



During the worst crisis our nation has seen in our lifetimes, we, at Scott & Corley, P.A., are here to assist you as well as also our fellow friends and neighbors in our communities and nation.

Late last week, the Secretary of Housing and Urban Development (“HUD”), the Secretary of the Veterans Administration (“VA”), and the Director of the Federal Housing Finance Agency (“FHFA”), which governs Fannie Mae and Freddie Mac, respectively instituted 60-day moratoriums on foreclosure and eviction actions (please refer to the attached, hyperlinked bulletins). With the HUD and VA Directives, the Secretary of HUD and Secretary of the VA both placed a 60-day moratorium on sending out all referrals as well as filing or pursuing existing legal actions with the courts. As to the FHFA (Fannie Mae and Freddie Mac), their directives indicated that all referrals should continue to be made and that all legal actions should continue up to hearings. Moreover, the FHFA directives indicated that all actions on abandoned or vacant properties should continue. More specifically and as we read and interpret the Fannie and Freddie guidance bulletins, the purpose of each moratoria is to assist homeowners directly affected by COVID-19 by allowing them to request mortgage assistance through their respective mortgage servicers. One of the major mortgage assistance programs being offered is a forbearance plan, for up to 12 months, which either reduces or suspends a portion or all of a homewoner’s regular, monthly mortgage payments. On a state-specific level, we further report that the attached Order was issued by the Chief Justice of the South Carolina Supreme Court on March 18, 2020. This Order instructs all Equity Courts not to proceed with any hearings, sales or evictions until further order is provided. However and as we and other law firms read it, this Order does not prohibit continued referrals on all FHFA and conventional loan matters, as well as the filing of First Legals and even service of process (this milestone of service typically prompts requests for loss mitigation intervention from the mortgagors/homeowners, as discussed below).

In South Carolina, we, at Scott & Corley, P.A., have been assisting mortgage servicers and lenders with loss mitigation solicitations and reviews since the South Carolina Supreme Court enacted Administrative Order 2011-05-02-01 on May 2, 2011 (“2011 Administrative Order”) in response to the financial crisis of the mid to late 2000’s. The purpose of the 2011 Administrative Order was and continues to be to ensure that foreclosure cases in South

Carolina do not proceed to a final hearing until eligible homeowners and mortgage servicers “have been afforded the benefits of loan modification or other loss mitigation where possible, and to insure that the procedures for handling issues relating to such efforts are handled uniformly throughout the State.” The 2011 Administrative Order requires that a Notice of Foreclosure Intervention be served together with the Summons and Complaint (First Legal) on the homeowners (as of March 18, 2020, excepting again all FHA, VA and USDA files and cases for court filing or other legal actions).

As to the above-referenced South Carolina Supreme Court-mandated Notice of Foreclosure Intervention, this disclosure states that the homeowner, upon receipt of the First Legal and Notice of Foreclosure Intervention form, must contact the mortgage servicer or foreclosure law firm immediately to determine whether s/he is eligible for any loan modification or loss mitigation program (defined in the 2011 Administrative Order as “foreclosure intervention”). In light of the recent FHFA moratorium related to COVID-19, our firm has added, in bold, yellow-highlighted, the following to the Notice of Foreclosure Intervention form: “**If you are adversely impacted by COVID-19 by a job loss, reduction in work hours, illness, or other issues, you may request mortgage assistance by immediately contacting our law firm by completing and returning this form, or by contacting your mortgage servicer directly.**” With your assistance, we also intend to include the recommended contact information for each mortgage servicer’s loss mitigation department designated to respond to a homeowner’s COVID-19 communications. Accordingly and of high importance, the 2011 Administrative Order further mandates that the foreclosure action cannot proceed to hearing until the foreclosure law firm certifies with the Court one of three scenarios: (1) the subject property is not owner-occupied or vacant; (2) the homeowner failed to respond to the law firm or mortgage servicer and elect to be reviewed for foreclosure intervention; or (3) the homeowner was reviewed for foreclosure intervention, but was denied for failure to qualify. **Finally, the 2011 Administrative Order has a judicially-approved process to mandate that the South Carolina foreclosure law firm assist with loss mitigation solicitations and reviews (which includes forwarding loss mitigation applications to the homeowner for completion; drafting forbearance plans or repayment agreements; etc.) and most importantly, to ensure that a foreclosure case does not proceed to a hearing or sale until the foreclosure law firm certifies with the Court compliance with this foreclosure intervention process.**

**We know that, over the last several years, lenders and mortgage servicers have drastically reduced their loss mitigation and call center staffs. Having been involved with the loss mitigation process in South Carolina since 2011, we, at Scott & Corley, P.A., stand ready to assist you in all aspects, whether that be fielding telephone calls and other communications from homeowners; assisting homeowners with the loss mitigation/forbearance application process; or drafting the necessary documents to memorialize any and all loss mitigation resolutions.**

As our valued clients, we will ensure that your interests are always protected and served in South Carolina. Please advise if you need further clarification or our state-specific opinion on these very challenging matters.

**WE ARE IN THIS CRISIS TOGETHER, and WE ARE HERE TO SERVE AND ASSIST YOU!**

[2011 SC Administrative Order - CLICK HERE](#)

[Chief Justice Admin Order 03-18-01 - CLICK HERE](#)

[Chief Justice Admin Order 03-18-02 - CLICK HERE](#)

[FNMA - CLICK HERE](#)

[FHLMC - CLICK HERE](#)

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