

**IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CHANCERY DIVISION**

GENERAL ADMINISTRATIVE ORDER NO. 2015-02

SUBJECT: SPECIAL REPRESENTATIVES IN MORTGAGE FORECLOSURE CASES

In *ABN Amro v. McGahan*, 237 Ill.2d 526 (2010), the Supreme Court of Illinois held that subject matter jurisdiction does not exist in mortgage foreclosure cases where the mortgagor, or all mortgagors if more than one, has died prior to the action's commencement. Subsequent to *McGahan*, the Mortgage Foreclosure/Mechanics Lien Section implemented a procedure with respect to appointment of special representatives pursuant to 735 ILCS 5/13-209(b) (2015), to address jurisdictional concerns. See Memorandum to Mortgage Foreclosure Attorneys (Oct. 24, 2007). This General Administrative Order announces changes with respect to that procedure effective January 1, 2016. The changes reflect the acknowledgement in Supreme Court Rule 113(i) that appointees "stand in the place of" deceased mortgagors and the further acknowledgement in Section 13-209(b)(1) of the Code of Civil Procedure that such appointments are "for the purposes of defending the action." Ill. S. Ct. R. 113(i); 735 ILCS 5/13-209(b)(1) (2015).

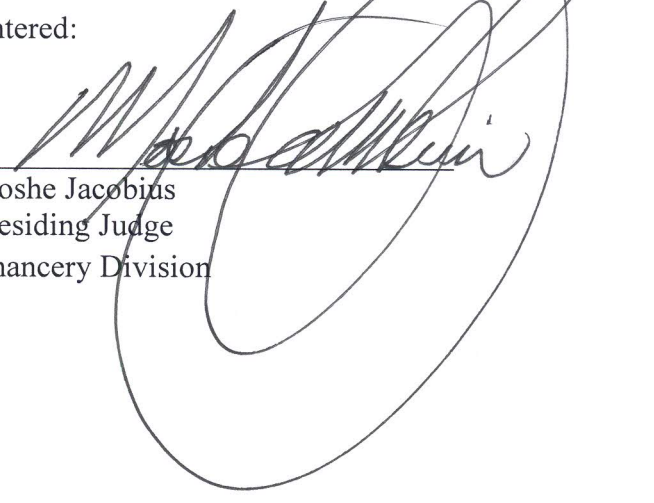
IT IS HEREBY ORDERED:

1. Pursuant to 735 ILCS 5/13-209(b) (2015), and, as a condition to the appointment, the Movant shall, in an Affidavit supporting the Motion:
 - (a) Confirm to the Court that no petition for letters of office for the deceased mortgagor's estate has been filed; and
 - (b) Notify heirs and/or legatees of the deceased mortgagor of the Motion for Appointment or confirm to the Court that no heirs and/or legatees exist;
2. The appointee shall defend the action solely for and on behalf of the deceased mortgagor for whom the appointment is made. Accordingly, the appointee shall:
 - (a) Be a lawyer in good standing with the Illinois Attorney Registration and Disciplinary Commission;
 - (b) Appear of record;
 - (c) Answer or otherwise respond to the Complaint; and
 - (d) Be afforded reasonable attorney fees from the Movant.
3. The appointment shall be determined by the trial judge presiding over the action on a rotating basis from an established list of potential appointees.

4. The appointment shall be made using the attached form Order.

Date: December 11, 2015

Entered:



Moshe Jacobius
Presiding Judge
Chancery Division

