

**In the Supreme Court  
State of Florida**

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CASE NO. \_\_\_\_\_  
(Circuit Court Case No. 13-7075-CI-15)

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DIANE L. BENGIVENGO and DOMINIC A. BENGIVENGO,

Petitioners,

v.

FEDERAL NATIONAL MORTGAGE ASSOCIATION, et al.,

Respondents.

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**PETITION FOR WRIT OF PROHIBITION**

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## **INTRODUCTION**

There can be no dispute with the proposition that it is the highest duty and obligation of the Florida Supreme Court to protect the Constitutional rights of the citizens of this State. Clearly this obligation and duty exists no matter who the party is that is violating the Constitutional rights of citizens. But when it is the judicial system itself that is systematically violating the rights of citizens, it becomes all the more imperative that this Court takes seriously its duty both of self examination and its obligation to protect and enforce the Constitutional rights of citizens.

In this petition, Diane L. Bengivengo, individually and as trustee of the Augusta 2020 Land Trust, and Dominic Bengivengo (collectively “the Petitioners”) asks this high court to examine the clear and distinct Constitutional protections provided to the citizens of this state found in Art. V, § 8 of the Florida Constitution which provides explicit protections to the citizens of this state against the unfettered power of the judicial branch, specifying distinct qualifications on who may exercise the power of this state's judiciary. With the heading title, “Eligibility,” this section of Florida's Constitution makes clear that “No Person shall be eligible for office of justice or judge...” unless that person meets the specifically articulated provisions of this section. These clear restrictions are

modified with only one exception, namely the very narrow provision found in Art. V § 2(b) that allows “consenting retired justices or judges, to temporary duty in any court for which the judge is qualified....”

But despite the clear restrictions found in Florida's Constitution, for far too long the trial courts of this state have ignored the limitations placed on the judicial branch and are forcing the citizens to appear before retired judges who serve in a permanent capacity, in direct violation of the Art. V § 8, Fla. Const. This petition therefore asks this Court to carefully consider the eligibility requirements found in Art. V, § 8 and determine why this section exists. Why does Art. V, § 8 require judges to live in the “territorial jurisdiction of the court?” Why does the Florida Constitution prohibit judges from serving, “after attaining the age of seventy years?” Why are judges required to face electors in order to qualify for retention as articulated in Art. V, § 10(a)? And finally, why does the Florida Constitution provide distinct subject matter restrictions on the offices held by circuit and county court judges as found in Art. V, § 20?

The answer to those questions is undeniable: those restrictions are rights formally conferred upon the citizens of this state when the current version of Florida's Constitution was ratified on November 5, 1968. These limitations, particularly the retention provision, exist to protect citizens and to hold the

judiciary collectively and individually accountable to the citizens at whose pleasure they serve. The retention provision in particular exists so that citizens and the attorneys who represent them have a predictable and clearly defined mechanism for expressing concerns about the temperament, competency or bias of judges who express the full power of the judiciary.

Likewise, the residency provision ensures that judges remain responsive to the interests of the electors in whose communities they serve. But retired judges do not serve at the pleasure of citizens and they are not required to live in the communities in which they exercise their awesome and unfettered power of the judiciary; rather they serve at the pleasure of the Chief Justice of the Florida Supreme Court.

It is respectfully urged in this petition that Florida's Constitution contemplates that vast number of retired judges serving for unlimited periods of time in positions when they will never face electors is not at all contemplated by the "temporary duty" exception articulated in Florida's Constitution. When the clear and explicit prohibitions are memorialized in the most important legal document that exists in this State, every officer of the court and especially the judges of this high court have an obligation to protect and defend those rights by first examining the extended use of retired judges and then placing clear and

distinct limitations that comport with the "temporary" restriction. It should seem quite extraordinary to this court the fact that every single Supreme Court Justice and every single Appellate, Circuit and County court judge sitting on benches across the entire state appears before the public on ballots every six years but senior judges, who now serve in perpetual terms, are never presented to the general public. Surely this court must recognize that the Florida Constitution does not contemplate, and in fact it expressly forbids, the permanent maintenance of a corps of "super" senior judges, who sit entirely immune from the Constitutional restrictions that every other judge in this state complies with.

