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## DAG Symposia Feature Hot Topics Discussions Here's Your Summary of Key Topics from DAG's Most Recent Default Symposium

### Symposium Key Topics

Click the link below for these topics:

Postponement of Sales

FL Complaint Verifications

Mediation

Deficiency Judgments

Title Issues

Bankruptcy & Payment Changes

Bankruptcy After Espinosa

HAMP/HAFA

Compliance

#### Quick Links

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**DAG Hosted Nearly 200 for Training**

### Servicers in Jacksonville & Dallas Gathered for DAG Symposia

DAG was pleased to host nearly 400 managers and staff from servicing shops in Jacksonville and Dallas at our Real Estate Default Symposia held there. Foreclosure and Bankruptcy basics were offered, as well as advanced topics and interactive management sessions.

Summarized below are key "take-aways" from the sessions. [Contact us](#) with any questions or for a [hard copy of the report](#).

If you have training needs, please feel free to [contact DAG](#) or [any member firm](#) for the schedule or for in-house options. We hope to see you at an upcoming event!

### Summary of Key "Take-Away Topics" from our Dallas Symposium

#### Foreclosure Basics: Tips & Reminders

Servicers and their law firms should have quality control processes in place to insure that all affidavits are being properly prepared by their attorneys, including:

- Properly signed & acknowledged by servicers
- Properly & fully completed and notarized before being filled with the Court

To help expedite personal service, provide your



Staff from 13 Dallas area servicers attended DAG's Default Symposium June 15

### Tell Us What You Think!

We strive to continually improve our symposia to best meet your needs. If you have comments or suggestions, please [email us](#) to let us know!  
Email Us for Info!

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attorney with the borrower's physical work address whenever possible.

For more on these hints and tips, contact [Frank Veneziano/Weltman, Weinberg & Reis](#) or [DAG](#).

### Foreclosure: Postponement of Sales

If you wish to postpone or cancel a sale within 48 hours of the scheduled sale date, contact the attorney or trustee by phone. In many cases the bidding instructions have already been forwarded to the appropriate party to bid at sale.

Be specific when postponing versus cancelling a sale. If the attorney/trustee is directed to cancel the sale, it is taken off the calendar, and in certain states, publication/posting/ etc. has to be completed in order to schedule a new sale date.

Contact [Suzanne Eaton/ Cal Western](#) or [DAG](#) for more information.

### Foreclosure: First Legal/Verification of Complaints in Florida

The Supreme Court of Florida now requires that foreclosure complaints be verified, opening the door for servicers to be sanctioned directly for inaccuracies. To verify, the foreclosure attorney prepares the complaint, carefully assembling assignments and endorsements and checking all details. One firm in Florida has taken the position that they can sign on behalf of the servicer. DAG's Florida firm, The Law Offices of Daniel C.

Consuegra, believes that if the attorney were to sign for the servicer, the servicer would be exposed to sanctions and other repercussions.

Many major servicers are actively setting up departments and training to make sure that Florida first legal is not compromised.

Contact [Dan Consuegra](#) or [DAG](#) to set up this training for your office.

### Foreclosure: Mediation in Florida

Foreclosure mediations are now the rule rather than the exception in Florida. The Supreme Court

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enacted a model order which is being adopted by all the circuits in the state of Florida, with some variation. The mediation features a required payment of \$700 at the beginning of the case, the mediator is approved by the circuit, financial statements are to be provided before the mediation, and the client would appear by telephone. Pre-foreclosure mediations are encouraged and are becoming more common. At the symposium, we stressed that the mediation must be accomplished and an order entered after the first mediation. Second and third mediations on the same case are not tolerated. A Summary Guide to Florida Mediation is available for your reference, as well as a additional training in person or by phone. Contact [Dan Consuegra \(FL\)](#) or [DAG](#) for more information on mediation in other states.

#### **Foreclosure: Deficiency Judgments**

Opportunities to collect deficiencies have increased dramatically as financially solvent borrowers walk away from properties with the hope that lenders won't require them to fulfill their legal obligations.

