

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT IN AND FOR
PINELLAS COUNTY, FLORIDA**

HSBC BANK, USA, NATIONAL ASSOCIATION,
NOT IN ITS INDIVIDUAL CAPACITY, BUT
SOLEY AS TRUSTEE ON BEHALF OF GSAA HOME
EQUITY TRUST 2005-12
PLAINTIFF,

CASE NO. 09-005190-CI-19

v.

KIMBERLY BOLIN
DEFENDANT. _____/

**DEFENDANT'S REQUEST FOR TAKING JUDICIAL NOTICE/OBJECTION TO
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT/
MOTION TO ABATE FORECLOSURE PROCEEDINGS**

COMES NOW, the Defendant KIMBERLY BOLIN, by and through undersigned counsel MATTHEW D. WEIDNER, and respectfully files this REQUEST FOR TAKING JUDICIAL NOTICE, OBJECTION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, and MOTION TO ABATE PROCEEDINGS, in the above-titled civil action, and as grounds therefore states:

1. During the Summary Judgment hearing held on August 17, 2010 in this matter your undersigned counsel asserted that disputed questions of material fact existed in this case which precluded the entry of Summary Judgment. Your undersigned further asserted that this court should be aware of investigations into the practices of the law firms that are responsible for pursuing the majority of foreclosure cases on this court's docket by the Florida Attorney General and that this court should be aware of allegations made against one of those firms in two separate lawsuits that are pending in Federal Court for the Southern District of Florida. Your undersigned respectfully asserts that the existence of these investigations and lawsuits creates serious issues of material fact that should preclude this court from proceeding in any case where the firms

identified herein have appeared. Moreover, your undersigned feels he has a specific duty, as a member of the Bar, to make sure this court is aware of these issues generally because they potentially impact a significant number of cases pending on this court's docket and specifically with regard to this case because the nature of the alleged violations calls into question the veracity of the affidavits upon which Plaintiff relies in support of summary judgment in this case. The question presented by this motion is whether the existence of formal investigations by this state's chief law enforcement officer regarding the authenticity and veracity of documents submitted in this case and others should cause this court to have second thoughts about proceeding with this case and all of the other thousands of cases that are currently pending before this court.

2. As this court is aware, judgments entered by any court which are the product of fraud are either void or voidable and the judgment may be attacked pursuant to Florida Rules of Civil Procedure, 1.540(b) for allegations of fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party for up to one year after entry of that judgment.

3. Moreover, judgments entered by this court when service of process is improper may be challenged as void at any point in time and there is no limitations period to challenge such judgments. Shurman v. Alt. Mortgage & Inv. Corp., 795 So. 2d 952 (Fla. 2001); Shepherd v. Deutsche Bank Trust Co. Ams., 922 So.2d 340 (Fla. 5th DCA 2006); see also Redfield Inv. A.V.V. v. Vill. Of Pinecreek, 990 So.2d 1135 (Fla. 3d DCA 2008) Batchin v. Barnett Bank of Sw. Fla., 647 So.2d 211 (Fla. 2nd DCA 1994). M.L. Builders, Inc. v. Reserve Developers, LLP, 769 So. 2d 1079 (Fla. 4th DCA 2000) (*citing* Ramagli Realty Co. v. Craver, 121 So.2d 648 (Fla. 1960)). Given the profound implications of judgments that are void based on improper service

and other issues, it is particularly important to note that the subpoenas issued to each of the three firms being investigated by the Florida Attorney General include request for documents related to Service of Process. While not specifically an issue in this case, your undersigned respectfully asserts that this court should examine the number of cases in the foreclosure docket for which service upon the defendants was purportedly obtained using constructive service. Your undersigned respectfully asserts that there is an unusually high number of instances where constructive service has been obtained when defendants could properly have been served via personal service.

4. Florida Stat. §90.202(12) provides as follows:

Facts that are not subject to dispute because they are capable of accurate and ready determination by resort to sources whose accuracy cannot be questioned.

5. Florida Stat. §90.203 provides as follows:

Compulsory judicial notice upon request.--A court shall take judicial notice of any matter in s. 90.202 when a party requests it and:

(1) Gives each adverse party timely written notice of the request, proof of which is filed with the court, to enable the adverse party to prepare to meet the request.

(2) Furnishes the court with sufficient information to enable it to take judicial notice of the matter. History.--s. 1, ch. 76-237; s. 1, ch. 77-77; s. 22, ch. 78-361; s. 1, ch. 78-379.

6. Accordingly, the Defendant gives notice of the following documents which are attached to this document and incorporated herein and respectfully request this Court take judicial notice of same:

- a. Press release on the investigations by the Florida Attorney General's Office of FLORIDA DEFAULT LAW GROUP, THE LAW OFFICES OF DAVID J. STERN, THE LAW OFFICES OF MARSHALL C.

WATSON, and THE LAW OFFICES OF SHAPIRO & FISHMAN.

(Exhibit A)

- b. Investigative Subpoena Duces Tecum issued by the Florida Attorney General's Office to THE LAW OFFICES OF DAVID J. STERN, THE LAW OFFICES OF MARSHALL C. WATSON, and THE LAW OFFICES OF SHAPIRO & FISHMAN. (Exhibit B)
- c. Class action lawsuit filed on behalf of defendants in foreclosure cases in the Federal Court, Southern District of Florida, FIGUERO V. LAW OFFICES OF DAVID STERN, ET. AL. (Exhibit C)
- d. Securities action lawsuit filed on behalf of purchasers of DJSP stock in the Federal Court, Southern District of Florida, COOPER V. DAVID J. STERN, ET. AL. (Exhibit D)

7. Upon information and belief, FLORIDA DEFAULT LAW GROUP, THE LAW OFFICES OF DAVID J. STERN, THE LAW OFFICES OF MARSHALL C. WATSON, and THE LAW OFFICES OF SHAPIRO & FISHMAN (hereinafter collectively "Plaintiff Law Firms") make up the majority of foreclosure cases presently before this Court.

