned to a sitting judge (and counted) and then transferred to the senior judge to handle. Likewise, with drug court cases, we have magistrates who handle drug court cases not sure if they are counted for a sitting judge then transferred. As long as we can report the senior judge and magistrate caseload, whether under a sitting judge or separately that was my main concern to make sure we report this workload. For the CTHO workload maybe that is footnoted on the case count report since it is used for judicial certification.

eve

Eve Janocko  
Court Operations Program Assistant  
Duval County Courthouse  
330 East Bay Street, Room 512B  
Jacksonville, Florida 32202  
Voice: (904)-630-1644  
Fax: (904)-301-3810  
ejanocko@coj.net

---

**From:** Stelma, Joe  
**Sent:** Tuesday, November 09, 2010 8:42 AM  
**To:** Janocko, Eve  
**Subject:** FW: Divisional Assignment Case Count Report

3/15/2011



**Fourth Circuit Court Administrator**

330 E. Bay Street, Room 508  
Jacksonville, Florida 32202  
Work: (904) 630-1655  
Fax:(904) 630-8209

---

**From:** Inskip, Gay [mailto:GInskip@jud6.org]  
**Sent:** Tuesday, November 09, 2010 8:42 AM  
**To:** 'BRIDENML@fljud13.org'; 'stockdap@flcourts.org'; 'TrialCourtAdministrators@flcourts.org'  
**Cc:** 'slaydenk@flcourts.org'; 'johnsona@flcourts.org'  
**Subject:** Re: Divisional Assignment Case Count Report

My vote is that I don't think we should do it unless everyone is able to report the same thing in the same way.

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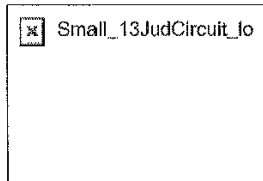
**From:** Bridenback, Mike <BRIDENML@fljud13.org>  
**To:** P.J. Stockdale <stockdap@flcourts.org>; Trial Court Administrators <TrialCourtAdministrators@flcourts.org>  
**Cc:** Kristine Slayden <slaydenk@flcourts.org>; Arlene Johnson <johnsona@flcourts.org>  
**Sent:** Tue Nov 09 08:32:46 2010  
**Subject:** RE: Divisional Assignment Case Count Report

PJ,

From my perspective, this is not necessary. In the 13<sup>th</sup>, except for civil traffic, all cases assigned to senior judges, magistrates and hearing officers are assigned first to a sitting judge. I can, and will report separately civil traffic cases assigned to hearing officers if you so desire.

\*\*\*\*\*

*Michael L. Bridenback*  
Court Administrator  
800 E. Twiggs Street, Suite 604  
Tampa, FL 33602  
p: 813.272.5894  
f: 813.301.3800  
bridenml@fljud13.org  
www.fljud13.org



---

**From:** P.J. Stockdale [mailto:stockdap@flcourts.org]  
**Sent:** Monday, November 08, 2010 4:58 PM  
**To:** Trial Court Administrators  
**Cc:** Kristine Slayden; Arlene Johnson; P.J. Stockdale  
**Subject:** Divisional Assignment Case Count Report

TCA's

I'd like to talk to you about an additional option for your Divisional Assignment Case Count Reports. Several of you have commented on the restriction of the report to just sitting judges. As we have

3/15/2011

discussed several times in the last few months, we are leaving out a considerable amount of court activity by excluding Senior Judges, General Magistrates (in some instances) and Hearing Officers. It is true that this is a limitation imposed on us by the original statutory language but leaving this info out of the report doesn't seem quite right either.

We propose that we add a virtual "Supplemental Resource" division to the report. In this division, we can account for all of the cases opened, reopened and closed that are handled by Senior Judges, Traffic Hearing Officers and other judicial officers as appropriate. These would be all of the cases that are handled but not associated with a sitting judge which would be counted in another division. I'm not suggesting that anyone create such a division in real life but this extra entry would provide a much better picture of court activity. We had planned on mentioning these cases in a footnote to the final report. However, including the counts in a virtual division would convey a lot more information than a footnote ever could. It would also provide a place for more detailed explanations about cases handled by these supplemental resources.

I don't think it will be necessary to list the names and dates of service of every resource unless you believe it necessary. Just a one line divisional count summary should do the trick. I suppose, if it was helpful, you could break the division down into type of resource but I think that, for the final report, we will not go to that level of detail.

Please give me a call or send an email if you would like to discuss this further, have additional questions or if there is some consideration that I have left out.

Thanks  
PJ

PJ Stockdale  
Senior Court Statistics Consultant  
OSCA - Court Services  
Supreme Court Building Annex  
500 S Duval St  
Tallahassee FL 32301-1900  
(ph) 850.410.1523  
(fax) 850.414.1342

3/15/2011

**Stelma, Joe**

---

**From:** Sourbeer, Jeff  
**Sent:** Wednesday, November 10, 2010 2:18 PM  
**To:** Stelma, Joe  
**Cc:** Moran, Donald R.; Norris, Elizabeth; Janocko, Eve  
**Subject:** Foreclosure Status

I received the foreclosure worksheets from Clay and Nassau County this afternoon for the October 2010 submission to OSCA. I have an e-mail into the Clerk's IT staff regarding Duval's submission.

3/15/2011

**4th Cir 00651**

**Stelma, Joe**

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**From:** Sourbeer, Jeff  
**Sent:** Monday, November 08, 2010 1:57 PM  
**To:** Stelma, Joe  
**Cc:** Moran, Donald R.; D'Amour, Rose; Norris, Elizabeth  
**Subject:** FW: Foreclosure Data Reporting  
**Attachments:** 20101108084446734.pdf; ATT4558404.htm

Thanks Joe. I believe this automated solution could be beneficial to other Courts to gather the data, not just the Courts using the Aptitude Solution for Case Maintenance.

---

**From:** Stelma, Joe  
**Sent:** Monday, November 08, 2010 1:42 PM  
**To:** Sourbeer, Jeff  
**Subject:** Fwd: Foreclosure Data Reporting

Sent from my iPhone

Begin forwarded message:

**From:** Debbie Howells <[howellsd@flcourts.org](mailto:howellsd@flcourts.org)>  
**Date:** November 8, 2010 8:55:46 AM EST  
**To:** "Judge Donald R. Moran, Jr." <[maryloum@coj.net](mailto:maryloum@coj.net)>  
**Cc:** "Joseph Stelma, Jr." <[jstelma@coj.net](mailto:jstelma@coj.net)>, Judge John Laurent <[jlaurent@jud10.flcourts.org](mailto:jlaurent@jud10.flcourts.org)>  
**Subject:** **Foreclosure Data Reporting**

Please see the attached letter from Lisa Goodner. The original letter will follow via U.S. Mail delivery.

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](mailto:howellsd@flcourts.org)

3/15/2011

**4th Cir 00652**

Charles T. Canady  
Chief Justice



Elisabeth H. Goodner  
State Courts Administrator

**Office of the State Courts Administrator**

Phone: (850) 922-5081 Fax: (850) 488-0156  
e-mail: [osca@flcourts.org](mailto:osca@flcourts.org)

November 5, 2010

The Honorable Donald R. Moran, Jr.  
Chief Judge, Fourth Judicial Circuit  
330 E. Bay Street, Room 220  
Jacksonville, Florida 32202

Dear Chief Judge Moran:

Thank you for your correspondence dated October 5, 2010, concerning the reporting of data associated with the Foreclosure and Economic Recovery Initiative. Specifically, you identified the challenges facing the Fourth Judicial Circuit in reporting the necessary foreclosure data and proposed a course of action that will facilitate your ability to provide the required information to the Office of the State Courts Administrator (OSCA).

Your letter indicates the Fourth Circuit believes the most efficient course of action would be to make use of an automated program produced by the Duval County Clerk of Court. However, I understand you have been informed that the Clerk's Office will need \$8,000 to produce the program. Therefore, by copy of this letter, I am referring this matter to the TCBC for consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lisa", which is the signature of Elisabeth H. Goodner.

