

Show Me the Note: A Foreclosure Defense Guide

How to Demand Evidence, Challenge Jurisdiction, and Stop Unlawful Foreclosures

By Seeymuur El

Table of Contents

- Introduction
- Chapter 1: The Legal Right to Demand the Note
- Chapter 2: What the Courts Say - Case Summaries
- Chapter 3: Judicial vs. Nonjudicial Foreclosure
- Chapter 4: Securitization and Broken Chains
- Chapter 5: How to Use 'Show Me the Note' in Court
- Conclusion

Introduction

This guide teaches homeowners how to stand up for their rights during foreclosure. If a bank or servicer can't prove they own your mortgage, they can't legally take your home. This guide helps you understand how to ask the court to require that proof: 'Show Me the Note.'

Chapter 1: The Legal Right to Demand the Note

In judicial foreclosure states, banks must sue you in court to take your home. As a homeowner, you have the right to ask: 'Where is the original signed note?' Without it, the bank might not have legal standing. If they can't prove ownership, the case may be dismissed.

Chapter 2: What the Courts Say - Case Summaries

Bank of New York v. Raftogianis (New Jersey, 2010)

- The court ruled the bank couldn't foreclose unless it showed it had the original note before the lawsuit began.

Taylor v. Deutsche Bank (Florida, 2010)

- The bank filed suit without proof it had the note. The court dismissed it, saying ownership must be proven at filing.

Desbrunes v. U.S. Bank (Florida, 2024)

- Highlighted in legal reviews, this case stressed how failing to produce a note undermines the entire foreclosure case.

Yvanova v. New Century Mortgage (California, 2016)

- The California Supreme Court said borrowers can challenge the authority of whoever claims to own the loan.

Focht v. Wells Fargo (Florida, 2013)

- The Florida Bar pointed to this case to warn banks they must have proper documents ready before suing.

Chapter 3: Judicial vs. Nonjudicial Foreclosure

There are two main types of foreclosure in the United States: judicial and nonjudicial.

In judicial foreclosure states (like Florida and New Jersey), the bank must file a lawsuit in court to foreclose on a home. This gives you a chance to respond and demand proof.

In nonjudicial foreclosure states (like California), the process happens outside of court. To fight back, you must take the initiative and file a lawsuit to stop the sale and force the lender to prove ownership.

Chapter 4: Securitization and Broken Chains

Most mortgages are sold and resold between banks, often bundled into investment packages called mortgage-backed securities. Each time a loan changes hands, the note should be properly endorsed and assigned to the new owner.

But in many cases, banks can't show a clear path of ownership. If your note was transferred multiple times and no one has a straight answer about who owns it, the bank may not be able to legally foreclose.

You have a right to see the chain of title and every endorsement. If it's incomplete or missing, challenge it in court.

Chapter 5: How to Use 'Show Me the Note' in Court

If you're in foreclosure, one of your first defenses should be to demand proof the bank owns your loan.

You can file a motion asking the judge to require the bank to present the original promissory note.

Use language like this:

"Defendant respectfully requests that Plaintiff be required to produce the original promissory note.

Defendant asserts that without this document, Plaintiff lacks standing to bring this action."

If they can't produce it or if it's defective, you may be able to get the foreclosure case dismissed.

Even in nonjudicial states, filing a lawsuit can halt the process and force them into court.

Conclusion

Foreclosure doesn't mean you're powerless. When banks cut corners or lose track of documents, you can fight back using clear legal steps. Always ask: 'Do you have the note?'

This guide gives you the foundation to protect your home and force the system to follow the law. Your defense starts with knowledge-and action.