

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
VOLUSIA COUNTY, FLORIDA

CASE NO.: 2010-14157-CIDL
DIVISION: 02

WELLS FARGO BANK, N.A.,

Plaintiff,

vs.

RONALD FIGUEROA, ET AL,

Defendants.

**ORDER DENYING RENEWED, EMERGENCY MOTION TO CONTINUE
HEARING OR APPEAR TELEPHONICALLY**

THIS MATTER came to be heard on the motion of Defendants to continue hearing, or, alternatively, to appear telephonically at the docket sounding and case management conference scheduled for December 6, 2013, at 10:00 am, in Courtroom #4A, Volusia County Courthouse, DeLand, Florida. The court has considered the motion, and finds, concludes, and adjudges as follows:

1. The trial courts of Florida, including this court, are obliged to make reasonable efforts to see that pending cases are resolved with reasonable dispatch. Florida courts are responsible for managing their dockets. There are, at present, in excess of three thousand cases pending in the division to which the undersigned judge is presently assigned, including more than two thousand mortgage foreclosure actions. Some two thousand mortgage foreclosure actions were filed and assigned to this division in the calendar year 2012 alone.

2. This action seeks foreclosure of a mortgage. It was filed in the year 2010. On November 18, 2013, this court served notice of a docket sounding and case management

conference to be conducted on December 6, and mandated the personal appearance of all counsel and unrepresented parties.

3. On December 2, at 4:30 pm, this court first received notification, by way of an electronically filed motion, that Defendants requested a continuance of the scheduled hearing, or leave to appear telephonically. The sole ground stated was that the office of Defendants' counsel was to be closed on December 6 for an office Christmas party. This court's judicial assistant spoke by telephone with an employee at the offices of Defendants' counsel on December 3, and advised that the motion was denied, and the proceeding remained scheduled as ordered.

4. On December 4, at 9:24, this court received, by fax transmission, the "Renewed, Emergency Motion To Continue Hearing Or Appear Telephonically" filed by Defendants' lawyer. This motion complains that the case management hearing and docket sounding was scheduled "unilaterally" by the court, and further complains that the Defendants and their lawyers "should not be made to be at the beck and call of this Court, attending hearings in person whenever convenient for the Court," and without previous consultation and "input" from the lawyers as to the date. The motion asserts that it is "patently unfair" to require a lawyer to miss a pre-planned Christmas party. Finally, the motion asserted a right to attend the hearing via telephone, and threatened immediate appeal.

5. The hearing is scheduled for a courtroom, and numerous cases are to be case-managed and set for trial at the same time as this action. The hearing is expected to last for more than fifteen minutes. The court has observed that a salutary benefit of having the lawyers and unrepresented parties attend such hearings is the communication and negotiation that occurs, which sometimes facilitates simplification of the issues and resolution. At the hearing, the court attempts to accommodate, to the extent possible, the parties and lawyers and anticipated witnesses, to attempt to ensure fair trials and reduce hardship and inconvenience. This court has determined that attendance by telephone would not be practicable under such circumstances, and concludes that under all of these circumstances, good cause exists to deny participation by telephone. See Rule 2.530, Fla. R. Jud. Admin.

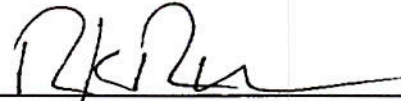
6. This court is not aware of any rule of procedure or appellate decision mandating that trial courts confer with, or seek the "input" of, lawyers or parties before scheduling court hearings, including docket soundings and case management hearings, and the instant motion cites no authority for such proposition.

7. The court empathizes with counsel's angst over the prospect of missing a long-planned office party. Unfortunately, appearing in cases pending in courts which are distant from one's office, and fulfilling responsibilities resulting from that representation, may sometimes require immense personal sacrifice. The court will trust that there will be no long-term emotional damage.

Whereupon,

IT IS ADJUDGED that the Defendants' motion to continue the case management conference and docket sounding scheduled for December 6, 2013, is DENIED.

DONE AND ORDERED in Chambers at DeLand, Volusia County, Florida, this 4th day of December, 2013.



ROBERT K. ROUSE, JR.
CIRCUIT JUDGE

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