Nor are these concerns either theoretical or esoteric. Your undersigned was compelled to file this petition as a direct result of the long persisting concerns about treatment he has received, and the treatment he has seen other citizens receive while appearing consistently before senior judges over many years. As this Court must be aware, the vast majority of the foreclosure trials and summary judgment hearings that dispose of foreclosure cases have not been heard by the regular judges of the circuit. Those cases instead are being disposed of nearly entirely by a rotation of retired judges. As this Court should be aware and as will be detailed in this petition, for years now trial courts across the state have

transferred the majority of judicial labor devoted to foreclosure cases into the hands of retired judges.

And while there is no way to quantify the following statement, this Court needs to understand that in practice there is a qualitative difference in the experience of appearing before senior judges who have no election/retention concerns and the experience of appearing before those judges who will face electors in retention contests. As will be detailed below, part of the explanation for the transfer of these cases out of the hands of sitting judges and into the hands of retired judges is the result of meddling by Florida's Legislative. Indeed in 2013, the Legislature made a specific appropriation not to properly fund the judicial branch as a whole but rather made a specific appropriation which mandated that our courts use this money (in part) to fund, "additional senior judge days." Such legislative meddling into the function of the judicial branch without careful and public consideration of the Constitutional implications of this practice establishes a dangerous precedent of micro managing the affairs of the judicial branch which this court must carefully guard against.

In this petition, your undersigned asserts that the systematic and perpetual use of retired judges exceeds by any honest analysis the very limited exception in the Florida Constitution that allows retired judges to serve in "temporary duty."

This perpetual use of senior judges to dispose of an entire category of cases amounts to a statewide deprivation of the Constitutional rights of citizens to appear before judges that sit in conformity with the Florida Constitution, based entirely on the reliance of the "judicial wink" that Justice Lewis cautioned against more than a decade ago in *Physicians Healthcare Plans, Inc. v. Pfeifler*, 846 So. 2d 1129 (Fla. 2003).

It is respectfully suggested that this chronic reliance on retired judges to achieve mandates imposed by this Supreme Court is a symptom of the larger problem of a court system that is constitutionally under-funded and that if this Court considered this over reliance on retired judges in the context of the analysis of *Crist v. Ervin*, 56 So. 3d 745 (Fla. 2010), this Court would find that the judicial system in this state is in fact constitutionally underfunded.

Your undersigned respectfully asserts that this practice must come to an end. Specifically, the Petitioners seek prohibition relief from this Court because the Sixth Judicial Circuit ("the Sixth Circuit") has unconstitutionally assigned retired judges to permanent judicial duty in foreclosure cases through a series of administrative orders, in violation of the limitations expressed in Article V, §8 of the Florida Constitution. The issues presented in this petition are whether the Sixth

Circuit's current administrative order is unconstitutional and whether this Court should reexamine the parameters of senior judge assignments as a whole.

## STATEMENT OF JURISDICTION

This Court has exclusive jurisdiction to review judicial assignments. Art. V, § 2(a)-(b), Fla. Const; *Pfeifler*, 846 So. 2d at 1133. Where, as here, a litigant is affected by a judicial assignment made by a chief judge of a judicial circuit, the litigant must first challenge the assignment in the trial court and then seek review by this Court by way of a petition for writ of prohibition or a petition for relief under the Court's "all writs" power. *Wild v. Dozier*, 672 So. 2d 16, 18 (Fla. 1996). *See also* Art. V., § 3(b)(7), Fla. Const. (providing that this Court has jurisdiction to issue writs of prohibition and all writs necessary to the complete exercise of its jurisdiction).

## **NATURE OF THE RELIEF SOUGHT**

The Petitioners request that this Court issue a writ quashing the Sixth Circuit's standing, perpetual administrative order because it assigns senior judges to permanent duty and further prohibit senior judges from hearing or deciding their case because doing so eliminates Constitutional protections.

## STATEMENT OF THE CASE AND FACTS

### I. A Brief History of the Use of Senior Judges in the Sixth Circuit

On June 19, 2013 the Honorable J. Thomas McGrady, then-Chief Judge of the Sixth Circuit, rendered an administrative order titled *In Re: Mortgage Foreclosure Procedures Update*, AO2013-026 (6th Jud. Cir. June 19, 2013). This order “codifies practices on the use of senior judges for hearing certain mortgage foreclosure cases.” *Id.* at 1. These practices were further defined in the order as follows:

Due to the volume of residential mortgage foreclosure cases, the Court has been setting calendars before Senior Judges. Cases remain assigned to the judicial section but are calendared before Senior Judges. In general: case management conferences, motions for summary judgment, and non-jury trials in residential mortgage foreclosure cases are scheduled before a Senior Judge...on a calendar established at each courthouse location.

