

SUPREME COURT OF FLORIDA

In re Amendments to the Florida Rules of Civil Procedure—Form 1.996

51 So. 3d 1140 (Fla. 2010) · Decided December 9, 2010

SUMMARY

The Florida Supreme Court adopts further amendments to Florida Rule of Civil Procedure Form 1.996(a), the Final Judgment of Foreclosure. The amendments address flat-rate attorney-fee provisions and remove language concerning automatic issuance of a writ of possession to conform the form to the Protecting Tenants at Foreclosure Act of 2009.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Chief Justice Canady; Justice Pariente; Justice Lewis; Justice Quince; Justice Polston; Justice Labarga; Justice Perry
JURISDICTION	Florida
DECIDED	December 9, 2010
DISPOSITION	approved
PROCEDURAL POSTURE	The Supreme Court of Florida considered proposed amendments to Florida Rules of Civil Procedure Form 1.996(a), the Final Judgment of Foreclosure, after receiving comments during a sixty-day comment period.
PRECEDENTIAL VALUE	Published Florida Supreme Court rulemaking opinion adopting amendments to a Florida procedural form; authoritative regarding the amended form and its effective date.

TOPICS

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PRACTICE AREAS

[Civil procedure](#) [Foreclosure](#) [Real estate remedies](#)

QUESTIONS PRESENTED

1. Whether the Supreme Court of Florida should adopt further amendments to Florida Rules of Civil Procedure Form 1.996(a), the Final Judgment of Foreclosure, after considering public comments.
2. Whether the amended form should accommodate flat-rate attorney-fee agreements in mortgage-foreclosure cases.
3. Whether the form should delete language authorizing the clerk to issue a writ of possession without further court order to avoid conflict with the Protecting Tenants at Foreclosure Act of 2009.

HOLDINGS

1. The Supreme Court of Florida adopted the two further amendments to Form 1.996(a) as set forth in the appendix.
2. The amendments to Form 1.996(a) became effective immediately upon release of the opinion.
3. Form 1.996(a) was amended to accommodate flat-rate attorney-fee provisions and to delete the sentence authorizing the clerk, without further court order, to issue a writ of possession upon request of the person named on the certificate of title.

KEY QUOTATIONS

“Accordingly, form 1.996(a) (Final Judgment of Foreclosure) is hereby amended as reflected in the appendix to this opinion.” (1141)

“The amendments to the form shall become effective immediately upon the release of this opinion.” (1141)

FACTUAL BACKGROUND

The Civil Procedure Rules Committee proposed revisions to the standard form for final judgments of foreclosure in response to legislative changes and concerns regarding mortgage-foreclosure practices. Related rule amendments addressed verification of residential mortgage-foreclosure complaints, affidavits of diligent search and inquiry, and motions to cancel and reschedule foreclosure sales. After comments asserted that flat-rate attorney-fee agreements were common and raised concerns about consistency with the Protecting Tenants at Foreclosure Act of 2009, the Court modified the attorney-fee provisions and deleted language authorizing issuance of a writ of possession without further court order.

PROCEDURAL HISTORY

The Civil Procedure Rules Committee submitted a fast-track report proposing amendments to Form 1.996(a) to conform the form to statutory requirements and prevailing practice. The Court had previously adopted related amendments in a consolidated proceeding, but published the amendments to Form 1.996(a) for comment because they had not previously been published. After considering the comments and the committee's response, the Court adopted two further amendments and made them effective immediately.

DISPOSITION

approved

CASES CITED

- In re Amendments to Fla. Rules of Civ. Pro., 44 So. 3d 555 (Fla. 2010)
- Hott Interiors, Inc. v. Fostock, 721 So. 2d 1236 (Fla. 4th DCA 1998)

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