

Assessing the Foreclosure Pilot Program in Miami, Florida

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I. ABSTRACT

In Miami, Florida, the courts were able to effectively manage foreclosure cases until the volume of cases began to escalate with the housing bust at the end of 2007. The results were congested court calendars, backlogged cases, months of delay for hearings and foreclosure sales. These results created a ripple effect through the local economy, with non-paying mortgagors living for free for years and not paying taxes and condominium/homeowners associations lacking the funds to pay for regular maintenance and assessments. On the level of local government, counties and cities experienced severe fiscal impact, with shortfalls in tax revenues, the source of funding for many critical services to the public, including life safety resources. By 2010, the foreclosure caseloads had escalated to crisis levels, with 83,597 open cases pending in the Eleventh Judicial Circuit Court, located in Miami-Dade County. The foreclosure pilot program was the Eleventh Judicial Circuit Court's attempt to address this problem.

The focus of this paper is to evaluate the success of the program. The statistics collected reflect how many cases were dismissed, closed, whether by final judgment or trial and provides the report card on the program. Also discussed are a number of factors that were impediments to the program, along with the due process issues.

After implementation of the foreclosure pilot program, 41,353 cases were closed. The clearing of these files resulted in a 49% reduction in pending foreclosure cases.

II. INTRODUCTION

This project is an assessment of the effectiveness of the foreclosure project in Miami Florida. It addresses key questions regarding the overall success of the program. Initially, it is essential to answer a basic question: How well did we do? To answer this question, prior statistics were compared to statistics gathered during the pilot program. In conducting this assessment measurable objectives and targets are discussed. The objective of this research is to quantify the success, identify lessons learned and make recommendations as to how to improve. As a starting point, it is important to define the foreclosure process.

Foreclosure is the enforcement of a security interest by judicial sale of collateral. It all begins with a note, a mortgage and a happy homebuyer. Financing is extended by the lender, and in exchange the buyer signs a mortgage and note. The mortgage is a written instrument securing the payment of money or advances including liens to secure payment, the note evidences the actual debt.

In Florida, a mortgage creates only a specific lien against real property; legal title is held by the buyer. As long as the buyer/mortgagor makes regular mortgage payments, the mortgage contract remains in good standing. It is when the mortgagor defaults that the lender/mortgagee can enforce provisions of the mortgage to accelerate the loan. Default may be based on either the mortgagor/homeowner's failure to tender mortgage payments or impairment of security, which includes failure to pay taxes or maintain insurance. Most mortgage contracts contain an acceleration provision which gives the lender the authority to declare the entire mortgage debt due upon default. This is the originating point for a foreclosure case.

In Florida, the courts were able to effectively manage foreclosure cases until the volume of cases began to escalate with the housing bust at the end of 2007. Despite budgetary constraints and understaffing the overwhelmed courts struggled to manage the rising caseloads. The results were congested court calendars, back logged cases, months of delay for hearings and foreclosure sales. These results created a ripple effect through the local economy, with non-paying mortgagors living for free for years and not paying taxes and condominium/homeowners associations lacking the funds to pay for regular maintenance and assessments. On the level of local government, counties and cities experienced severe shortfalls in tax revenues, the source of funding for many critical services to the public, including life safety resources. Besides the fiscal impact, local government had to deal with unkempt properties which contributed to the neighborhood decline in home values, together with the crime risk.

By 2010, the foreclosure caseloads had escalated to crisis levels. It was clear that another approach was crucial. The foreclosure pilot program was the Eleventh Judicial Circuit Court's attempt to address this problem. This paper evaluates the success of the program based on the statistics in Miami Dade County, Florida. The statistics collected reflect how many cases were dismissed, closed, whether by final judgment or trial and provide the report card on the program. Besides the raw statistics, further analysis identifies the factors which impact the report card. A number of factors were impediments to the program. Of these, the most devastating included robo-signing, lack of service of process on parties, moratoriums and practices of the foreclosure law firm industry. Finally, the paper examines whether goals which are more difficult to quantify have been achieved. For example, the pilot program was committed to assess each file and confirm that parties have been properly served and noticed for hearing. These due process

issues are more difficult to measure, yet the screening process implemented together with the pilot program sought to accomplish this goal.

At the start of the pilot program, 83,597 open cases were pending in the Eleventh Judicial Circuit Court. A portion of this figure represents an accumulated backlog of cases from prior years. The Legislature set a goal of 52,000 cases to be closed by year-end, or 63% of the existing foreclosure caseload. The legislative goal was the benchmark for the Eleventh Judicial e difference. The Eleventh Judicial Circuit was committed to setting performance standards related to due process, which could not be quantified. At the end of the program, 33,418 cases had been closed.

A. BACKGROUND

The Center for Responsible Lending estimated that 6 million homes in the United States started foreclosure since 2007 and they projected another 12 million over the next five years. The findings of the study estimated that one in nine homeowners was seriously delinquent and one in four owed more than their home was worth. The State of Florida has been plagued by one of the nation's highest foreclosure rates since the start of the housing crisis, with one in every 409 households receiving a foreclosure filing in 2010.

The growth and vitality of the State of Florida has historically been fueled by the sale of real estate. There have been boom years and bust years. Each time, the Sunshine State has enjoyed a recovery with unparalleled increases in property values. During the boom years of 2003 to 2007 property values soared and the State enjoyed great prosperity. But everyone knew that the real estate bubble would burst eventually. The end came in late 2007. As the State's real estate market plunged, the effects were felt most acutely in Miami Dade County. With a

population of over 2,496,435 residents reported by the 2010 U. S. Census, there were over 83,597 foreclosures filed in the Eleventh Judicial Circuit Court by that same year. Statewide, the number of foreclosures filed totaled 785,063. In just the two years between 2006 and 2008 there was a 474 percent increase in foreclosure filings in Miami Dade County.

Although Florida was among the hardest hit in the foreclosure crisis, other states struggled to address the same issues. These issues affect every state in the nation; Florida is simply a snapshot of the foreclosure epidemic. Of these, a disturbing issue was due process problems for homeowners across the nation. The unscrupulous lack of service of process on homeowners was a recurring issue. This corrupt practice occurs when process servers falsify sworn affidavits of service of process in courts. Without the proper notification, unsuspecting homeowners fail to respond or defend themselves in the foreclosure suit, resulting in default and entry of judgment. Although the New York Attorney General was among the first to launch an investigation into this fraudulent practice, Attorney Generals and prosecutors in several states have since followed suit. As the crisis continued to impact sister states, a common theme was the lack of communication between the lenders and the borrowers.

In an effort to address these issues and the impact of the foreclosure crisis on the court system, the Florida Supreme Court established a Task Force on Residential Mortgage Foreclosure Cases (AO SC09-08, March 27, 2009). Judge Jennifer D. Bailey, Administrative Judge of the Circuit Civil Division in the Eleventh Judicial Circuit Court in Miami Dade County chaired the Task Force. The purpose of the Task Force was to recommend “policies, procedures, strategies and methods for easing the backlog of pending residential mortgage foreclosure cases while protecting the rights of parties.” On August 17, 2009, the Task Force issued its Final Report and Recommendations concluding that homeowners needed early access to mediation

resources and proposed a statewide model for managed mediation. The key finding and recommendation of the Task Force was that mandatory mediation be required on all foreclosure suits involving homestead properties concerning loans covered by the Federal Truth in Lending Act. Since an issue identified early in the research of the Task Force was the notable absence of communication between the lender and the borrower, the goal was to initiate these communications through mediation.

On December 28, 2009, the Florida Supreme Court adopted the recommendations of the Task Force (AO SC 09-54). On February 26, 2010, the Eleventh Judicial Circuit Court issued Administrative Order 10-03 A1 adopting the Florida Supreme Court's Model, requiring mandatory mediation of all homestead mortgage foreclosure actions subject to the federal Truth in Lending Act, Regulation Z (10-03 A1). This Administrative Order replaced the interim project known as the Eleventh Circuit Homestead Access to Mediation Program (CHAMP), which directed mandatory mediation of homestead foreclosures prior to the scheduling of final hearing.

In analyzing the effectiveness of the Foreclosure Project it is essential to recognize that there are many variables that contribute and/or detract from the effectiveness of the Foreclosure Project. The monumental task of managing the foreclosure caseload involved several variables. First, it was necessary to educate the lawyers, the judiciary, court staff and the public on the changes implemented by Administrative Order and Administrative Memorandum. In the initial month of operations there was an adjustment period, with submissions accelerating from 30 cases to an overwhelming 2,000 cases per week. An inherent obstacle was the slow learning curve shared by all. There were the initial problems, with lawyers sending the court packets to the wrong location and submission of defective packets, which were ultimately rejected. These problems were aggravated by inadequate coverage by attorneys that attempted to cover five

different hearings in other courtrooms at the same time. Five months into the program with an understaffed number of employees, a growing backlog was developing. To address this backlog required an innovative approach. Volunteer employees from within the Circuit were trained to conduct the case review. It took three months to clear the backlog and keep up with the volume of case submissions.

A second variable involved the assignment of 13 rotating senior judges. Inconsistent results were a chronic problem with the hearings conducted by senior judges as each judge had his/her own style of processing and hearing cases. Many lawyers attempted to use these inconsistencies to obtain the results they wanted. Each senior judge wanted to apply their own methods, making the cases more difficult to track. For example, an initial approach was the usage of case management hearings which are extremely successful in some cases, but ill-suited to the foreclosure caseload. Here, the problem was that the older cases had become so time-consuming that neither party had a particular interest in resolution. For plaintiff's counsel, it required less effort to file a new case, work it and bill, rather than spend the litigation time on the older, complex cases. For the defendant, no resolution meant they could stay in the home longer, without paying the mortgage. The only losers in this scenario were the condominium and homeowner associations which were deprived of the use of maintenance fees and assessments while the foreclosure dragged on for years. In order to verify and expedite the cases, judges' worksheets were created for the judges to use while on the bench which would be verified by the Clerks and the Foreclosure Master Calendar Unit staff before processing See Appendix G

The third variable arose from problems in the foreclosure courtrooms. Among these were the docketing issues and usage of the State Reporting System (SRS) Stamp to close a file. Without this, the case would remain pending as an open file in the recording of court statistics.

Much effort has been devoted to verifying the appropriate closure of cases for statistical accuracy. Unfortunately, recapturing all the cases has been problematic, skewing statistical results.

The final obstacle to the efficiency of the program was the moratorium stays which slowed court operations just as it had gotten up to speed. At this juncture, the foreclosure program was nearly fully staffed. The efficient allocation of these resources in an effective and just manner was an obstacle which was overcome with substantial effort.

B. CONTEXT

The Eleventh Judicial Circuit Court is the largest circuit in the State of Florida and the fourth largest trial court in the nation. Twenty-five judges are assigned to the Circuit Civil Division. The Circuit Court hears the vast majority of residential mortgage foreclosure actions, although the County Court has concurrent jurisdiction within statutory monetary limits. The increasing growth rate of the population in the Miami Dade County area directly impacts the judicial caseload, which has tripled in past years. Despite the Florida Supreme Court's annual Certification as to the need for additional judges in the Eleventh Judicial Circuit, the Florida Legislature declined to fully address this need. In early 2009, the *Washington Economics Group, Inc.* prepared a report for the Florida Bar on the impact of delays in civil trials due to underfunding of the courts. This report concluded that the "total recurring (annual) adverse impacts are very significant brakes on economic growth and a threat to the well being of Florida. Like dominoes on a board game, the impact of the rising tide of foreclosures would ripple through the economy. The magnitude of the foreclosure crisis further exacerbated the underfunded court system. Clearly, this was a challenge that the court system and State of

Florida were unprepared to meet. By 2010, residential mortgage foreclosure filings had reached their peak in Miami, Florida, with over 83,597 foreclosure cases pending. Of these, a significant number of cases represent backlogged cases from prior years. Table 1. below indicates the accelerated spike in foreclosure filings.

Table 1. Growth in Foreclosure Filings

YEAR	FILINGS
2006	9,814
2007	26,931
2008	56,656
2009	64,001
2010	33,418

Source: ON DEMAND reporting system. Report No. 450 CIVR 450/130

These filings took a severe toll on the economy of Miami-Dade County, while the courts strained under fiscal restraints to meet this burden. This fact, together with budgetary restrictions on court support staff, strained an already exhausted court system. Without additional funding, it appeared that the foreclosure filings would be impacted by delays for years to come, further undermining the economic climate of the State of Florida.

1. RESIDENTIAL MORTGAGE FORCLOSURE TASKFORCE. In response to the staggering filings of foreclosures across the State of Florida, the Florida Supreme Court established a Task Force on Residential Mortgage Foreclosure Cases. The recommendations of the Task Force concluded that homeowner’s needed early access to mediation resources and proposed a statewide model for managed mediation. On December 28, 2009, the Florida **Supreme** Court adopted the recommendations of the Task Force. AOSC 09-54.

2. ELEVENTH JUDICIAL CIRCUIT. On February 26, 2010, the Eleventh Judicial Circuit Court issued Administrative Order 10-03 A1 adopting the Florida Supreme Court's Model, requiring mandatory mediation of all homestead mortgage foreclosure actions subject to the federal Truth in Lending Act, Regulation Z (10-03 A-1).

3. CASE MANAGEMENT WITH LIMITED RESOURCES. The most significant obstacle to overcome was the management of the staggering foreclosure caseload under State and County budgetary restraints. With limited resources, it was essential to optimize the efficient allocation of court resources, employees and funding, while maintaining the integrity of judicial administration. On July 1, 2010, the Eleventh Judicial Circuit was allocated its pro-rata share of State Foreclosure Economic Recovery Program (FERP) funding to manage this crisis. At this juncture, the court established a foreclosure program which would facilitate the consistent processing of foreclosure cases, while affording the homeowner due process safeguards.

The 2010-11 Legislative Budget Request from the Courts demonstrated that \$9,570,528 million dollars was needed to dispose of a backlog of 785,063 foreclosure cases. The 2010 Florida Legislature reduced this request to \$6 million dollars. The Eleventh Judicial Circuit Court received \$862,053 to alleviate the foreclosure caseload that was choking the circuit court dockets. The allocation of FERP funds mandated closure of 52,000 foreclosure cases by June 30, 2011, the termination date of the FERP. In an effort to effectively manage the overwhelming foreclosure filings, the Eleventh Judicial Circuit Court implemented a pilot program with FERP funds. At this juncture, the court needed to establish a foreclosure program which would facilitate the fair and consistent processing of foreclosure cases, which afforded all parties, including the homeowner, due process safeguards.

This first crucial step was the establishment of the Foreclosure Master Calendar or FMC (also known as Section 85). The parameters of the FMC are limited to residential cases for motions for summary judgment and motions to cancel sale. This specialization would contribute to the effective management of the caseload.