*Id.* at 6.

Judge McGrady’s order was subsequently rescinded and replaced twice (both times in 2015) but the use of senior judges in foreclosure cases remains. Indeed, the current version of this administrative order (signed by Judge Anthony Rondolino, the current Chief Judge of the Sixth Circuit) is nearly identical to Judge McGrady’s 2013 order and provides that summary judgment and non-jury trials are to be heard before senior and “volunteer” judges while “other” matters must be set

on “the assigned section judge’s calendar.”<sup>1</sup> Importantly, the current administrative order also provides that all pretrial non-evidentiary motions may be subject to review based solely on written submissions.<sup>2</sup> In fact, at least one circuit judge in the Sixth Circuit has expressly provided that pursuant to this language in the administrative order, the court will not set hearings on non-evidentiary motions.<sup>3</sup>

But the use of senior judges in foreclosure cases did not start with Judge McGrady’s administrative order in 2013. Indeed, the Petitioners’ lawyers have argued dispositive hearings before senior judges for at least five and a half years<sup>4</sup> (and have been asserting a series of challenges to the constitutionality of the over use of senior judges since that time). In fact, the result of one of these hearings led your undersigned’s first formal challenge to the constitutionality of the use of

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<sup>1</sup> *In Re: Mortgage Foreclosure Procedures Update – August 2015*, August 31, 2015 (App. 5).

<sup>2</sup> *Id.* (App. 5-6).

<sup>3</sup> Email from Carrie Krum, Judicial Assistant to the Honorable Bruce Boyer, to the Homeowners’ counsel, January 21, 2016 (App. 9-10).

<sup>4</sup> *See e.g.* Partial Transcript of Summary Judgment Hearing Before Senior Judge Marion Fleming, August 5, 2010 (App.11-20).

senior judge assignments in the Sixth Circuit in January 2011.<sup>5</sup> Your undersigned renewed this challenge in August 2014.<sup>6</sup>

Thus, and while this is the first time the Homeowners' lawyers have petitioned for relief from this Court, there is ample evidence proving that the use of senior judges in the Sixth Circuit is far from a temporary assignment. It should also be clear that your undersigned attorney has been worked persistently and diligently to tactfully assert these Constitutional concerns directly with the Sixth Circuit, but every attempt has been denied.

## **II. This Case**

The Petitioners' challenged the use of senior judges before the trial court in a written motion.<sup>7</sup> The trial court subsequently denied the motion.<sup>8</sup> This petition follows.

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<sup>5</sup> Defendant J. Thomas Wood's Motion to Prohibit Senior Judges from Hearing Case, January 18, 2011 (App.21-23).

<sup>6</sup> Defendants' Terezina Jaku and Kole Jaku's Motion to Prohibit Senior Judges from Hearing Case, August 18, 2014 (App. 24-28); Transcript of Hearing on Defendants' Motion Before Senior Judge Karl Grube and Judge Thomas Minkoff, August 21, 2014 (App. 29-45).

<sup>7</sup> Motion to Prohibit Senior Judges from Hearing Case, August 12, 2015 (App. 46-51).

<sup>8</sup> Order on Defendants' Motion to Prohibit Senior Judges From Hearing Case, September 21, 2015 (App. 52).

## **SUMMARY OF THE ARGUMENT**

There are three factors to be considered when deciding whether the administrative order creates a temporary or permanent assignment of senior judges. The first factor is the successive nature of the assignment. And since the administrative order simply seeks to continue a practice which has been in existence for over half a decade without any parameters as to when the practice should cease, the assignment cannot be considered the “antonym of permanent.”

Nor does the administrative order fit in with the second factor, or the type of case affected by the assignment. Indeed, the administrative order only affects foreclosure cases and there is no evidence that senior judges have been utilized on the same frequency in other divisions within the Sixth Circuit.

Finally, the administrative order effectively supplants jurisdiction over the foreclosure case from the circuit court judges and into the senior judges’ hands. Indeed, the order is clear that dispositive hearings (including summary judgments and nonjury trials) will be before senior judges while circuit judges have the option of disposing non-evidentiary, pre-trial motions through written memorandums. The practical effect of this, then, is to deprive the circuit court of jurisdiction over the case.

Therefore, the petition should be granted.