Elisabeth H. Goodner

LG:KS:dgh

cc: The Honorable John Laurent, Chair, Trial Court Budget Commission

**Stelma, Joe**

---

**From:** Debbie Howells [howellsd@flcourts.org]  
**Sent:** Monday, November 08, 2010 8:56 AM  
**To:** Judge Donald R. Moran, Jr.  
**Cc:** Stelma, Joe; Judge John Laurent  
**Subject:** Foreclosure Data Reporting  
**Attachments:** 20101108084446734.pdf

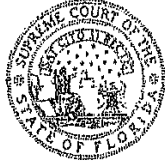
Please see the attached letter from Lisa Goodner. The original letter will follow via U.S. Mail delivery.

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

3/15/2011

**4th Cir 00654**

Charles T. Canady  
Chief Justice



Elisabeth H. Goodner  
State Courts Administrator

**Office of the State Courts Administrator**

Phone: (850) 922-5081 Fax: (850) 488-0156  
e-mail: [osca@flcourts.org](mailto:osca@flcourts.org)

November 5, 2010

The Honorable Donald R. Moran, Jr.  
Chief Judge, Fourth Judicial Circuit  
330 E. Bay Street, Room 220  
Jacksonville, Florida 32202

Dear Chief Judge Moran:

Thank you for your correspondence dated October 5, 2010, concerning the reporting of data associated with the Foreclosure and Economic Recovery Initiative. Specifically, you identified the challenges facing the Fourth Judicial Circuit in reporting the necessary foreclosure data and proposed a course of action that will facilitate your ability to provide the required information to the Office of the State Courts Administrator (OSCA).

Your letter indicates the Fourth Circuit believes the most efficient course of action would be to make use of an automated program produced by the Duval County Clerk of Court. However, I understand you have been informed that the Clerk's Office will need \$8,000 to produce the program. Therefore, by copy of this letter, I am referring this matter to the TCBC for consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "E. Goodner".

Elisabeth H. Goodner

LG:KS:dgh

cc: The Honorable John Laurent, Chair, Trial Court Budget Commission

**Stelma, Joe**

---

**From:** Sourbeer, Jeff  
**Sent:** Friday, November 05, 2010 7:02 PM  
**To:** Janocko, Eve  
**Cc:** Stelma, Joe; Norris, Elizabeth  
**Subject:** Fwd: FERCT  
**Attachments:** Foreclosure Counts All Months.xls; ATT4400859.htm; 04\_16Duval\_FERCTS.xls; ATT4400860.htm

Eve - Enjoy!

Begin forwarded message:

**From:** "Misra, Jill A" <Jill.Misra@DuvalClerk.com>  
**To:** "Sourbeer, Jeff" <SOURBEER@coj.net>, "Johnroe, Steve G" <Steve.Johnroe@duvalclerk.com>  
**Subject:** FERCT

Foreclosure stats and file for OSCA is attached.

3/15/2011

**4th Cir 00656**



Duval Foreclosure Statistics

Total Cases	Case Counts				Court Calendar			Disposition		
Month	New Cases	Disposed Cases	Reopen Cases	Closed Reopen Case	Scheduled	Rescheduled	Cancelled	Dismissed	Summary / Final Judgment	Unknown
2010 Jul	1,073	762	518	475	206	20	105	459	293	10
2010 Aug	920	767	415	385	651	78	199	251	493	23
2010 Sep	962	636	421	361	719	58	208	205	402	29
2010 Oct	618	591	667	559	664	67	481	273	173	145
2010 Nov	88	100	138	95	805	57	755	37	34	29
2010 Dec					670	20	140			
2011 Jan					594	21	54			
2011 Feb					4					
2011 Mar										
2011 Apr										
2011 May										
2011 Jun										
<b>Total</b>	<b>3,661</b>	<b>2,856</b>	<b>2,159</b>	<b>1,875</b>	<b>4,313</b>	<b>321</b>	<b>1,942</b>	<b>1,225</b>	<b>1,395</b>	<b>236</b>

Type of Status Change						Original Backlog Cases	Case Counts		
Total Foreclosure Cases	Active	Inactivity - Attorney inactivity	Inactivity - Other	Stayed - Appeal pending	Stayed - Bankruptcy		Disposed Cases	Reopen Cases	Closed Reopen Case
22,465	11,410	30	10,698	1	326	Total Backlog	14,291		
						2010 Jul	703	66	102
						2010 Aug	721	42	51
						2010 Sep	601	86	81
						2010 Oct	529	261	226
						2010 Nov	82	57	35
						2010 Dec			
						2011 Jan			
						2011 Feb			
						2011 Mar			
						2011 Apr			
						2011 May			
						2011 Jun			
						<b>Total</b>	<b>2,636</b>	<b>512</b>	<b>495</b>

4th Cir 00657

**Stelma, Joe**

---

**From:** a c soud Jr [acsoudjr@comcast.net]  
**Sent:** Friday, November 05, 2010 3:53 PM  
**To:** Stelma, Joe; Emery, Caroline; Moran, Donald R.  
**Subject:** Re: ACLU Public Records Request - clarifications

Caroline will get with you first of week to see what this means for our circuit.

Sent from my Verizon Wireless BlackBerry

---

**From:** "Stelma, Joe" <Jstelma@coj.net>  
**Date:** Fri, 5 Nov 2010 15:29:08 -0400  
**To:** Emery, Caroline<CEmery@coj.net>; Moran, Donald R.<Dmoran@coj.net>; A. C. Soud, Jr.<acsoudjr@comcast.net>  
**Subject:** FW: ACLU Public Records Request - clarifications

***Fourth Circuit Court Administrator***

330 E. Bay Street, Room 508  
Jacksonville, Florida 32202  
Work: (904) 630-1655  
Fax:(904) 630-8209

---

**From:** Laura Rush [mailto:RushL@ficcourts.org]  
**Sent:** Friday, November 05, 2010 3:18 PM  
**To:** Trial Court Administrators  
**Cc:** 'Berghorn, Robin'; Kearson, Linda  
**Subject:** ACLU Public Records Request - clarifications

All,

I spoke with ACLU attorney Larry Schwartztol yesterday afternoon. Following are the clarifications we discussed:

**1. Time frame from January 1, 2009 to the present:**

ACLU's interest in pre-July 1, 2010, records is narrowly focused on those records specifically relating to any specialized foreclosure divisions or special foreclosure courts that were established prior to the \$6 million appropriation becoming available this past July to process the foreclosure case backlog. ACLU is not interested in any records relating to non-specialized foreclosure courts.

Therefore, ACLU is looking for pre-July 1,2010, records only as to those circuits that had specialized foreclosure divisions or special foreclosure courts before July 1, 2010. If a circuit had a specialized foreclosure division or special foreclosure court prior to July 1, 2010, ACLU's request encompasses those records relating to the planning and establishment of the specialized division or court. If a circuit did not have a specialized foreclosure division or foreclosure court prior to July 1, 2010, it need not produce records prior to July 1, 2010,

3/15/2011

**Stelma, Joe**

---

**From:** Laura Rush [RushL@flcourts.org]  
**Sent:** Friday, November 05, 2010 3:18 PM  
**To:** Trial Court Administrators  
**Cc:** 'Berghorn, Robin'; Kearson, Linda  
**Subject:** ACLU Public Records Request - clarifications

All,

I spoke with ACLU attorney Larry Schwartzol yesterday afternoon. Following are the clarifications we discussed:

**1. Time frame from January 1, 2009 to the present:**

ACLU's interest in pre-July 1, 2010, records is narrowly focused on those records specifically relating to any specialized foreclosure divisions or special foreclosure courts that were established prior to the \$6 million appropriation becoming available this past July to process the foreclosure case backlog. ACLU is not interested in any records relating to non-specialized foreclosure courts.