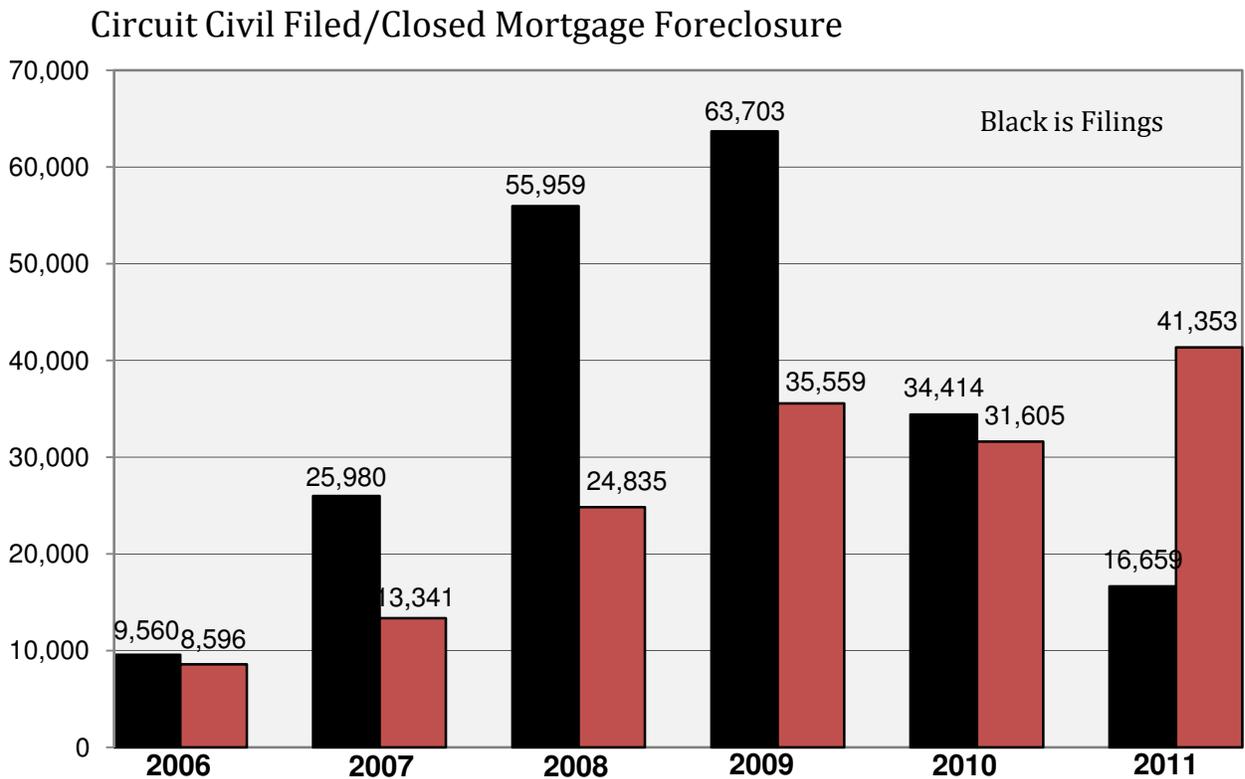
To achieve a fair and effective court management of foreclosure caseloads, a delicate balance of standardized procedures was utilized. The implementation of these standards would maximize production and provide for the enforcement of quality control and uniformity of results. To achieve quality control of cases, seven key steps were used to evaluate summary judgment motions. These steps were incorporated into a checklist which tests the sufficiency of pleadings, with an emphasis on due process concerns. Each summary judgment is submitted to the same review test. At the hearing, the judge has a checklist attached to each file. To have qualified for the hearing, all seven of the steps on the checklist must be satisfied. The judge is further apprised of affirmative defenses which have not been responded to, deficiencies, inconsistencies, such as deviations in the proposed summary judgment from affidavits filed, or excessive attorney fees. Submission requirements have been communicated to litigants by: Administrative Orders, Administrative Memorandums, e-mail communications and website postings. Inquiries are handled by AOC staff and as an additional amenity, inquiries can be sent to fmcforsquestions@jud11.flcourts.org

C. DESCRIPTION OF THE PROBLEM

The crux of the problem was the management of 83,597 foreclosure cases with limited resources. It was necessary to optimize the efficient allocation of court resources, employees and funding within guidelines, while maintaining the integrity of judicial administration. It was

determined that a divide and conquer strategy would work best. The newer filings were maintained in Section 85, but the older cases required a differentiated approach to make progress. With over 25,134 foreclosure cases older than three years stagnant in the court system, the second step was the formation of Section 50 Table 2. below shows the aged foreclosure cases stagnant in the court system.

Table 2. Circuit Civil Filed/Closed Mortgage Foreclosure



Source: ON DEMAND reporting system. Report No. 450 CIVR 450/130 Filing and Disposed by Action Code. Year to Date

Section 50 maintained all cases older than January 1, 2009. Moving these cases required a dual approach. First, these cases were identified and transferred into Section 50 for scheduling of a case management hearing. At the hearing, the issues, whether discovery-related or otherwise,

were disposed of in an effort to narrow the issues. The purpose was to move the case forward, getting the case closer to disposition. We initiated this approach with the goal of resolving the case or scheduling a summary judgment hearing. The objective was to streamline the foreclosure process by standardizing the due process review of cases and maintaining forward momentum towards disposition, resolution or dismissal. Second, cases that were at issue and ready for trial were identified. The setting of nonjury trial dates has efficiently resulted in many dismissals, summary judgments and a handful of trials. This approach yielded the best results, as demonstrated by the statistics discussed herein. Yet, this approach was not fully utilized until midway through the program, as lessons were learned along the way.

An ongoing problem throughout the pilot program was the interviewing, hiring and training of the staff. Funding for the pilot program could not be spent until it had been disbursed, slowing the initial hiring, interview and startup process for two months. In fact, full staffing was never achieved, as it was a challenge to find qualified personnel willing to work without a guarantee of permanent employment after the termination of the program on June 30, 2011. In the two months preceding program end, the loss of staff was a chronic management problem. At the height of the foreclosure filings, FERP staff totaled 26 employees. However, this number fluctuated as qualified staff secured permanent employment elsewhere. As such, staff was transient, presenting unique circumstances that were challenges for supervision and management. All together, the pilot program lost four months of productivity due to short staffing problems at the start and end of the program.

III. LITERATURE REVIEW

In the initial stages of the development of the program, much effort was devoted to researching the way in which other state court systems were addressing the foreclosure crisis. First the states hardest hit by the crisis were reviewed. This included Nevada, with 10% of its home loans in foreclosure, New Jersey (7.3%), Illinois (6.5%) and Arizona (4.5%). Various publications from the internet and the library were consulted. However, this was new territory. None of the court systems had weathered a real estate crisis of this magnitude. In starting this research it became apparent that Florida, although deluged by foreclosure cases, was just a small part of a growing national problem.

In developing a business plan for foreclosure management, the approach of other metropolitan areas was studied. To make a fair comparison, it is essential to examine how different states manage foreclosures. Much research was conducted to determine how other state courts were controlling the progress of caseloads. First, an important distinction needs to be recognized. Unlike Florida, not all states are judicial foreclosure states. In fact, two states hit hard by the foreclosure crisis, California and Nevada, are non-judicial foreclosure states. This means that lenders in non-judicial foreclosure states do not need to file a court case to foreclose on real property. The judicial foreclosure requires court intervention, while the non-judicial foreclosure is without court process. In a typical non-judicial foreclosure, upon loan default, the bank sends the borrower a notice of default which is then recorded. If the borrower fails to cure the default, a notice of sale is mailed to the borrower, published and recorded. Then the public auction is held. Even among the non-judicial states, there are different procedures ranging from initiating the process with a notice of sale, to not requiring notice to the owner.

Although Florida was heavily impacted by the foreclosure crisis, this state was a small part of a much greater national problem. Many states, including Pennsylvania, Connecticut, Florida, California, Nevada, Ohio and New Jersey, both judicial and non-judicial, were among the first to launch mediation programs. The variations extended from mandatory mediation to voluntary programs and informal negotiations. The mediation program implemented in Philadelphia was heavily studied, as it was reported for having a “massively effective foreclosure rescue program.”

Only the judicial foreclosure states needed to define how they address court management of foreclosure filings. A survey of various judicial foreclosure states revealed surprising statistics. Below is a snapshot of the foreclosure statics in several different states from 2006-2010.

Florida, as a judicial foreclosure state experienced some of the highest rates of foreclosure in the entire country. Table 3 below shows a 731% spike in foreclosures from the third quarter of 2006 through the first quarter of 2010.

Table 3 Change In Foreclosures

DETAIL OF FORECLOSURE EXPERIENCE IN OTHER STATES FOR 2006 TO 2010

Florida



Texas

A comparison of Texas, a non-judicial state, reflects a much lower rate of foreclosures, with a 67% growth rate over the same period of time.



New York

New York, a judicial foreclosure state, experienced 130% growth in foreclosures during the same period of time.



Arizona

Not too far behind the State of Florida, Arizona suffered with a 474% increase in foreclosures during the same period of time.



SOURCES AND NOTES

Mortgages

Mortgage Bankers Association, *National Delinquency Survey*

Hope Now Alliance *State Data*, available at <https://www.hopenow.com/state-data.php>

GAO, *Characteristics and Performance of Nonprime Mortgages*, GAO-09-848R (July 28, 2009) available at <http://www.gao.gov/new.items/d09848r.pdf>

Center for Responsible Lending, *Soaring Spillover: Accelerating Foreclosures to Cost Neighbors \$502 Billion in 2009 Alone; 69.5 Million Homes Lose \$7,200 on Average* (May 2009) available at <http://www.responsiblelending.org/mortgage-lending/research-analysis/soaring-spillover-3-09.pdf>

Federal Financial Institutions Examination Council, *2006 Home Mortgage Disclosure Act data*. The federal regulators that preempted state laws consumer protection.

From a review of the recent literature, it was evident that homeowners became involved in their own foreclosures much too late in the game. Whether this could be attributed to lack of knowledge or access to legal assistance, misinformation, or simply fear of the process, is not clear. As reported by the Florida Supreme Court Task Force, “for pro se borrowers, it (the summary judgment hearing) is the first and only opportunity to see the judge.” The Task Force acknowledged that these circumstances required a non-traditional approach. The findings of the Task Force have been the guidelines for the concepts implemented. Specifically, this finding required that appropriate steps be taken to ensure that the due process rights of all parties were protected.

In early 2009, the *Washington Economics Group, Inc.* prepared a report for the Florida Bar on the impact of delays in civil trials due to the underfunding of the courts. This report concluded that the “total recurring (annual) adverse impact are very significant brakes on economic growth and a threat to the well being of Florida. Like dominoes on a board game, the impact of the rising tide of foreclosures would ripple through the economy. With the onset of the foreclosure crisis, the underfunded court system would be exacerbated by an onslaught of cases. This was a challenge which both the court system and the State of Florida were not prepared to meet. It appeared that the foreclosure filings would be impacted by delays for years to come, further undermining the economic climate of the State of Florida.

Advice given by noted author and expert in case flow management, David C. Steelman, is to think realistically about case flow management. In structuring case flow management procedures, a realistic view was kept in focus. The analytic process began with whether it was realistic and feasible for all parties involved. From experience, the foreclosure team learned that training and support was essential to implementation. David Steelman refers to a basic tenet of case management, “that the court, and not the other case participants, should control the progress of cases.” This was the critical first step in management of the overwhelming case loads. Control of the progress of cases was only manageable by streamlining the process. Surveying the various circuit courts in the State of Florida, it was evident that each circuit took different approaches to the foreclosure crisis. These differences were attributable to the volume of cases, which heavily impacted three major circuits. The media focused on these differences and some circuits faced heavy criticism. The differences among the circuits vary from rocket dockets, with fast paced justice, to a slower case movement.

IV. METHODS

The evaluation conducted here is necessarily part formative and part summative. According to the Web Center for Social Research Methods, Formative evaluations strengthen or improve the object being evaluated -- they help form it by examining the delivery of the program or technology, the quality of its implementation, and the assessment of the organizational context, personnel, procedures, inputs, and so on. Summative evaluations, in contrast, examine the effects or outcomes of some object they summarize it by describing what happens subsequent to delivery of the program or technology; assessing whether the object can be said to have caused the outcome; determining the overall impact of the causal factor beyond only the immediate target outcomes; and, estimating the relative costs associated with the object. (Web Center, 2012) Data comprising the formative portion comes from the mid-course corrections that were necessary as the court “learned by doing” in the foreclosure pilot. The summative portion derives from the results achieved, both quantitative and qualitative, at the close of the program.

Data was collected from three primary resources: (1) court statistics, (2) data generated from courtroom productivity data and (3) computer tracking of foreclosure program case files. Three research questions were addressed through data collection: ***How well did this program manage foreclosure caseloads?*** For a comparative evaluation, it was necessary to examine statistics before and after implementation of the pilot program. A snapshot of the foreclosure process prior to the program provided the baseline for measurement. ***Did the program achieve fair and effective court management of foreclosure caseloads, while establishing uniformity in results?*** A portion of the answer to this question is non-quantifiable; it simply cannot be reduced to a statistics. Specifically, fairness and uniformity of results is difficult to measure. Yet, the absence of complaints, negative media coverage and relatively low rate of court

reversals are supportive of the premise that these goals were achieved. The remainder of the question can be answered with the statistical data available. *How well did quality control enhance standards in the courtroom, without contributing to the backlog of cases?* To assess this, it was important to identify measurable objectives. For example, confirmation of service of process and notice were analyzed. The benefits of the quality control standards allowed the cases to move more quickly through the system without contributing to the backlog. Further, these standards provided for a uniformity of results.

A. STATISTICAL DATA COLLECTED FROM THE CLERK OF THE COURT.

Foreclosure filings were gathered beginning with 2009 and beyond to illustrate the magnitude of the crisis. These statistics demonstrate the impact on court caseloads. Data collected beginning with October 2010, shows the effect of the banking robo-signing scandal and its delay of court proceedings.

B. FORMATIVE DATA COLECTED DURING THE PROGRAM.

Data was collected to quantify significant events in the foreclosure case. First these events were identified. The list included: foreclosure filings, summary judgments, cases rejected for summary judgment, trials, dismissals, moratorium stays, reopened cases, transferred cases and writs of possession. The site of the data collection was the courtroom, while some of the data was generated by the computer tracking system. Input to the computer system was conducted primarily by the paralegal staffers, while filings were input by the Clerk of the Courts. In time, adjustments were made to capture other statistics in the computer tracking system.

The following outlines the steps involved in data collection and the reason for the choice of particular data.

1. Case filings are recorded by the Clerk of the Circuit Court. This significant event is the first step in a foreclosure, starting with the complaint and lis pendens.

2. See Appendix H Sample of case filing report.

3. The internal computer tracking system was designed to record summary judgment submissions, rejections (with specific deficiencies identified), and scheduling of the summary judgment hearing. The tracking system recorded the date of motion/packet submission, its paralegal assignment, and completion of the motion review by the paralegal and the result of the review. The computer program included a checklist See Table 4 which listed the necessary requirements. The paralegal function was to identify the areas which have been satisfied, and areas of deficiency. In addition, the paralegal could red flag for the judge items of concern, such as affirmative defenses raised, excessive fees or unexplained charges. A separate form submitted by each paralegal was able to track productivity by recording the number of daily reviews. The figure below is the checklist used to review summary judgment packets. This tool allowed FERP employees to assess the sufficiency of the pleadings. Deficiencies were noted and submitted together with the court file for judicial review.

Table 4 Summary Judgment Check List

1. Service of Process	N/A	
Proper parties served*		
Confirm addresses of defendants & spelling of names		
Service - Individual, substitute or by publication	N/A	
Affidavit of Diligent Search and Inquiry	N/A	
Non-military affidavits	N/A	
Answers/Defaults	N/A	
Drops and /or voluntary dismissal of party	N/A	
2. Documents		
<u>Mortgage Copy</u>	N/A	
Confirm property address/legal description		
<u>Original Note</u>	N/A	
Assignments/Endorsements	N/A	
To Plaintiff	N/A	
Payable to plaintiff	N/A	
Payable to bearer holder in due course	N/A	
Payable to lender/not plaintiff	N/A	
Plaintiff is proper mortgagee	N/A	
<u>Lost Note</u>	N/A	
Copy	N/A	
Count for Reestablishment		
Lost note affidavit	N/A	
Dated & notarized		
* Check Plaintiff's certification of residential mortgage foreclosure case status (or non-homestead status), verifying service on all defendants, dates of service, type of service.		

(c) Affidavit of attorneys' fees	N/A	
Hours & hourly fee listed		
Signed by attorney		
All figures match FJ		
(d) Affidavit as to reasonableness of attorneys' fee	N/A	
Signed/notarized by independent practitioner		
<u>7. Additional Counts</u>		
Reformation		
Legal Description – need language in FJ		
Lost instrument- Ree stablishment language in FJ		
Foreclosure omitted parties		
Summary Judgment of Foreclosure Form	N/A	
Approved Form		
Failure to comp ly with Rule 1.510 , F la. R.Civ.P.		
Additional Comments		

1. In the courtroom, staff recorded the case disposition: entry/denial of summary judgment, scheduling of case management hearings, rescheduling, sale cancellations, dismissal, trial results and issuance of writs of possession. The entry of this data collected was conducted by the paralegal and required a substantial portion of time. To accommodate this time consuming task and produce accurate, timely records, paralegal staff would be alternate courtroom days, allowing for catch-up on these tasks.
2. Appendix J is a sample of the daily log sheet used by FERP employees to record entry/denial of summary judgments, sale cancellations and dismissals. This log provided a daily assessment of courtroom productivity.

Comprehensive program assessment is not limited to sheer statistical data. Turning to other variables which are more difficult to quantify, it is necessary to evaluate whether the foreclosure program achieved fair and effective court management of foreclosure caseloads. Prior to the implementation of the foreclosure program, every judge managed their caseload differently. With burdensome caseloads, the judiciary lacked the time and resources to painstakingly examine the intricacies of each case. The judge was reliant upon legal counsel's candor, or lack thereof, to alert the court as to deficiencies. When only a single litigant appears for court, this becomes an unreliable standard.

