

## Firm Wants Thomas Ice Off Foreclosure Case



Thomas Ice

Melanie Bell

Opposing counsel are furious with foreclosure defense attorney Thomas Ice and want him thrown off a case based on a May 20 article printed by the Daily Business Review.

### **Related: Thomas Ice: Ocwen Lawyer Spoon-Fed Questions and Answers to Robo-Witnesses**

Clarfield Okon Salomone & Pincus attorneys represent mortgage lender Deutsche Bank National Trust Co. in its foreclosure suit against Port St. Lucie homeowners Thomas and Jeanette Rolle.

The Rolles were sued in April 2012 after defaulting on a \$90,000 mortgage. They've since fallen behind on 95 payments, according to court documents.

But at a May 22 hearing, the Clarfield Okon lawyers turned their attention from the Rolles to Royal Palm Beach-based defense firm Ice Legal, saying Ice sought to influence the outcome of the trial by publicly disclosing privileged information inadvertently provided to him.

The lawyers accused Ice of releasing the information in a ploy to discredit Quintairos Prieto Wood & Boyer, the national law firm that handled the litigation in 2013 before Clarfield took over the case.

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"I first discovered this issue, your honor, three days ago when we reviewed a newspaper article from the Daily Business Review," Clarfield Okon attorney Owen Sokolof said in an oral motion asking St. Lucie Circuit Judge William Roby to bar Ice from the case.

Sokolof put his request in writing May 26 with a motion to block the defendants from introducing the

documents in court and a motion to disqualify Ice Legal from the case.

It "appears the defendant's counsel did not destroy the documents and instead reviewed their content in detail" and forwarded it to the DBR. "The article included Thomas Ice's statements that he 'uncovered' a script that was provided to Ocwen witnesses to crush homeowner defenses and allegations of improper conduct by financial services sector employees."

An evidentiary hearing is set for Thursday on the request.

## 23 Questions

The dispute arose when Ice accused Erin Prete, a former attorney for embattled mortgage servicer Ocwen Financial Corp., of improperly spoon-feeding questions and answers to unqualified records custodians testifying in foreclosure cases against Florida homeowners.

Ice provided the DBR with 23 questions and answers prepared by Erin Prete, a former Quintairos Prieto attorney who represented Ocwen in 2013, as proof the lender coached "robo-witnesses" with no first-hand knowledge of mortgage details.

Ocwen reached a \$150 million settlement with New York state regulators over accusations of improper servicing practices, levying excessive charges on distressed borrowers through affiliated companies and failing to maintain adequate systems to service billions of dollars' worth of mortgages.

Former Ocwen chairman William Erbey stepped down as part of the settlement, and the company paid a \$100 million penalty to New York financial regulators and \$50 million in restitution to current and former New York borrowers who faced Ocwen foreclosure actions from 2009 to 2014.

Quintairos is no longer involved in the case. But during a discovery disclosure in 2013 when the firm was still involved, Ice said a Quintairos Prieto employee inadvertently emailed his office a set of documents that exposed an in-house witness preparation strategy.

Ice said he discussed the documents with Quintairos Prieto attorneys and later with opposing counsel at Clarfield to ensure the email contained no privileged client information. Ice said the opposing counsel didn't assert privilege as required by Florida Rules of Civil Procedure until after the DBR article was published.

"While the bank claims that these were communications with its agent, it has produced nothing to show that coaxing witnesses to commit perjury was part of its agency agreement with Ocwen." Ice wrote in a May 28 response to Sokolof's motion.

"We're taking the position that it wasn't privileged," he told the DBR. "The act of trying to disqualify Ice Legal is pointless. It's just trying to get even with us for letting the world know what they're doing. You can't protect future fraud on the court by way of attorney-client privilege."

## War Of Words

Quintairos Prieto declined an interview, but the firm attached a comment to the story on the DBR website saying it "has done nothing wrong." However, the firm accused Ice of stretching "the bounds of

ethical behavior."

The post included a Quintairos Prieto email address for readers with questions about the matter.

Ice's attorney, Robert Critton Jr. of Critton Luttier Coleman in West Palm Beach, responded with a letter to Quintairos Prieto partner Michael Barker to demand removal of the comment.

"The comment made by QPWB is false, misleading and defamatory," Critton wrote. "The comment directly attacks Mr. Ice and his firm's ethics and therefore their professional reputation."

"Rather than investigate how the material came to be sent to Ice and what Ice did to comply with its professional responsibilities, QPWB simply decided to go on the offense and blame Ice," the letter continued. "Had you performed an investigation, you would have discovered that if any privileged materials were disclosed, it was due to your firm's failure to protect either your own work product or your client's privileged information. You have intentionally and maliciously sought to portray Ice in a bad light and have defamed them."

On May 27, Quintairos posted again, retracting its earlier comment and saying it received information that Ice "complied with the appropriate Rule of Civil Procedure and Rules of Professional Conduct" regarding the disclosure.

Ocwen declined comment on the case.

"It is our policy not to comment on pending litigation," the company said in a statement. "We are confident that the various issues affecting all parties to this matter will be fairly adjudicated."

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