

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY,
FLORIDA

CASE NOS. 05-2005-CA-9048 ~ 05-2005-PC-9048

EUGENE E. WILHELM and
PHYLLIS WILHELM, husband and wife
Plaintiffs

vs.

RONALD VAN DYKE as Trustee of the
Mary Annetta Horgan Revocable Living Trust,
SHRINERS HOSPITALS FOR CHILDREN,
M. JOHANNESSEN, S. OAK and B. WILHOIT
Defendants

vs.

PNC BANK, NATIONAL ASSOCIATION
Third-Party Defendant

1/13/11
FILED IN THE
CLERK OF CIR. CT.
BREVARD CO., FL.
2011 JAN -11 A 10:04 PM
PHYLLIS WILHELM

and
IN THE DISTRICT COURT OF APPEAL
OF THE STATE OF FLORIDA
FIFTH DISTRICT

Appellate Case number: 5D11-1888

Ronald Thomas Van Dyke
Appellant

vs.

PNC BANK, NATIONAL ASSOC. et al
Appellees

**MOTION TO ABATE/VACATE ORDER RESCHEDULING
FORECLOSURE SALE filed on December 9, 2011**

MOTION/DEMAND FOR WRIT OF MANDAMUS

The Sacred Writ of Mandamus shall be reserved for remedy and relief when any man or woman fails to obey due process and perform their duties of office as prescribed by the laws governing that office. The Writ shall be served upon the man or woman holding office ordering any dishonorable and unlawful behavior cease, or ordering lawful duty be performed as the suit may be. As the Writ is issued under the highest holy authority, any claimed suspension of Mandamus under common law or other unilateral statutes of a commercial court of a franchise shall have no effect. As such a Sacred Writ shall be an Order of last resort against clear contempt for the obligations and duty of office and rule of law, any motion for a Writ of Mandamus must clearly demonstrate clear and willful behavior of contempt and failure to perform lawful duty.

This Writ is being served on all officers of the courts indicated above that have been involved in this case from its inception in July 2005 through the Appeal filed in May of 2011. More than simply a Motion it is a lawful Demand that officers serving the public in any capacity: attorneys, judges, elected officials holding any office in the legislative or executive branches of government, as well as law enforcement and military, be required, under penalties for treason, to abide by his or her oath of office before Almighty God to uphold and defend the Constitution of this Republic of the United States of America and the State of Florida. It is YOUR solemn duty before God and the People you are sworn to serve to correct every failure to perform the lawful duties of your office, and to stop willful behavior of contempt for our founding documents.

US Constitution, Amendment 5: No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, **nor be deprived of life, liberty, or property, without due process of law**; nor shall private property be taken for public use without just compensation.

Florida Constitution, Article 1, Section 8. That **no freeman shall be taken, imprisoned, or disseized of his freehold, liberties, or outlawed or exiled, or in any manner destroyed or deprived of his life, liberty, or property, but by the law of the land.**

Florida Constitution, Article 1, Section 9. **That all Courts shall be open, and every person, for an injury done him, in his lands, goods, person, or reputation, shall have remedy by due course of law; and right and justice administered without sale, denial, or delay.**

US Constitution, Amendment 7: In Suits at common law, where the value in controversy shall exceed twenty dollars, **the right of trial by jury shall be preserved**, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Florida Constitution, Article 1, Section 6. **That the right of trial by jury shall forever remain inviolate.**

Florida Constitution, Article 1, Section 6. That to guard against transgressions upon the rights of the people, we declare that every thing in this article is excepted out of the general powers of government, and **shall forever remain inviolate**; and that **all laws contrary thereto, or to the following provisions, shall be void.**

AFFIDAVIT

- 1) I have signed and submitted un rebutted affidavits to the courts in these cases claiming all rights in the US Bill of Rights and the Florida Constitution (1838). They constitute a portion of my contract with the United States and the State of Florida and all their agencies and sub-agencies.
- 2) There has never been a mortgage on the property named in the above action involving VAN DYKE or his lawful executor, Ronald Thomas Van Dyke [hereafter, Ron Van Dyke], neither by PNC BANK nor any other bank or person.
- 3) There has never been a foreclosure hearing at any time in which Ron Van Dyke was present and given opportunity to respond or provide remedy.
- 4) In letter dated December 2, 2011 from Kimberly Bonder Rezanka, she states, "We do not believe this matter will require a hearing..." She had previous made two motions before the Appellate Court to stop the appeal. Both were denied; however, these actions indicate a clear intent to deny due process of law both by Rezanka and other officers of the court(s).
- 5) In the Appellate case cited above, no Appellee filed an Answer Brief as required by due process of law, thus preventing the Appellant from having the ability to respond to their answers in a Final Brief. None of the matters addressed in the Initial Brief were ever answered.
- 6) The Court of Appeal provided a one-page letter to the Appellant that was received on October 20, 2011 as notification that an opinion had been filed on October 18, 2011. This opinion was never provided to the Appellant; it was apparently submitted by the same Circuit Court Judge,

Cord