From the statistical data collected it was noticeable that from courtroom to courtroom there were variations in productivity. Some judges were capable of moving the caseload more quickly than others, although there were times that the most experienced jurist was delayed. Judges most suited to trial were rescheduled for that purpose, while others handled the basic hearings. There were also adjustments to be made in staffing some courtrooms managed a heavy calendar, making it necessary to use a courtroom coordinator.

V FINDINGS

A. LESSONS LEARNED IN THE FORMATION AND MANAGEMENT OF THE FERP

According to Judge Jennifer D. Bailey, Administrative Judge, Circuit Civil Division, 11th Judicial Circuit, prior to the implementation of the foreclosure program,

- Many cases were not progressing, not due to lack of effort by the courts, but simply because Plaintiff attorneys were not requesting hearings. In many instances in which a borrower filed an answer or opposed summary judgment, it was more convenient and profitable for Plaintiff attorneys, most of who were operating under minimal flat fee agreements of \$1200-1500 per case, to process an uncontested foreclosure as opposed to dealing with a more complicated case.
- Court hearing time was being wasted by lack of proper documentation, uninformed attorneys who could not answer basic questions about a case, and borrowers who repeatedly complained about inability to communicate with the Plaintiff's attorneys and/or their lender/servicer.
- With multiple different judges potentially handling the cases, it was important that a baseline of documentation and review occur by staff. Even within the 25 judges currently sitting in the civil division, there were differences in terms of document review and what was required to be brought to each hearing.
- Ultimately, we determined case management conferences were not as effective as trial orders, given the issues which arose after the program was implemented concerning affidavit execution and documentation issues, as well as a business model on the Plaintiff bar that resulted in multiple attorneys handling a file without a single responsible attorney being designated and consistently present in court.

While the purpose of the FERP was to process 52,000 foreclosure backlog files, doing it correctly remained paramount. This principle is the foundation of the methods implemented and the course and direction of case management methods utilized. Along the way, there were obstacles, which required adjustments to achieve the desired results. Most of these adjustments were directly related to the case flow management. Key to case flow management were the methods employed to improve production, reduce case inventory backlogs, streamline case processing, manage new cases and eliminate processing errors, all while balancing litigant due process rights and maintaining the integrity of the judiciary. The variables in the foreclosure crisis were a moving target, always changing, forcing midcourse corrections and the implementation of innovative methods to address new issues. With each change, the court managed the crisis by implementation of procedures to address issues. Critical to the implementation of procedures was communication with all stakeholders. Public meetings were held to train and address inquiries from plaintiffs, defendants and lawyers. Key to maintenance of these lines of communication was e-mail access hyperlinks and a two hour turnaround in answering questions related to specific procedures. Customer service was critical to our court operations for foreclosures.

Midway through the crisis, the robo-signing scandal impacted court operations. Robo-signing, is the fraudulent practice of verifying financial debt on an affidavit of indebtedness without confirmation of the debt from business records. In short, employees of various banks admitted in depositions that they signed stacks of affidavits, swearing as to the accuracy of a debt without looking at loan records. Once this fraudulent practice was exposed by the media, banks voluntarily imposed a moratorium on foreclosures while they scrambled to address the issue.

The moratoriums caused the slowdown of foreclosure filings and submissions. In the interim, many plaintiffs withdrew affidavits and/or voluntarily dismissed the foreclosure actions.

Suddenly court operations slowed down. The volume of cases has not increased to former levels yet; however, court statistics show a steady uptick in foreclosure filings.

B. IMPLEMENTATION OF THE FERP PROGRAM.

1. ESTABLISHMENT OF THE FORECLOSURE MASTER. This was the first crucial step in the implementation of the pilot program. The parameters of the Foreclosure Master Calendar or FMC (also known as Section 85), was limited to residential cases for motions for summary judgment and motions to cancel sale. This specialization would contribute to the effective management of the caseload.

2. QUALITY CONTROLS. To achieve a fair and effective court management of foreclosure caseloads, a delicate balance of standardized procedures was utilized. The implementation of these standards would maximize production and provide for the enforcement of quality control and uniformity of results. Quality controls consisted of seven key steps in the evaluation of the summary judgment motion. The checklist tests the sufficiency of the pleadings, with an emphasis on due process concerns. See Appendix I Each summary judgment is submitted to the same review test. The successful submissions are scheduled for hearing; insufficient submissions are rejected with deficiencies identified. At the hearing, the judge has a checklist attached to each file. To have qualified for the hearing, all seven of the steps on the checklist must be satisfied. The judge is further apprised of affirmative defenses which have not been responded

to, inconsistencies, such as deviations in the proposed summary judgment from affidavits filed, or excessive attorney fees.

Submission requirements have been communicated to litigants by: Administrative Orders, Administrative Memorandums, e-mail communications and website postings. Inquiries are handled by AOC staff and as an additional amenity, inquiries can be sent to fmcforquestions@jud11.flcourts.org

3. MANAGEMENT OF THE AGED FORECLOSURE CASES. With over 16,000 cases older than three years stagnant in the court system, it was necessary to use a novel approach to move these cases forward. The initial step was the formation of Section 50, for management of all cases older than January 1, 2009. Moving these cases required a dual approach.

First these cases were identified and transferred into Section 50 for scheduling of a case management hearing. At the hearing, the issues, whether discovery-related or otherwise, were disposed of in an effort to narrow the issues. The purpose was to move the case forward, getting the case closer to disposition. We initiated this approach with the goal of resolving the case or scheduling a summary judgment hearing. Second, cases that were at issue and ready for trial were identified. Non-Jury trial dates were set to effect dismissals, summary judgments and trials. The Chart below illustrates the closure rate of files during the pilot program period. Effectively, over 35,450 cases were closed during the FERP pilot program.

4. ORGANIZATION AND STAFFING OF THE PILOT PROGRAM. The interviewing, hiring and training of the staff was an ongoing part of the program. In fact, we were never fully

staffed, as we were challenged to find qualified personnel. Our total staff was 26 employees. See Position Descriptions in Appendix N.

C. UNEXPECTED PROBLEMS.

1. Banking Fraud and the Moratoriums. Midway through the program, many banks voluntarily imposed moratoriums. Many of these were based on allegations of robo-signers and fraud, which put affidavits of indebtedness in question. These moratoriums stalled out the procedures in place and forced us to reallocate resources to primarily setting cases for trial and dismissing others for lack of prosecution.

2. **REJECTIONS AND DEFICIENCIES.** Our mission was to achieve the fair and efficient court management of foreclosure caseloads. This required a delicate balance of standardized procedures to be utilized. The implementation of these standards would maximize production and provide for the enforcement of quality control and uniformity of results. Quality controls consisted of seven key steps in the evaluation of the summary judgment motion. The checklist tests the sufficiency of the pleadings, with an emphasis on due process concerns. See Appendix I, Each summary judgment is submitted to the same review test. The successful submissions are scheduled for hearing; insufficient submissions are rejected with deficiencies identified. At hearing, the judge has a checklist attached to each file. To have qualified for the hearing, all seven of the steps on the checklist must be satisfied. The judge is further apprised of affirmative defenses which have not been responded to, inconsistencies, such as deviations in the proposed summary judgment from affidavits filed or excessive attorney fees. With over 18,000 cases older than three years stagnant in the court system, it was necessary to use a novel approach to move these cases forward. The initial step was the formation of Section 50, for management of all

cases older than December 31, 2009. Our desired outcome was to move these cases forward. This required a dual approach. First, these cases were identified and transferred into Section 50 for scheduling of a case management hearing. At hearing, the issues, whether discovery-related or otherwise, were disposed of in an effort to narrow the issues. The purpose was to take the case to the next step, moving the case forward. We initiated this approach with the goal of resolving the case or scheduling summary judgment. Second, cases that were at issue and ready for trial were identified. The setting of nonjury trial dates has efficiently resulted in many dismissals, summary judgments and a handful of trials.

D. STATISTICS AND DATA TRACKING.

The first category, court statistics reflect filings compiled by the Clerk of the Court as reported to the Office of State Court Management (OSCA). These statistics indicate the sheer number of cases managed. See Appendix H The second category, data generated from courtroom activity measures productivity as it relates to the processing of cases. For example, daily courtroom reports document case dispositions and the number of summary judgments, continuances, motions to cancel sale and writs of possession as seen in Table 5. Section 50 was created to manage the older cases. Initially, Section 50 cases were scheduled for case management conferences, and then in the second half of the program, cases were set for trial. The third category, the computer tracking of foreclosure program case files is supported by internal software, the FMC Application. This software tracks the file upon intake, when it is received, referral to the paralegal, review conducted by the paralegal, scheduling for court and notifications to parties. In addition, weekly statistics and collection of monthly reports were compiled.

Table 5. Sample of Weekly FMC Tracking Sheet.

	Monday 9/20/2010	Tuesday 9/21/2010	Wednesday 9/22/2010	Thursday 9/23/2010	Friday 9/24/2010	
RECEIVED	169	140	118	72	214	713

INTAKE											
	Writs	SMJ	Total								
1								24		20	44
2 (PT)	120	90		226	122	113		168		194	1033
3 (PT)											0
Total	120	90	0	226	122	113	0	192	0	214	1077
	210		226		235		192		214		

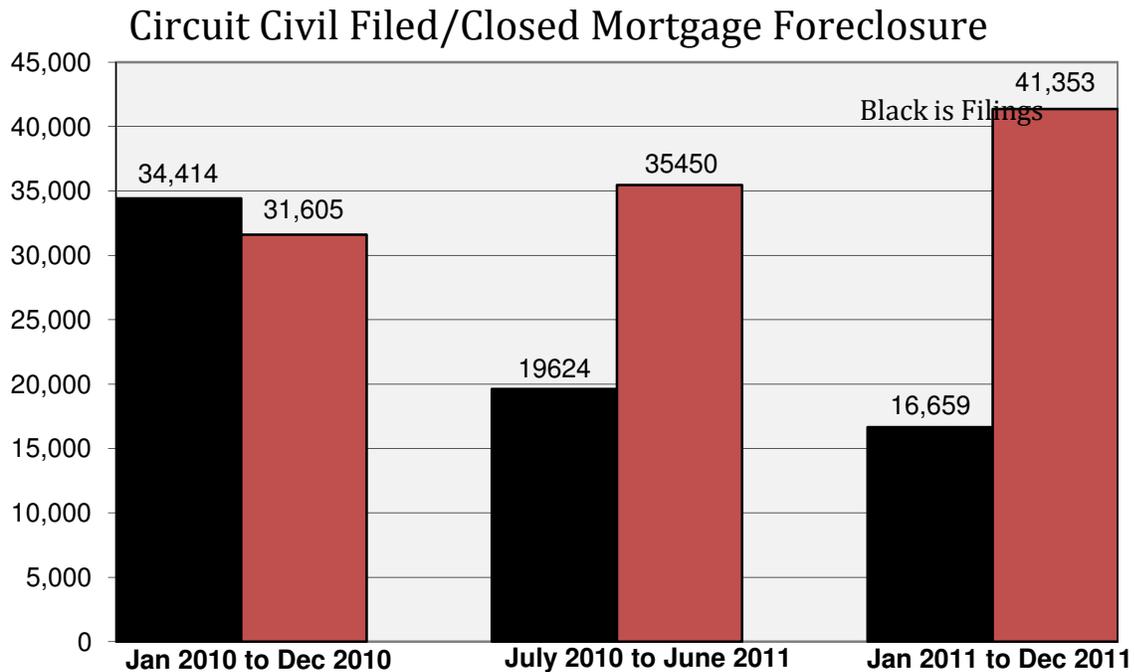
SCHEDULED											
	Writs	SMJ	Total								
1	28	6			40	15	37	13			139
2	72	13			40		40	23	120		308
3		12	40			24				35	111
Total	100	31	40	0	80	39	77	36	120	35	558
	131		40		119		113		155		

REVIEWED											
	Writs	SMJ	Total								
1	9	8	1	11		11		8	OUT		48
Total	12	23	5	41	0	43	0	37	0	30	191
	35		46		43		37		30		

E. PROGRAM RESULTS

To accurately assess the program, it is necessary to compare management of foreclosure caseloads prior to and after the implementation of the foreclosure pilot program. Based on the data collected, the court statistics demonstrate that prior to the pilot program the court accumulated a backlog of cases from prior years. This backlog represented a caseload with a median average age of three (3) years, with some cases ranging in age from a few months to over eight (8) years. Statistics from 2010 show there were 82,000 pending foreclosure cases. By the termination of the foreclosure program, 41,353 cases had been closed. The clearing of these files resulted in a 49% reduction in pending foreclosure cases. (See Tables 6-7 below).

Table 6. Circuit Civil Filed/Closed Mortgage Foreclosure



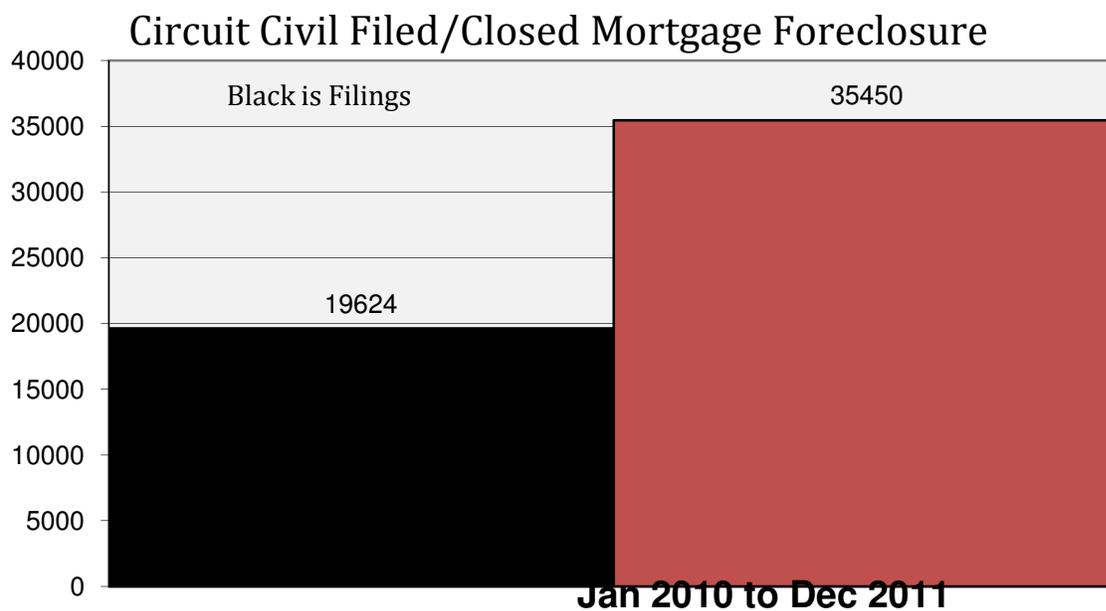


Table 7. Circuit Civil Filed/ Closed Mortgage Foreclosure Source: ON DEMAND reporting system. Report No. 450 CIVR 450/130 Filing and Disposed by Action Code. Year to Date.

In addition to this quantitative data, program ending debriefing information was collected from seven staff members as well as the Senior Judges assigned to the program. Their detailed comments are listed in see Appendix A. the issues they identified were universally in the categories of communications, scheduling and the problems presented by older cases. The Administrative Judge in charge of the program noted that, “This program allowed us to meet the demands of this caseload with appropriate judicial integrity.” See Appendix B for her detailed interview. Further, the Chief of the Civil Division noted that, at times, unforeseen circumstances, such as the Moratorium imposed on cases due to questionable practices by plaintiffs, made it difficult to progress and dispose of the cases as expected. But, overall, a great amount of cases, particularly dormant cases, were disposed of that year as evidenced by a report submitted by the Clerk’s Office in July 2011, see Appendix C for her detailed comments.

VI. CONCLUSIONS AND RECOMMENDATIONS

In summary, lessons learned from the implementation of the foreclosure program have imparted a new wisdom about court management and efficient practices. This court project can serve as a template for other courts which encounter the difficulties of a challenging year during the foreclosure crisis. More specifically, there are basic conclusions and recommendations which have utility and application for implementation of a foreclosure pilot program.