Successful pursuit of deficiencies requires due diligence in identifying those borrowers who are likely to be collectible through employment income or other substantial assets. Contact [Howard Crane/Fein Such](#) or [DAG](#) for further details.

Servicers should look to treat investment borrowers and strategic default borrowers differently than loans where the delinquency is on the borrower's primary residence. Different strategies, letters, call campaigns and talks-offs should be used that focus more on the borrower's ability to pay and the possible consequences if they don't.

Contact

[Frank Veneziano](#)/Weltman, Weinberg & Reis or

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### Need More Materials?



If you would like additional copies of the materials, contact Marketing Director Dawn Williams at 703-282-2941 or [by email](mailto:events@defaultattorneygroup.org).

### Also Need In-house Training?

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Need more info on a certain topic?

Couldn't send your full staff to the recent symposium?

Have new hires starting soon?

Contact any partner or our Events Department to discuss on-site options.

703-282-2941

[Email Us for Info!](mailto:events@defaultattorneygroup.org)

[DAG](#) for more details.

### Foreclosure: Title Issues

There are many parties holding a title interest in the typical property, and the servicer and attorney work together to make sure that the only party holding an interest at the time of sale is the lender.

Title insurance, while a necessary ingredient in the mortgage industry, doesn't solve all problems, particularly those created by the lender's title agent at origination.

Contact [Howard Crane/Fein Such](#) or [DAG](#) for further details

### Bankruptcy

Compare servicer's post-petition payment records with those of the Chapter 13 trustee annually and prior to discharge. Raise any discrepancies and requests for approval of contractually authorized legally permissible fees and expenses in the form of a (i) response to the Trustee's Motion to Determine Mortgage Status/Deem Mortgage current or (ii) Servicer's Motion to Determine Mortgage Status and for Approval of Fees.

Timely file notices of payment change (escrow or interest rate) as required by each bankruptcy jurisdiction/court/judge.

Obtain bankruptcy court approval of post-petition contractually authorized, legally permissible reasonable fees and expenses PRIOR to disbursement if possible; alternatively, seek retroactive approval as soon as possible.

Have all modifications approved by the court in Chapter 13 proceedings and attempt to obtain and file a Reaffirmation Agreement on all Chapter 7 loan modifications.

If a Chapter 13 plan contains a provision that does not make sense, file an objection in order to not be bound by the terms of a plan. This is especially true on lien valuations. The recent Supreme Court decision in Espinosa may lock you in to those terms.

Contact Carolyn Taylor/HughesWattersAskanase or Al Hochheiser/Weltman, Weinberg & Reis or DAG for further information.

### **HAMP/ HAFA**

To date, HAMP has not performed as the Administration anticipated. It is too early to gauge how successful HAFA will be but it is unlikely it have a measurable effect.

HAMP Unemployment Program is another measure that is most likely to have little effect except to slow the process in recovering collateral.

Home Affordable Principal Reduction Alternative is complex, but other than requiring Servicers to meet reporting requirements, it is unlikely to have a measurable effect because principal reduction is not mandatory.

Contact Berry F. Laws III/Martin, Leigh, Laws & Fritzen, PC or DAG for more information.

### **Compliance**

Servicers are reminded to implement a policy that requires that the authorization and permission to contact a borrower on their cell phone be documented somewhere in the servicer's notes. Without this permission, an FD CPA violation could occur since the customer could be paying cell phone minute charges for your collection or loss mitigation call.

Email correspondence is to be avoided, especially

if it is a business email address since these are likely to be monitored by the company's IT department. Servicers finding it necessary to communicate via email should receive written ( or an email ) confirmation from the customer that the email address provided is private, can only be accessed by the customer, and is not a business address. Again, all of this information should be clearly documented in the servicer's notes.

For recommendations on FDCPA compliance, contact any DAG firm.

For a printable hard copy of this summary, contact Dawn Williams at DAG at 703.282.2941 or [dwilliams@defaultattorneygroup.org](mailto:dwilliams@defaultattorneygroup.org).



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