

JUDICIAL INTERN: ELEVENTH JUDICIAL CIRCUIT, CIVIL DIVISION

PICS Internship 2020
Kate Liu



01.

Introduction

Motivation and expectations when starting this internship

02.

Observing Hearings/Trials

Participating in countless hearings, non-jury trials, and even one hybrid jury trial

03.

Research and Assignments

Analyzing motions and researching case laws to write legal memorandum

04.

Beyond the Internship

How this summer internship has shaped my personal, academic, and professional trajectory



INTRODUCTION

Motivations and Expectations
When Beginning the Internship

WHY I APPLIED TO THE ELEVENTH JUDICIAL CIRCUIT



Academic Interests

- Concentrating in Political Philosophy with Certificate in Values & Public Life
- Intersection of the law, philosophy, and our surrounding community
- Interest in questions of judicial philosophy, judicial activism, and philosophy of punishment



Career Interests

- Extracurricular experience as an attorney on Princeton Mock Trial
- Aspirations to attend law school
- Hoping to gain more first-hand experience with the legal system and learn more about the Courts



I believe that the judicial system is essential
to upholding our moral and legal duties to
each other as members of the same
community

Observing Hearings & Trials



TRANSITIONING TO A REMOTE FORMAT



March

Eleventh Judicial Court transitions to be entirely remote, using the Zoom platform for hearings and non-jury trials

April

Decision made to make all PICS internships remote

June

Began my remote internship with the Eleventh Judicial Circuit

OBSERVING HEARINGS

- Observed hearings everyday through Zoom (hundreds during the course of my internship)
- Case Management Conferences, Motion Calendars, Special Sets, Calendar Calls, etc.
- Motion for Summary Judgment, Motion to Dismiss, Motion to Amend, Motion for Sanctions, Motion to DQ
- Insurance, Slip and Falls, Negligence, Foreclosures, Fraud

OBSERVING NON-JURY TRIALS

- Would span hours and sometimes days
- Foreclosure Case
- Void Deed and Quiet Title
- Multiple witnesses on both sides

LEARNING FROM OBSERVATION



LEGAL CONCEPTS AND TERMINOLOGY

Learned about the Judicial System as a whole:

- Hearings vs. Trials
- Legal Fees
- Appeal Process and Court System

Some Terminology as well:

- Motions ● ● ● ● ○ ○
- Legal Research ● ● ● ○ ○ ○

ACADEMIC AND PHILOSOPHICAL INTERESTS

Conversations with Judge Fine after hearings and trials:

- Election of Judges
- Sentencing Guidelines
- Equity and Fairness in the Judicial System

RESEARCH & MEMOS



WEEKLY LEGAL MEMORANDA PREPARATION



READING

To prepare for a hearing, I would start by reading every relevant document in the docket, including motions, responses, and legal memoranda



RESEARCHING

Then, I would research relevant case law, Statutes, Executive Orders, and Rules of Evidence on Westlaw and other sites

