

Florida Judges are fed up with foreclosure law firms abusing the Courts

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In a recent foreclosure case in Miami, Florida, State Circuit Judge Jennifer Bailey cancelled a Note for \$207,000 on Orlando Eslava's Home and Ordered title be transferred back to him as a sanction against his mortgage company (HSBC v. Orlando Eslava, Case No.1-2008-CA-055313, 11th Circuit Court, Miami-Dade County). The Bank, HSBC, was Ordered to post a bond and did not comply with the Court's Order, a business decision on their part.

Their attorneys, Florida Default Law Group, tried to apologize and explain the file was on hold for loss mitigation but refused to stop the foreclosure sale anyway. It didn't fly. Florida Default Law Group were taken to task by a Judge who has had enough of its judicial resources being wasted on conflicting positions about loss mitigation and pushing for the foreclosure sale to go as scheduled and ignoring Court Orders.

The story on the newswire focused on man getting home back and his mortgage cancelled; however, I think the real story is what the Judge said to the foreclosure attorneys, Florida Default Law Group. The Judge apparently has had enough of these foreclosure mills having no idea of what is happening in their own files and wasting the Court's time on shifting positions on the case.

We Consumer Attorneys know this to be the truth about foreclosure in Florida and much of the country, yet foreclosure attorneys and mortgage companies think the Courts are required to do whatever they want. Judge Bailey thinks otherwise and the sentiment is growing. Is it incompetence? Is it arrogance?

The following are some excerpts from the certified transcript of that hearing:

This line of questioning by the Judge was to the Foreclosure Attorney from Florida Default Law Group:

THE COURT: How many files are you responsible for?

ATTY: I don't have that number. I'm not sure.

THE COURT: How many cases can you tell me where you know anything in detail about the loss mitigation status of the file?

ATTY: Well, the way it's set up, the bank handles the loss mitigation separately.

THE COURT: So the answer is zero. You're filing pleadings everyday in court and you don't even know what is going on with the case. And see, the really

interesting thing to me as a Judge is that in no other species or kind of law would that be remotely acceptable or, frankly, anything short of malpractice. But somehow in Foreclosure World everybody thinks that that's just fine, that you all can know absolutely nothing about your files and walk in here and ask Judges for things left and right without even knowing what's going on.

The Judge went on to lambast the Florida Default Law Group further:

THE COURT: What I'm trying to give is, to lawyers who handle these cases, a wake-up call that this is your life, your career on the hook and you guys better wake up and smell the coffee.

My fellow Floridians, we need more Judges like Judge Bailey. I agree with her that if the mortgage is in loss mitigation why push the case and clog the Court's docket, only to shift positions after the Court has expended its resources on needless hearings. With 60,000 foreclosures in Miami-Dade alone in 2009, I can appreciate the Judge refusing to tolerate these mortgage company and lawyer shenanigans. For more information or a copy of the transcript, contact Orlando Bankruptcy Attorney Richard R. Baker at www.legalquestion.com