8. The website of the Florida Attorney General reports that the Attorney General is investigating Florida Default Law Group PL for "fabricating and/or presenting false and misleading documents in foreclosure cases" (Exhibit A) and investigating The Law Offices of Marshall C. Watson, P.A.; Shapiro & Fishman, LLP; and the Law Offices of David J. Stern, P.A. for "allegations of unfair and deceptive actions", "fabricat[ing] documents" and "creat[ing] affiliated companies outside the United States where the allegedly false documents are being prepared" (Exhibit A)

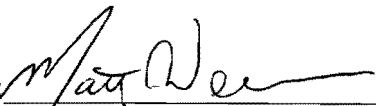
9. Your undersigned counsel respectfully asserts that should any of the allegations regarding fraud and impropriety which make up the heart of the investigations by the Florida Attorney General's Office be found true, it would be improper for this court or any other court in this state to continue the prosecution of these cases.

10. Moreover, undersigned counsel respectfully asserts that because the elements of the investigations by the Florida Attorney General's Office go to the heart of this lawsuit, namely whether the Plaintiff Law Firms have engaged in a systematic practice of fraudulently obtaining documents relating to mortgage foreclosures, it would be improper for this Court to proceed with the instant litigation during the pendency of the investigations by the Florida Attorney General's Office.

WHEREFORE, based upon the foregoing, the Defendant respectfully requests this Court take judicial notice of the attached documents, deny the Plaintiff's Motion for Summary Judgment, abate the instant litigation pending the outcome of the investigation by the Florida Attorney General's Office, and any other relief this Court deems just and proper.

CERTIFICATE OF SERVICE

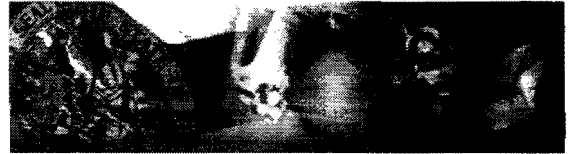
I hereby certify that a true and correct copy of the foregoing was mailed on this the 18th day of August, 2010 to ADAM HARDMAN, Florida Default Law Group, P.L., PO BOX 25018, Tampa FL 33622.

By: 
MATTHEW D. WEIDNER
Attorney for Defendants
1229 Central Avenue
St. Petersburg, FL 33705
(727) 894-3159
FBN: 0185957

skip to content

Today is August 18, 2010

Office of the
ATTORNEY GENERAL of FLORIDA
Bill McCollum



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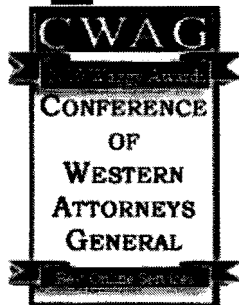
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Active Public Consumer-Related Investigation

The case file cited below relates to a civil – not a criminal – investigation. The existence of an investigation does not constitute proof of any violation of law.

Case Number: L10-3-1095

Subject of investigation: Florida Default Law Group, PL

Subject's address: 9119 Corporate Lake Drive, Suite 300, Tampa, Florida 33634

Subject's business: Law Firm, Foreclosures

Allegation or issue being investigated:
Appears to be fabricating and/or presenting false and misleading documents in foreclosure cases. These documents have been presented in court before judges as actual assignments of mortgages and have later been shown to be legally inadequate and/or insufficient. Presenting faulty bank paperwork due to the mortgage crisis and thousands of foreclosures per month. This firm is one of the largest foreclosure firms in the State. This firm appears to be one of Docx, LLC a/k/a Lender Processing Services' clients, who this office is also investigating.

AG unit handling case: Economic Crimes Division in Ft. Lauderdale, Florida

[View contact information for Ft. Lauderdale.](#)

EXHIBIT " A "

Attorney General Bill McCollum News Release

August 10, 2010

Media Contact: Sandi Copes

Phone: (850) 245-0150

Florida Law Firms Subpoenaed Over Foreclosure Filing Practices

TALLAHASSEE, FL – Attorney General Bill McCollum today announced his office has launched three new investigations into allegations of unfair and deceptive actions by Florida law firms handling foreclosure cases. The Attorney General’s Economic Crimes Division is investigating whether improper documentation may have been created and filed with Florida courts to speed up foreclosure processes, potentially without the knowledge or consent of the homeowners involved.

The new investigations name The Law Offices of Marshall C. Watson, P.A.; Shapiro & Fishman, LLP; and the Law Offices of David J. Stern, P.A. The law firms were hired by loan servicers to begin foreclosure proceedings when consumers were in arrears on their mortgages.

Because many mortgages have been bought and sold by different institutions multiple times, key paperwork involved in the process to obtain foreclosure judgments is often missing. On numerous occasions, allegedly fabricated documents have been presented to the courts in foreclosure actions to obtain final judgments against homeowners. Thousands of final judgments of foreclosure against Florida homeowners may have been the result of the allegedly improper actions of the law firms under investigation.

The Attorney General’s Office is also investigating whether the law firms have created affiliated companies outside the United States where the allegedly false documents are being prepared and then submitted to the law firms for use.

Subpoenas have been served on each of the law firms listed above, and the investigations are ongoing.