

When Are Countrywide Notes Endorsed? A Filing in A Federal Case Shows the Problems With Negotiability.

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When exactly are promissory notes endorsed? When did the Plaintiff come to perfect his cause of action to foreclose? These were key questions in yesterday's transcript of a court proceeding. When the judge referred to "673", he was referring to the Uniform Commercial Code which is found in Chapter 673, Florida Statutes. He has picked up on that fact that "673" and the rules of negotiability are critical components in this whole fraudclosure hurricane. Importantly, so has Florida's Second District Court of Appeals....it's widely known that the Second is a very, very astute, academic and profoundly perceptive court. They've weighed in on a whole host of fraudclosure opinions and the opinions are tight and profound....

The sole basis upon which hundreds of millions of dollars in real wealth and millions of acres of property are being transferred from one party to another in this country are squiggly lines and stamps which purport to endorse the promissory notes an issue in millions of foreclosure cases pending all across this country.

In most cases, the notes were not intended by the loan servicers, depositors or mortgage backed security trustee to be transferred via endorsement alone. How do I know this? It says so right in the terms of the applicable Pooling and Servicing Agreement. The individual PSAs are the Constitution that governs the rights, responsibilities and relationships among the myriad parties in a typical mortgage loan. These documents were supposed to be followed by all the parties, but in the vast majority of cases they are just ignored by all parties and now by the courts. But they should not be ignored. The PSAs are the real source of guidance and direction in a world gone mad. The fact that we are all allowing them to be ignored with the constant mantra that, "you're not a party to the agreement" and "the mortgage follows the note" is a failing on the part of the defense bar for not making it an issue in every case.

I recently stumbled upon a filing in a federal court case that's pending in Southern Mississippi. I've got deep roots in Southern Mississippi, and frankly some great legal scholarship in consumer rights comes out of that area. I was following up on the bombshell federal litigation where Mississippi workers realized the money they had placed with big shot Yankee investors is um...well, a little squirrely, when I came across this fascinating case. But first, we would all do well to understand the Public Employee Retirement System of Mississippi lawsuit. It is alleged that Goldman Sachs misrepresented the quality of hundreds of millions of dollars in loans that were sold to these retirees. Goldman said they were solid gold, it turns out they were garbage. Mississippi said they were defrauded, Goldman says you shouldn't expect our marketing, sales and investment material to be

truthful, too bad your retirees lost their pension checks, screw you, we're Goldman.

Now, what's important to keep in mind is this is just one institutional investor who was smart enough to catch this. The allegations contained in this litigation could and should be being made in lawsuits all across this country....NEWSFLASH: ALL YOU RETIREES AND PEOPLE THAT THINK YOUR PUBLIC AND PRIVATE PENSIONS ARE SAFE.....REMEMBER THE OLD STORY, "THE EMPEROR HAS NO CLOTHES"

Anywhoo, back to the story the question about how billions of dollars in notes gets transferred should be on everyone's mind. Our nation has been hijacked by the reckless and out of control banking system with their sloppiness, lies, smoke and mirrors and misrepresentations. And now they have thoroughly polluted our court systems. But some judges are fighting back. They are pulling back the curtain, not willing to be blown off or glossed over by slick lawyers who want to dust them off, distract them and suggest they should ignore fundamental legal principles.

The fate of this nation rests in the ability of good judges and a strong legal system to defend and protect this nation from the looming regime, the banking cabal, that has hijacked the whole of the United States government.

Read these deposition transcripts carefully, can you spot the critical legal issues that are spawned here? Can you figger out who the who in whoville is?

Consider the impact of this in all Countrywide cases...

1 which you seem to be maybe saying? I'm sorry. Were you
2 going --

3 MR. HEMBREE: I'm trying to understand what
4 you're saying.

5 THE WITNESS: Me too.

6 MR. KIRBY: She just said day-to-day she does
7 basically the same thing. And I was just trying to
8 ascertain whether that meant --

9 THE WITNESS: I manage my groups, so I manage
10 all of these areas, and I do the -- you know, I tackle
11 issues that arise in all of my groups.