Conclusion 1 Standardize Review of Summary Judgment Submission

Upon implementation of the foreclosure program, new standards were set to raise the caliber of pleadings, orders and ensure compliance with administrative orders. Here, the primary issues were due process concerns. To standardize courtroom results, the summary judgment checklist was used primarily to confirm proper notice, service of process and review for mediation compliance. Secondly, the checklist was used to review loan documents, affidavits and usage of the uniform summary judgment form. From a quality control perspective, summary judgment review tested the sufficiency of the filings and provided a fair and balanced case review. Throughout the duration of the foreclosure program it became clear that the standardization of review was yielding superior results. More litigants were appearing in court and parties were complying with the procedural requirements. Further, application of this review resulted in more uniform results in summary judgment cases. While the initial implementation of the review process was time consuming at first, the beneficial economies of scale which were gained outweighed the costs. In short, usage of the checklist improved the effectiveness of court management and resulted in more equitable proceedings.

Recommendation 1: Implementation of Case Review for Uniformity

In writing this recommendation, the hands-on experience of the foreclosure program, with all its ups and downs, provides guidance. These lessons learned illustrate how the foreclosure program could be improved when implemented, if given another opportunity. The success of the standardized case review checklist has been tried and proven. In this experience, it provided: (1) assurance of due process, (2) raised the standard of pleadings, (3) ensured compliance with procedural requirements, and (4) benefitted the court system with gains in economies of scale. In fact, the components of the case review can be expanded and applied to other areas of law to further maximize its potential. In this experience, the case review tool was helpful to everyone, from judges to litigants, except those that were noncompliant with procedures.

From the standpoint of the judiciary, summary judgment hearings became more simplistic, since case review provided a snapshot of the case, identifying any deficiencies. Although there was a learning curve, plaintiff law firms addressed issues before summary judgment rather than risking denial of their motion. Similarly, defendants became more familiar with the process, participated in mediation and court proceedings and explored viable options. While the impact of the standardized case review is difficult to quantify, the increase in active participation of defendants in the foreclosure is indicative of overall results. In summary, the foreclosure program achieved the fair and effective court management goal.

Conclusion 2: Creation of Section 50 for Stagnant Cases

A final variable in assessing the foreclosure program is a determination as to whether aged, stagnant cases were effectively closed. The relative age of the remaining open cases has

declined sharply due to the clearing of 41,353 cases. However, it is unclear as to how many of the closed cases represent the stagnant aged caseload. While statistics were collected and maintained to identify case closure, the foreclosure program did not further breakdown the statistics as to older cases. Part of the reason for this is the implementation of Section 50, a special division to manage the older stagnant cases midway through the foreclosure program. While statistics from the start of Section 50 would have been helpful, it would not present an accurate picture as to the closure of older cases since a portion of these cases had been closed in Section 85. This overlap would skew the statistics and prove unreliable.

Recommendation 2: Trials Are More Efficient in Foreclosure Cases

Case management hearings can sometimes be useful to move stagnant cases through the courts. In the initial months of the foreclosure program, case management was used to identify the obstacles in older Section 50 cases and to reduce or eliminate them so that the case can progress. However, the efficacy of case management hearings declines sharply after two hearings. The basic premise is that if you cannot get it done in two hearings, it becomes a waste of time and resources.

Based on this experience, the recommendation is to set trials to move cases. Other than summary judgment hearings, the most effective tool to manage foreclosure cases is to set a trial date. Just setting a trial date flushed out the real controversies, with only a fraction of the cases actually going to trial. Many cases took voluntary dismissals rather than attempt to prove their case. On an average setting of 50 foreclosure bench trials, only three cases would proceed to trial. See appendix D. Administrative Order Setting Foreclosure Cases for Non-Jury Trial.

Conclusion 3: Limited Resources Hamper Efficiency

Automated scheduling for trials and summary judgment hearings was a luxury which the foreclosure program did not enjoy. Many employees were assigned to perform this function which could have been expedited with new technology. However, the limited resources of the court hampered efficiency in the scheduling of trials and summary judgment hearings. Effective use of technology would have dramatically improved productivity.

Recommendation 3: Improve Efficiency with Automated Scheduling

At the onset, commit to technological implementation to improve efficiency and provide judicial economy. E-filing and automated scheduling would tremendously improve productivity and provide benefits to all parties.

Conclusion 4: Rejection of Summary Judgment Case Packets Proves to be Ineffective and Inefficient

This pilot program experience has demonstrated that the policy of rejecting summary judgment packets due to deficiencies is counterproductive. Besides assuming the burden of checking litigant's pleadings for compliance, the initial policy of rejecting submissions and identifying deficiencies did not provide a measurable benefit to the courts. Multiple submissions which repeated errors continued to be sent from the law firms, wasting valuable judicial resources.

Recommendation 4: Record Case Deficiency and Schedule Hearings on Summary Judgments

The new policy of recording the deficiencies in the case review for the judge, but not rejecting the submission has proved more worthwhile. This way, the judge can deny the motion

or give the litigant time in which to remedy the deficiency. Either way, it is appropriately within judicial discretion to decide the outcome, enter an order and compel compliance with the order.

Conclusion 5: Statistics Are Critical to Measurement of Program.

Upon the initiation of the foreclosure program, it was determined that everything should be recorded and statistics should be generated to illustrate progress of the case along the way. Despite best efforts, and the design of special software to track the cases, experience has proven that the program needed to generate even more statistical data to analyze the success of the program. Some of these deficiencies can be attributed to the failings of the computer program, some are simple human errors in the recording of information, but more than often, separate statistics were not kept to isolate the productivity of the Section 85 and Section 50. Since these Sections operated different approaches, this data would have been useful in the measurement of success.

Recommendation 5: Record Statistical Events at Every Step

The importance of statistics cannot be underestimated. Whatever you are counting, count it twice, three times and then take a look at it from another point of view. In the middle of pilot program operations it was not always apparent that there were correlations between variables which would have allow the program to adjust more readily. The benefit of additional statistical data would have demonstrated the utility of a mid-course correction, without waiting six months into the program. Identification of clearance rates earlier in the program would have demonstrated the efficiency of management. More and better statistics provide the basis for maximizing the judicial resources to everyone's benefit.

Conclusion 6: Staffing Issues Delay Initiation of Program

The foreclosure program was impacted from the beginning by inadequate staffing. Until the funding for the foreclosure program was available, openings for jobs could not be publicized, interviews could not be conducted and staff could not be hired. This initial delay in start up operations had a detrimental effect on getting the program underway, resulting in a two (2) month loss up front. Similarly, as the program came to a close in its last two (2) months, qualified employees left the job for more permanent employment. Inadequate staffing for the total of four (4) months hampered operations, as the foreclosure program continued with a skeleton crew. While this problem is symptomatic of any temporary pilot program, it presents unique challenges for management, supervision and work production.

Recommendation 6: Post Job Opportunities Early

The human resource issues could be better managed with proper planning. Early postings of job announcements on the website and circulated among the universities do not require the expenditure of funds not allocated yet. Additionally, the actual job listings should be ready to print immediately when the funds become available. From a human resource standpoint, interviews should be scheduled as qualified applicants become available; rather than waiting to conduct interviews all at once. Unfortunately, retention of qualified employees as a program ends is more problematic. Whenever possible, we attempted to secure permanent employment for proven employees as they continued to work through program termination.

Conclusion 7: Communication was Effective and Constant

Communication was a genuine strength of the foreclosure program. Town hall meetings, open house for the new foreclosure program, e-mail letters advising law firms of changes and website access with the opportunity to send basic inquiries were assets. The strength of these lines of communication with the customer base improved the efficiency of court management.

Table 8 below represents a sample of e-mail blasts that were sent to all foreclosure law firms. Town Hall meetings were frequently held to keep everyone informed and ease the transition to new procedures.

Table 8. Sample of Notice for Town Hall Meeting.

FORECLOSURE TOWN HALL MEETING ON FRIDAY, JUNE 10, 2011

You are invited to a town hall meeting. The purpose of this meeting is to discuss the transition of foreclosure cases upon the termination of the Foreclosure and Economic Recovery Program on June 30, 2011, due to loss of funding. We invite you to send your inquiries on this topic as we will accept questions until the cutoff date, June 6, 2011. To the extent time permits we will attempt to address your inquiries. We had originally planned to schedule a telephone conference to accommodate everyone, however, we explored options and the courts lack the financial resources to offer this.

Please plan to attend this important meeting with Administrative Judge Jennifer D. Bailey, Associate Administrative Judge Maxine Cohen Lando and the judges of the Eleventh Judicial Circuit Court.

When: Friday, June 10, 2011

Time: 1:00 P.M.

Where: Second Floor, Jury Pool Room

Miami Dade County Courthouse, 73 West Flagler Street, Miami, Fla. 33130

Please R. S.V. P. to: fmc@jud11.flcourts.org

Recommendation 7: Increase Communication with Stakeholders

Communication is key to the success of any program or organization. It is so important to define and breakdown the elements of any program to simpler terms so that they can be easily understood by the public, as well as the attorneys. Holding frequent meetings open to the public, explaining the basics of the program or changes, has been crucial to the overall success of our program. Also, the ready access by web links to send inquiries and have them addressed within hours was extremely helpful. It is recommended that communications be sent often and in a simpler format, such that anyone could assimilate the information being conveyed.

APPENDICES

Appendix A. SUMMARY OF FMC STAFF COMMENTS AFTER PROGRAM TERMINATION

Below are comments from staff members. The employee is only identified by initials.

Staff member- Commentary (OS): Judicial Assistant to the General Magistrate was concerned with the double scheduling since we had the master calendar and several non-jury courts going at the same time. Sometimes Litigants and Plaintiffs would go to the wrong court rooms and miss their hearings due to multiple schedulers it was very difficult to track cases and parties.

Staff member- Commentary (GL): Scheduler and Front desk Civil Division. She felt there should have been an information center set up specifically for information on Foreclosures. Everyone in the building sent people to the front desk resulting in long lines. The front desk was not equipped to answer foreclosure questions, circuit civil questions and answer phones, in addition to other job duties.

Staff member- Commentary (AR): Supervised section 50 SMJ cases 2009 and older- was concerned that as there were so many employees sometimes the information would not trickle down to everyone. Too many changes resulted in misinformation to defendants and litigants.

Staff Member- Commentary (PC) –supervised section 50- One of the main concerns that she had was that the attorneys would not show up to court and then they would say that they never received the notice. One of the reasons this was occurring was because these cases were so old that the addresses in the files were not accurate, nor had the files been updated by the clerk of

court to reflect the new attorneys. This issue caused many cases to be reopened and re-set after a Judge had granted MSJ. In order to avoid this problem, a mass e-mail was sent to all the foreclosure firms requesting them to identify 1 fax address where all of their Trial notices would be sent. Statutory requirements mandate that notices may be faxed, but does not provide for e-mail transmission.

Staff member- Commentary (BJ). Mailer. One of the concerns that she had was that when the mail was being sent to everyone on the service list sometimes 1 case could have 80 to 100 people on the list and everyone needed to be sent the information. That meant filling out 100 different envelopes and in the older cases they were usually returned because the defendants and litigant had since moved. These cases sometimes took hours to complete and when you have over 83,000 cases hours even minutes are precious.

Staff Member- Commentary (PP): Court staff. Worked in the Master Calendar Court room. Because the cases were scheduled months in advance the MSJ packets were stored when she would go to retrieve the packets for court sometimes they were missing. Also when the Judge was on the bench each packet was signed by the case manager that reviewed it when the Judge would call for the case manager sometimes they were not available delaying Court hearing.

General Magistrate- Commentary (RS): He felt one of the biggest problems was plaintiffs not showing up for court because there were so many Courtrooms running at the same time. Sometimes one attorney (law firm) was scheduled in 3 different court rooms at the same time.

Commentary from Senior Judges:

- 1) Attorney being scheduled in several Court rooms at the same time.
- 2) Notices never received.
- 3) Older cases problematic that's why some of them were still open sometimes making them start from the beginning.
- 4) After SMJ disposed cases reopened because attorneys claiming they were never noticed.
- 5) Attorneys being given 20 days to submit SMJ packets never doing it. Cases lingering not being closed.
- 6) Paper work missing in the Older Files.
- 7) Constant changes to procedures caused confusion. After you provide the procedure to a party, the procedures were soon changed.
- 8) Shortage of Senior Judges to cover all Courts since too much of their time was required.

Appendix B.

Interview with Judge Jennifer D. Bailey, Administrative Judge, Circuit Civil Division, 11th

Judicial Circuit

Miami-Dade County, the home of the 11th Judicial Circuit, is the largest county in Florida. Our circuit serves approximately 2,496,435 Dade County residents and is the fourth largest court system in the United States. Miami has also been an epicenter of the foreclosure crisis. As a result, foreclosure filings alone escalated from 10,000 in 2006 to 64,000 in 2009. During this time, there were and are currently 25 judges serving in the Civil Circuit Division of the 11th Judicial Circuit. Caseloads went from a manageable 1500-2000 to each judge presiding over more than 6000 cases. Foreclosure cases backed up due to wasted hearing time, unnecessary cancellations by parties, and a lack of sufficient judicial resources—there were simply not enough judicial hours in the day to hear all these cases. To try to alleviate the backlog, beginning in July 2010, the Florida Legislature funded a special program, the Foreclosure Economic Recovery Program (“FERP”) which allowed the Circuits to utilize senior judges, supported by case managers, to try to move the foreclosure case backlog. The core of the program can be defined by the simple truth: State Court cases move forwarded based upon access to hearing time with a judge. The biggest challenge in the foreclosure cases was that we had to make sure that every moment of hearing time resulted in forward momentum toward resolution in the case. IN the descriptions below, “Plaintiffs” may be understood to refer to the banks, lenders, servicers, or lawyers who represented them. “Defendants” generally refers to borrowers or their attorneys. The program which is described in Ms. Castellanos’ paper was designed to solve the following specific problems which arose as a result of the implosion of cases:

1. Many cases were not progressing, not due to lack of effort by the courts, but simply because Plaintiff attorneys were not requesting hearings. In many instances in which a borrower filed an answer or opposed summary judgment, it was more convenient and profitable for Plaintiff attorneys, most of who were operating under minimal flat fee agreements of \$1200-1500 per case, to process an uncontested foreclosure as opposed to dealing with a more complicated case.
2. Court hearing time was being wasted by lack of proper documentation, uninformed attorneys who could not answer basic questions about a case, and borrowers who repeatedly complained about inability to communicate with the Plaintiff's attorneys and/or their lender/servicer.
3. With multiple different judges potentially handling the cases, it was important that a baseline of documentation and review occur by staff. Even within the 25 judges currently sitting in the civil division, there were differences in terms of document review and what was required to be brought to each hearing.
4. Ultimately, we determined case management conferences were not as effective as trial orders, given the issues which arose after the program was implemented concerning affidavit execution and documentation issues, as well as a business model on the Plaintiff bar that resulted in multiple attorneys handling a file without a single responsible attorney being designated and consistently present in court.

The program was successful in closing cases, but in many cases it was as a result of dismissals due to chaos on the part of the Plaintiffs. By the time the FERP project achieved its full staffing and momentum, the issues regarding false and fraudulent affidavits in summary judgment matters, issues with regard to service, and other issues in default loan servicing as ultimately

memorialized in consent decrees with the Office of the Controller of the Currency (Spring 2011) had caused a majority of Plaintiffs to self-impose a moratorium on proceeding in their cases. So, in essence, just as the court system geared up in a titanic effort to move these cases, the Plaintiffs put on brakes in many instances.

The solutions designed into this process to solve the problems above can generally be described as:

1. To avoid wasted hearing time and in order to assure staff was appropriately checking the file for necessary documentation in a consistent manner, a checklist of the essential elements necessary to a Plaintiff's claim for foreclosure relief was created and maintained in an electronically accessible format. If a case did not have all the necessary documentation, it was not scheduled for summary judgment, so that judicial resources were conserved for cases which were ready for hearing. While our goal was to move these cases forward more quickly, our slogan was "It's more important to do it right than do it fast." We refused to establish any kind of "rocket docket" and instead created additional access to hearing time and at the same time, to these steps to assure the integrity of the foreclosure legal process. Cancellations were at judicial discretion only, so that hearing time could not be blocked and then abandoned, unused.
2. Case managers would identify old cases and set them for case management. In the end, we abandoned this practice as multiple attorneys would appear on a case and compliance with not consistent and resulted in procedural dismissals. An attorney would appear and receive an order to undertake a specific act, for example, set a summary judgment motion that was pending, and the firm simply would fail to do so, resulting in dismissal for

noncompliance. These results did close the case, but did not resolve the underlying dispute and may not ultimately resolve the overall foreclosure crisis.

