

**IN THE SECOND JUDICIAL CIRCUIT OF
FLORIDA**

OFFICE OF THE CHIEF JUDGE

ADMINISTRATIVE ORDER 2013 - 03

IN RE: FORECLOSURE CASE PROCEDURES

WHEREAS, the Supreme Court of Florida, on June 21, 2013, issued Administrative Order In Re: Final Report and Recommendations of the Foreclosure Initiative Workgroup (AOSC 13-28) in which “each chief judge is hereby directed to establish a case management plan that is consistent with rules 2.215 and 2.545, Florida Rules of Judicial Administration, and that optimizes the respective circuit’s utilization of existing and additional resources in the resolution of foreclosure cases”; and

WHEREAS, the circuit has received funding for additional resources to assist in addressing the foreclosure backlog and to continue the statewide Foreclosure and Economic Recovery Program; and

WHEREAS, it is necessary to address new and backlogged foreclosure cases in a manner to provide prompt resolution and disposition of all cases on a priority basis while still ensuring due process to the litigants; and

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

WHEREAS, rule 2.545, Florida Rules of Judicial Administration, requires that the trial courts “. . . take charge of all cases at an early stage in the litigation and . . . control the progress of the case thereafter until the case is determined . . .”, which includes “. . . assuming early and continuous control of the court calendar; . . . identifying priority cases;” “. . . implement such docket control policies as may be necessary to advance priority cases to ensure prompt resolution;” “. . . develop rational and effective trial setting policies and advancing the trial setting of priority cases, older cases . . .”;

THEREFORE, pursuant to the directive of the Supreme Court of Florida and the authority vested in me as chief judge, it is **ORDERED**:



1. The disposition of foreclosure cases pending eighteen months or longer are hereby declared a priority of the Second Judicial Circuit. Such a case shall be referred to as a "backlogged foreclosure case."

2. There is created a Backlogged Foreclosure Case Department within the Second Judicial Circuit under the administration of the chief judge. Although cases will be scheduled on the backlogged foreclosure case dockets to be handled by a senior judge, they will remain assigned to the civil division judges in the respective counties of the circuit.

3. Senior judges are hereby authorized to preside over backlogged foreclosure case dockets without specific assignment of individual cases. Senior Judge William L. Gary shall have primary responsibility for backlogged foreclosure case dockets, but a specific assignment order shall not be required for any other senior judge or assigned civil division judge to preside over such dockets or otherwise preside over a backlogged foreclosure case.

4. Assigned case managers and administrative assistants under the supervision of Senior Judge Gary, and any staff attorneys assigned to assist him, shall review the case dockets in Franklin, Gadsden, Leon and Wakulla Counties to identify and schedule backlogged foreclosure cases for appropriate hearing dockets in said counties.

5. Due to the low volume of cases in Jefferson and Liberty Counties, the judges assigned in those counties are directed and shall be responsible for reviewing their dockets for backlogged foreclosure cases and managing the same for the prompt and efficient disposition on a high priority basis.

6. All civil division judges in the respective counties responsible for processing new and backlogged foreclosure cases shall expend every effort to work with the program case managers and other assigned personnel, and with each other to facilitate best practices, uniformity, communication and coordination in implementing case management, data collection, and mass scheduling practices utilized in processing all assigned cases and compiling required statistical information as required by the Office of State Courts Administrator.

7. As to any case scheduled on a backlogged foreclosure case docket which may involve issues that appear to require more time than a basic foreclosure action, the presiding judge may conclude that better case management practices suggest such a case would be more appropriately handled by the assigned division judge.

8. The scheduling of all foreclosure hearings by parties, as opposed to those scheduled by court order, in all of the counties of the circuit shall be done directly with the judicial assistants of the assigned circuit judges and not through Senior Judge William L. Gary, or the Backlogged Foreclosure Case Department.

9. All pleadings in real property foreclosure actions are required to be electronically filed in accordance with and except as otherwise provided by Rule 2.525, Florida Rules of Judicial



Administration or administrative orders of the Supreme Court of Florida. Motions and proposed orders shall not be sent to the court without first confirming that pleadings have been successfully e-filed. Failure to comply with the e-filing requirements may result in the return of the pleadings. Original documents, such as notes, mortgages and bonds, shall be delivered to the clerk of court, accompanied by a Notice of Filing. Copies of original documents shall be included in the e-filing submission. In the case of motions for summary judgment, the originals must be filed before a hearing may be scheduled. In the case of a final evidentiary hearing/nonjury trial, the originals shall be filed at least ten (10) days prior to the scheduled hearing/trial date.