Therefore, ACLU is looking for pre-July 1, 2010, records only as to those circuits that had specialized foreclosure divisions or special foreclosure courts before July 1, 2010. If a circuit had a specialized foreclosure division or special foreclosure court prior to July 1, 2010, ACLU's request encompasses those records relating to the planning and establishment of the specialized division or court. If a circuit did not have a specialized foreclosure division or foreclosure court prior to July 1, 2010, it need not produce records prior to July 1, 2010, in response to any of the six requests listed in the Oct. 19 letter.

**2. Request items #2 and #4.**

ACLU will send out revised, clarified records requests for items #2 and #4. With respect to individual case records that could be responsive to item #2, Mr. Schwartzol indicated there were some individual case records ACLU will want to have encompassed within the request, but he will clarify that point in writing. There was no indication that ACLU is looking for individual case records in response to item #1.

**3. Definition of "clerks" in Item #2.**

The term "clerks" should be broadly interpreted to include any type of clerk, including clerk of court, law clerk, or a clerical position, assigned to a specialized foreclosure division, section or case management unit.

**4. Task Force or Managed Mediation Program records**

ACLU is not interested in records relating to the task force or managed mediation programs. Their request is directed strictly to records relating to the adjudicatory process.

Hope this is helpful. If I missed anything, or you would like me to pursue further clarification, please let me know. I anticipate talking with Mr. Schwartzol again.

Sincerely,  
Laura Rush  
General Counsel  
Office of the State Courts Administrator  
500 South Duval Street  
Tallahassee, FL 32399-1900  
(850) 488-1824

3/15/2011

**4th Cir 00659**

Stelma, Joe

---

**From:** D'Amour, Rose  
**Sent:** Friday, November 05, 2010 8:53 AM  
**To:** CTADM1\_JUDGES; CTADM1\_STAFF\_ATTORNEYS; Laquidara, Cindy; Stelma, Joe; Stewart, Gina; Heiney, Mia; 'Michael.Figgins@Jaxlegalaid.org'; Gardner, James ; 'apksm@aol.com'; 'kowaiski.law@mac.com'; 'bgm@bgmccarthy.com'; 'dschutt@jaxtrialattorneys.com'; Hon Brian J. Davis; Hon Grandville C. Burgess; Hon Robert Foster; Akel, Franklin; Bass, Lester; DeLorenzo, Denise; Houser, Joanna; Keebler, Maria; Matthews, Donald; Misiak, Dianne; Sampson, John; Walton, Leatrice; Hon Daniel Wilensky; Hon John H. Skinner; Hon Mack Crenshaw Jr.; Hon Richard R. Townsend; Hon Timothy R. Collins; Hon. William H. Wilkes  
**Subject:** FW: Admin. Order 2010-8 - JUDICIAL SALES FEE IN ALL FORECLOSURE CASES  
**Attachments:** img-Y04145256-0001.pdf



img-Y04145256-0001.pdf

Please read the new order. Thanks.

Rosemarie D'Amour  
Judicial Assistant to Chief  
Judge Donald R. Moran, Jr.  
Duval County Courthouse-Room 220  
Jacksonville, Fl. 32202  
904-630-2541 E-Mail: Rosed@coj.net

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

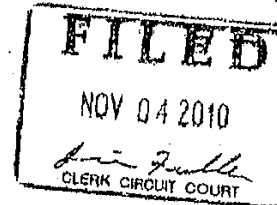
**From:** Brunette, Suzanne  
**Sent:** Friday, November 05, 2010 8:31 AM  
**To:** D'Amour, Rose  
**Subject:** FW: Admin. Order 2010-8 - JUDICIAL SALES FEE IN ALL FORECLOSURE CASES

I've forwarded certified copies to The Jax Bar, the Law Library and, of course, Caroline.

IN THE CIRCUIT COURT, FOURTH JUDICIAL CIRCUIT,  
IN AND FOR CLAY COUNTY, FLORIDA

ADMINISTRATIVE ORDER NO. 2010-8

RE: JUDICIAL SALES FEE IN ALL FORECLOSURE CASES



WHEREAS, in foreclosure actions, the Office of the Clerk for Clay County has been experiencing substantial difficulty in collecting the judicial sales fees for conducting public sales once final judgments have been entered;

WHEREAS, after final judgment, the plaintiff in a foreclosure action, which is typically the lending institution, more often than not, ultimately purchases the property at the judicial sale;

WHEREAS, it has become necessary to restructure the payment procedures so that the Office of the Clerk can be assured of payment by requiring payment when suit is initially filed;

NOW THEREFORE, by the authority vested in me as the Chief Judge of the Fourth Judicial Circuit and pursuant to the Florida Rules of Judicial Administration, it is

**ORDERED:**

1. That beginning December 1, 2010, the plaintiff in each and every foreclosure action will be required to pay seventy dollars (\$70.00) to the Clerk of Court for Clay County at the time of filing the complaint, as a service charge pursuant to § 45.035(1), Florida Statutes, "for services in making, recording, and certifying the sale and title" which "shall be advanced by the plaintiff before the sale." This seventy dollars (\$70.00) service charge may be refunded to the plaintiff if and only if - the case is voluntarily dismissed prior to the judicial sale.

2. That, should Clay County implement electronic foreclosure sales in the future, then at that time, plaintiffs in each and every foreclosure action will be required to pay an additional seventy dollars (\$70.00) to the Clerk of Court for Clay County when filing the complaint, pursuant to § 45.035(3), Florida Statutes, for services in conducting the public sale by electronic means. Such electronic sales costs are statutorily required to be paid by the "winning bidder." Therefore, in the event the winning bidder at the electronic judicial sale is ultimately not the plaintiff, but instead, is a third party purchaser, the Clerk will refund the seventy dollars (\$70.00) to the plaintiff within thirty (30) calendar days of the sale.

Instr #: 2010258329  
BK: 15419 PAGES 2000-2002  
RECORDED 11/04/2010 03:20  
Clerk of Courts  
Duval County Florida  
ERecord -bellvl

cc: All Judges in the Fourth Judicial Circuit  
The Honorable Robert M. Foster, Administrative Judge, Nassau County  
The Honorable William A. Wilkes, Administrative Judge, Clay County  
All Magistrates in the Fourth Circuit  
The Honorable Jim Fuller, Clerk of the Circuit Court, Duval County  
The Honorable James B. Jett, Clerk of the Circuit Court, Clay County  
The Honorable John A. Crawford, Clerk of the Circuit Court, Nassau County  
The Honorable Cindy A. Laquidara, General Counsel  
The Jacksonville Bar Association, Program Manager  
Mark Kessler, Esq.  
James Kowalski, Esq.  
Blane McCarthy, Esq.  
Dennis Schutt, Esq, JAX Mediation Center  
James Gardner, Fourth Judicial Circuit ADR Director  
Joseph Stelma, Fourth Judicial Circuit Trial Court Administrator  
Mia Heiney, Chief Deputy Court Administrator  
Caroline C. Emery, Esq. Court Counsel  
Fourth Circuit Court Law Library, Duval County  
Judicial Staff Attorneys, Fourth Judicial Circuit  
Michael Figgins, Esq., Director JALA

**Stelma, Joe**

---

**From:** Kristine Slayden [slaydenk@flcourts.org]  
**Sent:** Monday, November 01, 2010 2:49 PM  
**To:** Trial Court Chief Judges; Trial Court Administrators  
**Cc:** Lisa Goodner; Blan Teagle; Laura Rush; Charlotte Jerrett; Dorothy Wilson; Arlene Johnson; P.J. Stockdale; Greg Youchock  
**Subject:** Foreclosure and Economic Recovery Status Report - First Quarter of Fiscal Year 2010-11  
**Attachments:** First Quarter of FY 2010-11 Status Report\_v2.pdf

Chief Judges/Trial Court Administrators: Attached is the Foreclosure and Economic Recovery Status Report – First Quarter of Fiscal Year 2010-11. Please let me know if you have any questions. Kris

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

3/15/2011

**4th Cir 00663**

**Foreclosure and Economic Recovery  
Real Property/Mortgage Foreclosure Backlog  
Status Report - First Quarter of Fiscal Year 2010-11**