3. By pre-screening and requiring case management reports, staff would assure that the necessary paperwork was before the Judge at hearings, and borrower attempts to communicate were addressed through a separate mediation program adopted by the Florida Supreme Court. This procedure also standardized the requirements for documentation which solved the problem of multiple different requirements from different judges and allowed Plaintiffs to more clearly understand what they needed to provide to move their case.
4. The single most effective order in the program was the trial order. As opposed to trying to case manage these cases, which was stymied by the chaos on the Plaintiffs' side and a lack of incentive of the Defendants' part, the trial order avoided affidavit issues and gave the Plaintiff the chance to try their case or dismiss it if they did not have the necessary evidence to proceed. The luxury of case managers allowed us to pull files, prepare trial orders, and get those sent out.

The goal of this program overall was to simply get momentum going in stale foreclosure files. The program achieved that goal, but in many respects the underlying goal of resolving foreclosure cases was compromised due to the failure of Plaintiffs to take full advantage of the hearing time made available to them. In many cases, Plaintiffs were unprepared to go forward in two and three year old foreclosure cases and would simply take dismissals when action was required by the court either through an order requiring that the case be progressed to summary judgment hearing or by trial orders. In addition, the stays and consequent potential title issues raised by underlying documentation issues also contributed to produce a significant number of

dismissals or inaction in files. So while success was achieved in terms of cases “closed,” the ultimate effect on the South Florida housing market and the overall economy, and whether these cases all return in short order is undetermined at this time.

Multiple court infrastructure challenges occurred within the project as well. The FERP project was only funded for one year. All staff hired was temporary and contract, and the rate of pay was low. The program could not begin until the money was available on July 1, 2010; so as a result, the first 6-8 weeks was consumed with staffing and training; a loss of two months in a twelve month program. In addition, there was high turnover during the entire program and we were seldom if ever fully staffed. Finally, as the end of the program approached, staffing decreased further as individuals left in anticipation of the shutdown. In addition, senior judges had to be recruited and trained as well. Funding for one year is inefficient for programs of this type and problems of this magnitude.

Public trust and confidence issues also emerged as the “robo-signing” and other fraudulent conduct was exposed in the media. This also compromised our abilities to move forward as effectively as we might have wished, because many more cases became opposed and litigated. Where once a borrower might not have objected to a foreclosure because he or she knew she owed the money, borrowers were not inclined to “play dead” for lenders or servicers they thought were lying in court. Equally frustrating for judges was the simple fact that affidavits which looked perfectly acceptable on their face were called into question as containing inaccuracies and untruths with regard to their statements regarding execution—frequently by the very Plaintiffs who submitted them. A judge has no ability to look at an affidavit which recites it is based on personal knowledge and determine whether that statement is true or false—the law

expects sworn affidavit testimony to be true. This legal reality is very counterintuitive to angry borrowers. Significant achievements of the program were a set of well-drafted standardized case flow plans and case management orders. In addition, the experience with using trial orders has proved invaluable in subsequent case management decisions. The program was successful in clearing a significant number of cases despite the challenges noted above. In addition, we learned a great deal from the program that can be utilized if the predicted renewed onslaught of foreclosure cases occurs in the future. In the end, judges do not control the strategic decision-making that goes on in these cases, by Plaintiffs or Defendants. Many of the issues involved in the foreclosure crisis involve macro policy issues of overall economic recovery, banking policy, and financial markets; issues more tailored to resolution by regulators, the legislative and executive branch and perhaps by overall free market forces. All judges can do to try to case manage as best they can with limited resources, provide access to hearing time and rule as required by the law. This program allowed us to meet the demands of this caseload with appropriate judicial integrity. Staff of the Eleventh Judicial Circuit, particularly Ms. Castellanos, are deserving of credit and acknowledgment for leading this effort.

Appendix C

Interview with Comment by Eliada Rivera, Chief, Civil Courts Division, Clerk of Courts, 11th Judicial Circuit, Miami-Dade County.

The maintenance of the increasing number of cases filed in Miami-Dade County, as a result of the Foreclosure Crisis addressed in Ms. Castellanos' paper, has been one of the greatest challenges faced by the Clerk of Courts in Miami-Dade County.

At the height of the influx of filings in 2009, this office received 64,000 foreclosures cases, which represented a 652% increase in filings when compared to the 9,814 cases filed in 2006. In 2007, the office had filed 26,391 cases and 56,656 cases were filed in 2008.

In response to this rush of filings, in 2010 the Florida Legislature funded a one year special program, the Foreclosure Economic Recovery Program. This Program allowed the Courts and the Clerk of the Courts to address the backlog the large number of foreclosure filings created. On July of 2010, in accordance to guidelines given by the State, the Clerk's Office, using numbers provided by the Miami-Dade Civil Case Management System, reported a total of 87,459 pending foreclosure cases to the Florida State Courts Administrator Office (this included open and reopened cases).

The 11th Judicial Circuit began working on bringing down the backlog by implementing the Program described in Ms. Castellanos' paper and in a coordinated effort the Clerk's Office provided the necessary clerical support. As the courts brought senior judges to hear the cases,

established guidelines and requested that plaintiff's attorneys progress their cases, the Clerk's Office was faced with the challenge of processing an increasing number of defaults, pleadings to be docketed and filed, pulling and re-filing files requested by the public and the judiciary and the need for additional courtroom clerks. In addition, there was a great increase of post judgment activities such as judicial sales and issuance of writs of possession. The Clerk's Office determined that thirteen additional employees were needed to perform all of their duties.

Much work was put into this initiative by the Judiciary, the Administrative Office of the Courts and the Clerk's Office. While there were general guidelines at the beginning of the project, things were dynamic. Guidelines changed and new processes were implemented once the staff was trained. Furthermore, the staff developed new ways to conduct their business according to the needs in the courtroom and of the customers. At times, unforeseen circumstances, such as the Moratorium imposed on cases due to questionable practices by plaintiffs, made it difficult to progress and dispose of the cases as expected. But, overall, a great amount of cases, particularly dormant cases, were disposed of that year as evidenced by a report submitted by the Clerk's Office in July 2011.

As part of the Economic Recovery Initiative, the Clerk's Office was required to provide a "Monthly Foreclosure Expenditure and Case Disposition Report". That report counted the cases as disposed when the judgments were issued in a case and a title issued or when the case was dismissed. According to that definition, there were 49,113 cases disposed in Miami-Dade County during that year

Appendix D. Administrative Orders and Memoranda

Administrative Orders are mandated by the Chief Judge.

1. AO 10-03 A1- Case Management of residential foreclosures cases and mandatory referral of mortgage foreclosure cases involving homestead residences to mediation.
2. AO 10-06 – Establishment of Section 50, the FCC
3. AO 09-09 – Adoption of foreclosure forms and establishment of procedures.
4. AO 11-05 - Approved final summary judgment of foreclosure form.
5. AO 11-06 – Establishment of motion calendar and referral of motions to the General Magistrate

Administrative Memorandums are ordered by the Administrative Judge of the Division.

6. AM 10-A- Establishment of the foreclosure master calendar for the management of residential mortgage foreclosure cases.
7. AM 10-B- Guidelines for cancellation of scheduled foreclosure sales and motions to cancel sale, vacate final judgment and dismiss residential mortgage foreclosure cases.
8. AM 10-C- Referral of foreclosure trials to back-up judges.
9. AM 10-E- Establishment of requirements in foreclosure cases:
10. Affidavits in support of summary judgment
11. Vacant property priority
12. Motions to cancel /reset sale
13. Motions to lift stay/proceed
14. Motion for return of bond
15. Summary judgment packet submission requirements.
16. Foreclosure Uniform Order Setting Non-Jury Trial

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT, IN
AND FOR MIAMI-DADE COUNTY,
FLORIDA

Plaintiff,

CIVIL CIRCUIT DIVISION

vs.

CASE NO.:

Defendant.

_____ /

Order To Submit Case for Summary Judgment within 20 days of Initial Case Management Conference

This case came before the Presiding Judge on _____ pursuant to an Order Setting Initial Case Management Conference, which requires the parties to attend the Case Management Conference.

At this time, Plaintiff has announced its intention to proceed to Summary Judgment. It appears that all defendants have been defaulted or are default-eligible. Therefore, Plaintiff has 20 days to submit complete summary judgment package to the Foreclosure Master Calendar Unit. Plaintiff is specifically directed to locate the Original Note and to bring it to the Summary Judgment hearing, unless the case is proceeding under a lost note count. Failure to do so will result in automatic dismissal without further hearing.

Done and Ordered at Miami, Miami-Dade County, Florida, this ____ of _____, 2010.

Judge Presiding

cc: Service List

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the Eleventh Judicial Circuit Court's ADA Coordinator, Lawson E. Thomas Courthouse Center, 175 NW 1st Ave., Suite 2702, Miami, FL 33128, Telephone (305) 349-7175; TDD (305) 349-7174 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

Form Order _____

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT, IN
AND FOR MIAMI-DADE COUNTY,
FLORIDA

Plaintiff,

CIVIL CIRCUIT DIVISION

vs.

CASE NO.:

Defendant.

_____ /

Order Dismissing Case for Plaintiff's Non-appearance at Initial Case Management Conference

This case came before the Presiding Judge on _____ pursuant to an Order Setting Initial Case Management Conference, which requires the parties to attend the Case Management Conference.

___The Plaintiff failed to appear without explanation.

Therefore, this case is dismissed without prejudice.

Done and Ordered at Miami, Miami-Dade County, Florida, this ____ of _____, 2010.

Presiding Judge

cc: Service List

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IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT, IN
AND FOR MIAMI-DADE COUNTY,
FLORIDA

Plaintiff,

CIVIL CIRCUIT DIVISION

vs.

CASE NO.:

Defendant.

_____ /

SECOND CASE MANAGEMENT SCHEDULING ORDER
(Foreclosure case more than 18 months old)

This Case is scheduled for a Second Case Management Conference in accordance with Rule 1.200(a), Florida Rules of Civil Procedure and current administrative orders of the court. The case management hearing is scheduled for _____, 2010, at _____ A.M./P.M. in Courtroom _____, at the Miami-Dade County Courthouse, 73 West Flagler Street, Miami, Florida, before the Presiding Judge.

The purpose of this Case Management Order is to identify and resolve outstanding issues and determine what action is necessary to move the case expeditiously to resolution, because of the length of time that this case has been pending. The parties are hereby notified that all pending motions may be considered at the Second Case Management Conference, including any pending summary judgment motion, and all opposition to any such motion must be filed and served in accordance with Rule 1.510(c), Florida Rules of Civil Procedure, with a courtesy copy to the Foreclosure Catch-up Calendar at _____. The Court will also consider discovery motions and attorneys should appear having first attempted to resolve those issues with opposing counsel and fully prepared to argue those motions.

Appearance at SECOND Case Management Conference:

The Court has determined that the presence of the parties, Plaintiff and Borrowers:

_____ is required _____ is not required.

For Plaintiff, appearance shall be by a person with specific knowledge of the file and the ability to answer questions by the Court, including but not limited to the status of loss mitigation efforts, knowledge and consent of investors as to settlement, vacancy/tenancy in the property, and diligent search for borrowers. Where attendance is required, failure to appear by either party or

failure to appear with requisite knowledge shall be grounds for dismissal, striking of pleadings and entry of default and/or such other sanctions as the Court deems appropriate.

For the Plaintiff, telephone appearance of a representative: ___ is allowed ___ is not allowed

For the Borrower, telephone appearance: is allowed ___ is not allowed

Any other defendant, not the main defendant, may appear by telephone upon making prior arrangements by calling the Foreclosure Catch-up Calendar Unit at: _____.

A Case Management Report as detailed in this order shall be filed by the Plaintiff and any appearing Defendant in the case as required below, except that the Parties may file the following, and only the following, in lieu of the Case Management Report:

1. A stipulation of Voluntary Dismissal and Proposed Order of Dismissal agreed to by parties
2. A stipulation of settlement or forbearance with a Proposed Order of Dismissal reserving jurisdiction to enforce the settlement or forbearance
3. In a situation in which the case has been finalized, but remains open on the court's docket, a Motion for Case Closure and Proposed Order to Close Case. A photocopy of the order which finalized the case shall be attached as an exhibit to the motion, for example, a final judgment, an order of dismissal, an order dismissing for lack of prosecution. This category is for cases that should have been closed but due to error are still listed as open cases. The proposed order should provide that this case shall be closed due to : _____ (state grounds)
4. In cases which are stayed or abated due to bankruptcy, a Motion Advising of Bankruptcy Status, which attaches a current bankruptcy case docket and an indication of whether or when relief from stay will be sought, with a Proposed Order regarding Bankruptcy Status reflecting that the case is still in bankruptcy.

Required Case Management Report:

A Case Management Report shall be filed by each party with the Clerk of Court, served on opposing parties, with a courtesy copy delivered to the Foreclosure Catch-up Calendar Unit at _____, Miami Dade County Courthouse, 73 West Flagler Street, Miami, Florida. This report shall be filed and delivered no later than ten (10) days prior to the scheduled Case Management Hearing Date.

The Case Management Report shall include:

1. **Date of filing of complaint, and status** of complaint, including any lost note count.
2. **Status of pleadings of each defendant:** An accurate statement as to the:
 - a. Service, method of service, non-military affidavit
 - b. Response filed:
 - i. Motion to dismiss, pending or resolved
 - ii. Motions for extension of time, pending or resolved
 - iii. Answers from Defendants identified by name
 - iv. Motions to strike affirmative Defenses, pending or resolved
 - v. Copies of all outstanding Motions and responses shall be attached to the Case Management Report

3. **Status of the Property:** whether owner-occupied, tenant-occupied, or vacant. If vacant, Plaintiff must advise whether they will seek an expedited sale date if available.
4. **Status of Documents:** Is Plaintiff in possession of the original note? What is the chain of ownership of the note? Are there assignments of mortgage? The original documents should be brought to the Case Management Conference for examination by the Court.
 - a. If the case is a lost note case, an adequate lost note affidavit that complies with the statute, should be filed separately in the case and a copy provided with the Case Management Report.
5. **Status of mediation:** has any party requested mediation? Should mediation be ordered? If mediation was ordered, has it occurred and what was the outcome?
6. **Status of Loss Mitigation:**
 - a. Does this property qualify for the HAMP Program?
 - b. Identify and list what HAMP outreach has occurred. Proof/documentation of same should be brought to hearing
 - c. Has the foreclosure been put on hold at any time?
 - d. Are there current active loss mitigation efforts? Including short sale.
 - e. What if anything, is delaying a loss mitigation determination?
 - f. Results of eligibility determination for loss mitigation
 - g. The status of compliance with all U.S. Treasury directives and regulations
7. **Status of the case:**
 - a. Has Plaintiff sought summary judgment:
 - i. Was the motion set for hearing, when, what result? If the hearing was cancelled, advise as to reasons for cancellation.
 - ii. If the motion was not set for hearing, advise as to reasons and whether it is ripe for summary judgment
 - iii. If all affidavits have been filed, is the matter ready for determination of a motion for summary judgment at the time of the case management conference?
 - b. What discovery, if any, has occurred or is outstanding:
 - i. If there is discovery outstanding, has a motion to compel been filed?
 - ii. If objections have been filed,
 - iii. Has a discovery hearing and order been previously held
 - iv. What reasons exist for delays in discovery
 - v. Indicate outstanding objections to discovery that are pending, and the basis for those objections.
 - vi. Counsel/parties are directed to confer on any outstanding discovery between the time of the filing of the report and the Case Management Conference to attempt to narrow the issues. Failure to do so will result in sanctions.
 - vii. Courtesy copies of all outstanding discovery and responses thereto shall be attached to the Case Management Report.
8. **Status of related cases/title:** are there any other related cases involving any other foreclosures, ownership, lien or title issues, and are there any related cases involving insurance issues. If so, each case should be identified by complete case style.
9. **Status for Trial:** If Summary Judgment has been denied, or no summary judgment will

be sought, is the case ready for trial:

- a. Parties must list known witnesses and exhibits on the Case Management Report
- b. Parties must list what discovery is necessary to prepare the case for trial
- c. Motions which must be resolved prior to trial (limine, etc.)
- d. Any other issues which may affect trial status should be brought to the court's attention.
- e. coordinate the course of the case, including:
 - (a) allocation of time for trial;
 - (b) scheduling disclosure of final witness lists, discovery and exhibits;
 - (c) discussion of evidence and affirmative defenses to claim;
 - (d) setting of trial thirty (30) days from case management conference;
- f. require filing of preliminary stipulations if issues can be narrowed.