## ARGUMENT

### I. The Sixth Circuit has unconstitutionally created a permanent division of senior judges.

*The Sixth Circuit's administrative orders and court administration procedures enacted over the past half decade have created permanent senior judge assignments.*

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It is unquestionable that the Florida Constitution allows the Chief Justice of this Court the power to assign senior judges to active duty but with an important caveat: the assignment must be temporary. Art. V, § 2(b), Fla. Const. And while it is true that the Chief Justice may delegate this duty to the chief judge of a circuit, the assignments must, again, be temporary. *See* Fla. R. Jud. Admin. 2.215(b)(4) (“The chief judge may assign any judge to temporary service for which the judge is qualified in any court in the same circuit.”) (emphasis added).

And as this Court explained, temporary is simply the antonym of permanent

“Temporary” is an antonym for “permanent.” It is a comparative term. It can be said that if a duty is not permanent it is temporary. If a county judge is assigned to perform solely circuit court work, the assignment must be for a relatively short time for it to be temporary. If a county judge is assigned to spend a portion of his time performing circuit work, the assignment can be longer, but the assignment cannot usurp, supplant, or effectively deprive the circuit court jurisdiction of a particular type of case on a permanent basis.

*Crusoe v. Rowls*, 472 So. 2d 1163, 1165 (Fla. 1985) (emphasis added and citations omitted). Thus, a review of the case law creates a basic constitutional

framework to help define “temporary” within meaning of Art. V, § 2(b) and Rule 2.215(b)(4).

First, in *Crusoe*, this Court suggested that where a county judge is assigned solely to perform circuit work a sixty-day assignment was acceptable; whereas if the county judge is assigned to spend only a portion of her time performing circuit court work, a six-month assignment was also acceptable. *Id.* at 1165, nn. 2-3. Later in *Payret v. Adams*, 500 So. 2d 136 (Fla. 1986), this Court held that successive and repetitive assignments which might be valid if considered individually are not temporary where the practical effect is to create a *de facto* permanent circuit judge by administrative order. *Id.* at 138.

Even in cases where this Court held certain judicial assignments valid and “temporary” in nature, the Court has been exceedingly cautious to ensure that the assignments do not overstep constitutional boundaries. For instance, while the Court in *Wild v. Dozier*, 672 So. 2d 16 (Fla. 1996) ultimately ruled that a county judge may be assigned successively and repeatedly in six month assignments over several years to preside in circuit court over half of all felony cases in a county, the Court noted that it

[could not] ignore the fact that County Judge Balsiger has been assigned to hear the other half of felony cases in Indian River County. To permit this practice to continue would have the effect of

permanently usurping a major segment of circuit court work within the county.”

*Id.* at 20 (emphasis added). This Court therefore “direct[ed] the Chief Judge of Indian River County to make the appropriate judicial reassignments in order that county judges not be assigned to more than half of the felony cases within the county.” *Id.*

In *Pfeifler*, a case where this Court approved of successive senior judge assignments over complex litigation cases in Broward County, Justice Lewis provided that “the majority must engage in a ‘judicial wink’ as it considers the true definition of ‘temporary.’” *Id.* at 1140. Justice Lewis thus rejected the majority’s conclusion that the senior judge assignments in that case were temporary, reasoning “[i]n Broward County, senior judges have become a *de facto* permanent circuit division for the trial of complex civil cases not by the method authorized by the Florida Constitution, but by direction.” *Id.* at 1141.<sup>9</sup>

Here, too, the Sixth Circuit has created a *de facto* permanent division of senior judges not through a constitutionally approved method but through judicial fiat and court administration procedures. First, there can be no real argument that senior judges have been utilized by the Sixth Circuit for an extended period of

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<sup>9</sup> The constitutionally mandated process through which permanent divisions are authorized is through local rules that are ultimately approved by this Court. *In re Report of Commission on Family Courts*, 646 So. 2d 178, 181 (Fla. 1994)

time. Indeed, this petition alone establishes that senior judges have been hearing foreclosure cases for well over a half a decade.<sup>10</sup>

Nor is there any real argument that these assignments are expected to cease at anytime in the foreseeable future. Judge McGrady's administrative order, which merely "codified" the long-standing use of senior judges, was rendered two and a half years ago. And Judge Rondolino's administrative order makes no mention of when this practice is expected to end; rather it simply provides that "the Court will continue to set special foreclosure calendars to be heard by Senior Judges..."<sup>11</sup> A practice that began at least six years ago with no end in sight cannot, by definition, be considered antonym of permanent.

