

FOR IMMEDIATE RELEASE

**LAWYERS FOR
HOMEOWNER RIGHTS**

For Information Contact:

Chip Parker, Esq.
Parker & DuFresne, P.A.
8777 San Jose Boulevard
Churchill Park, Suite 301
Jacksonville, FL 32217
(904) 733-7766
parker@jaxlawcenter.com
www.jaxlawcenter.com

Matthew Weidner, Esq.
Matthew Weidner, PA
1229 Central
St. Petersburg FL 33705
727/894-3159
weidnerlaw@yahoo.com
www.mattweidnerlaw.com

Other Contact(s)

David Acosta (non-lawyer)
CASECLARITY
3229 Yattika Place
Longwood, FL 32779
407-915-4713
www.caseclarity.com

Live Contact Numbers for
April 21, 2010

Matt Weidner, Esq.
(cell) 727-542-5571

David Acosta
(cell) 407-915-4713

MESSAGE TO LAWMAKERS: SEE THE FRAUD, PROTECT HOMEOWNERS

TALLAHASSEE – A groundswell has emerged in support of a group of consumer attorneys who are making their voices heard in Tallahassee on Wednesday on issues impacting homeowners across the state. Literally hundreds of homeowners are expected to show legislators they reject any law that threatens to take away valuable consumer rights.

The attorneys, informally known as Lawyers for Homeowner Rights (LHR) has sharpened their message into five main points that focus the issues legislators and the judiciary must weigh in considering actions impacting homeowners facing foreclosure. (see attached paper for these main points).

LHR urges that these issues have huge potential consequences for Floridians now and for years to come. The attorneys and other advocates will be meeting with a select number of lawmakers on Wednesday to voice the concerns. Advocate groups independent of LHR have organized and are bringing their own message to Tallahassee in ways reminiscent of the civil rights freedom bus rides. At least four busses and dozens of cars are set to carry voters from different parts of the state for this event.

The rally is scheduled to begin at 9:00am in Tallahassee at the steps of the Capitol and is open to attendance by all.

Lawyers for Homeowner Rights

April 20, 2010

The points listed in this paper represent some of the most pressing issues currently impacting Floridians in distress from mortgage foreclosure. The list, though not exhaustive, identifies key points of advocacy on behalf of homeowners who often do not have any opportunity to be heard before losing their home.

Lawyers for Homeowner Rights draw attention to these issues to counterbalance long-standing public perception that if the homeowner did not pay, then, they will or should lose their home. Collectively, these assumptions work the most harm to homeowners who have been victimized by a process designed to generate profits for financial institutions at the expense of others. As shown in the first point below, even if the homeowner could not make a mortgage payment, that borrower has the absolute right to be sued by the right party – the actual owner of that loan.

The fundamental and constitutional right to face the real party in interest, directly or indirectly, cannot be trampled on by any new law, procedure or rocket-docket intended to speed foreclosures. Legally speaking being sued for foreclosure by the wrong party is no different than being sued by the neighbor up the street who never had anything to do with the mortgage loan. It is a fraud and it has been happening all over the US and in Florida. Our courts and legislators must put a stop to this NOW.

These points are intended to further the dialog aimed at protecting what is most priceless in Florida: our people and our way of life. Financial institutions have destroyed thousands of dreams, hopes and families, although they continue to get away with some of the most egregious conduct. Lawyers for Homeowner Rights urge that it is time to act against this threat.

A. HOMEOWNERS HAVE RIGHTS

1. **The Right to Answer to the Rightful Loan Owner.**

- a. This includes the right to be sued by the party legally entitled to enforce the obligation and to right to defend against any party who cannot is not legally entitled to enforce the loan documents.
- b. This right must be protected and enforced by new laws that have stiffer *mandatory* penalties for entities who fraudulently pursue foreclosure

2. **The Right to A Fair & Impartial Hearing and Protection Against Abuse of Process**

- a. This includes the right to object and reject false statements and fraudulent or unethical practices in legal proceedings
- b. This includes the right to object to fraudulent, fabricated and fake evidence and to expect the court to sanction the attorneys and parties that perpetuate such conduct
- c. This demands providing foreclosure defendants their constitutional right to have proper notice of all proceedings and the right to be heard - Faster foreclosures is not the answer because this deprives litigants of these fundamental rights
- d. These rights must be protected by providing judges more resource, mandating independent examination and establishing statutorily-imposed sanctions for conduct that infringes on the integrity of judicial proceedings

3. The Right to Expect that Rules of Civil Procedure and Case Law are Applied Evenly, Even in Foreclosure Cases

- a. This includes the right to object when a different standard is used just because the case is a mortgage foreclosure
- b. This right must be protected by prohibiting application of a different standards used in hearings and adjudication on mortgage foreclosure cases – whether the litigant is represented by counsel or not