<b>Circuit</b>	<b>Real Property/ Mortgage Foreclosure Backlog as of June 30, 2010<sup>1</sup></b>	<b>First Quarter of FY 2010-11 Initiative Dispositions<sup>2</sup></b>	<b>Balance of Backlog After First Quarter of FY 2010-11<sup>3</sup></b>
1	10,979	717	10,262
2	3,460	183	3,277
3	1,115	120	995
4	17,916	2,948	14,968
5	16,281	840	15,441
6	31,791	2,730	29,061
7	18,440	3,837	14,603
8	1,926	522	1,404
9	39,700	6,048	33,652
10	11,045	3,004	8,041
11	75,326	4,920	70,406
12	21,617	1,878	19,739
13	32,843	4,364	28,479
14	3,897	823	3,074
15	46,438	9,846	36,592
16	2,259	133	2,126
17	48,675	9,585	39,090
18	27,117	2,768	24,349
19	19,061	951	18,110
20	32,453	9,613	22,840
<b>Total</b>	<b>462,339</b>	<b>65,830</b>	<b>396,509</b>

<sup>1</sup> Real Property/Mortgage Foreclosure Backlog as of June 30, 2010 was determined by subtracting the number of SRS dispositions from the number of SRS filings for July 1, 2006 through June 30, 2010.

<sup>2</sup> First Quarter of FY 2010-11 Initiative Dispositions are based on data that is provided to the OSCA on a monthly basis by each trial court. These data are the reported information on cases disposed from July 1, 2010 through September 30, 2010 using the new resources. In addition, Desoto County and Okeechobee County did not receive Foreclosure and Economic Recovery funding and are not included above; Circuit 4 has not submitted data during the initiative (The data provided above for Circuit 4 represents the number of SRS dispositions for July 2010 through September 2010.); July 2010 data is incomplete for Pinellas County; and September 2010 data is incomplete for Orange County, Circuit 18 and Circuit 19.

<sup>3</sup> Balance of Backlog After First Quarter of Fiscal Year 2010-11 was determined by subtracting the number of First Quarter of FY 2010-11 Initiative Dispositions from the number of Real Property/Mortgage Foreclosure Backlog as of June 30, 2010.

Note: First Quarter of Fiscal Year 2010-11 includes data from July 1, 2010 to September 30, 2010.



**Foreclosure and Economic Recovery**  
**Real Property/Mortgage Foreclosure Type of Dispositions<sup>1</sup>**  
**Status Report - First Quarter of Fiscal Year 2010-11**

<b>Circuit</b>	<b>Dismissed</b>	<b>Summary/ Final Judgment</b>	<b>Trial</b>	<b>Unidentified</b>	<b>Total Disposed</b>
1	192	522	1	2	717
2	32	151	0	0	183
3	50	70	0	0	120
4	1,176	1,772	0	0	2,948
5	249	547	0	44	840
6	19	2,710	1	0	2,730
7	1,213	2,569	2	53	3,837
8	175	320	6	21	522
9	1,635	4,401	1	11	6,048
10	859	2,125	1	19	3,004
11	3,566	1,354	0	0	4,920
12	127	1,744	5	2	1,878
13	230	3,986	0	148	4,364
14	342	471	0	10	823
15	2,849	6,956	1	40	9,846
16	23	100	0	10	133
17	2,381	7,105	1	98	9,585
18	983	1,779	3	3	2,768
19	281	399	1	270	951
20	643	7,859	0	1,111	9,613
<b>Total</b>	<b>17,025</b>	<b>46,940</b>	<b>23</b>	<b>1,842</b>	<b>65,830</b>

<sup>1</sup> Type of Dispositions are based on the initiative data that is provided to the OSCA on a monthly basis by each trial court. These data represent the reported information on cases disposed from July 1, 2010 through September 30, 2010 using the new resources. In addition, Desoto County and Okeechobee County did not receive Foreclosure and Economic Recovery funding and are not included above; Circuit 4 has not submitted data during the initiative (The data provided above for Circuit 4 represents the number of SRS dispositions for July 2010 through September 2010.); July 2010 data is incomplete for Pinellas County; and September 2010 data is incomplete for Orange County, Circuit 18 and Circuit 19. Note: First Quarter of Fiscal Year 2010-11 includes data from July 1, 2010 to September 30, 2010.

**Foreclosure and Economic Recovery  
Real Property/Mortgage Foreclosure Case Status<sup>1</sup>  
Status Report - First Quarter of Fiscal Year 2010-11**

Circuit	Case Status as of September 30, 2010			
	Cases Disposed	Cases Active <sup>2</sup>	Cases Inactive <sup>3</sup>	Cases Stayed <sup>4</sup>
1	717	162	10,172	0
2	183	353	3,758	2
3	120	1,168	17	0
4	2,948	NA	18,291	NA
5	840	3,639	13,639	2
6	2,730	6	33,638	9
7	3,837	13	15,352	0
8	522	357	1,503	2
9	6,048	4,645	39,754	1
10	3,004	9,701	2,047	7
11	4,920	45,455	33,219	0
12	1,878	265	19,921	0
13	4,364	1	28,846	0
14	823	2,214	1,957	11
15	9,846	0	43,026	0
16	133	615	1,727	4
17	9,585	23,583	28,403	0
18	2,768	662	23,937	116
19	951	0	20,523	0
20	9,613	20,628	4,623	6
<b>Total</b>	<b>65,830</b>	<b>113,467</b>	<b>344,353</b>	<b>160</b>

<sup>1</sup> Cases Status is based on the initiative data that is provided to the OSCA on a monthly basis by each trial court. These data represent the reported information on cases disposed in July 2010 through September 2010 using the new resources and the status of the remaining pending cases. In addition, Desoto and Okeechobee Counties did not receive Foreclosure and Economic Recovery funding and are not included above; Circuit 4 has not submitted data during the initiative (The number of Cases Disposed provided above for Circuit 4 represents the number of SRS dispositions for July 2010 through September 2010.); July 2010 data is incomplete for Pinellas County; and September 2010 data is incomplete for Orange County, Circuit 18 and Circuit 19.

<sup>2</sup> Cases Active represents those cases the court is actively working to resolve. Court administration may not be made aware immediately when a case moves from inactive to active status.

<sup>3</sup> Cases Inactive represents cases where judicial action cannot be concluded due to extenuating circumstances. This includes, but is not limited to, cases inactive due to attorney inactivity, cases with insufficient pleadings or documentation, cases involved in mediation/settlement negotiations, and other similar matters. All cases at the beginning of the initiative in July 2010 were identified as inactive.

<sup>4</sup> Cases Stayed includes bankruptcy cases, cases pending resolution of another case, cases where there is an agreement of the parties, and cases pending appeal.

Note: First Quarter of Fiscal Year 2010-11 includes data from July 1, 2010 to September 30, 2010.

**Foreclosure and Economic Recovery**  
**Number of Additional Real Property/Mortgage Foreclosure Cases**  
**Added to Backlog and Percent of Cases Disposed**  
**Quarter Ending September 2006 through September 2010**

Quarter	Number of Additional Backlog Cases Added <sup>1</sup>	Clearance Rate <sup>2</sup>
July -September 2006	4,199	78.6%
October - December 2006	8,702	64.5%
January - March 2007	13,811	56.9%
April - June 2007	16,852	54.6%
July -September 2007	26,234	45.9%
October - December 2007	38,845	39.7%
January - March 2008	34,319	38.4%
April - June 2008	51,034	43.8%
July -September 2008	53,250	45.5%
October - December 2008	49,532	49.9%
January - March 2009	50,158	53.6%
April - June 2009	36,553	63.0%
July -September 2009	35,034	64.0%
October - December 2009	29,000	69.4%
January - March 2010	14,423	82.0%
April - June 2010	-11,872	125.1%
July -September 2010	-14,615	123.1%

<sup>1</sup> Number of Additional Backlog Cases Added was determined by subtracting the number of SRS dispositions from the number of SRS filings for the quarters ending September 30, 2006 through September 30, 2010.

