

No Note No Foreclosure – Florida Administrative Order

The motto of the confederate states of America was "*deo vindice*" - by god vindicated---the "*vindicatio*" was a roman legal cause of action justifying ownership of land and the instruments of agricultural production, also known as "*res mancipi*"---I now feel somewhat personally vindicated, given as I have been one of the few people in the country who realized that as of august 18, 2005, Pinellas County was ground zero for the "original note" (holder-in-due course, privity of contract) theory of mortgage foreclosures, by this administrative order of the Sixth Judicial Circuit in Pinellas County---all new foreclosure suits in judge Walt Logan's old district must now include the original promissory note! This is a victory for the common law over profitable corporate commercial practice---this is a victory of justice and common sense over deceit---this is a major victory which should be copied all over the United States and I am proud to have been one of the advocates of this position for many years - "*deo vindice.*"

<http://www.jud6.org/LegalCommunity/LegalPractice/AOSAndRules/aos/aos2008/2008-081.htm>

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

ADMINISTRATIVE ORDER NO. 2008-081 PA/PI-CIR

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RE: MORTGAGE FORECLOSURE ACTIONS BY INSTITUTIONAL LENDERS

Mortgage foreclosure cases have increased at an unprecedented rate in the Sixth Judicial Circuit. In the Sixth Judicial Circuit in the last year alone, mortgage foreclosure case filings increased approximately 118%. Frequently, attorneys who handle a large volume of mortgage foreclosure cases do not have their pleadings in order or fail to appear at scheduled hearings, causing the court to reschedule or delay hearings in mortgage foreclosure cases. The volume of the cases and the resetting of these hearings results in difficulties scheduling these summary proceedings. In light of the court's finite resources, it is necessary to establish procedures for more efficient handling of mortgage foreclosure cases.

Pursuant to Rule of Judicial Administration 2.215, the Chief Judge has the authority to adopt administrative orders necessary to administer the court's affairs. Therefore, it is

ORDERED:

1. Filing of Initial Mortgage Foreclosure Complaint: An institutional mortgagee lender that after January 19, 2009, files a complaint to foreclose a mortgage on homestead property must provide the following to the Clerk of Circuit Court with the initial filing:

a. A Notice to Homeowner, a copy of which is attached to this Administrative Order as Attachment A.

b. A Plaintiff/Lender's Contact Information Sheet, a copy of which is attached to this Administrative Order as Attachment B.

Homestead property is property designated as "homestead" by the property appraiser's office on the date of filing the complaint. The plaintiff must include the Notice to Homeowner and

Plaintiff/Lender's Contact Information Sheet with each summons serving a complaint on the owner of residential homestead property.

2. Certificate Filed Prior to Requesting Summary Judgment Hearing Dates: Prior to requesting a mortgage foreclosure summary judgment hearing date from the court, the attorney of record for the plaintiff must file a uniform certificate titled "Certification of Compliance with Foreclosure Procedures" with the Clerk. The uniform certificate is Attachment C to this Administrative Order. The uniform certificate provides the attorney's certification of the completion of requisite actions and the dates on which they were completed.

3. Foreclosure Judgment Packet Prior to Hearing: Unless the presiding judge provides otherwise, the plaintiff's attorney must deliver a foreclosure judgment packet to the presiding judge's office at least five (5) business days prior to the scheduled hearing date for a motion for summary judgment. The foreclosure judgment packet consists of the following documents:

a. Proposed Uniform Final Judgment. Include sufficient copies for conforming and stamped, addressed envelopes for all parties;

b. **Original Promissory Note (unless previously filed);**

c. Notice of Sale ;

d. **A copy of the Certification of Compliance with Foreclosure Procedures;** and

e. A copy of the Notice of Hearing.

4. Uniform Final Judgment: All proposed final judgments of foreclosure shall be in the format of the Uniform Final Judgment of Foreclosure for the Sixth Judicial Circuit as provided in Attachment D unless otherwise specifically approved by the judge entering the final judgment. Any changes to the Uniform Final Judgment of Foreclosure from that prescribed in Attachment D shall be brought to the attention of the presiding judge at the final judgment hearing.

