

## ALLONGE DOES NOT NEED TO BE PHYSICALLY ATTACHED TO A PROMISSORY NOTE

To establish standing to enforce a promissory note, a lender must prove that it is the rightful holder of the negotiable instrument. Typically, this entails producing the original note together with all allonges endorsing the note to subsequent holders. Under Florida's Uniform Commercial Code ("UCC"), an allonge must be "affixed" to the note such that it becomes part of the instrument itself.<sup>[1]</sup> This requirement prevents fraud and preserves the chain of title.

Borrowers frequently challenge the validity of allonges when it is unclear whether an allonge was stapled or otherwise firmly affixed to a note. However, the Fourth District Court of Appeal recently clarified, for the first time, that an allonge need not be physically attached to an instrument to satisfy the UCC.

In *Purificato v. Nationstar Mortgage, LLC*, the lender established standing by entering the original promissory note and allonge into evidence. The allonge identified the borrowers, the loan number, and the original date and amount of the loan. The lender also introduced a computer screen shot showing that the lender stored both the note and allonge in its records as a single electronic document. However, the lender offered no evidence that the allonge was physically affixed to the note prior to litigation.

In a 3-0 decision, the Fourth District Court of Appeal rejected the borrowers' contention that the UCC requires an allonge to be physically attached to a note. The appellate court held that "[w]here an allonge contains evidence of a clear intent that the note and the allonge were to be physically attached to each other, such evidence of intent is sufficient to establish a valid

endorsement under the UCC.” The court further suggested that electronic attachment of allonges to negotiable instruments may be acceptable.

While an allonge need not be physically attached to a promissory note, lenders should ensure that an original note and an original allonge are physically stored together. The note and allonge should also be electronically scanned as a single file.

The full text of the case is available [here](#).

[1] Section 673.2041(1), Florida Statutes provides that “[f]or the purpose of determining whether a signature is made on an instrument, a paper affixed to the instrument is part of the instrument.”