THIRD DISTRICT COURT OF APPEAL OF FLORIDA

Marta A. Marcano v. JPMorgan Chase Bank, National Association

Marcano · No. 3D24-1505 · Decided March 26, 2025

SUMMARY

The Third District Court of Appeal of Florida affirmed the circuit court's judgment in favor of JPMorgan Chase Bank. The court addressed the requirements for establishing a business-record foundation through a record custodian and recognized that subsequent mortgage-payment defaults may create a new foreclosure cause of action after dismissal of an earlier foreclosure action.

CASE DETAILS

COURT	Third District Court of Appeal of Florida
WRITING FOR THE COURT	Lindsey; Miller; Bokor
JURISDICTION	Third District Court of Appeal of Florida
DECIDED	March 26, 2025
DOCKET	3D24-1505
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a final judgment of the Circuit Court for Miami-Dade County in a foreclosure matter.
PRECEDENTIAL VALUE	published
PARTIES	Marta A. Marcano v. JPMorgan Chase Bank, National Association

TOPICS

foreclosure · evidence · civil procedure · appellate procedure

PRACTICE AREAS

civil procedure · evidence · foreclosure · real estate

QUESTIONS PRESENTED

1. Whether the business-record foundation was adequately established through the testimony of a record custodian who did not personally prepare the document.
2. Whether subsequent mortgage-payment defaults following dismissal of an earlier foreclosure action constituted a new cause of action.

HOLDINGS

1. A record custodian who testifies under oath need not be the person who prepared the document, but must demonstrate knowledge of each requirement necessary to establish the business-record foundation.
2. Each subsequent default accruing after dismissal of an earlier foreclosure action creates a new cause of action, regardless of whether the earlier dismissal was with or without prejudice, and a mortgagee may assert a cause of action based on subsequent failed payments.

KEY QUOTATIONS

> *“It is well-settled that a record custodian who has been called to testify under oath need not be the actual person who prepared the document, but he or she must demonstrate knowledge of each requirement for establishing the business record foundation.”* (2)

> *“each subsequent default accruing after the dismissal of an earlier foreclosure action creates a new cause of action, regardless of whether that dismissal was entered with or without prejudice”* (2)

FACTUAL BACKGROUND

The opinion provides no detailed factual narrative. The cited issues concern whether a record custodian established the business-record foundation while testifying under oath and whether subsequent defaults after dismissal of an earlier foreclosure action supported a new foreclosure cause of action.

PROCEDURAL HISTORY

Marcano appealed a ruling of the Circuit Court for Miami-Dade County. The Third District Court of Appeal affirmed without further explanation, citing Florida decisions concerning the foundation for business records and causes of action based on subsequent mortgage-payment defaults.

DISPOSITION

affirmed

CASES CITED

- Azran Miami 2 LLC v. Deutsche Bank Nat’l Tr. Co., 282 So. 3d 924, 927 (Fla. 3d DCA 2019)
- Bank of N.Y. v. Calloway, 157 So. 3d 1064, 1073 (Fla. 4th DCA 2015)
- Nationstar Mortg. LLC v. LHF Hudson, LLC, 271 So. 3d 1073, 1075, 1077 (Fla. 3d DCA 2019)

OPINION

Marta A. Marcano v. JPMorgan Chase Bank, National Association
PER CURIAM.
Third District Court of Appeal State of Florida Opinion filed March 26, 2025. Not final until disposition of timely filed motion for rehearing. ________________ No. 3D24-1505 Lower Tribunal No. 17-3201-CA-01 ________________ Marta A. Marcano, Appellant, vs. JPMorgan

Chase Bank, National Association, Appellee. An Appeal from the Circuit Court for Miami-Dade County, Charles Kenneth Johnson, Judge. The Law Office of Niles B. Whitten, PLLC, and Niles B. Whitten (Gainesville), for appellant. McCalla Raymer Liebert Pierce, LLC, and Charles P. Gufford (Orlando), for appellee. Before LINDSEY, MILLER and BOKOR, JJ. PER CURIAM. Affirmed. See Azran Miami 2 LLC v. Deutsche Bank Nat'l Tr. Co., 282 So. 3d 924, 927 (Fla. 3d DCA 2019) ("It is well-settled that a record custodian who has been called to testify under oath need not be the actual person who prepared the document, but he or she must demonstrate knowledge of each requirement for establishing the business record foundation." (citing Bank of N.Y. v. Calloway, 157 So. 3d 1064, 1073 (Fla. 4th DCA 2015))); see also Nationstar Mortg. LLC v. LHF Hudson, LLC, 271 So. 3d 1073, 1075, 1077 (Fla. 3d DCA 2019) (explaining that "each subsequent default accruing after the dismissal of an earlier foreclosure action creates a new cause of action, regardless of whether that dismissal was entered with or without prejudice," and specifically noting the mortgagee's right to assert a cause of action from "all subsequent [failed] payments" (quotation and emphasis omitted)). 2