<sup>2</sup> Clearance Rate was determined by dividing the number of SRS dispositions by the number of SRS filings for the quarters ending September 30, 2006 through September 30, 2010.

**Stelma, Joe**

---

**From:** D'Amour, Rose  
**nt:** Monday, November 01, 2010 10:46 AM  
CTADM1\_JUDGES; 'james.fuller@duvalclerk.com'; 'James Jett';  
'Michael.Figgins@Jaxlegalaids.org'; Stewart, Gina; Heiney, Mia; Stelma, Joe; Gardner, James ;  
Laquidara, Cindy; 'kowalski.law@mac.com'; 'bgm@bgmccarthy.com';  
'dschutt@jaxtrialattorneys.com'; Akel, Franklin; Bass, Lester; DeLorenzo, Denise; Houser,  
Joanna; Keebler, Maria; Matthews, Donald; Misiak, Dianne; Sampson, John; Walton, Leatrice  
**Subject:** FW: ADMIN. ORDER 10-7 - Judicial Sales Fee in all Foreclosure Cases  
**Attachments:** img-X29083436-0001.pdf



img-X29083436-000  
1.pdf

This is an administrative order for foreclosures. Thank you.

Rosemarie D'Amour  
Judicial Assistant to Chief  
Judge Donald R. Moran, Jr.  
Duval County Courthouse-Room 220  
Jacksonville, Fl. 32202  
904-630-2541 E-Mail: Rosed@coj.net

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

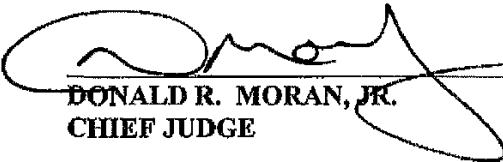
**From:** Brunette, Suzanne  
**sent:** Friday, October 29, 2010 9:45 AM  
Emery, Caroline; D'Amour, Rose  
**object:** FW: ADMIN. ORDER 10-7 - Judicial Sales Fee in all Foreclosure Cases

3. That, unless objections to the public sale are filed with the Court within ten (10) days after filing the certificate of sale pursuant to § 45.031(5), Florida Statutes, the party to whom the certificate of title is issued shall pay the required documentary stamp fees no later than fifteen (15) calendar days from the date the certificate of sale is filed.

4. That beginning December 1, 2010, if a foreclosure sale is incomplete, and the successful third party bidder does not follow through with paying the balance of bid price in full, the 5 % deposit, which the third party bidder has as a credit with the Clerk of Court, shall be forfeited to the Clerk of Court subject to partial distribution to the plaintiff upon application in accordance with Florida law. The plaintiff will be required to file a motion to reschedule the foreclosure sale and simultaneously pay to the Clerk of Court for Duval County: (a) a filing fee in the amount of fifty dollars (\$50.00) for reopening the action, as authorized by § 28.241, Florida Statutes; (b) an additional seventy dollars (\$70.00) service charge pursuant to § 45.035(1), Florida Statutes, "for services in making, recording, and certifying the sale and title" to be refunded to the plaintiff if the case is voluntarily dismissed; and (c) an additional seventy dollars (\$70.00) for services in conducting an electronic public sale pursuant to § 45.035(3), Florida Statutes, to be refunded to the plaintiff within thirty (30) calendar days of the public sale if the "winning bidder" at the judicial sale is ultimately a third party purchaser.

5. That this Administrative Order shall be recorded by the Clerk of the Court, in the Official Records of Duval County, in the State of Florida, and shall take effect on December 1, 2010 and remain in full force and effect unless and until otherwise ordered by this Court.

**DONE AND ORDERED** in Chambers at Jacksonville, Duval County, Florida, this 27 day of Oct, 2010.

  
**DONALD R. MORAN, JR.**  
**CHIEF JUDGE**

STATE OF FLORIDA  
DUVAL COUNTY

I, THE UNDERSIGNED Clerk of the Circuit Court, Duval County, Florida, DO HEREBY CERTIFY the within and foregoing is a true and correct copy of the original as it appears on record and file in the office of the Clerk of Circuit Court of Duval County, Florida.

WITNESS my hand and seal of Clerk of Circuit Court at Jacksonville, Florida, this the 29 day of Oct A.D. 2010.

JIM FULLER

Clerk, Circuit and County Courts  
Duval County, Florida.

By Valana L. Bell  
Deputy Clerk

cc: All Judges in the Fourth Circuit Court, in Duval County  
The Honorable Robert M. Foster, Administrative Judge, Nassau County  
The Honorable William A. Wilkes, Administrative Judge, Clay County  
All Magistrates in the Fourth Circuit  
The Honorable Jim Fuller, Clerk of the Circuit Court, Duval County  
The Honorable James B. Jett, Clerk of the Circuit Court, Clay County  
The Honorable John A. Crawford, Clerk of the Circuit Court, Nassau County  
The Honorable Cindy A. Laquidara, General Counsel  
The Jacksonville Bar Association, Program Manager  
Mark Kessler, Esq.  
James Kowalski, Esq.  
Blane McCarthy, Esq.  
Dennis Schutt, Esq, JAX Mediation Center  
James Gardner, Fourth Judicial Circuit ADR Director  
Joseph Stelma, Fourth Judicial Circuit Trial Court Administrator  
Mia Heiney, Chief Deputy Court Administrator  
Caroline C. Emery, Esq. Court Counsel  
Fourth Circuit Court Law Library, Duval County  
Judicial Staff Attorneys, Fourth Judicial Circuit  
Michael Figgins, Esq., Director JALA

**Stelma, Joe**

---

**From:** Sourbeer, Jeff  
**Sent:** Wednesday, October 27, 2010 10:57 AM  
**To:** 'Mitchell Keiter'  
**Cc:** Stelma, Joe; Norris, Elizabeth; Janocko, Eve; Lewis, Conni; Elaine Coats  
**Subject:** RE: Judge Case Count Statistical Report

That is great. Thank you Mitch.

---

**From:** Mitchell Keiter [mailto:mkeiter@nassauclerk.com]  
**Sent:** Wednesday, October 27, 2010 10:57 AM  
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**IT Director**  
**Nassau County Clerk of Courts**  
[mkeiter@nassauclerk.com](mailto:mkeiter@nassauclerk.com)  
**Tel (904) 548-4575**  
**Fax (904) 548-4842**

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3/16/2011

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Email [sourbeer@coj.net](mailto:sourbeer@coj.net)  
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3/16/2011

**4th Cir 00673**

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3/16/2011

**4th Cir 00676**

## **Agenda Item I: Judge Case Count Reporting Requirement**

### **Introduction**

During Session 2010, the Florida Legislature passed a law requiring the Office of the State Courts Administrator (OSCA) to report counts by judge on the number of cases opened and closed in the trial courts in calendar year 2010.

*In order to implement Specific Appropriations 3238 through 3260 General Appropriations Act, the Office of the State Courts Administrator, with the assistance of the Clerks of the Court and the Florida Association of Clerks and Comptrollers, shall report by February 15, 2011, to the chairs of the Senate Policy and Steering Committee on Ways and Means and the House Full Appropriations Council on Education and Economic Development, the number of assigned new and reopened cases and the number of cases closed by each judge in each division and circuit for the period January 1, 2010, through December 31, 2010. (Ch. 2010-153 § 9, Laws of Florida)*

### **Discussion**

In response to Ch. 2010-153 § 9, Laws of Florida, the Court Statistics and Workload Committee (CSWC) undertook an evaluation of the requirement and have worked for two months to develop an appropriate and meaningful response. The CSWC believes the intent of the reporting requirement is to provide a comparable measure of workload within the courts by using the number of cases entering and leaving the court system. In order to satisfy both the spirit and letter of the law, the CSWC proposes the OSCA provide two reports to the Legislature.