In addition to the successive nature of the assignment described above, two other factors must be considered when determining whether the assignment is temporary: 1) the type of case covered by the assignment; and 2) the practical effect on circuit court jurisdiction. *See Wild*, 672 So.2d at 19. As to the former, this Court in *Pfeifler* concluded that the senior judge assignments there were "compatible with the instructions and guidance of this Court" because the records

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<sup>10</sup> Partial Transcript of Summary Judgment Hearing Before Senior Judge Marion Fleming, August 5, 2010 (App. 11-21).

<sup>11</sup> *In Re: Mortgage Foreclosure Procedures Update – August 2015*, August 31, 2015 (App. 5).

submitted to the Court “reflect senior judge assignments in each division of the Seventeenth Judicial Circuit, and far more in the criminal division than in any other.” *Id.* at 1135. Here, however, there is no such record. In fact, the administrative order is clear that senior judges are assigned solely to foreclosure cases. There certainly is no indication that senior judges have been assigned to each division in the Sixth Circuit, and no evidence that senior judges have been assigned to the criminal division than in any other (including the foreclosure division).

But worse still is the effect of the Sixth Circuit’s administrative order on the jurisdiction of elected circuit court judges. Both administrative orders are clear that the type of “calendars” set before senior judges are summary judgment hearings and nonjury trials. In other words, senior judges will, by and large, be the judges that dispose the case. And since the current administrative order allows circuit judges to dispose non-evidentiary pretrial motions without a hearing,<sup>12</sup> it is not only possible but imminently probable that a foreclosure litigant will never see the circuit judge in charge of his case. Indeed, at least one circuit judge has

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<sup>12</sup> *In Re: Mortgage Foreclosure Procedures Update – August 2015*, August 31, 2015 (App. 5-6).

already announced that the court will not set hearings on non-evidentiary motions.<sup>13</sup>

The practical effect of this practice on circuit judge's jurisdiction over foreclosure cases is therefore self-evident. If senior judges are in charge of disposing cases while circuit judges are effectively restricted to deciding pretrial, non-evidentiary hearings on paper submissions by the parties, then the senior judge has usurped, supplanted, and effectively deprived the circuit judge of jurisdiction over the case and the assignment is therefore permanent.

***There is no corresponding emergency requiring the continued need for senior judges.***

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The tenor if not the precise language of the Sixth Circuit's administrative order is that the "foreclosure crisis" justifies the use of senior judges. Assuming that there ever was such a "crisis," it abated long ago.

Indeed, as this Court recently noted, foreclosure filings "appear to have stabilized and are even below pre-recession levels." *In re Certification of Need for Additional Judges*, 178 So. 3d 390, 392 (Fla. 2015). And without a corresponding emergency, "the only justification offered is the mantra of judicial efficiency, which, however noble, cannot create its own constitutional foundation that so

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<sup>13</sup> Email from Carrie Krum, Judicial Assistant to the Honorable Bruce Boyer, to the Homeowners' counsel, January 21, 2016 (App. 9-10).

clearly violates constitutional strictures.” *Pfeifler*, 846 So. 2d at 1141 (Wells, J. concurring and dissenting).

It is true that foreclosure litigation has raged for years in Florida and, as such, is a political hot button. *See Pino v. Bank of New York Mellon*, 57 So. 3d 950, 954 (Fla. 4th DCA 2011) (“...many, many mortgage foreclosures appear tainted with suspect documents.”); Memorandum No. 2012-AT-1803 of the Office of the Inspector General of the Department of Housing and Urban Development, September 28, 2012 (concluding that the five largest servicers had “flawed control environments” which permitted robo-signing, the filing of improper legal documents, and, in some cases, mathematical inaccuracies in the amounts of the borrowers’ indebtedness);<sup>14</sup> Press Release of the Department of Justice Financial Fraud Enforcement Task Force, March 12, 2012 and related court filings.<sup>15</sup>

The Sixth Circuit has apparently decided to take this political hot potato and place it in the lap of senior judges who are, of course, not subject to voter retention. But where does this practice of relegating politically charged cases to senior judges end? If the clerk of the court suddenly decides it will not issue marriage certificate to gay couples, does this “political crisis” require senior judges to step in? If the

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<sup>14</sup> Available at: [http://www.hudoig.gov/sites/default/files/Audit\\_Reports/2012-CH-1803.pdf](http://www.hudoig.gov/sites/default/files/Audit_Reports/2012-CH-1803.pdf)

<sup>15</sup> Available at: <http://www.nationalmortgagesettlement.com/>.