12 BY MR. KIRBY:

13 Q Okay. So, specifically, in 2006, 2007, what was
14 your title? I mean, I know we've covered it, but I want
15 to narrow it down to 2006, 2007 at Countrywide.

16 A I must have been an executive vice president.

17 Q Okay, EVP. And that had to do with secondary
18 marketing and marketing of loans to secondary market and
19 basically all of the things you've described?

20 A Yes.

21 Q Okay.

22 A Except for trading.

23 Q Except for trading, okay. Are you considered an
24 officer or director or managing agent for your company or
25 for Bank of America, I guess, now --

1 very patient.

2 So your declaration indicates -- I think it's
3 paragraph 10, but also throughout, but I think I'm
4 talking particularly about paragraph 10, that it's the
5 routine practice for notes to be -- I mean, for
6 endorsements to be placed on notes on the day the
7 collateral file is received at Recontrust, but the
8 endorsements themselves are not dated. So is there any
9 way to know absolutely for sure that it was done on that
10 particular day?

11 A No. However, the loan would have not passed
12 certification if there was no endorsements applied on
13 September 7th of 2007.

14 Q And what would have happened on September 7th?

15 A Instead of it being reviewed without deficiency,
16 it would have been reviewed with a deficiency showing
17 stating that there was no endorsement on the note.

18 Q Okay. You had said this earlier, but I just --
19 I just want to make sure. So what you had said earlier
20 was that, according to Exhibit B to the declaration, the
21 note was received into the Fannie vault on September
22 10th. Is that correct?

23 A Yes.

24 Q And then it was released on April 22nd. Nothing
25 else happened to it during that time. Is that -- I mean,

1 A I have an office in Simi Valley, yes.

2 Q But is it considered an office -- I mean, is it
3 in the Recontrust building?

4 A It is in that building.

5 Q Are you in charge of hiring any of these people
6 that do that.

7 A No.

8 Q When you're in the Simi Valley office, do you
9 ever observe the endorsing going on?

10 A Only when I do an audit. Security based, I do
11 not have a security level to be in there without being in
12 the company.

13 Q So you're not even allowed, unless accompanied
14 on the floor where this is happening?

15 A Unless I'm performing an audit and unless
16 escorted by a Recontrust associate.

17 Q So you wouldn't know anything or would you --

18 Let me ask you: Would you know the name of the
19 person who did this stamping, for example?

20 A No.

21 Q I mean, would you be able to tell which floor
22 they were on when they did it?

23 A I know where they are located, yes.

24 Q Okay. But, I mean, you weren't there when it
25 happened?

1 A No.

2 Q And of the individuals that do it, that did this
3 in 2007, you wouldn't be able to identify which
4 particular individual put the stamp on this particular
5 note?

6 A Correct.

7 Q This Laurie Meder, is she in the same office as
8 you?

9 A She's part of Recontrust, yes.

10 Q I mean, is she like you? She has an office at
11 Recontrust and at --

12 A No.

13 Q I guess, at this time, Countrywide?

14 A I do not have an office at Recontrust. I have
15 a -- we are located in the same building. I do not
16 have -- the building is not considered Recontrust.

17 Q Okay. I guess I misunderstood.

18 A The vault is attached to the building. It is
19 located at 1800 Tapo Canyon. But my office is not within
20 Recontrust. There are other parts of Bank of America
21 that are located at that same facility.

22 Q So are you describing -- this 1800 Tapo Canyon
23 Road, is it a large complex?

24 A Yes.

25 Q And you're saying your particular part of the

1 Q Okay. Are the procedures that are used in
2 endorsing notes set aside for Fannie Mae the same as
3 those used for non-Fannie Mae notes? Do you know?

