

**FORECLOSURES** Attorney says he's still waiting for apology

# CIRCUIT JUDGE REVERSES ORDERS AGAINST ICE FIRM

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A Palm Beach Circuit Judge has overruled fellow Circuit Judge Meenu Sasser and vacated orders accusing foreclosure defense firm Ice Legal of filing "fraudulent" motions.

Judge John Hoy reversed Sasser's orders directing the Royal Palm Beach firm to withdraw motions in three foreclosure cases because she considered them to be fraudulent.

In the motions, Ice Legal lawyers asked Sasser to force lenders to provide documents related to disputed mortgages. Sasser said the Ice motions were improper because the lenders in the three cases had already asked for more time to respond to Ice's request for documentation.

Ice, who claimed Sasser showed hostility toward his firm, said he's happy Hoy's order removed "this cloud of impropriety that was unfairly placed over the firm."

But Ice said he still wants an apology from Sasser because her accusations hurt his firm's reputation. He didn't get much help from Hoy on that issue. "Well, you go talk to her or you can talk to the [Judicial Qualifications Commission]," Hoy said, when an Ice Legal attorney requested the apology at a Nov. 9 rehearing of the cases. "Don't talk to me."

Sasser did not return calls or respond to an e-mail seeking com-



MELANIE BELL

**Thomas Ice, of the foreclosure defense firm Ice Legal, has long held that Circuit Judge Meenu Sasser showed hostility against him in the courtroom.**

ment.

Sasser made her accusations against the firm in July after an Ice Legal attorney filed a motion seeking a judicial order to compel a lender to produce documents in a foreclosure case.

Ice claims the firm filed the motion in error. It later found out the lender had already filed a motion seeking more time to respond to a document request. Ice said the firm withdrew its request for the order against the lender when the error was discovered.

Despite the withdrawal, Sasser held a hearing on the Ice motion seeking the documents. She said

the motion "was drawn fraudulently, because there is a motion for extension of time that was filed," by the lender, according to hearing transcripts.

Sasser also said during the hearing that Ice Legal attorneys had filed similar "fraudulent" motions in five other cases.

Although those cases, which she did not identify at the time, were not scheduled for hearing, Sasser ordered the firm to withdraw the motions by the end of the day because they were filed with "fraudulent representation to the court."

At the end of the hearing, Sasser's  
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bailiff gave Ice Legal attorney Dustin Zacks copies of three, not five, cases.

Immediately after, Zacks filed a motion for reconsideration of the three cases. Sasser agreed to a rehearing and scheduled it for a few weeks later. According to Ice, Sasser's judicial assistant later said the hearing had been canceled. Subsequent efforts to reschedule were unsuccessful. More than a month later, the firm was notified that Hoy had scheduled the hearing for Nov. 9.

After Hoy withdrew Sasser's orders, Zacks insisted that "Judge Sasser issue a public retraction of the accusations leveled against [the firm's] attorneys and an apology on the record."

"There is nothing I can do," Hoy said.

Ice said "the firm is certainly entitled to an apology, but even if we had a means of forcibly extracting one, it would, of course, have little meaning if it weren't voluntary."

## SASSER BACKED BANK

Two weeks ago, the 4th District Court of Appeal reversed another order by Sasser against Ice's firm.

In that case, she had rejected a request to have Chase Bank pay a homeowner's legal fees in a foreclosure case that was dismissed due to misconduct by the lender, according to the 4th DCA opinion.

The court ruled that Chase violated legal procedures when it sent an unspecified letter directly to the homeowner, rather than his lawyer. The case was dismissed without prejudice as a sanction to the lender.

In foreclosure cases, the winning party

## AT A GLANCE

- Thomas Ice has filed more than 100 motions to disqualify Sasser from his firm's cases. He claimed she favored attorneys for lenders. All but one were denied.
- He appealed nine of those cases to the 4th District Court of Appeal, which ruled Sasser had done nothing wrong.
- Last month, the 4th DCA reversed a January decision in which Sasser agreed that Chase Bank did not have to pay a homeowner's legal costs.
- On Nov. 1, Sasser was permanently switched to the civil division.

can demand the opposition pay its legal fees. But Sasser agreed with Chase that an order of dismissal without prejudice was not a judgment. Chase had the right to file another suit, meaning there was no winner or loser in the case, Chase said.

The 4th DCA ruled the lender's argument was "totally without merit."

In the January hearing, Ice attorney Christopher Immel struggled to convince Sasser that his client deserved compensation for legal fees, according to transcripts.

"Just because they can refile a case doesn't mean that we didn't prevail in this particular case," Immel told Sasser. "This case is over. We had to litigate the case. We ended up getting it dismissed. They didn't get the affirmative relief they were seeking. Therefore, we're the prevailing party. The case is over so ... it amounts to a judgment."

The judge insisted Immel show her a "final judgment."

"I'm giving you the court file. Show me the judgment in this case," she said.

"The order amounts to a judgment, is what we're saying, your honor," Immel replied.

"And what's your basis for that?" she asked.

Immel continued to press his argument. The lengthy exchange finally ended with Sasser denying his request. The firm appealed.

"Although the dismissal order was not an adjudication on the merits, the [homeowner] can nonetheless be considered the prevailing party," the 4th DCA opinion said. "They are entitled to an award of attorney's fees because the action against them was dismissed."

## BIAS CLAIM

Sasser was appointed by Gov. Charlie Crist in April 2009 and assigned to be the sole foreclosure judge in Palm Beach Circuit Court. She oversaw more than 55,000 foreclosure cases.

Ice has long claimed Sasser is biased against his firm and favors attorneys representing lenders.

The firm filed more than 100 motions to disqualify her from dozens of its cases. Sasser denied all but one of those motions.

Ice appealed nine to the 4th DCA and all were denied. The court said in an August opinion that Ice Legal's attempts to have Sasser removed from its cases "appear designed, not to ensure that the proceedings against their clients are pre-

sided over by a neutral and fair tribunal, but to achieve a strategic advantage and/or frustrate the efficient function of the foreclosure division."

In August, senior judges who were paid on a per diem basis, relieved Sasser of much of her foreclosure workload.

The hiring of the senior judges on a temporary basis came after Florida lawmakers approved \$9.6 million to help cut the backlog of foreclosure cases. In November, Sasser was transferred from the foreclosure division to civil cases.

Ice Legal is one of several South Florida law firms that have deposed so-called "robo-signers," people who work for lender law firms who have admitted signing foreclosure documents without verifying the accuracy of the information in thousands of cases.

The news that lenders were using improper documentation and procedures to fast-track foreclosure of homes have triggered investigations of foreclosure law firms and lenders by attorneys general in all 50 states.

Foreclosure defense attorneys have been strong critics of South Florida foreclosure judges. They claim the judges operate "rocket dockets," pushing through cases while ignoring the rights of homeowners.

Ice and other foreclosure defense attorneys say the national disclosures have made judges more aware of potential fraud and abuse.

"It has awakened many of the judges," he said.

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