



## **2012 Bulletin 3**

### **FLTA Advocates for the Title Industry before the Florida Supreme Court.**

FLTA has always monitored Florida's court rulings to bring our members the latest information on changes that can affect our business. Once in a great while, an issue would be of sufficient import that FLTA would file a Friend of the Court ("Amicus") brief to point out broader issues and consequences – things that the litigants might overlook as not helpful to their narrow case.

Recently, we have seen more cases going to the Florida Supreme Court addressing issues which could trigger major problems and huge title uncertainties for our industry. In the last few months, FLTA has taken amicus positions in the following cases:

The first was [Wells Fargo v. City of Palm Bay](#). That case concerned the all too common practice of local governments adopting ordinances asserting that their liens have priority on a par with taxes and thus can wipe out a previously filed mortgage. Under Florida Law, a local government can impose a fine of up to \$500 per day until a violation has been cured, so it doesn't take long for the accumulated fines to exceed the value of most properties. Having those liens take priority over filed mortgages would trigger title claims and potentially cause Florida mortgages to be uninsurable by Fannie Mae and Freddie Mac. [More on that case here.](#)

More recently, through the generosity of First American, Fidelity National Title, Alliant National, WFG and other underwriters, FLTA was funded to engage former Supreme Court Justice, Board Certified Real Estate Attorney, and all around "Good Guy," Ken Bell to represent the industry in filing an Amicus Brief in [Pino v. Bank of New York – Mellon](#). That case arose out of an allegedly fraudulent assignment of mortgage filed in a foreclosure case. We felt that created a very real risk that the Supreme Court could make a sweeping statement attempting to deal with the problem of alleged frauds on the court and inadvertently call into question the title to all REO properties. More about that case, and the FLTA Amicus Brief, can be found [here](#).

Just this week, the FLTA Board authorized the filing of a third Amicus Brief in the case of [CRC 603, LLC v. North Carillon, LLC](#). That case puts at risk any title agent or insurer who held pre-construction condominium deposits during the boom times, and in accord with what we then considered good practice, put all of their funds into a master escrow account and maintained careful ledger balances for each customer consistent with their escrow agreement. When the District Court of Appeal case was released calling this practice into question – and overruling a statutory clarification FLTA had helped bring about -- we issued [this Bulletin](#). Since then, the

parties have asked the Florida Supreme Court to accept jurisdiction and FLTA will be filing yet another Amicus Brief through the generous financial support of Fidelity National Title.

Not only are we part of a highly regulated industry, but we can be adversely affected by any change in the law affecting real estate, foreclosure, probate, and a myriad of other areas of the law. So FLTA continues to be highly vigilant – and through the generous support of our underwriters – maintains an active and influential presence before Florida's courts.

Check back on our [Government Affairs page](#) regularly to track the progress of these projects.

### **Are You Getting the Most out of your FLTA Membership?**

The FLTA website has some great Search and Examination Resources that you can access from the Members Only Page. Have you told your examiners about them? Your annual membership includes website access for all of your employees at no additional charge.

### **Just One of the Many Benefits of Being a Proud FLTA Member**