As specifically required by law, the CSWC proposes that the first report detail new, reopen and closed cases by judge name. This information can be obtained from the Florida Association of Court Clerks and Comptrollers (FACC) Comprehensive Case Information System (CCIS). FACC and OSCA staff have met and discussed the reporting requirements many times and have agreed to reporting rules that will be used to generate this report. The FACC have been reviewing the data in CCIS and working with the clerks for many months to make sure that they can provide the case counts to satisfy this mandate. The OSCA will receive a statewide report from the FACC using the CCIS data in January, so that the report can be sent to Legislature by February 15, 2011.

In addition, the CSWC believes that a "by divisional assignment" reporting structure would provide a meaningful comparative measure of workload in the court system. "By divisional assignment" is typically the format that chief judges and administrative judges get their reports from their clerks. Therefore, the second report proposed by the CSWC details the new, reopen and closed cases "by divisional assignment" of court. The report will include a summary of judges assigned to locally defined court divisions and the dates of those assignments. Further,

**Trial Court Administrators  
Conference Call  
October 7, 2010**

the CSWC believes that court administration should focus on reviewing and correcting the “by divisional assignment” report to ensure that this alternative provides an accurate and meaningful summary of cases in the trial courts. Also, reporting tools developed during the FACC review of the “by judge” report in CCIS may be useful to the circuits in their review of the “by divisional assignment” data.

### **Case Count Report**

In the summer of 2010, the OSCA staff discussed the legislation with Chief Judges and Trial Court Administrators. Each group consistently stated that they believed that case counts as required by this report should be developed locally within the circuits and that each circuit have the opportunity to review and correct these results before the final report is submitted to the Legislature. In the remaining months before January 2011, court administration is encouraged to work closely with their respective Clerks of Court to develop a process for reviewing, correcting and reporting, at least, the minimum information required by the OSCA template. The OSCA will assist court administration, as needed, in their efforts to validate these case count statistics.

To ensure that the OSCA meets the February 15, 2011 deadline, court administration will report case counts to the OSCA by division assignment for the entire 2010 calendar year no later than January 15, 2011.

Integral to the basic report, court administration is requested to provide a meaningful description of each of the divisional assignments within each county. This description should be included in the “Division/Judge comment” section of the report. Additionally, court administration may provide illustrative comments for each judge describing particular issues, or circumstances that clarify or expand the judges’ contribution to that assignment.

As the CSWC learned, the development of case count statistics is a difficult task complicated by the very flexibility that provides for efficient justice. Court administration is encouraged to work closely with both their Clerks of Court and with the OSCA to ensure that the final report to the Legislature is accurate, reliable, and as meaningful as possible.

### **Case Count Reporting Rules**

The following reporting rules were developed to guide court administration in the proper preparation of the Judge Case Count by Divisional Assignment Report. These rules should be shared with the Clerk of Court of your respective counties in the preparation of the report so that we are as consistent as possible across the state.

**Trial Court Administrators  
Conference Call  
October 7, 2010**

1. Meaning of Judge Assigned for reporting purposes:

Judge Assigned refers to all judges that were active at some time during calendar year 2010. It does not include reporting on senior judges or magistrates/hearing officers. It should be noted that since many cases are assigned to supplemental resources directly, the counts included on the final report may not reflect all of the activity within a particular division as a whole.

2. Closure of reopened cases:

Clerks of Court should be required to collect additional information on reopened cases that are not currently required by SRS, specifically if the case was subsequently closed. The following definition for reopen closure is adopted.

*Reopen Closed – Report a post-judgment case as closed on the date the motion/pleading that reopened the case has been resolved by judicial decision/order thereby completing court proceedings on the issue raised by the motion/pleading*

3. Methodology for Assigned “New” Cases versus Reassigned Cases:

Case counts should be attributed to the divisional assignment that the case was initially assigned to (i.e. new) at filing. A divisional assignment that subsequently receives a case on reassignment will not get credit for the “new” count but will receive credit for the “disposed” count. Similarly, dispositions, reopens and reopen closures will be counted toward the divisional assignment of record when the disposition, reopen or reopen closure occurred. This rule prevents double counting of the cases.

4. Quality of the judge case count statistics:

The CSWC encourage court administration to review and correct, if needed, the judge count reports received from the Clerks of Court beginning as soon as possible, and, at least, monthly thereafter, until the report is due to the OSCA for final compilation.

5. Reporting Format

The CSWC has adopted the attached data collection form as the approved format for court administration to provide circuit wide judge case count statistics to the OSCA and for the OSCA to compile those statistics for the Legislature. To account for county level judges and differing divisional assignments this report should be provided for each county within the circuit.

6. Interpretation of judge case count statistics:

Court administration should identify issues and circumstances that may affect the interpretation of their statistics. OSCA will include these qualifications as an integral component of the final report. This includes detailed descriptions of the reported divisional assignments. It was suggested that if court administration cannot provide

**Trial Court Administrators  
Conference Call  
October 7, 2010**

detailed information by divisional assignment, the OSCA would develop a generic caveat for each divisional assignment.

**Case Count Report Format**

Included in this document is a copy of the report template that the OSCA will provide to the Legislature. Regardless of the methods used internally to compile and verify this information, court administration is requested to submit a completed report in this format to the OSCA no later than January 15, 2011 to ensure that the OSCA can complete its summary to meet the Legislative deadline of February 15, 2011.



### Judge Case Count by Divisional Assignment Report

(As required by General Appropriations Bill Laws of Florida 2010-153)

Calendar Year 2010

Circuit	14
County	67
Name	Washington

Divisional/Judges Assigned	Dates of Service	Count of Cases				Division/Judge Comments
		New	Disposed	Reopens	Reopens Closed	
<b>Felony - Part 5A</b>		94	141	22	27	general felony
Judge Emma Peel	1/1 -1/31					
Judge Samuel Portnoy	1/1-1/31					
Judge Harold Jones	1/21-1/31					
<b>Felony - Part 5B</b>		75	70	9	13	first appearance and/or arraignment; judges assigned biweekly on a rotating basis
Judge George Thomas	1/1-1/17					
Judge Eloise Harris	1/18-1/31					
<b>Felony - Part 5C</b>		5	3	0	1	Sexual Offenses
Judge Harold Jones	1/1-1/20					
Judge Timothy Roberts	1/21-1/31					

case\_count\_rpt\_template\_rev3.xls - 2010/10/04



**Stelma, Joe**

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6. Interpretation of judge case count statistics:

Court administration should identify issues and circumstances that may affect the interpretation of their statistics. OSCA will include these qualifications as an integral component of the final report. This includes detailed descriptions of the reported divisional assignments. It was suggested that if court administration cannot provide

**Trial Court Administrators  
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detailed information by divisional assignment, the OSCA would develop a generic caveat for each divisional assignment.

**Case Count Report Format**

Included in this document is a copy of the report template that the OSCA will provide to the Legislature. Regardless of the methods used internally to compile and verify this information, court administration is requested to submit a completed report in this format to the OSCA no later than January 15, 2011 to ensure that the OSCA can complete its summary to meet the Legislative deadline of February 15, 2011.

### Judge Case Count by Divisional Assignment Report

(As required by General Appropriations Bill Laws of Florida 2010-153)

Calendar Year 2010

Circuit	14
County	67
Name	Washington

Divisional/Judges Assigned	Dates of Service	Count of Cases				Division/Judge Comments
		New	Disposed	Reopens	Reopens Closed	
<b>Felony - Part 5A</b>		94	141	22	27	general felony
Judge Emma Peel	1/1 -1/31					
Judge Samuel Portnoy	1/1-1/31					
Judge Harold Jones	1/21-1/31					
<b>Felony - Part 5B</b>		75	70	9	13	first appearance and/or arraignment; judges assigned biweekly on a rotating basis
Judge George Thomas	1/1-1/17					
Judge Eloise Harris	1/18-1/31					
<b>Felony - Part 5C</b>		5	3	0	1	Sexual Offenses
Judge Harold Jones	1/1-1/20					
Judge Timothy Roberts	1/21-1/31					

case\_count\_rpt\_template\_rev3.xls -- 2010/10/04



**Stelma, Joe**

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**From:** Sourbeer, Jeff  
**Sent:** Wednesday, October 20, 2010 10:22 AM  
**To:** 'Leah Conner'  
**Subject:** Judge Case Count Statistical Report  
**Attachments:** TCA\_write\_up\_aj\_ks\_pj\_20101005.doc; case\_county\_rpt\_template\_rev3.pdf; case\_count\_rpt\_blank\_rev3.xls

Leah --

As you may know, during Session 2010, the Florida Legislature passed a law requiring the Office of the State Courts Administrator (OSCA) to report counts by judge on the number of cases opened and closed in the trial courts in calendar year 2010. (See Ch. 2010-153 § 9, Laws of Florida)

The OSCA has worked with the Florida Association of Court Clerks and Comptrollers (FACC) Comprehensive Case Information System (CCIS) to access this information. FACC and OSCA staff have met and discussed the reporting requirements many times and have agreed to reporting rules that will be used to generate this report.