THE RESEARCH PROCESS

MIAMI-DADE COUNTY CLERK OF THE COURTS
HARVEY RUVIN

Contact Us My Account

CIVIL, FAMILY AND PROBATE COURTS ONLINE SYSTEM

▲ PARTY NAME ▣ LOCAL CASE NUMBER ▣ STATE CASE NUMBER 🔍 HEARING

Local Case Number

2019 030406 CA - Circuit Civil 01

What Code is in the image

6NSWGU 6NSWGU

Avoid Captcha by Registering and/or Logging In

SEARCH RESET

Please be advised:
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BRICKELL EAST CONDOMINIUM ASSOCIATION, INC. VS AMERICAN COASTAL INSURANCE COMPANY					
Local Case Number:	2019-030406-CA-01	Filing Date:	10/14/2019		
State Case Number:	132019CA030406000001	Judicial Section:	CA02		
Consolidated Case No.:	N/A	Case Type:	Insurance Claim		
Case Status:	OPEN				
Parties	Total Of Parties: 2 +				
Hearing Details	Total Of Hearings: 4 +				
Dockets	Total Of Dockets: 52 -				
EXPORT TO CSV					
Number	Date	Book/Page	Docket Entry	Event Type	Comments
	09/10/2020		Motion Calendar	Hearing	DEFENDANT'S SECOND AMENDED MOTION TO STRIKE FROM PLAINTIFF'S AMENDED COMPLAINT PARAGRAPHS 14 AND 24 [DEFENDANT'S AMENDED MOTION TO DISMISS COUNT II OF PLAINTIFF'S AMENDED COMPLAINT/PETITION FOR DECLARATORY JUDGMENT
47	09/03/2020		Response:	Event	IN OPPOSITION TO DEF'S SECOND AMENDED MOTION TO STRIKE FROM PLTF'S COMPLAINT PARAGRAPHS 14 AND 24
46	09/03/2020		Response:	Event	IN OPPOSITION TO DEF'S AMENDED MOTION TO DISMISS COUNT II OF COMPLAINT/PETITION FOR DECLARATORY JUDGMENT
45	08/17/2020		Reply to Affirmative Defenses	Event	
44	08/09/2020		Order Extending Time for	Event	PLAINTIFF TO FILE IT'S RESPONSE TO DEFENDANT'S AMENDED AFFIRMATIVE DEFENSES IS HEREBY GRANTED,

Above are two screenshots of the Miami-Dade County Clerk website, which is where I would access the docket of materials to review for each hearing or trial. This information is accessible to the public for most cases

THE RESEARCH CONTINUED...

The screenshot shows the Westlaw interface with a search for "quit claim deed". The left sidebar lists various categories: Overview (8), Cases (760), Statutes & Court Rules (74), Regulations (48), Administrative Decisions & Guidance (0), Secondary Sources (258), Briefs (245), Proposed & Enacted Legislation (3), Proposed & Adopted Regulations (84), and All results (1,492). The main content area displays an "Overview (8)" section with a search filter set to "FL (State & Fed.)". Under the "Cases" section, two results are visible: "Florida East Coast Ry. Co. v. Patterson" (District Court of Appeal of Florida, Third District, February 04, 1992) and "In re Rosin" (United States Bankruptcy Court, M.D. Florida, Tampa Division, June 04, 1998). The text of the first case snippet reads: "Following conveyance of quitclaim deed by grantor who held easement containing possibility of reverter, grantee brought action against holder of possibility of reverter to quiet title, and holder counterclaimed for ejectment. Holder subsequently filed third-party complaint against grantor for breach of contract and slander of title and..."

The email is from Westlaw@westlaw.com, dated Tuesday, Jul 7, 10:50 PM. The recipient is Alan Fine, Alan, Kate Liu. The subject is "McCray v. Murray". The body of the email states: "Alan Fine sent you content from Westlaw. Please see the attached file." Below this, the case details are listed: "item: McCray v. Murray", "Citation: 423 So.2d 559", "Sent On: Tuesday, July 7, 2020", "Sent By: Alan Fine", and "Client ID: RESEARCH". The email also includes the name "Morales v. Espinosa" and a footer: "Westlaw © 2020 Thomson Reuters. No claim to original U.S. Government Works." An attachment named "McCray v Murray.rtf" (55.38 KB) is listed at the bottom.

In addition to reading through the Complaint, orders, motions, responses, and relevant memoranda of law, I would also conduct my own research on Westlaw. Above is a screenshot of a Westlaw page as well as a Westlaw email Judge Fine sent me to help with researching a particular case.

MY LEGAL MEMORANDA

MEMORANDUM

TO: JUDGE ALAN FINE
FROM: KATE LIU
DATE: JULY 5, 2020
RE: BANK OF NEW YORK MELLON VS BENITEZ, VALENTIN (JR), CASE NO.: 2011-032828-CA-01

Issues

- I. Is the Plaintiff, Bank of New York Mellon ("Plaintiff") entitled to a Partial Summary Judgment on the issue of standing to enforce the Note and Mortgage?
- II. Is Plaintiff entitled to a Partial Summary Judgment on the issue of conditions precedent?