10. Status of Record Activity: If there has been no record activity in the case for the past 10 months, the parties must state in the Case Management Report as to good cause why the case should remain pending and their intent and effort to prosecute the case to conclusion. The Presiding Judge shall be able to consider any pending Notice Preceding Dismissal in connection with any pending Order to Show Cause why Case should not Be Dismissed issued by any division judge and that order shall inure to the Foreclosure Catch-up Calendar as if issued by the presiding judge on the original date of issue.

The information contained in the report must be accurate as to the status of the case. By signing the Case Management Report, the attorney signing is certifying accuracy. The attorney signing the report should be the attorney appearing at the Second Case Management Conference. Plaintiff must bring stamped addressed envelopes for all parties on the service list to the Second Case Management Conference.

Scheduling of Dates

Parties must bring their calendars to the Second Case Management Conference to schedule remaining court events and court-related events. The Court cautions Counsel that it is the objective of this Court Division to promptly and efficiently provide resolutions to outstanding foreclosure cases. Counsel shall be prepared to schedule those events according to priorities established by administrative order of this Court.

IF THE PARTIES OR COUNSEL FAIL TO ATTEND THIS CONFERENCE, THE COURT MAY DISMISS THE ACTION, STRIKE PLEADINGS, LIMIT PROOF OF WITNESSES OR TAKE ANY OTHER APPROPRIATE ACTION AS PROVIDED IN RULE 1.200.

THIS CASE MANAGEMENT CONFERENCE MAY BE CANCELLED ONLY BY THE COURT. Rescheduling should be sought through a motion to continue for good cause.

DONE and ORDERED in Miami-Dade County, Florida, on this ____ day of _____, 2010.

JUDGE

CC: Service List

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the Eleventh Judicial Circuit Court's ADA Coordinator, Lawson E. Thomas Courthouse Center, 175 NW 1st Ave., Suite 2702, Miami, FL 33128, Telephone (305) 349-7175; TDD (305) 349-7174 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION
CASE NO

Plaintiff(s)

vs.

Defendant(s)

FINAL ORDER REMOVING
CASE FROM PENDING LIST

_____ /

BASED and PREDICATED the resolution of pending matters, and having determined that no further judicial action is required in this case, it is

ORDERED and ADJUDGED that the Clerk of said Court is hereby **ORDERED** to remove this case from the open and pending case list and note the same in the Progress Docket Book of this Circuit and

Further, the Clerks and other personnel who are responsible for the removal of the above cause from the pending open case load of this Division, as indicated by the SRS records, are hereby **ordered** to remove this case from the pending list due to the resolution of all pending issues.

DONE and ORDERED in Chambers at Miami-Dade County, Florida this ____ day of _____ 2010.

CIRCUIT COURT JUDGE

cc: Service List

Plaintiff,

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT, IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

vs.

CIRCUIT CIVIL DIVISION

Defendant.

CASE NO.:

_____ /

ORDER OF REFERRAL TO FORECLOSURE MAGISTRATE

THIS CASE IS REFERRED TO THE FORECLOSURE MAGISTRATE upon the limited matter specified below:

Motion to Dismiss Motion to Strike Affirmative Defenses Motion to Quash Service
 Motions Re: Discovery Motion for Deficiency Judgment Trial

Case Management Conference

IT IS FURTHER ORDERED that the above matter is referred to Foreclosure Magistrate _____ for further proceedings, pursuant to rule 1.490(a) of the Florida Rules of Civil Procedure and current administrative orders of the court.

A time and place shall be assigned for the proceedings as soon as reasonably possible after this referral is made and notice shall be given to each of the parties. A Motion for Continuance of a Hearing which is set before the Foreclosure Magistrate pursuant to an Order of Referral shall be set before that Foreclosure Magistrate.

Referral to the Foreclosure Magistrate requires the consent of all parties. You are entitled to have this matter heard by a Judge. If you do not want to have this matter heard by the Foreclosure Magistrate, you must file a written objection to the referral within ten (10) days of the time of service of this order. If the time set for the hearing is less than ten (10) days after service of this order the objection must be made before the hearing. If this Order is served within the first twenty (20) days after service of process, the time to file an objection is extended to the time within which a responsive pleading is due. Failure to file a written objection within the applicable time period is deemed to constitute consent to the referral.

If either party files a timely objection, this matter shall be returned to the Presiding Judge with a notice stating the amount of time needed for hearing.

If required by the Foreclosure Magistrate, the attorneys shall prepare a proposed report. Failure to submit said proposed report on a timely basis may result in sanctions being imposed by the Presiding Judge of the Foreclosure Master Calendar Court.

Review of the Report and Recommendations made by the Foreclosure Magistrate shall be by exceptions as provided in Rule 1.490(h), Florida Rules of Civil Procedure. If you seek review of the Report and Recommendation made by the Foreclosure Magistrate, you will be required to provide the Court with a record. Failure to provide a record which includes a written transcript of all relevant proceedings will result in the denial of exceptions. The party seeking review must have the transcript prepared for the Court's review. You must provide and pay for a court reporter as no court reporter is provided by the court.

If exceptions to the Foreclosure Magistrate's Report are filed, a copy of same shall be contemporaneously submitted to the Foreclosure Magistrate. The Foreclosure Magistrate shall have reserved jurisdiction to conduct such re-hearing as the Foreclosure Magistrate determines appropriate. Such reservation shall not restrict the jurisdiction of the Presiding Judge of the Foreclosure Master Calendar Court to proceed on the exceptions. If no exceptions are filed, the report will be reviewed by the presiding judge and appropriate orders issued.

DONE and **ORDERED** in Miami-Dade County, Florida, on this ____day of _____, 2010.

JUDGE

Copies provided to all parties

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the Eleventh Judicial Circuit Court's ADA Coordinator, Lawson E. Thomas Courthouse Center, 175 NW 1st Ave., Suite 2702, Miami, FL 33128, Telephone (305) 349-7175; TDD (305) 349-7174 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

Revised 06/17/10

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT, IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

Plaintiff,

CIVIL CIRCUIT DIVISION

vs.

CASE NO.:

Defendant.

_____ /

SECOND CASE MANAGEMENT ORDER
(Foreclosure case more than 18 months old)

This case came for case management before the FCC Presiding Judge. After having heard argument of counsel, considered the status of the file and the report of any party attending, the Court has determined that the following must occur to progress this case:

1. Service has not been completed. The Plaintiff has until _____ to serve all parties to the case. After that time, the case will proceed against served defendants only.
2. Pleadings remain open in this case. The Court enters the following rulings:
 - a. Motion for Extension of Time: Defendant _____ shall respond to the Complaint by _____. Failure to respond by that deadline shall result in an automatic default being entered against Defendant.
 - b. Motion to Dismiss:
 Granted. Plaintiff has ____ days to amend or the case shall stand dismissed and refiling will be required.
 Denied. Defendant has ____ days to answer.
 - c. Lost Note Issue:
 Plaintiff pleaded Lost Note, but now advises that it has the original note in its possession. Plaintiff shall provide a complete copy including endorsements, allonge and assignments to Defendant Borrower/counsel by _____.
 Plaintiff pleaded Lost Note and has been unable to find the note.

3. Default status in the case: the following documents are missing:
 - a. service return for _____
 - b. non-military affidavit for _____
 - c. Affidavit of Diligent Search which complies with Form _____
 - d. Proof of Publication
 - e. Appointment of Attorney/guardian ad litem required
 - f. Report of attorney/guardian ad litem
 - g. default orders for _____

Plaintiff is ordered to file these documents by _____. Failure to do so will result in dismissal of any unserved defendant.

4. This Case appears ripe for summary judgment:
- a. Motion for Summary Judgment must be filed by _____
 - b. Affidavits of Indebtedness, Lost Note, Costs and Fees must be filed by _____
 - c. Updated Affidavits must be filed by _____
 - d. Affidavits to address affirmative defenses must be filed by _____
 - e. Affidavits to address standing issues must be filed by _____
- Failure to file the necessary documents by the dates required by this order will result in dismissal requiring that the case be refilled, except where an extension is sought for good cause shown and granted by order of court. No extension will be granted without containing a new deadline for compliance.
5. This Case is ready for submission of Plaintiff's Summary Judgment motion. An FMC packet must be submitted by Plaintiff by _____. Failure to submit the packet by that time will result in a dismissal of this case. Packets should be complete, please consult the FMC manual for guidance.
6. Mediation: this Case is being ordered to mediation by simultaneous order. Mediation must be completed by _____. A copy of the mediation report shall be provided to the FCC Unit. Alternatively, it appears that this case is subject to residential foreclosure mediation pursuant to AO _____
- a. RFM has occurred with the result of _____
 - b. RFM has not occurred. The parties are ordered to RFM and must complete the process in 60 days.
7. This Case is ready for ruling at this Case management Conference on Plaintiff's Motion for Summary Judgment.
- a. The Court grants summary judgment by simultaneous order _____
 - b. The Court denies summary judgment due to:
 - i. failure of Plaintiff to establish grounds for summary judgment due to a deficiency in proof of _____
Plaintiff has _____ days to correct this deficiency in proof and reset this hearing, or the matter shall be dismissed
 - ii. Genuine issue of material fact
 - iii. Unaddressed affirmative defenses, Plaintiff has _____ days to correct this deficiency in proof and reset this hearing, or the matter shall be dismissed
8. There are outstanding discovery issues:
- a. Plaintiff's Motion to Compel Discovery is granted, provide discovery answers by _____
 - b. Defendant's Motion to Compel Discovery is granted, provide discovery answers by _____
 - c. _____

9. This Case is ready for Trial. A simultaneous trial order is being entered.

The parties shall be prepared to proceed on day of trial as continuances will only be granted for extraordinary good cause due to the age and nature of the case.

10. Loss Mitigation: The parties represent to the Court that they are working to resolve this case by:

- a. loan modification
- b. short sale
- c. deed in lieu
- d. other _____

The parties shall report to the Court jointly by _____ how these discussions have progressed, and shall complete their analysis/process by _____. Failure to complete this process by this deadline will result in sanctions unless good cause is shown.

THIS CASE IS SET FOR A FURTHER CASE MANAGEMENT CONFERENCE ON _____

THIS CASE IS SET FOR TRIAL ON _____

Done and Ordered at Miami, Miami-Dade County, Florida this ____ day of _____

Cc: Service list

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the Eleventh Judicial Circuit Court's ADA Coordinator, Lawson E. Thomas Courthouse Center, 175 NW 1st Ave., Suite 2702, Miami, FL 33128, Telephone (305) 349-7175; TDD (305) 349-7174 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

Form 1.998. Final Disposition Form

This form shall be filed by the prevailing party for the use of the Clerk of Court for the purpose of reporting judicial workload data pursuant to [Florida Statutes section 25.075](#). (See instructions on the reverse of the form.)

I. CASE STYLE

(Name of Court) _____

Plaintiff _____

Case #: _____

Judge: _____

vs.

Defendant _____

II. MEANS OF FINAL DISPOSITION (Place an "x" in one box for major category and one subcategory, if applicable, only)

[Dismissed Before Hearing
]

[Dismissed Pursuant to Settlement--Before Hearing
]

[Dismissed Pursuant to Mediated Settlement--Before Hearing
]

[Other--Before Hearing
]

[Dismissed After Hearing
]

[Dismissed Pursuant to Settlement--After Hearing
]

[Dismissed Pursuant to Mediated Settlement--After Hearing
]

[Other After Hearing--After Hearing
]

[Disposed by Default
]

[Disposed by Judge
]

[Disposed by Non-jury Trial
]

[Disposed by Jury Trial
]

[Other
]

DATE _____

SIGNATURE OF ATTORNEY FOR PREVAILING PARTY

INSTRUCTIONS FOR ATTORNEYS COMPLETING FINAL DISPOSITION FORM

I. Case Style. Enter the name of the court, the appropriate case number assigned at the time of filing of the original complaint or petition, the name of the judge assigned to the case and the names (last, first, middle initial) of plaintiff(s) and defendant(s).

II. Means of Final Disposition. Place an “x” in the appropriate major category box and in the appropriate subcategory box, if applicable. The following are the definitions of the disposition categories.

(A) Dismissed--Before Hearing--the case is settled, voluntarily dismissed, or otherwise disposed of before a hearing is held;

(B) Dismissal Pursuant to Settlement--Before Hearing--the case is voluntarily dismissed by the plaintiff after a settlement is reached without mediation before a hearing is held;

(C) Dismissal Pursuant to Mediated Settlement--Before Hearing--the case is voluntarily dismissed by the plaintiff after a settlement is reached with mediation before a hearing is held;

(D) Other--Before Hearing--the case is dismissed before hearing in an action that does not fall into one of the other disposition categories listed on this form.

(E) Dismissed--After Hearing--the case is dismissed by a judge, voluntarily dismissed, or settled after a hearing is held;

(F) Dismissal Pursuant to Settlement--After Hearing--the case is voluntarily dismissed by the plaintiff after a settlement is reached without mediation after a hearing is held;

(G) Dismissal Pursuant to Mediated Settlement--After Hearing--the case is voluntarily dismissed by the plaintiff after a settlement is reached with mediation after a hearing is held;

(H) Other--After Hearing--the case is dismissed after hearing in an action that does not fall into one of the other disposition categories listed on this form.

(I) Disposed by Default--a defendant chooses not to or fails to contest the plaintiff's allegations and a judgment against the defendant is entered by the court;

(J) Disposed by Judge--a judgment or disposition is reached by the judge in a case that is not dismissed and in which no trial has been held. Includes stipulations by the parties, conditional judgments, summary judgment after hearing, and any matter in which a judgment is entered excluding cases disposed of by default as in category (I) above;

(K) Disposed by Non-Jury Trial--the case is disposed as a result of a contested trial in which there is no jury and in which the judge determines both the issues of fact and law in the case;

(L) Disposed by Jury Trial--the case is disposed as a result of a jury trial (consider the beginning of a jury trial to be when the jurors and alternates are selected and sworn);

(M) Other--the case is consolidated, submitted to arbitration or mediation, transferred, or otherwise disposed of by other means not listed in categories (A) through (L).

DATE AND ATTORNEY SIGNATURE. Date and sign the final disposition form.

ELEVENTH JUDICIAL CIRCUIT IN
AND FOR MIAMI-DADE COUNTY,
FLORIDA

Plaintiff,

CIRCUIT CIVIL DIVISION

vs.

Defendant
_____ /

CASE NO.: _____

ORDER PLACING CASE ON HOLD/PENDING STATUS DUE TO:

This case came before the Court, and the Court has been advised that the Plaintiff/ Defendant have/has moved to place the case on hold/pending status due to:

- Bankruptcy Stay [**BKST**]
- Case pending resolution of another case, case no.: _____ [**CPRC**]
- Written agreement of the parties [**WAGT**]
- Appeal pending [**APLP**]
- Motion to Stay or Abate due to Moratorium [**MSAM**]

The Clerk of Court is therefore directed to remove this case from the open/pending case load, and allocate it to the hold/pending case category checked above. The parties may return the case to active status by upon notice to all parties by motion and seeking an order of court.

Plaintiff must bring stamped addressed envelopes for all parties on the service list to any hearing.

DONE and **ORDERED** in Miami-Dade County, Florida, this ____ day of _____ 2010.

Presiding Judge

cc:
Service List

IN THE CIRCUIT COURT OF THE

ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI DADE COUNTY
FLORIDA

PLAINTIFF

CASE NO.

vs.

CIRCUIT CIVIL DIVISION

DEFENDANT(S).

_____ /

FORECLOSURE UNIFORM ORDER
SETTING CAUSE FOR NON-JURY TRIAL
AND
TRIAL INSTRUCTIONS

THIS CAUSE is set for Non-Jury Trial before Judge _____ in Courtroom _____ of the Miami Dade County Courthouse, 73 West Flagler Street, Miami, Florida 33130, commencing

DATE	
TIME	_____ A. M./ P. M.

or as soon thereafter as the same may be heard.

