

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2012

JOHNY B. WILLIAMS and **MONITHE L. WILLIAMS**,
Appellants,

v.

BANK OF AMERICA, N.A.,
Appellee.

No. 4D10-4837

[December 12, 2012]

PER CURIAM.

We reverse the summary final judgment entered in favor of appellee. The bank did not file evidence of the assignment of the mortgage and a lost or misplaced note affidavit until the day of the summary judgment hearing. Florida Rule of Civil Procedure 1.510(c) provides that a summary judgment

movant shall serve the motion at least 20 days before the time fixed for the hearing, and *shall also serve at that time copies of any summary judgment evidence on which the movant relies that has not already been filed with the court.*

(Emphasis added); *see also Mack v. Commercial Indus. Park, Inc.*, 541 So. 2d 800, 800 (Fla. 4th DCA 1989). The obvious purpose of that rule is to give the party opposing summary judgment time to analyze the evidence and “controvert the factual basis of the motion.” *Marlar v. Quincy State Bank*, 463 So. 2d 1233, 1233 (Fla. 1st DCA 1985) (citation omitted). The untimely filings hindered appellants’ efforts to defend the lawsuit.

Reversed and Remanded.

GROSS, CONNER, JJ., and COX, JACK S., Associate Judge, concur.

* * *

Appeal from the Circuit Court for the Seventeenth Judicial Circuit,
Broward County; Eli Breger, Judge; L.T. Case No. 08-37613 CACE 13.

Carl A. Cascio of Carl A. Cascio, P.A., Delray Beach, for appellants.

Thomas H. Loffredo and Jeffrey T. Kuntz of GrayRobinson, P.A., Fort
Lauderdale, for appellee.

Not final until disposition of timely filed motion for rehearing.