4 A They do not report to me.

5 Q I mean, have you ever personally, you know, with
6 a pen signed an endorsement on a promissory note?

7 A No.

8 Q I think I'm just about done.

9 So you were not an employee of Recontrust?

10 A Correct.

11 Q Are you involved at all with any aspects of
12 Recontrust's operation?

13 A I have oversight.

14 Q Oversight of Recontrust?

15 A Oversight of the collateral.

16 Q Well, so, for example, just in general, who
17 would you contact about collateral at Recontrust? I
18 mean, a name, if you know it?

19 A Laurie Meder.

20 Q She is your contact at Recontrust, and that was
21 true in 2007 we're talking about?

22 A Yes.

23 Q The same now?

24 A Yes.

25 Q I mean, how often would you estimate that you

1 BY MR. KIRBY:

2 Q Now, how is it -- or what's the routine process
3 by which notes get endorsed? I mean, how -- and let's
4 say in 2007. How are notes endorsed?

5 A When the collateral is received from the branch
6 into collateral processing, an endorsement stamp is
7 placed on the note.

8 Q Okay. And can you -- I mean, what kind of stamp
9 are you talking about?

10 A A facsimile stamp.

11 Q But I guess a physical description, is it -- can
12 you describe the stamp? I mean, what does it look like
13 is what I'm asking?

14 A It looks like a stamp on a note.

15 Q But, I mean, I'm talking about the thing that
16 you hold, the part that you hold. Is it -- I mean, is
17 this a rubber stamp?

18 A Yes.

19 Q It's not one of those gray self-inking kinds?
20 You know what I'm talking about?

21 A It's a rubber stamp.

22 Q A rubber stamp. And it has -- on the rubber
23 side, it has this information in the endorsement?

24 A Yes.

25 Q I mean, it has, "Countrywide Home Loans, Inc.,

1 and Without Recourse"? Or, I mean, just exactly as it
2 appears with the signatures and everything?

3 A Exactly how it appears.

4 Q Okay. So that is an endorsement rubber stamp,
5 okay. Is the note endorsed at the same time the
6 collateral file is created? And maybe that's not a good
7 way to phrase it.

8 A The endorsement stamp is placed when the
9 collateral file is received into collateral processing.

10 Q So branch collateral documents, they get the
11 package from the branch, stamp the endorsement, and then
12 that's how it's done; is that correct?

13 A That is correct.

14 Q Okay. So where in -- well, in general, would
15 the endorsement all take place at the -- at the
16 custodian, at the custodian's place of business?

17 A The endorsement stamp is placed when it's
18 received into collateral processing, yes.

19 Q Which is at the custodian's?

20 A Which is in the --

21 Q The Tampa -- the four locations?

22 A That's one of the four locations, yes. In this
23 case, it was received into Simi Valley, California.

24 Q Okay. So let's see. So what happens after the
25 note is put in the collateral file? Where does the

1 it?

2 A It's common, standard practice.

3 Q I may not be asking it quite right. I guess
4 what I'm asking is: Do they -- the people who actually
5 use the stamps -- is there more than one, or is there
6 just one stamp? I said "stamps" multiple. Is there only
7 one, or is there --

8 A No, there's multiple stamps.

9 Q So do these people sign something that says, "I
10 understand I'm under Michele Sjolander's power of
11 attorney"?

12 A Once again, you would have to look at the desk
13 procedures for Recontrust, and you would have to talk to
14 someone at Recontrust.

15 Q So that's your understanding that you -- did you
16 sign a power of attorney document?

17 A Yes, I did.

18 Q And, I mean, can you explain just in -- you
19 know, in general, not word for word what it says, but
20 what does it purport to grant as power of attorney?