Attached are the requirements for the "Judge Case Count Reporting" and the template for the data to be extracted into an Excel spreadsheet format. The OSCA has determined that the "by divisional assignment" reporting structure provides a meaningful comparative measure of workload in the court system. "By divisional assignment" is typically the report format that chief judges and administrative judges normally receive from the clerk. Therefore, the report details the new, reopen and closed cases "by divisional assignment" of court. The report will include a summary of judges assigned to locally defined court divisions and the dates of those assignments.

The Fourth Circuit is required to submit the "Judge Case Count" report to the OSCA by January 15, 2011. So far, we met with Steve Johnroe and Jill Misra with our Duval County Clerk's Office who have agreed to provide a draft report of the requested data to Eve Janocko with Court Administration by November 15, 2010 so that a preliminary audit of the data can be conducted. In addition, Court Administration is required to include supplementary comments regarding judge workload considerations for divisional assignments, e.g., foreclosures, capital murders, and tobacco cases.

We will be happy to meet with you regarding this reporting requirement so that we are sure the Fourth Circuit can fulfill its responsibilities to satisfy this mandate by the Legislature by the deadline specified. As always, we appreciate all your assistance in this matter.

Jeff Sourbeer  
Court Technology Officer  
Fourth Judicial Circuit  
Clay, Duval and Nassau Counties  
Duval County Courthouse, Room 514  
330 East Bay Street  
Jacksonville, Florida 32202  
Email [sourbeer@coj.net](mailto:sourbeer@coj.net)  
Phone (904)630-7333  
Fax (904)630-8345

3/16/2011

## **Agenda Item I: Judge Case Count Reporting Requirement**

### **Introduction**

During Session 2010, the Florida Legislature passed a law requiring the Office of the State Courts Administrator (OSCA) to report counts by judge on the number of cases opened and closed in the trial courts in calendar year 2010.

*In order to implement Specific Appropriations 3238 through 3260 General Appropriations Act, the Office of the State Courts Administrator, with the assistance of the Clerks of the Court and the Florida Association of Clerks and Comptrollers, shall report by February 15, 2011, to the chairs of the Senate Policy and Steering Committee on Ways and Means and the House Full Appropriations Council on Education and Economic Development, the number of assigned new and reopened cases and the number of cases closed by each judge in each division and circuit for the period January 1, 2010, through December 31, 2010. (Ch. 2010-153 § 9, Laws of Florida)*

### **Discussion**

In response to Ch. 2010-153 § 9, Laws of Florida, the Court Statistics and Workload Committee (CSWC) undertook an evaluation of the requirement and have worked for two months to develop an appropriate and meaningful response. The CSWC believes the intent of the reporting requirement is to provide a comparable measure of workload within the courts by using the number of cases entering and leaving the court system. In order to satisfy both the spirit and letter of the law, the CSWC proposes the OSCA provide two reports to the Legislature.

As specifically required by law, the CSWC proposes that the first report detail new, reopen and closed cases by judge name. This information can be obtained from the Florida Association of Court Clerks and Comptrollers (FACC) Comprehensive Case Information System (CCIS). FACC and OSCA staff have met and discussed the reporting requirements many times and have agreed to reporting rules that will be used to generate this report. The FACC have been reviewing the data in CCIS and working with the clerks for many months to make sure that they can provide the case counts to satisfy this mandate. The OSCA will receive a statewide report from the FACC using the CCIS data in January, so that the report can be sent to Legislature by February 15, 2011.

In addition, the CSWC believes that a “by divisional assignment” reporting structure would provide a meaningful comparative measure of workload in the court system. “By divisional assignment” is typically the format that chief judges and administrative judges get their reports from their clerks. Therefore, the second report proposed by the CSWC details the new, reopen and closed cases “by divisional assignment” of court. The report will include a summary of judges assigned to locally defined court divisions and the dates of those assignments. Further,

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the CSWC believes that court administration should focus on reviewing and correcting the “by divisional assignment” report to ensure that this alternative provides an accurate and meaningful summary of cases in the trial courts. Also, reporting tools developed during the FACC review of the “by judge” report in CCIS may be useful to the circuits in their review of the “by divisional assignment” data.

### **Case Count Report**

In the summer of 2010, the OSCA staff discussed the legislation with Chief Judges and Trial Court Administrators. Each group consistently stated that they believed that case counts as required by this report should be developed locally within the circuits and that each circuit have the opportunity to review and correct these results before the final report is submitted to the Legislature. In the remaining months before January 2011, court administration is encouraged to work closely with their respective Clerks of Court to develop a process for reviewing, correcting and reporting, at least, the minimum information required by the OSCA template. The OSCA will assist court administration, as needed, in their efforts to validate these case count statistics.

To ensure that the OSCA meets the February 15, 2011 deadline, court administration will report case counts to the OSCA by division assignment for the entire 2010 calendar year no later than January 15, 2011.

Integral to the basic report, court administration is requested to provide a meaningful description of each of the divisional assignments within each county. This description should be included in the “Division/Judge comment” section of the report. Additionally, court administration may provide illustrative comments for each judge describing particular issues, or circumstances that clarify or expand the judges’ contribution to that assignment.

As the CSWC learned, the development of case count statistics is a difficult task complicated by the very flexibility that provides for efficient justice. Court administration is encouraged to work closely with both their Clerks of Court and with the OSCA to ensure that the final report to the Legislature is accurate, reliable, and as meaningful as possible.

### **Case Count Reporting Rules**

The following reporting rules were developed to guide court administration in the proper preparation of the Judge Case Count by Divisional Assignment Report. These rules should be shared with the Clerk of Court of your respective counties in the preparation of the report so that we are as consistent as possible across the state.

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1. Meaning of Judge Assigned for reporting purposes:

Judge Assigned refers to all judges that were active at some time during calendar year 2010. It does not include reporting on senior judges or magistrates/hearing officers. It should be noted that since many cases are assigned to supplemental resources directly, the counts included on the final report may not reflect all of the activity within a particular division as a whole.

2. Closure of reopened cases:

Clerks of Court should be required to collect additional information on reopened cases that are not currently required by SRS, specifically if the case was subsequently closed. The following definition for reopen closure is adopted.

*Reopen Closed – Report a post-judgment case as closed on the date the motion/pleading that reopened the case has been resolved by judicial decision/order thereby completing court proceedings on the issue raised by the motion/pleading*

3. Methodology for Assigned “New” Cases versus Reassigned Cases:

Case counts should be attributed to the divisional assignment that the case was initially assigned to (i.e. new) at filing. A divisional assignment that subsequently receives a case on reassignment will not get credit for the “new” count but will receive credit for the “disposed” count. Similarly, dispositions, reopens and reopen closures will be counted toward the divisional assignment of record when the disposition, reopen or reopen closure occurred. This rule prevents double counting of the cases.

4. Quality of the judge case count statistics:

The CSWC encourage court administration to review and correct, if needed, the judge count reports received from the Clerks of Court beginning as soon as possible, and, at least, monthly thereafter, until the report is due to the OSCA for final compilation.

