

HILLSBOROUGH FORECLOSURE COURT- Very Disturbing Numbers, a system gone awry | Matt Weidner - Fighting For The American People

<http://mattweidnerlaw.com/blog/2011/10/hillsborough-county-appealing-every-single-foreclosure-case-thatll-make-the-point/> October 30, 2011

Foreclosure and Economic Recovery Status Report

Type of Dispositions¹

July 1, 2010 through June 30, 2011

13th Judicial Circuit=	226 Dismissals	6,530 Summary Judgments	0
Trials	6,756 Cases Disposed Of		

[ReportCard](#)

The numbers detailed above are very, very disturbing. They reflect a court system that is out of whack, and I don't like the way the numbers are tilted. These numbers come from the Office of State Court Administrator and they are so far out of line from every other judicial circuit that they warrant high level review from the United States Justice Department or from someone, anyone who has any ability or willingness to stand up and speak for justice, the Rule of Law and basic rights. But we have very much thrown the towel in on those concepts in this country now, haven't we? And defendants in foreclosure especially, what rights are they entitled to. I mean, after all, this country is owned by the banks, right? Right~!

These numbers simply cannot be ignored and they certainly cannot be explained away. And the execution of the procedures that lead to these numbers are even more disturbing that must be investigated....if only anyone with authority would look into them. But again, the government in this country has lost its way and forgotten that it was meant to serve The People and not The Banks and The Corporations. **These numbers are very real and concrete examples of just how far lost this country has become.**

Another 800 Pound Gorrilla that sits smack dab in the middle of these numbers is the alleged investigations of the foreclosure industry by Florida's Attorney General. There were nine, count 'em nine separate investigations into improper practices and many of those issues relate directly to the cases identified above, but this state's attorney general has just walked away from those investigations.

It's beyond disturbing. It's tyranny. It's treason. It's the kind of abject corruption and repression that leads to people rioting in the streets and Revolution. There simply is no choice when things become so bad.

Mark Stopa ran a post this morning about the inability to appeal Motions to Dismiss and the problems this causes in foreclosure cases and frankly throughout all of our civil court case law because the inability to directly appeal Motions to Dismiss prevents any sort of clear case law or guidance that would develop clear [standards for Motions to Dismiss](#).

Like Mark, I am terribly frustrated by the practice that has been instituted in Hillsborough County where I am not entitled to have my Motions to Dismiss heard, they are ruled on without a hearing and more often than not, Motions to Dismiss are DENIED. Now I believe the entire ex parte consideration of Motions to Dismiss is improper...especially when the very same motions are routinely granted in virtually every other county. (One judge commented, "We never grant these kind of motions over here.")

The practice that has developed is the foreclosure mill sends directly to the judge a copy of my Motion to Dismiss (on a black and white issue such as Failure to Verify) along with an Order

Denying my Motion to Dismiss. A few days later, the judge sends back the pre-printed Order signed, DENIED, answer the complaint. My response is the same every single time, MOTION FOR RECONSIDERATION. And the response is the same every time, DENIED.

Well my job as an attorney is to use every tool in my disposal to defend my clients and to protect the law. Mark makes a very good point and it's one every single one of us needs to consider. "Losing" the MTD is a real gut punch...some attorneys just blow it off, but I take every single loss at a hearing very hard and I don't take kindly to losing a properly plead Motion to Dismiss...beyond the short term impact for me, the real problem is this is chipping away at the foundation of our entire legal system...and we cannot let this continue.

So I am committing to being prepared to file appeals in every case where these situations come up. Now granted an appeal is not yet timely in most cases. And the fact of the matter is, I've only "lost" like three summary judgments (each of which were reversed), but we're just going to lay here in wait with these MTD denials and keep on re-hearing and documenting the error in the ex parte denial of MTD. If the case ever gets to an improper judgment, this will all just be added together with all the other procedural errors that are going to be made along the way and will make fertile grounds for a nice big appeal.

Given the current state of the law in some jurisdictions, we must begin to view the case as ripe for appeal from the inception...and the file must be treated and documented that way from the very beginning.

Now for all you pro-se people out there, PLEASE, PLEASE, PLEASE do not try this yourselves. You know I am the biggest supporter of consumer and citizen rights and I affirm the principles that The People and not lawyers own the courthouses and The Law, but bad appellate decisions destroy our laws and improperly taken appeals cannot be reversed.

And so I ask my colleagues out there to consider this....make a stand, let's make the point. The foreclosure mills need to understand that if they buy into these improper procedures, they may get a short term, "win", but they're only buying longer term problems down the road.

On a very real and practical level, I'm appealing more and have just made financial and structural commitments to make sure I have the ability to put more effort into appeals. These are horribly short term business propositions for any lawyer, but The Law is not selling widgets, it's a profession with higher values that must take precedence over short term business decision making.

There are no shortcuts here. Verify complaints. State capacity. Attach documents that show standing. These are not affirmative defenses, these are not summary judgment issues, they are threshold pleading matters. And if you don't fix them now, your client will be paying the very steep appellate price years and years and years down the road.

I also believe that is the appellate courts and foreclosure mills are inundated with new filings, these improper trial court practices will start to diminish.

Until they do, I am prepared to take appeals on every single issue supported by sound appeals that will lead to the development of good law.

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