

December 12, 2011

The Honorable Amy Williams
545 1st Ave. N.
Saint Petersburg, Florida 337013717

RE: *BankUnited, Assignee of the FDIC, As Receiver for BankUnited, FSB v. Andrews*
Pinellas County Case No.: 09-20957-CI-19

Judge Williams:

Enclosed please find my client's Emergency Objection to Return of Original Documents. In the grand scheme of foreclosure defense, this may not seem like an "emergency," but, respectfully, I'm concerned.

I often see, when foreclosure cases are resolved, that the banks nonetheless request, typically on an *ex parte* basis, that the original Note/Mortgage be returned to it. If a lawsuit is resolved via a loan modification, I suppose I can understand this, as the homeowner remains indebted under the terms of those documents. However, in a situation such as the present case, where the lawsuit was resolved via a short sale, I don't understand why the bank needs the original documents to be returned to it. The property has been sold and my client's liability has been extinguished. Frankly, my concern is that the Court is directing that original, promissory Notes be released into the stream of commerce (not just in this case, but on a widespread, systematic basis), when there is no money owed under those Notes and the debt has been settled and/or paid in full. Respectfully, I trust Your Honor realizes the potential pitfalls with Notes such as this being released into the stream of commerce when no money is owed, particularly on an *ex parte* basis.

As the enclosed Objection reflects, my client is requesting, at minimum, that the bank be forced to explain, at a duly-noticed hearing, why these documents should be returned to it. Also, while I am only addressing this case, I hope you can see my concern about these types of Orders being entered on a widespread basis, *ex parte*, when liability under the Note has been extinguished.

Unfortunately, the Court has already entered an Order, without a hearing and before my client could respond. Hence, I am enclosing herewith an Order vacating that Order, directing Plaintiff to set a hearing on its request that these original documents be returned to it.

TAMPA 2202 N. Westshore Blvd. Suite 200 Tampa, FL 33607	ORLANDO 1800 Pembroke Ave. Suite 300 Orlando, FL 32810	JACKSONVILLE 10151 Deerwood Park Blvd. Building 200, Suite 25 Jacksonville, FL 32256	FORT LAUDERDALE 1560 Sawgrass Corporate Pkwy 4 th Floor Sawgrass, FL 33323
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Thank you for your attention to this matter.

Sincerely,
STOPA LAW FIRM

Mark P. Stopa, Esq.

Enclosures

cc: Van Ness Law Firm

TAMPA
2202 N. Westshore Blvd.
Suite 200
Tampa, FL 33607

ORLANDO
1800 Pembroke Ave.
Suite 300
Orlando, FL 32810

JACKSONVILLE
10151 Deerwood Park Blvd.
Building 200, Suite 25
Jacksonville, FL 32256

FORT LAUDERDALE
1560 Sawgrass Corporate Pkwy
4th Floor
Sawgrass, FL 33323

Telephone: (727) 851-9551