Executive decides that all Muslims are no longer Florida citizens, should they too be regulated to senior judge documents because of the vitriol currently circulating in this country?

The obvious answer to these questions is no. And this is why this Court should not permit the current senior judge regime in the Sixth Circuit to continue.

## **II. There has apparently been little formal examination of the use of senior judges conducted by this Court.**

In preparing this petition, your undersigned inquired of the Supreme Court regarding what records and formal documentation exists regarding the rise of this alternative class of judicial officers. The singular document pointed to was the Committee on The Appointment and Assignment of Senior Judges, Report and Recommendations, published by this Supreme Court on February 22, 2002.<sup>16</sup>

This report indicates that in 2002, the use of senior judges provides “the citizens of Florida with the equivalent of more than 35 full time judges.”<sup>17</sup> However, the latest roster of senior judges obtained shows an active list of more than 200 such judges presiding over cases in this State as of August 15, 2015,<sup>18</sup> an obviously dramatic increase in the sheer number of senior judges.

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<sup>16</sup> App. 53-70.

<sup>17</sup> App. 54.

<sup>18</sup> App. 71.

And with the exception of the section titled, “Authority for the Use of Senior Judges,”<sup>19</sup> there is little in depth consideration in the Committee’s 2002 report of when the permissible use of senior judges for temporary service becomes no longer temporary but permanent and thus unconstitutional, although there is one important recognition that demonstrates a key Constitutional concern:

**Accountability for senior judges rests ultimately with the chief justice rather than the voters of a particular circuit or district...**<sup>20</sup>

This distinction is critical because it recognizes that the Florida Constitution places accountability for judges formally in the hands of the citizens of this state. Fidelity to the Florida Constitution demands that this accountability remains with the citizens, absent the limited exception defined in the Constitution as “temporary” service. Put simply, if in fact this Report, issued in 2002, is the only formal and substantive examination of the expansive use of senior judges in this state, then it is time for an updated, formal and comprehensive review of this practice.

A significant increase in the use of senior judges occurred as a result of the Foreclosure Backlog Reduction Plan which diverted millions of specially appropriated dollars away from courts generally and instead directed those

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<sup>19</sup> App. 58.

<sup>20</sup> App. 68.

resources to foreclosure cases specifically. And while this plan provided great detail on funding issues related to paying for the use of senior judges, no consideration was given to examining Constitutional issues related to the implementation of this plan.<sup>21</sup>

Significantly, when the recommendations from this Plan were reduced to actual appropriations from the 2013 Legislative Session, a very significant amount of taxpayer dollars were diverted away from funding for the court system and from judges generally and diverted specifically to the use of senior judges:

Section 3. The nonrecurring sum of \$16 million is appropriated from the General Revenue Fund to the state courts system to provide supplemental resources, including, but not limited to, additional senior judge days and temporary case management staff in the trial courts to reduce the backlog of pending foreclosure cases.<sup>22</sup>

Again, there appears to be little or no consideration of the serious Constitutional issues involved in this significant, \$16 million appropriation. Therefore, in addition to or in the alternative of a writ quashing the Sixth Circuit's administrative order, this Court should order a review of senior judge use in the State.

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<sup>21</sup> *See also*, <http://www.flcourts.org/core/fileparse.php/251/urlt/RecommendationsForeclosureInitiativeWorkgroup.pdf>

<sup>22</sup> Available online at <http://laws.flrules.org/2013/106>.

It seems rather outrageous that an entire category of judges, which operate outside the restrictions imposed on every other state court judge in this state has grown and expanded when the only real examination or consideration of this class of judicial officers exists in what is frankly a fairly perfunctory 18 page report authored in 2002.

### **CONCLUSION**

The Court should issue a writ of prohibition quashing the Sixth Circuit's administrative order and prohibiting senior judges from hearing the Homeowners' case. Additionally or in the alternative, the Court should order a review senior judge use in the State.

Dated: March 4, 2016

**CERTIFICATE OF COMPLIANCE WITH FONT STANDARD**

Undersigned counsel hereby certifies that the foregoing Brief complies with Fla. R. App. P. 9.210 and has been typed in Times New Roman, 14 Point.

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## **CERTIFICATE OF SERVICE AND FILING**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served this March 4, 2016 to all parties on the attached service list. Service was by email to all parties not exempt from Rule 2.516 Fla. R. Jud. Admin. at the indicated email address on the service list, and by U.S. Mail to any other parties. I also certify that this petition has been electronically filed this March 4, 2016.

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