Short Answer

- I. Yes, Plaintiff is entitled to a Partial Summary Judgment on the issue of standing to enforce the Note and Mortgage. Plaintiff has fulfilled the initial burden of establishing possession of the original note at the time of filing the Complaint. Defendant's claim that the Note is a non-negotiable instrument is without merit, as the court has continuously affirmed that such notes are negotiable instruments. Additionally, since the Note was filed *with* the complaint, any prior chain of transfers or assignment of mortgage cannot create an issue of genuine material fact. Thus, Defendant's claim regarding an invalid assignment of mortgage or credible transfer is irrelevant to the issue of standing.
- II. Yes, Plaintiff is entitled to a Partial Summary Judgment on the issue of conditions precedent. Plaintiff has shown proof of mailing the demand letter, and Defendant has failed to raise any allegation that Plaintiff failed to mail the demand letter. Furthermore, there is no evidence that the defective notice prejudiced the Defendant; as such, the breach of a condition precedent does not constitute the enforcement of an otherwise valid contract.

Facts

1. On or about October 11, 2006, Defendant Valentin and Elaine Benitez (the "Defendant") executed and delivered a Promissory Note securing payment to the payee named thereon. A copy of the Promissory Note was attached to Plaintiff's complaint that was filed on or about October 11, 2011.
2. On or about October 11, 2006, Defendant executed and delivered a Mortgage securing payment to the payee named thereon. A copy of the Mortgage was attached to Plaintiff's complaint that was filed on or about October 11, 2011.

3. Defendant subsequently defaulted on the mortgage.
4. The copy of the Note attached to the complaint ends in a blank endorsement and Plaintiff will be presenting the original Note in the same condition at the judgment hearing.

Discussion

Issue I: Plaintiff's Standing to Enforce Note

Plaintiff argues that Defendant's first affirmative defense on standing is fatally defective or has been shown to be rebutted and/or without merit. Defendant's first affirmative defense "alleges Plaintiff does not have standing to pursue the claims alleged in its Complaint. Plaintiff did not have the right to enforce the note at issue on the date it filed this foreclosure."

As the moving party in the Motion for Partial Summary Judgment, Plaintiff must present evidence to establish standing. Because a foreclosure case is an action to enforce a negotiable instrument, standing is not based upon ownership of the note; it is based on whether the plaintiff is a "person entitled to enforce." § 673.3011. The most common reason for an entity to qualify as a "person entitled to enforce" is that the entity is "the holder of the instrument." Id. A "holder" is someone who is "in possession of a negotiable instrument that is payable either to bearer or to an identified person that is the person in possession" § 671.201(21)(a), Fla. Stat. (2008).

In *U.S. Bank Nat Ass'n v. Knight*, the Court maintained that "to have standing, an owner or holder of a note, indorsed in blank, need only show that he possessed the note at the institution of a foreclosure suit; the mortgage necessarily and equitably follows the note." *U.S. Bank Nat. Ass'n v. Knight*, 90 So.3d 824 (2012).

In this action, Plaintiff attached a copy of the blank endorsed note to the Complaint and submits at the partial summary judgment hearing the original blank endorsed note in the same condition. Plaintiff is in physical possession of the original note, indorsed in blank. Plaintiff has thus provided evidence that it held the note and mortgage in question at the time it filed the foreclosure complaint, sufficiently establishing standing to enforce the Note.

As Plaintiff has presented evidence establishing standing to enforce, the burden shifts to Defendant to produce a genuine issue of material fact. The summary judgment standard maintains that "if the moving party presents evidence to support the claimed non-existence of a material issue, he will be entitled to a summary judgment unless the opposing party comes forward with some evidence which will change the result—that is, evidence sufficient to generate an issue on a material fact." *Harvey Bldg., Inc. v. Haley*, 175 So.2d780 (Fla. 1965).

Negotiability of the Note

Defendant first alleges that since the Note is not a negotiable instrument, Plaintiff cannot claim to be a holder of the Note. Defendant claims that "the promissory note at issue is not a

After reading all the relevant material on the docket and conducting the necessary research, I would draft a legal memorandum on the issue at hand (around 5 pages) to send to Judge Fine that included a recommendation of how the Court ought to rule.



BEYOND THE INTERNSHIP

AN EYE-OPENING OPPORTUNITY

- Shaped my personal, academic, and career goals
- Learned so much about our Judicial and Legal System
- Explored issues that definitely shaped how I understand systematic change
- More excited than ever to work in the legal field and the public sector!



THANK YOU!

A special thank you to Judge Fine for his endless support, advice, and mentorship throughout this internship and the PICS program for supporting this amazing opportunity

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