

## Lawyers fight AG inquiry

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South Florida law firms being investigated for shady foreclosure practices are fighting back by challenging the attorney general's jurisdiction, refusing to cooperate with parts of the probe and gearing up for a legal showdown.

A Palm Beach County judge is expected to rule Monday on a motion by Shapiro & Fishman of Boca Raton to "quash" the subpoena issued in August by Attorney General Bill McCollum. The motion calls the investigative subpoena "overly broad, unreasonable and unduly burdensome." The subpoena demands the firms -- Shapiro, the Law Offices of David J. Stern and the Law Offices of Marshall C. Watson -- turn over five years worth of documents and e-mails, and copies of all contracts between the law firm and the lenders that hired it to handle their foreclosures.

The Law Offices of David J. Stern has decided to partially cooperate, its legal counsel said. The Plantation-based firm handed over some of the requested documents to the attorney's general office, but not all of them, according to Miami attorney Jeffery Tew, who represents Stern's firm.

Tew said he believed that the attorney general's subpoena was too broad, but that Stern's firm had provided three years worth of documents that were relevant to the investigation.

"We went ahead and voluntarily produced documents that we thought were relevant," he said. "We filed a motion to modify our production, and we produced [documents] within those parameters."

The attorney general's office has not yet responded to the partial submission of requested documents, Tew said.

The Law Offices of Marshall C. Watson in Fort Lauderdale did not return a call seeking comment. Tampa-based Florida Default Law Group is also under state scrutiny.

All of these firms, which handle about 80 percent of the state's foreclosure cases, are operating at a tempestuous time in the foreclosure world. Three major lenders have admitted flaws in their foreclosure filings in the last two weeks. Ally Financial, formerly GMAC, JPMorgan Chase and, on Friday, Bank of America have all put the brakes on portions of their foreclosure operations, after employees admitted to signing affidavits without reviewing the details of the cases.

The Connecticut attorney general issued a moratorium on all bank foreclosures on Friday, and California's attorney general has placed a stop-order on all foreclosures involving Ally Financial and JPMorgan Chase. A congressman's effort to halt foreclosures in Florida was

turned down by the state Supreme Court this week.

In Shapiro & Fishman's motion to quash, the firm's counsel claims the subpoena was a heavy handed response.

“My client is not behind a nefarious plot or scheme in foreclosure actions,” Shapiro & Fishman's legal counsel Gerald Richman said in a statement.

The attorney general's office declined to comment before the judge rendered his ruling.

The investigations have given distressed homeowners additional ammunition to challenge foreclosures linked to these law firms.

“Defendants have begun to file Motions to Stay or Motions to Abate the foreclosure proceedings solely because of the announced investigation,” Richman wrote in the motion.

Miami foreclosure defense attorney Dennis Donet said his clients have become increasingly interested in fighting foreclosures handled by these firms. He said many homeowners have come in to his office asking whether their foreclosure cases were linked to any of the firms being investigated, and if that would increase their chances in court.

“I've been receiving calls about the four law firms being investigated, but not about the banks,” he said.

Shapiro & Fishman's motion alleges the subpoena, in addition to being overly broad, lacks jurisdiction. The Florida Bar should be handling any investigations of malpractices, Richman argues.

Tew agreed that the case lacked standing.

“We don't think [McCollum] has jurisdiction over what he's looking for,” he said. “But we wanted to defer that fight until later.”