Behind the Scenes: The Work of the Master Commissioner's Office

Chief Circuit Judge Eric Haner

The Master Commissioner's Office plays an important role in the work of Jefferson Circuit Court, but its responsibilities may not be familiar to lawyers who do not regularly practice in foreclosure or other matters referred to the office. The office handles much more than judicial sales and is the largest such office in Kentucky. Carole C. Schneider, who was recently reappointed by the Jefferson Circuit Court, has served in this position and was sworn in for another term this year. I spoke with Commissioner Schneider about the work of the office, its role in foreclosure proceedings, its interaction with attorneys and the public, and what she would like lawyers to know about working with the office.



Q: What is the Master Commissioner's Office, and how is the office structured?

A: The Jefferson Circuit Court Master Commissioner (MC) is the only full-time MC in Kentucky, with a dedicated office and support staff, and currently, one full-time and three part-time Deputy MCs. The MC also serves as Receiver, which involves the paying in and holding of funds pending additional court orders.

The MC's office is self-funding through fees generated from reports, special proceedings and hearings and judicial sales. The MC must file an Annual Report with the Administrative Office of the Courts (AOC), which oversees the MC's office. The Annual Report sets forth all collected fees exceeding AOC-authorized salaries and expenses; such excess funds generated by the MC's office are remitted to the Kentucky State Treasurer.

Q: What does the Master Commissioner's Office do?

A: The MC, who is appointed by the circuit court judges to a term not to exceed four (4) years without reappointment, serves at the pleasure of the court and performs functions as directed by court order. The primary function of the MC's office is to review actions to foreclose real property, issue reports recommending or denying Judgments and Orders of Sale and conduct judicial sales. The MC's office also handles actions for sale and division/partition and conducts: (1) evidentiary hearings in mechanic's lien actions; (2) all wage/non-wage garnishment challenge hearings; and (3) all post-judgment bill of discovery dockets.

Q: How does the Master Commissioner's Office work with judges and attorneys?

A: The MC's office will review matters on automatic referrals or direct referral orders from the judges and issue reports for the court. The MC's office is responsive to inquiries from the judges, and the MC generally does not appear at motion hours or hearings unless requested by the court.

The MC's office works with attorneys concerning MC reports, the scheduling of necessary hearings, the coordination of sale docketing, the distribution of sale proceeds and the scheduling of bill of discovery dockets and appearances on those matters.

Q: Can you take us through a typical foreclosure case, from filing through the judicial sale?

A: While most foreclosure actions concern mortgage liens, actions are also filed to adjudicate delinquent taxes, civil penalty liens and contracts for deed. A foreclosure action commences with the filing of the complaint with the Circuit Court Clerk and the recording of a Lis Pendens with the County Clerk's office. The MC does not examine nor warranty title to real property and, therefore, the MC is relying on the attorney to have conducted a title examination to identify all necessary parties to the action.

After proper completion of service of process on all necessary parties, a party may file a Motion for Judgment and Order of Sale (JOS), together with an Order Referring Case to Master Commissioner for Judicial Sale (AOC 141S) and a $200 fee to the Circuit Court Clerk. The JOS filing must include all evidence in support of the underlying debt, a copy of the recorded mortgage and assignments (if applicable), and the legal description for the real property with the derivation clause and commonly known street address. Local rules govern the filing of necessary documentation and the appropriate JOS format. Local rules also require the automatic referral of the JOS to the MC.

The MC maintains court files in order by filing date and typically reviews them within four to six weeks of receipt. If the JOS is not ready for recommendation, the MC will issue a Remand Report setting forth the deficiencies with the judgment and/or any additional action required. Otherwise, the MC will file a Lien Enforcement Report recommending the court's entry of the JOS and AOC 141S. Upon such entry, the MC has 90 days to conduct the sale.

The MC's office dockets sales for the next available sale date. After filing the notice of sale, the following must occur: (1) the attorney's payment of the advanced sale deposit; (2) advertisement of the sale; and (3) an appraisal of the property by two court-appointed appraisers (KRS 389A.030 actions excluded).

A sale report must be filed within three business days of the sale, with 10 days permitted for the filing of exceptions. The purchaser should have the title examined as there is no warranty of title. The terms of sale are to be completed within 30 days of sale.

Motions for confirmation of report of sale and delivery of deed are automatically referred to the MC's office. Following the purchaser's review of the MC's Deed, the MC signs the deed and sends it to the court for execution and entry. The Circuit Court Clerk then issues a certified copy of the deed acceptable for recording with the Jefferson County Clerk.

Motions for distribution of sale proceeds are also automatically referred to the MC. Funds must be paid in full and the sale must be confirmed before sale proceeds are available for distribution.

Q: What are some aspects of the office's work that lawyers may not be familiar with?

A: The MC is occasionally ordered by the family court to prepare a MC Deed, execute a quitclaim deed or sign a vehicle title due to an uncooperative party. The order must be specific, and applicable fees must be paid.

The MC cannot execute settlement agreements, purchase contracts or real estate closing documents.

Q: How does the office work with the public?

A: The MC's office answers questions from the public regarding the status of actions, judicial sales, garnishment challenges and discovery dockets. The MC's office also maintains a website to assist the public with questions concerning judicial sales. Additionally, the MC's office has regular in-person contact with the public at its judicial sales.

Q: What advice would you give to lawyers who work with the Master Commissioner's Office?

A: The MC's office asks attorneys to be mindful that the Jefferson Circuit Court MC's Office has the largest volume of matters for review and judicial sales to conduct in Kentucky.

Attorneys filing matters should submit their best work. Failure to pay attention to details and requirements leads to increased review time and remand report filings by the MC's office. The goal for the attorney and the MC's office is to move matters from filing to completion as quickly as possible, and quality pleadings are what is needed to accomplish that goal.



Chief Judge Eric Haner presides in Division One of the Jefferson Circuit Court, and is the Chief Regional Judge. ■