B. FLORIDA HOMEOWNERS ARE VICTIMS OF A MASSIVE FRAUD

4. Homeowners Did Not Create the Current Economic Crisis

- a. Banks and lenders bet that borrowers would fail then profited when they did. The same institutions then received unprecedented tax-payer bailouts and continue to make obscene profits in the face of continued suffering by the American people because they are deemed, “too big to fail”
- b. It is offensive to consider that borrowers, who received no help from anyone, are not too big to fail
- c. Irrespective of payment default, it should be recognized that Florida homeowners who borrowed during the past 10 years are victims of a massive and deliberate scheme to defraud
- d. The lenders and institutions that funded the loans that are being foreclosed on now are the target of federal and criminal investigations. It is fundamentally improper and violates the fundamental principles of courts of equity to reward criminal conduct with foreclosure judgments.

C. CONFIDENCE IN BANKS AND MORTGAGE COMPANIES HAS BEEN LOST

5. Financial Institutions Have Lost Consumer Trust By Engaging in Criminal Conduct and Fraudulent Practices

- a. Lenders and institutions that funded the loans that are being foreclosed on now are the target of federal and criminal investigations. It is fundamentally improper and violates the fundamental principles of courts of equity to reward criminal conduct with foreclosure judgments.
- b. It should be recognized that
 - i. They Have Engaged in Mortgage Loan Servicing Abuses
 - ii. They Have Engaged in Abuse in Prosecuting Foreclosures
 - iii. They Have Engaged in Abuse in Self-Help Evictions and Intimidation
 - iv. They Set-up The Entire System for Deliberate Failure
- c. It is unfair for a court of equity to reward foreclosing mortgage companies with summary judgment of foreclosure when such plaintiffs come into court with unclean hands flowing from fraudulent or criminal conduct
- d. Florida courts should not enforce agreements that are fraudulent and/or criminal at inception
- e. The court is the last stop in the sequential chain of mortgage abuse and fraud while also being the forum that must require the plaintiff to meet the highest standard be met before a family loses its home

D. EFFECT OF MASS FLORIDA FORECLOSURES

6. Displacing Homeowners Through Foreclosure Destroys Families and Neighborhoods

- a. The full extent of human suffering flowing from massive mortgage foreclosures is not yet fully appreciated or understood
- b. Families displaced by foreclosure will likely be afflicted by such issues as increased domestic violence, substance abuse, familial instability and suicides
- c. Such massive displacement is similar to population flight from war or famine
- d. It should be recognized that the greatest loss flowing from this mortgage foreclosure crisis is not money, but rather human suffering and destruction of Florida families

7. Displacing Homeowners Will Not Restore the Economy

- a. Quickening the displacement of families from their home so that others may purchase the property and begin making payments and rebound the economy is a myth in these economic times

- b. Foreclosures have resulted a market glut of excess inventory and depressed values
- c. It should be recognized that there is far more inventory available for purchase than there are buyers, such that displacing even more families will not contribute to Florida's economic recovery
- d. It should be recognized that even if the mortgage companies could kick out all the homeowners in the next year the market could not absorb that much property. It would depress values even more

8. Defective Foreclosure Judgments Will Hurt Florida for Decades

- a. Judgments of foreclosure obtained by fraudulent evidence are Voidable and subject to challenge for 20 years from the date of entry
- b. Judgments of foreclosure obtained without jurisdiction are VOID and have no force of law
- c. Disputes over defects in title to property will undermine the value of real estate and will lead to even more litigation
- d. It should be recognized that there will be significant litigation that will flow from property owners who bring actions to quiet title after discovery that foreclosure was obtained by fraud or not completed properly
- e. The existing title insurance industry cannot sustain the claims against policies that will come over the next twenty (20) years, leading to yet another breakdown in property ownership
- f. The slow motion train wreck of title claims must be stopped right now by mandating a *thorough* judicial review of the pleadings and evidence submitted in support of mortgage foreclosure and by prohibiting the development of case law that may deprive a victim of improper or wrongful foreclosure from seeking relief

E. HOMEOWNERS WANT TO PAY

9. Homeowners Want to Pay & Resolve Their Mortgage Issues - Banks Won't Cooperate

- a. It is patently unfair to reward mortgage companies with foreclosure judgments when the homeowner seeks a good faith workout
- b. It should be recognized that mortgage companies' profit motives are behind the foot-dragging on loan modification and short-sale applications

ACTION. To help Florida recover from the current economic crisis, while helping families rebuild their lives, write, email or call your local leaders and tell them you oppose any new laws that will hurt more Florida homeowners. Encourage them to support laws that penalize financial institutions that take advantage of Floridians and that perpetrate fraud on our courts. For more information visit lawyersforhomeownerrights.com.