WELLS FARGO ORDERED TO PAY $3.2 MILLION FOR "SHOCKING" FORECLOSURE

Damage awards for wrongful foreclosure are rising across the country. In New Mexico a judge issued a $3.2 million judgment (including $2.7 million in punitive damages) against Wells Fargo Bank for foreclosing on a man's home after his death even though he had an insurance policy through the bank that paid the remaining balance on his mortgage. The balance "owed" on the mortgage was $125,000. Despite the fact that the bank knew about the insurance (because it was purchased through the bank) Wells Fargo Bank, N.A. continued to pursue foreclosure, ignoring the claim for insurance.

Where a loan is subject to claims of securitization, and the investment banks lied to insurers, investors, guarantors and other co-obligors, they most likely have been paid many times for the same loan and never gave credit to the investors. By not crediting the investors they created the illusion of a higher balance that was due on the loan. They also created the illusion of a default that probably never occurred. But by pursuing foreclosure and foreclosure sale, they compounded the illusion and avoided claims for refund and repayment received from third parties and created claims for recovery of servicer advances. In many foreclosures, payments received from the FDIC under loss-sharing were never taken into account. Thus the bank collects money repeatedly for a loss it never incurred. Wells Fargo blamed its computer-driven systems in part, but the evidence showed that the “misconduct was systematic and not the result of isolated errors.”

This case is another example of why following the money trail you will discover that the documents upon which the foreclosure relies referred to fictitious transactions. The documents are worthless, but nevertheless accepted in court unless a proper objection is made based upon preserving issues for trial and appeal by proper pleading and discovery.

Lawyers should take note of this profit opportunity. Most homeowners are looking for attorneys to take cases on contingency. Typical contingency fee is 40%. If these lawyers were on a typical contingency fee arrangement, their payday would have been around $1.2 million.

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