NO MOTIONS FOR CONTINUANCE WILL BE HEARD AT TRIAL CALENDAR

All attorneys should be thoroughly familiar with the cause and prepared to consider and determine such matters as are set forth in Rule 1.200, Fla. R. Civ. P. (2010). Accordingly, said notice further constitutes your notice of pretrial and case management conference. **Failure to appear** as directed or to **otherwise strictly comply with the terms of this Order** may result in sanctions including, **dismissing** the action, **striking** the pleadings, limiting proof or witnesses or taking any other appropriate action. It is further

ORDERED AND ADJUDGED as follows:

1. The parties shall do all things reasonable and necessary to assure the availability of their witnesses for the **entire** trial period or to otherwise preserve their testimony for trial as provided by the Florida Rules of Civil Procedure. See Rules 1.300 and 1.460 Fla. R. Civ. P. and Rule 2.085 of the Florida Rules of Judicial Administration.

2. The following shall be done no later than **TWENTY (20) days** prior to trial date set forth above:

(a) Parties shall furnish opposing counsel with the names and addresses of all expert witnesses to be called at trial and all information regarding expert testimony that is required by Rule 1.280(4)(A). Each party is limited to one expert per specialty. No other expert

testimony shall be permitted at trial. Information furnished pursuant to this paragraph shall be timely filed with the Clerk of the Court.

(b) All exhibits to be offered in evidence at trial shall be made available to opposing counsel for examination and initialing.

3. The following shall be done no later than **FIFTEEN (15) days** prior to the trial date set forth above:

(a) Parties shall furnish opposing counsel with a written list containing the names and addresses of all non-expert witnesses (impeachment, rebuttal or otherwise) intended to be called at trial and only those witnesses listed shall be permitted to testify. A written list identifying all exhibits intended to be offered shall also be furnished to opposing counsel and only those exhibits may be offered in evidence. Copies of witness and exhibit lists shall be timely filed with the Clerk of the Court.

(b) All exhibits to be offered in evidence at trial shall be made available to opposing counsel for examination and initialing.

(c) All plaintiff medical evaluations and other examinations pursuant to Rule 1.360 Fla. R. Civ. P. (2011) shall have been completed.

4. The following shall be done at least **FIFTEEN (15) days** prior to the trial date set forth above:

(a) All pre-trial motions, depositions noticed for use at trial and/or discovery matters or proceedings related thereto shall have been completed. **Attorneys are admonished to undertake, initiate, and/or complete all discovery in such a manner as to comply with the time limitations set forth herein. No further discovery procedures or depositions for preservation of testimony shall be allowed without specific leave of Court or Court-approved written agreement of counsel.**

(b) Counsel shall meet with a view toward exhausting all efforts to reach a settlement.

5. Counsel shall immediately notify this Court in the event of settlement and submit a Stipulation for and Order of Dismissal. Counsel shall also notify the Court of any pending hearings that will be canceled as a result of the settlement.

6. In the event the Trial of this matter is continued, then each time limitation and provision contained above shall apply as to the new trial date.

IT IS FURTHER ORDERED AND ADJUDGED THAT THE PLAINTIFF SHALL IMMEDIATELY SERVE ALL PARTIES/COUNSEL OF RECORD WITH A TRUE AND CORRECT COPY OF THIS ORDER AND FILE PROOF OF SERVICE WITH THE CLERK. FAILURE TO SERVE ALL PARTIES/COUNSEL OF RECORD WITH A TRUE AND CORRECT COPY OF THIS ORDER AND FILE PROOF OF SERVICE WITH THE CLERK MAY RESULT IN SANCTIONS INCLUDING, DISMISSING THE ACTION, STRIKING THE PLEADINGS, LIMITING PROOF OR WITNESSES OR TAKING ANY OTHER APPROPRIATE ACTION.

DONE AND ORDERED this _____ day of _____, 2011.

Honorable
Circuit Court Judge

Appendix E. FMC Staffing Detail

10th FLOOR

- 2 Senior Judges
- 1 General Magistrate
- 2 Case manager/ JA (assistant to GM and back up to Senior Judges) to set hearings

The case manager/JA positions will assist in reviewing, assisting, scheduling cases, setting hearings, as well as, transporting files to the 19th floor for the FCCU support staff.

19th FLOOR

- 2 Case Managers
- 1 scheduler/ reviewer/ mailer (this position will be on both the 10th floor and the 19th floor)
- 1 Mailer

The two case managers will be setting the initial hearings and review files in back log division. The schedulers will be assisting the senior judges' JA in setting hearings. The mailers will devote their time to keeping track of the mailings by labeling and mailing notices of orders and motions.

20th FLOOR

- 8 case managers

The eight case managers will review, accept or reject and prepare packets for court and keep detailed records of the case, as well as verify information, furnish forms and information on all cases. If case is approved they are then set for hearing in the FMC court.

Appendix F: Detail of Foreclosure Experience in Other States

MORTGAGE DELINQUENCIES AND FORECLOSURES	FLORIDA CHEAT SHEET
<p>2010 State foreclosure projections: 445,100</p> <p>State foreclosure projections (2009-2012): 1,482,279</p> <p>Total state foreclosure starts (Q1-2008 through Q1-2010): 764,021</p> <p>Total state foreclosure sales (Q1-2008 through Q3-2009): 112,836</p> <p>Total state foreclosure inventory (end Q1-2010): 484,421</p> <p>Total state past due mortgages (end Q1-2010): 875,869</p> <p>Annual change in foreclosure starts in the state (ending Q1-2010): -14%</p> <p>Change in state foreclosure starts (Q3-2006 to Q1-2010): 731%</p>	<p>Change In Foreclosures Q3-2006 To Q1-2010</p>  <p>731%</p>
<p>LOST WEALTH</p> <p>U.S. lost home equity wealth due to nearby foreclosures, 2009-2012: \$1.9 trillion</p> <p>Statewide lost home equity wealth due to nearby foreclosures, 2009-2012: \$331.3 billion</p> <p>Number of homes in state experiencing foreclosure-related decline: 8,028,664</p>	<p>Lost Home Equity Wealth Due To Nearby Foreclosures (2009-2012):</p> <p>\$331.3 Billion</p> <p>Average Loss Per Home Due To Nearby Foreclosures</p> <p>\$41,271</p> <p>Florida's Share of Overdraft Fees</p> <p>\$1.4 Billion</p>
<p>SQUELCHED CONSUMER LAWS</p> <p>Higher-rate mortgages made by institutions with federal regulator that preempted state laws (2006): 20%</p> <p>Mortgages of all types made by institutions whose federal regulator preempted state laws (2006): 41%</p> <p>:</p>	<p>OVERDRAFT LOAN COSTS</p> <p>U.S. cost of overdraft lending \$23.7 billion</p> <p>State's share of overdraft fees: \$1.4 billion</p> <p>U.S. share of overdraft loan fees from debit card transactions: 44%</p> <p>U.S. median amount of credit extended in debit card overdraft loan: \$16</p> <p>U.S. median amount of overdraft loan fee: \$34</p>
<p>STATE PROTECTION</p>	

MORTGAGE DELINQUENCIES AND FORECLOSURES

2010 State foreclosure projections: **119,200**
 State foreclosure projections (2009-2012): **349,292**
 Total state foreclosure starts (Q1-2008 through Q1-2010): **204,464**
 Total state foreclosure sales (Q1-2008 through Q3-2009): **67,669**
 Total state foreclosure inventory (end Q1-2010): **64,803**
 Total state past due mortgages (end Q1-2010): **337,620**
 Annual change in foreclosure starts in the state (ending Q1-2010): **16%**
 Change in state foreclosure starts (Q3-2006 to Q1-2010): **67%**

LOST WEALTH

U.S. lost home equity wealth due to nearby foreclosures, 2009-2012: **\$1.9 trillion**
 Statewide lost home equity wealth due to nearby foreclosures, 2009-2012: **\$20 billion**
 Number of homes in state experiencing foreclosure-related decline: **6,596,254**
 Average loss per home affected in state: **\$3,030**
 transactions: **44%**
 U.S. median amount of credit extended in debit card overdraft loan: **\$16**
 U.S. median amount of overdraft loan fee: **\$34**

TEXAS CHEAT SHEET

Change In Foreclosures
 Q3-2006 To Q1-2010



Lost Home Equity Wealth Due To Nearby Foreclosures (2009-2012):

\$20 Billion

Average Loss Per Home Due To Nearby Foreclosures

\$3,030

Texas's Share of Overdraft Fees

\$1.9 Billion

MORTGAGE DELINQUENCIES AND FORECLOSURES

2010 State foreclosure projections: **88,500**
 State foreclosure projections (2009-2012): **238,692**
 Total state foreclosure starts (Q1-2008 through Q1-2010): **137,323**
 Total state foreclosure sales (Q1-2008 through Q3-2009): **15,325**
 Total state foreclosure inventory (end Q1-2010): **88,042**
 Total state past due mortgages (end Q1-2010): **269,743**
 Annual change in foreclosure starts in the state (ending Q1-2010): **-13%**
 Change in state foreclosure starts (Q3-2006 to Q1-2010): **130%**

LOST WEALTH

U.S. lost home equity wealth due to nearby foreclosures, 2009-2012: **\$1.9 trillion**
 Statewide lost home equity wealth due to nearby foreclosures, 2009-2012: **\$242 billion**
 Number of homes in state experiencing foreclosure-related decline: **6,420,239**
 Average loss per home affected in state: **\$37,649**

SQUELCHED STATE CONSUMER PROTECTION LAWS

Higher-rate mortgages made by institutions with federal regulator that preempted state laws (2006): **23%**
 Mortgages of all types made by institutions whose federal regulator preempted state laws (2006): **51%**

NEW YORK CHEAT SHEET

Change In Foreclosures
Q3-2006 To Q1-2010



Lost Home Equity Wealth Due To Nearby Foreclosures (2009-2012):

\$242 Billion

Average Loss Per Home Due To Nearby Foreclosures

\$37,649

New York's Share of Overdraft Fees

\$1.5 Billion

2010 State foreclosure projections: **138,500**

State foreclosure projections (2009-2012): **451,590**

Total state foreclosure starts (Q1-2008 through Q1-2010): **225,337**

Total state foreclosure sales (Q1-2008 through Q3-2009): **78,894**

Total state foreclosure inventory (end Q1-2010): **68,829**

Total state past due mortgages (end Q1-2010): **204,246**

Annual change in foreclosure starts in the state (ending Q1-2010): **-11%**

Change in state foreclosure starts (Q3-2006 to Q1-2010): **474%**

LOST WEALTH

U.S. lost home equity wealth due to nearby foreclosures, 2009-2012: **\$1.9 trillion**

Statewide lost home equity wealth due to nearby foreclosures, 2009-2012: **\$51.7 billion**

Number of homes in state experiencing foreclosure-related decline: **2,261,220**

Average loss per home affected in state: **\$22,879**

SQUELCHED STATE CONSUMER PROTECTION LAWS

Higher-rate mortgages made by institutions with federal regulator that preempted state laws (2006): **21%**

Mortgages of all types made by institutions whose federal regulator preempted state laws (2006): **37%**

ARIZONA CHEAT SHEET	
Change In Foreclosures Q3-2006 To Q1-2010	
Lost Home Equity Wealth Due To Nearby Foreclosures (2009-2012):	\$51.7 Billion
Average Loss Per Home Due To Nearby Foreclosures	\$22,879
Arizona's Share of Overdraft Fees	\$506.7 Million

Appendix G. Judicial Worksheet

SUMMARY JUDGMENTS

PAGE NUMBER _____

CASE NUMBER	TIME SIGNED IN	MOVING PARTY	OPPOSING PARTY	JUDGE'S NOTES
				<input type="checkbox"/> GRANTED <input type="checkbox"/> DENIED <input type="checkbox"/> FTA <input type="checkbox"/> MOOT <input type="checkbox"/> OFF CALENDAR <input type="checkbox"/> RESET TO _____ <input type="checkbox"/> PASS
				<input type="checkbox"/> GRANTED <input type="checkbox"/> DENIED <input type="checkbox"/> FTA <input type="checkbox"/> MOOT <input type="checkbox"/> OFF CALENDAR <input type="checkbox"/> RESET TO _____ <input type="checkbox"/> PASS
				<input type="checkbox"/> GRANTED <input type="checkbox"/> DENIED <input type="checkbox"/> FTA <input type="checkbox"/> MOOT <input type="checkbox"/> OFF CALENDAR <input type="checkbox"/> RESET TO _____ <input type="checkbox"/> PASS

Appendix H. Sample of case filing report.

Uniform Case Number	Date Case Initiated	SRS Case Type	Date of Initial Reopen Event	Date Disposed	Disposition	Case Comments	Date Reopen Event Closed	Date of Status Change	Type of Status Change	Deleted	Closed for Court Action	Date Closed for Court Action	Case Age
132010CA000058000001	1/16/2010	Real Property						7/1/2010	Inactivity		FALSE		737
132010CA000059000001	1/8/2010	Real Property						7/28/2010	Active		FALSE		745
132010CA000063000001	1/8/2010	Real Property						7/28/2010	Active		FALSE		745
132010CA000069000001	1/4/2010	Real Property						7/1/2010	Inactivity		FALSE		749
132010CA000073000001	1/5/2010	Real Property		9/15/2010	Dismissed			9/15/2010	Active		TRUE	9/15/2010	NA

Appendix I. Case Log Sheet

Motion for Summary Judgment Check List		
Case Number:	Submit Date:	06/29/11
Hearing Date:	Completion Date:	
Case Number Confirmed:	Plaintiff Certification Status:	

3. Mediation compliance	N/A	
Form A filed	N/A	
Mediator's report filed	N/A	
Result		
Total fee paid to program manager		
Certificate of compliance filed	N/A	
4. Answers & Affidavits in opposition to motion for summary judgment	N/A	
Affirmative defenses		
Pending motions (motions to dismiss...)	N/A	
Affidavits in opposition to summary judgment	N/A	
5. Motion for summary judgment (MSJ) filed	N/A	
Dated		
Affidavits attached		
Proper parties/attorneys & addresses on service list		
Packet includes copies and postage paid envelopes		
6. Affidavits		
(a) Affidavit of indebtedness	N/A	
Check unpaid principal balance (UPB)		
Check notice of default		
Default date in complaint		
Check figures & interest (default thru FJ)		
Make sure per diem interest listed		
Check property address		
Check late fees (pre-acceleration only)		
Confirm notarized signature & person w/custodian of business record		
All figures match FJ		
(b) Affidavit of costs	N/A	
Check against service, publication		
Check filing fee		
Check title fees		
Check RMFM Program fee		
Notarized and dated		
All figures match FJ		