5. Reporting Format

The CSWC has adopted the attached data collection form as the approved format for court administration to provide circuit wide judge case count statistics to the OSCA and for the OSCA to compile those statistics for the Legislature. To account for county level judges and differing divisional assignments this report should be provided for each county within the circuit.

6. Interpretation of judge case count statistics:

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**Trial Court Administrators  
Conference Call  
October 7, 2010**

detailed information by divisional assignment, the OSCA would develop a generic caveat for each divisional assignment.

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(As required by General Appropriations Bill Laws of Florida 2010-153)

Calendar Year 2010

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County	67
Name	Washington

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Judge Emma Peel	1/1 -1/31					
Judge Samual Portnoy	1/1-1/31					
Judge Harold Jones	1/21-1/31					
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Judge George Thomas	1/1-1/17					
Judge Eloise Harris	1/18-1/31					
<b>Felony - Part 5C</b>		5	3	0	1	Sexual Offenses
Judge Harold Jones	1/1-1/20					
Judge Timothy Roberts	1/21-1/31					

case\_count\_rpt\_template\_rev3.xls -- 2010/10/04



**Stelma, Joe**

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**From:** Sourbeer, Jeff  
**Sent:** Tuesday, October 19, 2010 11:37 AM  
**To:** Trent, Pam  
**Cc:** Stelma, Joe; Janocko, Eve; Norris, Elizabeth  
**Subject:** Re: Foreclosure and Economic Recovery Initiative Case Data List (DUVAL)

Thanks. That is the account I suspected it would come from.

On Oct 19, 2010, at 11:24 AM, "Trent, Pam" <PTRENT@coj.net> wrote:

It would have to come from our 15U. We have \$50,000 to work with for the year.

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**From:** Sourbeer, Jeff  
**Sent:** Tuesday, October 19, 2010 11:21 AM  
**To:** Trent, Pam  
**Subject:** Re: Foreclosure and Economic Recovery Initiative Case Data List (DUVAL)

We will need to identify where to get the \$8000. Any suggestions?

On Oct 19, 2010, at 11:18 AM, "Trent, Pam" <PTRENT@coj.net> wrote:

How is this coming?

Thanks,  
Pam

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**From:** Stelma, Joe  
**Sent:** Wednesday, September 29, 2010 4:35 PM  
**To:** Sourbeer, Jeff; Moran, Donald R.; Trent, Pam  
**Subject:** RE: Foreclosure and Economic Recovery Initiative Case Data List (DUVAL)

thanks jeff. We will discuss with the Chief.

*Fourth Circuit Court Administrator*  
330 E. Bay Street, Room 508  
Jacksonville, Florida 32202  
Work: (904) 630-1655  
Fax: (904) 630-8209

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**From:** Sourbeer, Jeff

3/16/2011

**4th Cir 00696**



**Sent:** Wednesday, September 29, 2010 4:33 PM  
**To:** Stelma, Joe  
**Cc:** Moran, Donald R.; C. Soud Jr. A.; Pappas, Sara; Norris, Elizabeth; Paruolo, Vincent  
**Subject:** Re: Foreclosure and Economic Recovery Initiative Case Data List (DUVAL)

We can pay the \$8,000 to the Duval Clerk for the programing. Money will not be available until the end of October. 120 hours to complete. It may not be programmer until December. So, Duval data in the OSCA spreadsheet format will be delayed until around January. Also, Clay and Nassau have not agreed to submit it in any order other than in the summary format.

On Sep 29, 2010, at 4:04 PM, "Stelma, Joe" <[Jstelma@coj.net](mailto:Jstelma@coj.net)> wrote:

Begin forwarded message:

**From:** "P.J. Stockdale" <[stockdap@flcourts.org](mailto:stockdap@flcourts.org)>  
**Date:** September 29, 2010 2:54:29 PM EDT  
**To:** "Joseph Stelma, Jr." <[jstelma@coj.net](mailto:jstelma@coj.net)>  
**Cc:** Kristine Slayden <[slaydenk@flcourts.org](mailto:slaydenk@flcourts.org)>, Arlene Johnson <[johnsona@flcourts.org](mailto:johnsona@flcourts.org)>  
**Subject: RE: Foreclosure and Economic Recovery Initiative Case Data List (DUVAL)**

Joe,

Thank you for your submission of Foreclosure and Economic Recovery Initiative data. I apologize for not being able to look at the documents you sent before now. I'm afraid we've had all we can do just getting the data we had in and validated.

Unfortunately, Joe, the data you sent is not what we need for this project. This project does not depend on summary case counts. For the Initiative, we are looking for actual foreclosure case data for the 4th circuit. In July, we sent you a set of Excel workbooks for Clay, Duval and Nassau named 04\_10Clay\_FERCTS.xls, 04\_16Duval\_FERCTS.xls and 04\_45Nassau\_FERCTS.xls. These workbooks contained both an initial list of all open or reopened cases pending in your circuit as of June 30, 2010 and a tracking application to assist foreclosure and economic initiative staff in tracking these cases as they move through the court system and in adding new cases as they come in to the system.

3/16/2011

**4th Cir 00697**

The Excel application was provided as a tool to assist the circuits with case tracking. It is true that you do not need to use the application in your day to day operations. Many of the medium and large circuits have better mechanisms for case tracking already in place. However, the workbooks provide the standardized format that we need to process the foreclosure case data each month. Therefore, initiative staff should update and return the workbooks to the OSCA each month by the 10th.

I'm always available to assist your staff in using or updating and submitting these workbooks or to answer any general questions they may have. Please have them give me a call.

Thank you

PJ

PJ Stockdale

Senior Court Statistics Consultant

OSCA - Court Services

Supreme Court Building Annex

500 S Duval St

Tallahassee FL 32301-1900

(ph) 850.410.1523

(fax) 850.414.1342

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**From:** Stelma, Joe [mailto:Jstelma@coj.net]  
**Sent:** Monday, September 20, 2010 12:02 PM  
**To:** P.J. Stockdale  
**Subject:** FW: Foreclosure and Economic Recovery Initiative Case Data List (DUVAL)

i thought these were already sent to you but was told by the person that completed them, that they were not. I apologize. this is Duval County. i will be forwarding the other counties now.

*Fourth Circuit Court Administrator*

330 E. Bay Street, Room 508

3/16/2011

**4th Cir 00698**

Jacksonville, Florida 32202

Work: (904) 630-1655

Fax:(904) 630-8209

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**From:** Sourbeer, Jeff  
**Sent:** Friday, September 17, 2010 3:22 PM  
**To:** Stelma, Joe  
**Cc:** Norris, Elizabeth  
**Subject:** FW: Foreclosure and Economic Recovery Initiative Case Data List (DUVAL)

3/16/2011

**4th Cir 00699**

**Stelma, Joe**

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**From:** Pappas, Sara  
**Sent:** Wednesday, October 13, 2010 1:52 PM  
**To:** Stelma, Joe  
**Subject:** FW: cancelled sales

*Sara Pappas  
Administrative Secretary 1  
Fourth Judicial Circuit  
330 E. Bay St. Jacksonville, Florida 32202  
Duval County, Florida*

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**From:** Johnroe, Steve G [mailto:Steve.Johnroe@duvalclerk.com]  
**Sent:** Wednesday, October 13, 2010 1:49 PM  
**To:** Pappas, Sara; Talley, Alana  
**Cc:** Soud, A.C.; Fuller, Jim B; Portlock, Justin E; Brown, Betty J; Hiers, Tom E  
**Subject:** cancelled sales

Hi Sara and Robin – we're starting to see foreclosure cases going to sale even though the plaintiff has not paid the mandatory \$70 judicial sale fee (this occurs after the plaintiff's motion to cancel the sale has been denied). Every time we hold a sale and don't collect the fee, we lose \$49 (which we are contractually obligated to pay to our online auction vendor). Since F.S. 45.035(1) requires the plaintiff to pay the sales fee prior to the sale and because the clerk is facing a severe budget shortfall, we cannot continue to hold sales without being paid. Please inform Judge Soud of the dilemma we're in. Thanks.

3/16/2011

4th Cir 00700