

## Unethical Home Foreclosures Create New Housing Crisis

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The housing crisis of 2007-2009 helped trigger a deep recession in the United States and the crisis may not be over. A recent court decision and current litigation reveal serious wrongdoing in past foreclosures that leave in doubt who owns post-foreclosure homes.

With the federal government's encouragement, banks made millions of home loans to people with questionable credit. The banks then bundled the subprime loans and sold them as securities. For example, Goldman Sachs sold over \$40 billion in securities backed by 200,000 risky loans.

When the housing bubble burst and home values declined lenders quickly foreclosed on homeowners who could not make their monthly payments. Three million foreclosures took place between 2007 and 2011 with another nine million in progress. Homeowners delinquent in their payments received 30 days notice to leave the properties. Post-foreclosure the banks sold the homes to new buyers.

Many homeowners chose not to fight foreclosure proceedings and abandoned their homes. Some however challenged the foreclosures on grounds that lenders treated them unfairly. Seemingly, they were right.

In January the Massachusetts Supreme Court in *US Trust v. Ibanez* upheld two lower court rulings stopping foreclosure proceedings. The banks involved, U.S. Bancorp and Wells Fargo, could not prove they owned the mortgages at foreclosure.

According to the court, as the mortgages traded among multiple investors they were endorsed in blank. No one specifically assigned the mortgages to new owners when transferred. Without specific assignments you cannot prove ownership.

The *Ibanez* case is not an isolated incident. According to Paul Collier III, the attorney who represented Ibanez, "It's been pretty clear and becoming even more clear that the securitization industry has behaved as though it were immune from consumer protection laws, state homeowner protection laws and real estate regulations in its underwriting, securitization and foreclosure practices."

Collier may be right. Former homeowners are filing class action lawsuits. Discovery proceedings in other foreclosure cases reveal a chaotic mess.

To rush through hundreds of thousands of foreclosures banks hired former Walmart floorwalkers, hairstylists, assembly line workers and others with no real estate experience, and called them "foreclosure experts". The only job need was the speed with which they could sign their names. The New York Times nicknamed them "robo-signers". Depositions taken of robo-signers reveal they signed off on hundreds of thousands of foreclosure documents without reading or understanding the documents importance.

Without reviewing the loans, they signed sworn affidavits and delinquency notices telling borrowers their loans did not qualify for adjustment.

According to Federal Reserve Chairman Ben S. Bernicki, the Reserve is now investigating many financial companies' foreclosure practices. The Reserve is deciding whether a systemic weakness in the foreclosure system led to improper foreclosures.

Also, fifty states attorneys general recently launched a joint investigation into banks' foreclosure practices, including the widespread use of robo-signers.

The *Ibanez* decision, discovery in other lawsuits, and investigations panicked some major lenders. Wall Street firms such as Goldman Sachs, JP Morgan, GMAC, and others, recently placed moratoriums on thousands of their current foreclosures.

The sloppiness with which banks handled foreclosures leaves many unanswered questions. Who owns the post-foreclosure homes and gets possession? How valid are the loans and mortgages on post-foreclosure homes? What is the status of the title insurance sold to buyers of post-foreclosure homes? What damages are available against the banks who failed to follow the proper foreclosure process and who can claim them?

It will take years of litigation to answer the questions. The housing crisis is far from over.