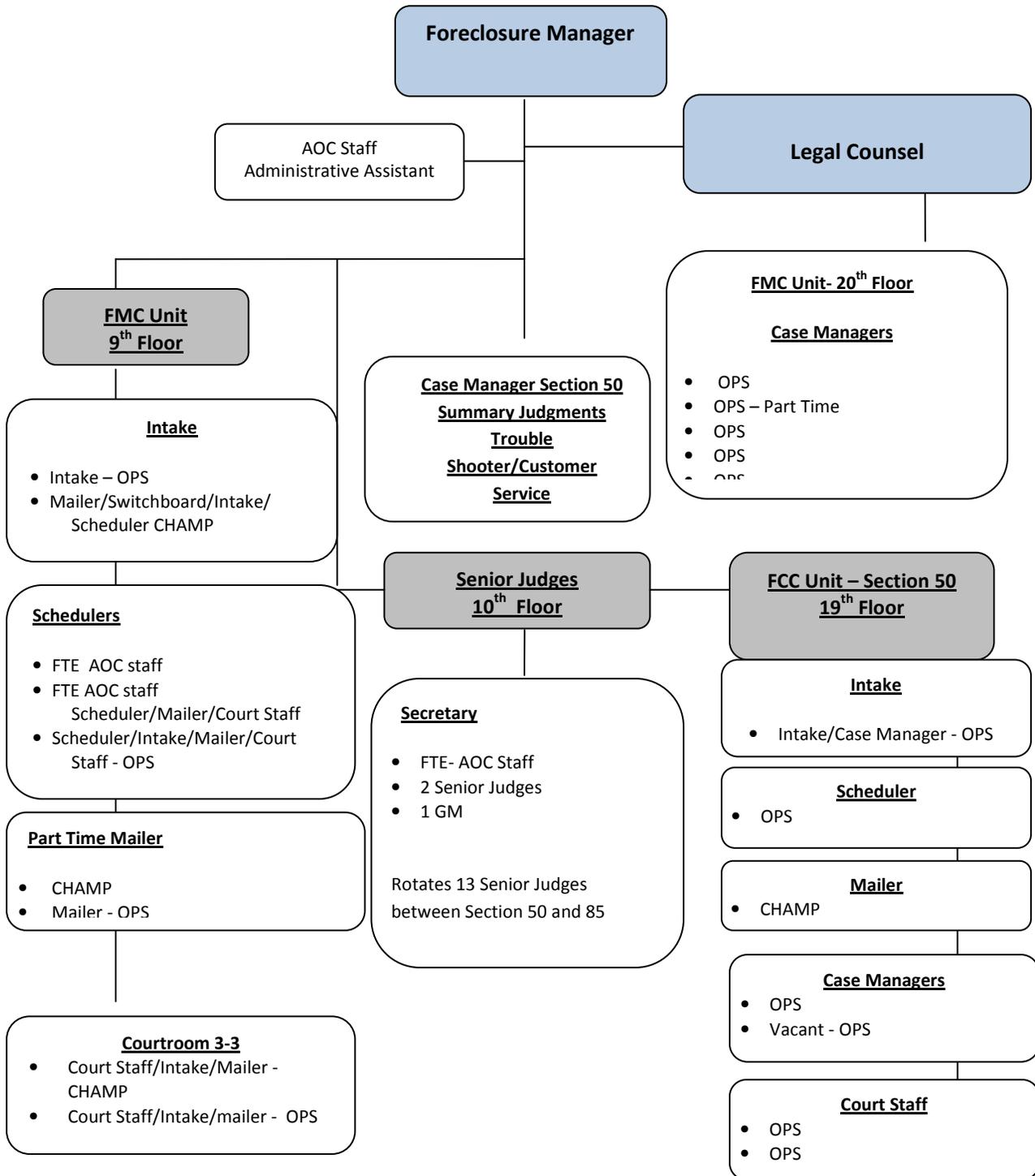
1/23/2012

Appendix J. Daily Statistics Log Sheet

Daily Statistics Courtroom 3-3 February 8, 2011		
DESCRIPTION	AMOUNT	CASE NUMBER
Same Day Cancellations	6	
SD Cancellations Moratorium	1	
Future Sale Date Cancellations	8	
FD Cancellations Moratorium	6	
TOTAL SALE CANCELLATIONS	21	
WRITS AND SUMMARY JUDGEMENTS		
Total Scheduled	51	+1 special set case(s) CA# 05-22212 scheduled for 3:00PM
Scheduled Writs	0	
Scheduled MSJ	50	
Signed In	51	
MSJ Granted	10	
MSJ Denied	1	
Writs Granted	0	
Writs Denied	0	
Cases put off calendar by attorney	20	
Off Calendar for Moratorium	19	
Reset	1	
Dismissed		
Bankruptcy		

Appendix K. FMC and FCC Organizational Chart

Foreclosure Master Calendar Unit: FMC and FCC Organizational Chart

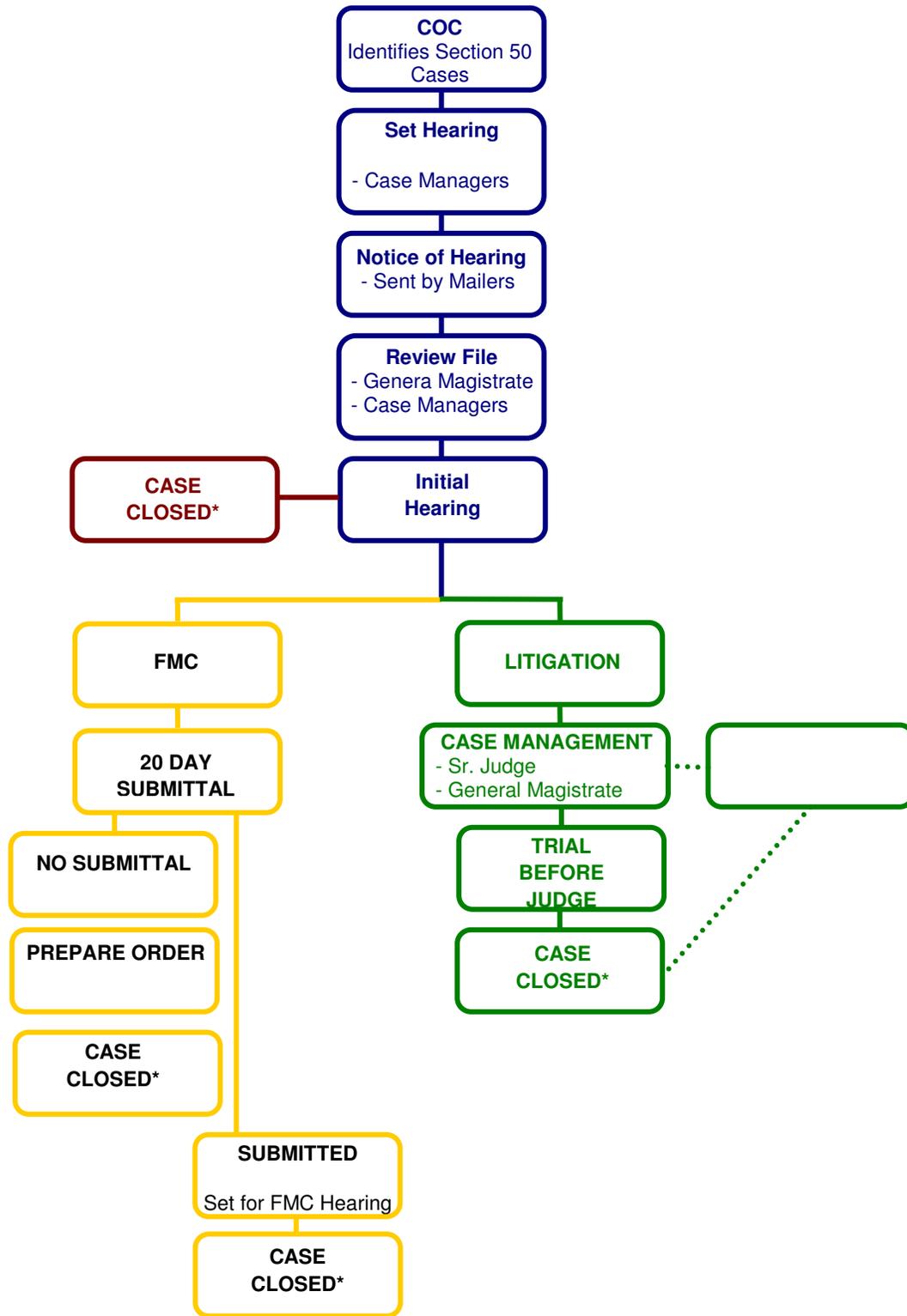


Appendix L. FMC Staff Assignments

FMC STAFF ASSIGNMENTS

CATEGORY/TITLE	DUTIES
PARALEGAL	OVERSEE COURTROOM
PARALEGAL	CASE MANAGEMENT/MAILING
SCHEDULER	SETTING HEARINGS
JA CHAMP	PAYROLL/INTAKE/MAILING
SCHEDULER/JA	INTAKE
SCHEDULER/JA	OVERSEE MAILINGS/PHONES
PARALEGAL /JA	ASSIST SR JUDGES & G.M.
PARALEGALS	REVIEW PACKETS

Appendix M. Workflow. Steps in the process from intake to dismissal/disposition.



Appendix N. Job Description

JOB DESCRIPTION: CASE MANAGER

- Complete the Case Manager's portion of the Initial Checklist
- Once Case Manager receives file/case, it should have the following:
 - Hearing Date
 - Hearing Time
 - Order properly clocked and docketed attached to the case
 - Docket
 - Initial Checklist already filled out by the Intake, Schedule and Mailer sections
- Attach and complete section 1 of the "Checklist for Initial Case Management Conference"

REVIEWING OF FILES IS TIME SENSITIVE

JOB DESCRIPTION: CASE MANAGER FOR SUMMARY JUDGMENT ONLY

- Once case is turned over to Case Manager for Summary Judgment, it must include the Order that specifies that if not submitted within 20 days, case will be prepared for dismissal. Plaintiff has 20 days to submit packet
- Enter case number in automatic tickler. Automatic tickler will send email when 20 days are due.
- If Summary Judgment packet is not submitted an Order for Dismissal will be prepared and given to Judge for signature (no hearing necessary)
- Status of case to be updated on FMC Application
- **If Summary Judgment packet is received within the 20 days,**
 - Review and if approved:
 - Schedule hearing in SIVA
 - Schedule hearing in FMC Application
 - Prepare Order
- Transfer file to Mailer for processing of mail
- IF packet is denied, send notice to attorney via email and mail
- Transfer file to Mailer for processing of mail

JOB DESCRIPTION: COURT STAFF

- Review cases against SIVA list 2 days prior to hearing date to ensure that all cases that are being heard are on the list, **there should be no cases missing**
- Pull updated dockets 2 days prior to hearing
- Ensure list of cases from the Clerk's Office has been provided 2 days prior to hearing
- Attach "Judge's Comments Sheet" to all cases 2 days prior to hearing date
- Ensure all necessary orders are taken to court as well as supplies
- Attend court daily
- Prepare daily calendar with 5, 10, 20, etc. days on a weekly basis and provide a copy to Judge
- Write disposition on "disposition list" and also on Initial or Case Staff Checklist
- Handle cases once they return from court. Create and process all orders, motions, etc. (2nd Case Conference, Summary Judgments 20 days and trial referral forms)
- Attach all return mail to case 2 days prior to hearing and mark cover sheet
- Keep binder updated with all "disposition list"

- Keep binder updated with all “check in list” which is handled by bailiff
- Update SIVA with new date for 2nd case conference, Summary Judgment 20 days and trial referrals
- Update FMC Application with new date for 2nd case conference, Summary Judgment 20 days and trial referrals
- Summary Judgments are to be separated and given to Case Manager for Summary Judgment
- Trials that require more than one day are to be separated for Backup Trial Division
- Verify every file has a pending/future order attached
- Place file/case per day in “book shelves”
- Prepare Court Staff Checklist
- Cases to Backup Trial Division – instructions to be determined
- Log for cases that are transferred to Backup Trial Division – instructions to be determined
- Update FMC Application with Disposition

JOB DESCRIPTION: INTAKE STAFF

- Answer incoming calls
- Phone coverage on a weekly basis – rotating ****should the person in charge of the phones for the week be absent the other individual will take responsibility phones**
- Fill out Case Manager Cover Sheet, with case manager’s name, case number, provide date file/case was intaked and mark YES once docket is printed. Please note that each Case Manager is determined by color.
- Incoming Orders/Motions – prepare to order files. Once files are brought by Clerk of Court place them through the intake process
- Print out dockets and attach to file once intake process has been completed
- Once intake process has been complete transfer files to Scheduler
- Properly identify cases per Case Manager ****see poster****. Once cases have gone through the intake process place them in bins according to Case Manager’s name and properly identified.
- Intake a minimum of 300 cases a week (50 to 75 will be from orders/motion received and 250 from back log list)
- Review Orders/Motions received and verify a hearing has not already been scheduled
- Prior to ordering files check to make sure all files requested are **open (verify cases are not closed or already have a hearing already scheduled)**
- Ordering files
 - If requesting files because of an order/motion received, once received attach order/motion and put through the intake process (50 to 75 cases per week will be requested)
 - If requesting files from back log list, which include FWOPs, reopening cased and all other Section 50 cases, once received put them through the intake process (250 cases per will be requested)
- Create a list to provide to the Clerk of Court office to pull files (50 to 75 cases from orders/motions and 250 cases from back log list) ****see spreadsheet form****
- Follow up on cases not provided by the Clerk of Court office, reasons why, etc.
- Spreadsheet – spot check 300 cases on a monthly basis

JOB DESCRIPTION: General Magistrate

The practice of law is prohibited in any court or before any agency of government in all areas.

This is highly responsible professional legal work assisting with specific judicial duties involving real estate, foreclosure, contracts and other civil matters. Work typically involves conducting hearings to inquire into such matters as may be referred by a Circuit Court Judge. A report or recommended

order is prepared for entry by the referring judge. The general magistrate's powers and duties are performed within the framework of applicable state and local laws and court rules. The position works under the general supervision of the division administrative judge.

JOB DESCRIPTION: Administrative Assistant

This position is responsible work performing a variety of administrative and clerical duties in the assigned division. The Administrative Assistant assists in the daily operations and support functions of the division of assignment including preparation of orders, calendars, files and notices. The Administrative Assistant collects data for statistical reports, creates reports and provides information to the judiciary, court personnel, litigants and the public. The position works under the general supervision of a manager according to procedures.

JOB DESCRIPTION: 11th Circuit CHAMP Coordinator

The essential function of the position within the organization is to serve as liaison coordinating the activities between the court and the Collins Center for Public Policy for the Circuit Homestead Access to Mediation Program. The Collins Center for Public Policy manages the mandatory mediation of residential mortgage foreclosure actions involving homestead properties. The position is responsible for maintaining policy and procedure compliance, receiving court related documentation and active communication of pending cases and judicial requests or comments. The position is also responsible for gathering and maintaining the statistical data of the Program. The position works independently, reporting major activities through periodic meetings.

REFERENCES

American Bar Association Article September 29, 2008. Philadelphia Courts Adopt “Massively Effective’ Foreclosure Rescue Program.’

American Progress. http://www.americanprogress.org/issues/2009/06/time_we_talked.html .
Accessed on November 13, 2011

Center for Responsible Lending, Soaring Spillover: Accelerating Foreclosures to Cost Neighbors \$502 Billion in 2009 Alone; 69.5 Million Homes Lose \$7,200 on Average (May 2009) available at <http://www.responsiblelending.org/mortgage-lending/research-analysis/soaring-spillover-3-09.pdf>

Center for Responsible Lending, Soaring Spillover:
<http://www.responsiblelending.org/mortgage-lending/research-analysis/soaring-spillover-3-09.pdf> Accessed on September 19, 2011

Conversations with World Leaders and Innovative Thinkers.
<http://www.scribd.com/doc/35959693/Trial-Court-Budget-Commission-Conference-Call-Meeting-Minutes>. Accessed on August 3, 2011

Conversations with World Leaders and Innovative Thinkers.

<http://www.scribd.com/doc/35959693/Trial-Court-Budget-Commission-Conference-Call-Meeting-Minutes> . Accessed on August 3, 2011

Daily Business Review

http://www.dailybusinessreview.com/PubArticleDBR.jsp?id=1202509774884&Private_judges_offer_quick_justice_at_a_price Accessed on August 3, 2011

Daily Business Review, Foreclosure, 9/21/10.

Daily Finance. <http://www.dailyfinance.com/2011/02/24/florida-leads-nation-in-foreclosure-rate/>. Accessed on July 14, 2011

Daily Finance. <http://www.dailyfinance.com/2011/02/24/florida-leads-nation-in-foreclosure-rate/>. Accessed on August 7, 2011

Daily Finance, Robo-Signing: Documents Show Citi and Wells also Committed Foreclosure Fraud, 10/2/10.

Federal Financial Institutions Examination Council, *2006 Home Mortgage Disclosure Act data*.

The federal regulators that preempted state laws consumer protection

Florida Supreme Court. http://www.floridasupremecourt.org/pub_info/documents/Filed_08-17-2009_Foreclosure_Final_Report.pdf Accessed on September 17, 2011

GAO, *Characteristics and Performance of Nonprime Mortgages*, GAO-09-848R (July 28, 2009) available at <http://www.gao.gov/new.items/d09848r.pdf> Accessed on September 18, 2011

Hope Now Alliance *State Data*, <https://www.hopenow.com/state-data.php>. Accessed on August 9, 2011

Mortgage Bankers Association, *National Delinquency Survey*

National Center for State Courts, *Caseflow Management, The Heart of Court Management in the New Millenium*, by David C. Steelman, 2004.

New York Times. <http://www.nytimes.com/2010/02/27/nyregion/27sewer.html>. Accessed on September 7, 2011

Orlando Sentinel. http://blogs.orlandosentinel.com/news_politics/2009/08/florida-courts-foreclosure-panel-calls-situation-horrifying.html Accessed on August 11, 2011

The Reinvestment Fund.

http://www.trfund.com/resource/downloads/policypubs/Foreclosure_Diversion_Initial_Report.pdf

Accessed on July 12, 2011