

Supreme Court of Florida

No. AOSC13-28

IN RE: FINAL REPORT AND RECOMMENDATIONS OF THE
FORECLOSURE INITIATIVE WORKGROUP

ADMINISTRATIVE ORDER

A significant number of foreclosure cases are pending in Florida's state court system and approximately 680,000 additional foreclosure cases are expected to be filed by 2016. Our trial courts have dedicated considerable resources toward the just and timely disposition of this increased caseload, thereby resolving more than one million foreclosure cases during the last five years. Nevertheless, the level of foreclosure filings remains elevated and a significant number of foreclosure cases remain pending in the court system.

The Florida Legislature has responded to the increased court workload associated with the mortgage foreclosure crisis by providing funding to support additional judicial and case management resources. The Court is grateful for this supplemental funding.

In accordance with Rule of Judicial Administration 2.230(b)(4), the Trial Court Budget Commission is charged with the responsibility to make recommendations to the Supreme Court on trial court budget implementation and criteria as well as associated accountability mechanisms based on actual legislative appropriations. On January 7, 2013, the Chair of the Trial Court Budget Commission established a Foreclosure Initiative Workgroup and charged it with performing the following tasks:

1. Identify barriers that currently exist in foreclosure case resolution;
2. Propose strategies to improve the foreclosure process; and
3. Develop a proposed supplemental budget request for workforce and technology resources.

On April 10, 2013, the Trial Court Budget Commission submitted the Final Report and Recommendations of the Foreclosure Initiative Workgroup to this Court. The Court commends the Workgroup for the important work it has performed within this short time frame.

The Workgroup interviewed judges and court staff statewide to identify problems occurring with regard to foreclosure cases. The Workgroup's report identified two fundamental causes of delay in the resolution of mortgage foreclosure cases: first, plaintiffs [banks, lenders, and lien holders] do not appear to be inclined to seek disposition of pending foreclosure cases; and second,

paperwork and procedural problems continue to exist in foreclosure cases.

Moreover, as is the current situation with regard to trial court data generally, a key concern of those interviewed was the need for data from the Clerks of the Circuit Court in order for the courts to better assess the status of foreclosure cases in the circuits.

The Workgroup proposed three solutions to address the identified problems: (1) more active judicial or quasi-judicial case management and adjudication, including expanded use of general magistrates; (2) additional case management personnel to allow for focused attention on older foreclosure cases; and (3) deployment of technology resources to better allow judges to manage cases.

Case Management Plans

In mortgage foreclosure proceedings, as with all types of cases, the courts are obligated to ensure that the rights of parties are protected and the integrity of the process is maintained. Moreover, judges, as well as lawyers, have a professional obligation to conclude litigation as soon as it is reasonably and justly possible.

In accordance with Article V, section 2, of the Florida Constitution, the chief judges of the circuit courts “shall be responsible for the administrative supervision of the circuit courts and county courts in his [or her] circuit.” Additionally, pursuant to rule 2.215(b)(2), Florida Rules of Judicial Administration, the chief

judge in each of Florida's 20 judicial circuits is responsible for the implementation of policies and priorities for the operation of all courts and officers within the circuit consistent with branch-wide policies. Further, rule 2.215(b)(3), Florida Rules of Judicial Administration, provides that the chief judges shall develop an administrative plan for the efficient and proper administration of all courts within the circuit, and rule 2.545, Florida Rules of Judicial Administration, provides for case management at the trial court level.

As recommended by the Trial Court Budget Commission, 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.

In developing the case management plan for his or her circuit, each chief judge shall review and make such use of the strategies identified in Final Report and Recommendations of the Foreclosure Initiative Workgroup as may be consistent with the local resources and circumstances. The case management strategies adopted should ensure the full participation of parties, avoid unreasonable delays, and identify for disposition those cases that have been pending for the longest period of time, while being ever mindful of the rights of parties and the integrity of the process. In order to advance mortgage foreclosure

cases to resolution as soon as is reasonably and justly possible, the case management plans at a minimum should address case management procedures that identify older cases and direct them to timely resolution, expedite the resolution of uncontested cases, and implement docket control policies as necessary.

Data Collection and Reporting

In order for the court system to determine whether public resources are being used efficiently, accurate and timely court data must be collected and meaningful statistics must be calculated and reported by judge, by county, and on a statewide basis.

In accordance with section 25.075, Florida Statutes, the court system has developed a uniform case reporting system. The Summary Reporting System, or SRS as it is commonly known, provides the Office of the State Courts Administrator with data that assists the Supreme Court in its management and oversight role of the judicial branch. Rule of Judicial Administration 2.245 requires the Clerks of the Circuit Court to report the activity of all cases before all courts within the clerk's jurisdiction to this Court in the manner established by the Office of the State Courts Administrator and approved by order of this Court.

The Clerks of the Circuit Court are hereby directed to implement on an expedited and priority basis the data reporting requirements as detailed in a data

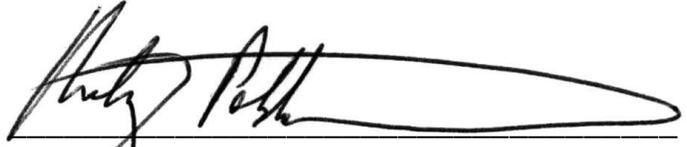
collection plan prepared by the Office of the State Courts Administrator.¹ This plan shall include reporting requirements that will provide the requisite information to compute the following performance indicators as recommended by the Foreclosure Initiative Workgroup and hereby approved by the Supreme Court for use in this initiative:

1. Time to Disposition - This statistic measures the length of time between filing and disposition and is presented as a percentage of cases that have been resolved within established time frames.
2. Age of Pending Cases - This statistic measures the age of the active cases that are pending before the court.
3. Clearance Rate - This statistic measures the ratio of dispositions to new case filings and assesses whether the court is keeping pace with its incoming caseload.

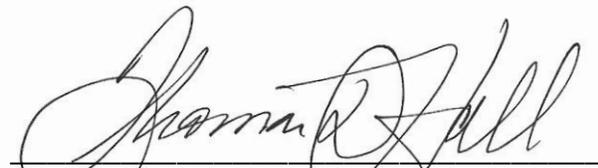
Implementation of the foreclosure initiative and collection of associated data will be an on-going and collaborative project of the clerks and the courts. The Florida Supreme Court recognizes and appreciates the valuable contributions the Clerks of the Circuit Court have provided throughout the mortgage foreclosure crisis and will continue to provide in support of this initiative.

1. See *FY 2013-14 Foreclosure Initiative Data Collection Plan* (June 2013), Office of the State Courts Administrator (on file with the Florida Office of the State Courts Administrator and available on the Florida Courts website at http://www.flcourts.org/gen_public/funding/MortgageForeclosureCases.shtml).

DONE AND ORDERED at Tallahassee, Florida, on June 21, 2013.


Ricky Polston, Chief Justice

ATTEST:


Thomas D. Hall, Clerk of Court

