

# Why Fla. Ruling Is A Call To Action For Foreclosure Counsel

By **Andrew McBride** (September 9, 2025)

Special asset and foreclosure lawyers should take note of a recent Florida appeals court ruling that emphasizes that compliance with the specific-findings requirement is mandatory.

The old ways of practicing will no longer cut it. If the court's summary judgment does not spell out which facts are undisputed and why they entitle the lender to summary judgment — avoiding the delays, expense and hassle of trial — expect a one-way ticket back to the trial docket. Every lender's worst nightmare.



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A recent decision by the Fifth District Court of Appeal of the State of Florida in *Open Range Properties LLC v. AmeriHome Mortgage Co. LLC* has sent ripples through the banking industry and the legal community, particularly among special asset and foreclosure lawyers.

The ruling, which reversed and vacated a foreclosure judgment due to the trial court's failure to provide specific findings in its summary judgment order, underscores a critical shift in the procedural landscape for foreclosure actions in Florida.

This article explores the broader implications of the decision, why it matters for banks and their counsel, and how it signals a new era of heightened scrutiny and procedural rigor in foreclosure litigation.

## Background: The Case and the Rule Change

At the heart of the *Open Range Properties* decision is the 2021 amendment to Rule 1.510(a) of the Florida Rules of Civil Procedure, which brought Florida's summary judgment standard in line with the federal rule.

The revised rule requires that trial courts "state on the record the reasons for granting or denying" a motion for summary judgment. This means that courts must do more than simply announce a result; they must articulate which facts are undisputed and how those facts entitle the movant to judgment as a matter of law, and provide a clear rationale for their decision.

In the *Open Range Properties* case, the trial court granted summary judgment in favor of the lender but failed to provide any meaningful explanation — either in the written order or in the hearing transcript — beyond conclusory statements.

The appellate court found this insufficient, reversed the judgment and remanded the case with instructions to issue a new order that complies with the specific requirements of Rule 1.510(a).

## Why This Ruling Matters for Banks and Secured Creditors

For banks and other secured creditors, the implications of this ruling are profound. Foreclosure actions are a primary tool for lenders to recover on defaulted loans, and summary judgment has long been a favored mechanism for efficiently resolving cases

where there are no genuine disputes of material fact.

The ability to obtain summary judgment without the delay and expense of trial is critical to minimizing losses and managing portfolios of distressed assets.

However, the Open Range Properties decision makes clear that the days of rubber-stamped summary judgments are over. Trial courts must now provide detailed, case-specific findings that demonstrate a careful review of the record and a clear understanding of the legal standards at play. For banks, this means that the path to summary judgment is now more demanding, requiring greater attention to detail and a more robust evidentiary record.

### **The Cost of Noncompliance: Delays, Expense and Uncertainty**

The consequences of failing to meet the new standard are significant. As the appellate court's decision illustrates, a summary judgment order that lacks the required specificity is vulnerable to reversal on appeal.

Such reversals can add months or even years to the foreclosure process, increasing carrying costs, legal fees and the risk of further deterioration of the collateral. In a business where time is money, these delays can have a material effect on a lender's bottom line.

Moreover, the uncertainty created by inconsistent or inadequate summary judgment orders can complicate asset management and risk assessment. Lenders may be forced to hold nonperforming assets on their books for longer periods, tying up capital and resources that could be deployed elsewhere.

The reputational risk associated with protracted litigation and adverse appellate decisions is another factor that banks must consider.

### **Implications for Special Asset and Foreclosure Lawyers**

For special asset and foreclosure lawyers, the Open Range Properties ruling is both a warning and a call to action. The appellate court's insistence on compliance with the specific-findings requirement means that counsel must be proactive in building a comprehensive summary judgment record. This involves several key steps.

#### ***Meticulous Preparation of the Record***

Lawyers must ensure that all material facts are clearly established and supported by admissible evidence. This includes careful drafting of affidavits, deposition summaries and documentary exhibits that leave no room for ambiguity.

#### ***Pinpoint Citations***

Summary judgment motions should include precise citations to the record, making it easy for the court to identify the undisputed facts and the evidence supporting them.

#### ***Drafting Proposed Orders***

Where appropriate, counsel should consider submitting proposed orders that include detailed findings of fact and conclusions of law, tailored to the specifics of the case. This can assist the court in meeting its obligations under Rule 1.510(a) and reduce the risk of reversal on appeal.

### ***Vigilance at Hearings***

During summary judgment hearings, lawyers should be prepared to address any questions from the court regarding the factual and legal basis for the motion. They should also ensure that the hearing transcript reflects a thorough discussion of the issues, which can serve as a safeguard in the event of an appeal.

### ***Ongoing Education and Training***

Given the evolving nature of summary judgment practice in Florida, law firms and in-house legal departments should invest in ongoing education and training for their attorneys. Staying abreast of the latest appellate decisions and best practices is essential to maintaining a competitive edge.

### ***Why Counsel Nationwide Should Take Note***

Although the Open Range Properties decision arises from a Florida appellate court, its significance extends beyond state lines.

The trend toward greater judicial scrutiny of summary judgment motions is not unique to Florida; courts across the country are increasingly demanding that trial judges provide clear, reasoned explanations for their rulings. This is particularly true in foreclosure and other high-volume litigation contexts, where concerns about due process and fairness are paramount.

By adopting best practices now, such as detailed record preparation, precise legal argumentation and comprehensive proposed orders, counsel can position themselves to succeed regardless of where they practice.

### ***Strategic Considerations for Banks and Their Counsel***

In light of the Open Range Properties ruling, banks and their legal teams should consider the following strategic adjustments.

#### ***Review and update internal procedures.***

Lenders should review and update internal procedures for managing foreclosure litigation, with an emphasis on compliance with the latest procedural requirements.

#### ***Invest in technology and case management tools.***

Leveraging technology to organize and present evidence can streamline the summary judgment process and reduce the risk of oversight.

#### ***Monitor appellate developments.***

Staying informed about appellate decisions and emerging trends in summary judgment practice can help banks anticipate challenges and adapt their strategies accordingly.

### ***Conclusion: Bar Has Been Raised***

For banks, special asset managers and foreclosure lawyers, the message is clear:

Compliance with the specific-findings requirement is not optional. The old ways of practicing — relying on boilerplate orders and cursory findings — will no longer suffice.

By embracing the heightened standards articulated by the appellate court, banks and their counsel can avoid costly reversals and delays and bring their matters to a successful conclusion.

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