10. No hearing may be scheduled or time reserved for summary judgment, until such time as the motion for summary judgment or motion for final judgment, and all supporting evidence, including, but not limited to the original note, mortgage, and assignment of mortgage where applicable, and all supporting affidavits are properly filed and docketed. A summary judgment or final hearing package shall be transmitted to the judicial assistant of the assigned judge of the case except in the case of those cases scheduled on Judge William L. Gary's backlogged foreclosure case dockets, not less than ten (10) days prior to the hearing. In the case of backlogged foreclosure case dockets, the packages should be sent to:

Backlogged Foreclosure Case Department
Office of Court Administration, Room 327
Leon County Courthouse
301 South Monroe Street
Tallahassee, FL 32301

A summary judgment or final judgment packages shall include, but not be limited to:

- i. A copy of the filed motion.
- ii. A copy of the filed Notice of Hearing or order scheduling hearing.
- iii. A copy of the filed original note, mortgage, assignment(s) of mortgage.
- iv. A copy of the filed Affidavit in Support of Summary Judgment or Affidavit of Indebtedness.
- v. A copy of the filed Affidavit(s) in Support of Attorney's Fees.
- vi. A copy of the Affidavit(s) of Costs.
- vii. A proposed Final Judgment or Final Summary Judgment in the form prescribed by Form 1.996(a), Fla. R. Civ. P. No additional language shall be added to the form of judgment.



- viii. If applicable, a copy of an Affidavit of Diligent Search and Inquiry in the form prescribed by Form 1.924, Fla. R. Civ. P.
- ix. An original Notice of Sale.
- x. An original Final Disposition Form.
- xi. Sufficient copies and envelopes with sufficient postage attached and addressed to all necessary individuals to be served copies of original orders and notices when entered or issued.
- xii. Copies of any other timely filed evidence necessary to support the motion.

11. NO TELEPHONIC APPEARANCES SHALL BE PERMITTED BY ATTORNEYS, WITNESSES OR PARTIES FOR THE BACKLOGGED FORECLOSURE CASE HEARINGS, AND SHALL NOT BE AUTHORIZED FOR ANY OTHER FORECLOSURE HEARINGS UNLESS EXPRESSLY ORDERED BY THE ASSIGNED JUDGE.

12. Hearings scheduled by order for the backlogged foreclosure case dockets may be cancelled or continued only upon the filing of a motion showing good cause, such as actual settlement or resolution of the case, and order of the court. All such motions shall be filed not less than seven (7) days prior to the hearing, except in the event of a bona fide emergency as the same is defined by case law. Any such motion shall be directed to the assigned judge, not to the Backlogged Foreclosure Case Department. **No notice of hearing shall be filed or served by any party as to a hearing scheduled by court order.**

13. All foreclosure cases other than those scheduled for the backlogged foreclosure case dockets shall also be scheduled through the judicial assistants for the assigned judge in accordance with the instructions and procedures of said judge.

14. Except as provided herein, judicial sales shall be conducted pursuant to section 45.031, Florida Statutes, as the same shall be amended from time to time. The clerk of court shall schedule a sufficient number of judicial sale dates so that sales can be scheduled between 20 and 35 days from the date of the entry of final judgment. Sale dates may be scheduled beyond 35 days only upon order of the court.

15. No foreclosure sale shall be cancelled unless a satisfaction of judgment has been filed, or a court order has been entered cancelling the same, except when a suggestion of bankruptcy is filed in the pending foreclosure action and contains the case name, the bankruptcy case number, and the date upon which the bankruptcy was filed. **The Plaintiff shall have the responsibility to cause the Notice of Sale to be timely published and to timely file the proof of publication.** Failure to publish the Notice of Sale, to provide proof of publication, or failure



of Plaintiff's representative to be present at the sale are not grounds for the clerk to cancel the sale.

Failure to pay the clerk's sale fee prior to sale shall not be grounds for cancelling a sale, but a certificate of title shall not be issued unless the clerk's sale fee has been paid.

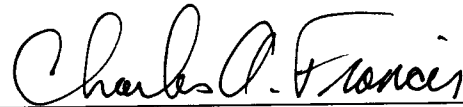
Any party seeking to cancel or reschedule a sale shall file a motion stating the specific reason why the sale should be cancelled. The motion shall state the number of times the sale has been previously cancelled. The motion shall be filed at least seven (7) business days prior to the sale, and must have any documentation relied upon to justify the cancellation filed with the motion prior to consideration of the motion by the Court.

16. Any party obtaining a judgment or submitting a proposed order on a motion, including pro se parties, shall provide sufficient pre-addressed and stamped envelopes for service, and a copy of the judgment or order for all parties to be served.

17. This order shall supercede and replace Administrative Order 2011-01 which is hereby terminated.

18. All contact and information for the Backlogged Foreclosure Case Department and hearing location information for those dockets shall be posted on the Second Judicial Circuit of Florida Website at: <http://2ndcircuit.leoncountyfl.gov>.

DONE and ORDERED in Tallahassee, Leon County, Florida, July 3, 2013.



CHARLES A. FRANCIS
Chief Judge

Copies furnished to:

- All Circuit and County Judges, Second Judicial Circuit
- All Clerks of the Circuit Court, Second Judicial Circuit
- All Members, Council of Bar Presidents
- Second Judicial Circuit of Florida Website