5. Cancellation of Foreclosure Sale by Clerk upon Suggestion of Bankruptcy: If the Clerk of Circuit Court receives, prior to the commencement of a foreclosure sale, a mailed or faxed suggestion of bankruptcy on behalf of a named defendant in a pending foreclosure action, the Clerk is directed to cancel the foreclosure sale. The Clerk shall not cancel the sale if subsequently directed otherwise by the presiding judge or a United States Bankruptcy Judge. The plaintiff is responsible to separately file with the Clerk any order from a United States Bankruptcy Judge that would preclude the Clerk from canceling a foreclosure sale; such filing must not be an attachment or exhibit.

6. Additional Procedures: The judicial practice preferences of each judge, which may contain a judge's individualized procedures for mortgage foreclosure cases, may be found on the Circuit's Internet site at <http://www.jud6.org/LegalCommunity/PracticeRequirementsofJudges.html>. The Chief Judge may update or make other amendments to the attachments of this Administrative Order without further amendment to this Administrative Order.

7. Application: This Administrative Order applies to all mortgage foreclosure actions by institutional lenders except that paragraph one only applies to homestead property.

8. Effective Dates: All mortgage foreclosure complaints filed after January 19, 2009, and all mortgage foreclosure summary judgment hearings scheduled to occur after January 19, 2009, must comply with this Administrative Order.

A plaintiff, who as of the date of this Administrative Order, has filed a mortgage foreclosure complaint and already has a foreclosure summary judgment hearing scheduled to occur after January 19, 2009, may keep the scheduled date and time. However, the plaintiff's attorney must file the Foreclosure Judgment Package, as prescribed in paragraph 3 of this Administrative Order, including the "Certification of Compliance with Foreclosure Procedures" with the Clerk of Circuit Court at least five (5) business days prior to the scheduled hearing date. The presiding judge may cancel a scheduled hearing that does not have the Foreclosure Judgment Package filed by that day.

A plaintiff, who as of the date of this Administrative Order, has filed a mortgage foreclosure complaint and has yet to schedule a foreclosure summary judgment hearing, must comply with paragraph 2 of this Administrative Order and file a "Certification of Compliance with Foreclosure Procedures" prior to requesting a hearing date. Additionally, the plaintiff must file the Foreclosure Judgment Package, as prescribed in paragraph 3 of this Administrative Order, with the Clerk of Circuit Court at least five (5) business days prior to the scheduled hearing date.

A plaintiff who files a mortgage foreclosure complaint after January 19, 2009, must comply with all requirements of this Administrative Order.

DONE AND ORDERED in Chambers at Clearwater, Pinellas County, Florida this ____ day of December 2008.

Robert J. Morris, Jr., Chief Judge

Attachment:

(A) Notice to Homeowner (html)
(A) Notice to Homeowner (word version)
(B) Plaintiff/Lender's Contact Information Sheet (html)
(B) Plaintiff/Lender's Contact Information Sheet (word version)
(C) Certification of Compliance with Foreclosure Procedures (html)
(C) Certification of Compliance with Foreclosure Procedures (word version)http://www.jud6.org/LegalCommunity/LegalPractice/AOSAndRules/aos/ao

[s2008/2008-081 Attach C.htm](#)

[\(D\) Uniform Final Judgment of Foreclosure for the Sixth Judicial Circuit \(html\)](#)

[\(D\) Uniform Final Judgment of Foreclosure for the Sixth Judicial Circuit \(word version\)](#)

cc: All Judges

The Honorable Ken Burke, Clerk of the Circuit Court, Pinellas County

The Honorable Jed Pittman, Clerk of the Circuit Court, Pasco County

Paula O'Neil, Chief Deputy, Pasco County Clerk 's Office

Debbie Gay, Assistant Court Services Director, Pasco County Clerk 's Office

Carol Heath, Executive Director, Pinellas County Clerk 's Office

Gay L. Inskip, Trial Courts Administrator

Bar Associations, Pasco and Pinellas County

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