21 A It grants Recontrust. They can endorse and
22 assign notes on behalf of myself.

23 Q And do you know if this applies to a select
24 group of people?

25 A I do not have -- I would have to read the

1 what -- you kind of touched on this earlier, but what
2 exactly were you reviewing when you --

3 A I reviewed Exhibit A.

4 Q Exhibit A. And who provided that to you, or how
5 was that provided to you?

6 A It was brought in to me by one of my associates.
7 May I say, not the original.

8 Q Right, not the original. Presumably because, at
9 the time you were reviewing it, the original, as we saw
10 in Exhibit B, had been released back in April of 2011.

11 A The exhibit, yes. The original had been
12 released to the attorneys.

13 Q And that -- and so when you -- when you were --
14 I mean, obviously you signed this according to this as --
15 on November 1st, 2011; correct? I mean, that's what
16 it -- yeah. Okay.

17 So you were not looking at the original note
18 when you -- when you performed this review referred to in
19 paragraph 7?

20 A I believe, when I performed this review, the
21 attorney sent me a copy of the note, as well as I wanted
22 to confirm that the copy that they sent me was the copy
23 that was in our system, so I did review both.

24 Q You reviewed both --

25 A Copies.

1 Q -- the copy that the attorney sent you and the
2 copy that was in the system? Is that what you said?

3 A Yes.

4 Q But not the actual original paper note?

5 A Nope.

6 Q And do you know which attorney it was that had
7 this that sent this to you?

8 A I would have to look at my e-mail.

9 MR. HEMBREE: Just -- I've let it go as far as
10 communications with attorneys, but at some point I'm
11 going to have to object on privilege if we get too far
12 into privilege.

13 MR. KIRBY: I understand.

14 MR. HEMBREE: But no problem so far.

15 MR. KIRBY: Okay.

16 Q Okay. So when you reviewed these copies, where
17 were you when you did that?

18 A My Simi Valley office.

19 Q So do you know for certain when --

20 The endorsement that you, you know -- that you
21 said was on the note at the time you reviewed it for the
22 declaration, do you know when that endorsement came to be
23 placed on the note in this case?

24 A I stated in the declaration that the endorsement
25 was placed at the time that it was received into

1 A All noncorrespondent lending loans were
2 processed through Simi Valley at that time.

3 Q Okay. So my understanding is -- and please
4 correct me if I'm wrong. Well, let me phrase it as a
5 question.

6 It's employees at Recontrust that stamp the
7 endorsements on the notes in general, including this one;
8 is that right?

9 A Yes.

10 Q And you've seen that taking place?

11 A Yes.

12 Q In Simi Valley?

13 A Yes.

14 Q Is there some type of manual or set of
15 instructions?

16 A They have my power of attorney.

17 Q Well, okay. That's not what I'm asking. But I
18 do want to know about that. But what I'm saying: Is
19 there some sort of manual or instructions or --

20 A If you want to know the desk procedures, you
21 would have to speak with an associate of Recontrust.

22 Q Okay. Okay. Sorry. I'm just reading the notes
23 again. Now, I'm going to try to explain this. I may
24 have to do it a couple of times, but just bear with me.
25 And you've been very helpful so far. I appreciate it,

1 there's two weeks between those -- you know, between the
2 signing of the note and the sending out of it by the
3 branch. And I was just -- and, you know, I'm just
4 asking. If you don't know, that's fine. And you seem to
5 be indicating that you don't know. But I'm just --

6 A There's a rescission period that goes on. The
7 branch also has to take the file and pull out all of the
8 collateral documents. This loan funded, I think, on
9 August 21st, which is probably towards the end of the
10 month, which is when a branch is most -- is busiest, so
11 I'm sure that it went in the line of being through the
12 processor to get processed and the collateral being put
13 into the file and sent off.

14 Q And just so -- just because we've talked about
15 so many vault locations, you said earlier that this
16 particular note was sent to the Simi Valley vault?

17 A Yes.

18 Q From the branch?

19 A Yes.

20 Q Does that have anything to do with it being a
21 Fannie Mae collateral file?

22 A In 2007 we did not have Fort Worth open, and it
23 was not a correspondent lending loan, so I know it did
24 not go to Tampa.

25 Q Okay.

1 document.

2 Q Okay. But just to clarify, once again, you
3 don't actually know the legal mechanism by which these
4 people with the stamps operate under this power of
5 attorney?

6 A As I said, I would have to go back through all
7 of the documentation that surrounds the power of
8 attorney, and Recontrust has desk procedures, and it
9 would be their procedures for them to assign that, to
10 place the stamp on the collateral.

11 Q And this was a procedure in 2007, what we're
12 talking here is 2007?

13 A Correct.

14 Q And to the present?

15 A No.

16 Q Okay. Let me see.

17 And I don't know if you -- was there any way we
18 could get a copy of that power of attorney, or is that,
19 you know --

20 MR. HEMBREE: I can try. Countrywide Home
21 Loans, Inc., is not a party to the litigation.

22 MR. KIRBY: Right.

23 MR. HEMBREE: So that creates some issues for
24 us, but we could take a look at it and see.

25 MR. KIRBY: Oh, okay. I follow you.

1 when the file is removed from or released or taken out of
2 Recontrust?

3 A The source elements?

4 Q Right.

5 A Yes.

6 Q Okay. Now, you were saying that Recontrust used
7 to be called Treasury Bank?

8 A Yes.

9 Q And that was in -- during your time at
10 Countrywide it had been called that?

11 A Yes.

12 Q But you don't have any -- do you have any idea
13 of when that changed?

14 A No.

15 Q Okay. Would there be any way to tell -- if the
16 collateral file that has the note that we're talking
17 about, would there be a way to tell if that was ever held
18 by an entity other than Recontrust?

19 A It stayed in the same spot from 2007 till 2011.

20 Q And you're saying that based on the information
21 there in Exhibit B?

22 A Yes.

23 Q Okay. Now, in paragraph 7, you say that you've
24 reviewed the promissory note where it says, "I have
25 reviewed the promissory note as it exists now." I mean,

1 that?

2 A Security guards?

3 Q Right.

4 A No.

5 Q No. Are there any other, you know, safekeeping
6 security apparatuses around the --

7 A It is a true contained vault.

8 Q Oh, it's an actual vault. So when you say
9 Fannie vault, you mean literally what you picture in your
10 mind of a vault of steel doors?

11 A It is a -- there are -- it is under the
12 guidelines of the custodial guides of what a vault has to
13 be. If you look in the Fannie or the Freddie guides, it
14 will tell you what the -- what a vault has to be, fire
15 rated.

16 Q Do you know what --

17 A I don't. I mean, I could --

18 Q Okay. And you've been to this particular vault?

19 A Yes.

20 Q I mean, can you describe it, just in your own
21 terms, just in your own words, what it looks like, what
22 we would see if we went to it?

23 A Unfinished walls, fire rating, cold, dark, rows
24 of collateral.

25 Q And what is the entry? How do you get in?

1 Q Right.

2 A Collateral processing then received it and sent
3 it -- this loan was pooled into a Fannie Mae security and
4 sent it to FP, which is known as Fannie Mae processing.
5 The loan was then processed through Fannie Mae's
6 custodial eligibility, went from the Fannie Mae
7 processing to FV, which is the Fannie Mae vault.

8 Q Right.

9 A It stays in the Fannie Mae vault for
10 safekeeping, and then you can see that it was released
11 from the Fannie Mae vault in April on -- on April 22nd,
12 2011, and that was probably due to this case to the
13 attorney.

14 Q Okay. So is this where collateral transaction
15 tracking -- I mean, I don't know if the attorney still
16 has the note or -- I mean, that was obviously last year.
17 Would the attorney still have the note, or would it have
18 been returned or -- I mean, if it were returned, there
19 would not be an entry past that?

20 MR. HEMBREE: For the record, I do have
21 possession of the original note in my office in Jackson,
22 Mississippi, and have had it for quite some time.

23 BY MR. KIRBY:

24 Q So --

25 A If the note was then received back into the