

CASE DECISIONS REGARDING PROOF OF CLAIM

Please see list below of hidden case law hidden from the public, supporting our position that the banks operate in fraud.

CASE DECISIONS:

Patton v. Diemer, 35 Ohio St. 3d 68; 518 N.E.2d 941; 1988). A judgment rendered by a court lacking subject matter jurisdiction is void abinitio. Consequently, the authority to vacate a void judgment is not derived from Ohio R. Civ. P. 60(B), but rather constitutes an inherent power possessed by Ohio courts. I see no evidence to the contrary that this would apply to ALL courts.

“A party lacks standing to invoke the jurisdiction of a court unless he has, in an individual or a representative capacity, some real interest in the subject matter of the action. Lebanon Correctional Institution v. Court of Common Pleas 35 Ohio St.2d 176 (1973).

“A party lacks standing to invoke the jurisdiction of a court unless he has, in an individual or a representative capacity, some real interest in the subject matter of an action.” Wells Fargo Bank, v. Byrd, 178 Ohio App.3d 285,2008-Ohio-4603,897 N.E.2d 722(2008). It went on to hold, ” If plaintiff has offered no evidence that it owned the note and mortgage when the complaint was filed, it would not be entitled to judgment as a matter of law”

(The following court case was unpublished and hidden from the public)

Wells Fargo, Litton Loan v. Farmer, 867 N.Y.S.2d 21 (2008). “Wells Fargo does not own the mortgage loan... Therefore, the... matter is dismissed with prejudice.”

(The following court case was unpublished and hidden from the public)

Wells Fargo v. Reyes, 867 N.Y.S.2d 21 (2008). Dismissed with prejudice, Fraud on Court & Sanctions. Wells Fargo never owned the Mortgage.

(The following court case was unpublished and hidden from the public)

Deutsche Bank v. Peabody, 866 N.Y.S.2d 91 (2008). EquiFirst, when making the loan, violated Regulation Z of the Federal Truth in Lending Act 15 USC §1601 and the Fair Debt Collections Practices Act 15 USC §1692; "intentionally created fraud in the factum" and withheld from plaintiff... "vital information concerning said debt and all of the matrix involved in making the loan".

(The following court case was unpublished and hidden from the public)

Indymac Bank v. Boyd, 880 N.Y.S.2d 224 (2009). To establish a prima facie case in an action to foreclose a mortgage, the plaintiff must establish the existence of the mortgage and the mortgage note. It is the law's policy to allow only an aggrieved person to bring a lawsuit . . . A want of "standing to sue," in other words, is just another way of saying that this particular plaintiff is not involved in a genuine controversy, and a simple

sylllogism takes us from there to a "jurisdictional" dismissal:

(The following court case was unpublished and hidden from the public)

Indymac Bank v. Bethley, 880 N.Y.S.2d 873 (2009). The Court is concerned that there may be fraud on the part of plaintiff or at least malfeasance Plaintiff INDYMAC (Deutsche) and must have "standing" to bring this action.

(The following court case was unpublished and hidden from the public)

Deutsche Bank National Trust Co v. Torres, NY Slip Op 51471U (2009). That "the dead cannot be sued" is a well established principle of the jurisprudence of this state plaintiff's second cause of action for declaratory relief is denied. To be entitled to a default judgment, the movant must establish, among other things, the existence of facts which give rise to viable claims against the defaulting defendants. "The doctrine of ultra vires is a most powerful weapon to keep private corporations within their legitimate spheres and punish them for violations of their corporate charters, and it probably is not invoked too often..."

Zinc Carbonate Co. v. First National Bank, 103 Wis. 125, 79 NW 229 (1899). Also see: American Express Co. v. Citizens State Bank, 181 Wis. 172, 194 NW 427 (1923).

(The following court case was unpublished and hidden from the public)

Wells Fargo v. Reyes, 867 N.Y.S.2d 21 (2008). Case dismissed with prejudice, fraud on the Court and Sanctions because Wells Fargo never owned the Mortgage.

(The following court case was unpublished and hidden from the public)

Wells Fargo, Litton Loan v. Farmer, 867 N.Y.S.2d 21 (2008). Wells Fargo does not own the mortgage loan. "Indeed, no more than (affidavits) is necessary to make the prima facie case." United States v. Kis, 658 F.2d, 526 (7th Cir. 1981).

(The following court case was unpublished and hidden from the public)

Indymac Bank v. Bethley, 880 N.Y.S.2d 873 (2009). The Court is concerned that there may be fraud on the part of plaintiff or at least malfeasance Plaintiff INDYMAC (Deutsche) and must have "standing" to bring this action. Lawyer responsible for false debt collection claim Fair Debt Collection Practices Act, 15 USCS §§ 1692-1692o, Heintz v. Jenkins, 514 U.S. 291; 115 S. Ct. 1489, 131 L. Ed. 2d 395 (1995). and FDCPA Title 15 U.S.C. sub section 1692. In determining whether the plaintiffs come before this Court with clean hands, the primary factor to be considered is whether the plaintiffs sought to mislead or deceive the other party, not whether that party relied upon plaintiffs' misrepresentations.

Stachnik v. Winkel, 394 Mich. 375, 387; 230 N.W.2d 529, 534 (1975).
"Indeed, no more than (affidavits) is necessary to make the prima facie case."

United States v. Kis, 658 F.2d, 526 (7th Cir. 1981). Cert Denied, 50 U.S. L.W. 2169; S. Ct. March 22, (1982). "Silence can only be equated with fraud where there is a legal or moral duty to speak or when an inquiry left unanswered would be intentionally misleading."

U.S. v. Tweel, 550 F.2d 297(1977). “If any part of the consideration for a promise be illegal, or if there are several considerations for an un-severable promise one of which is illegal, the promise, whether written or oral, is wholly void, as it is impossible to say what part or which one of the considerations induced the promise.”

Menominee River Co. v. Augustus Spies L & C Co., 147 Wis. 559 at p. 572; 132 NW 1118(1912). Federal Rule of Civil Procedure 17(a)(1) which requires that “[a]n action must be prosecuted in the name of the real party in interest.” See also, In re Jacobson, 402 B.R. 359, 365-66 (Bankr. W.D. Wash. 2009); In re Hwang, 396 B.R. 757, 766-67 (Bankr.C.D. Cal. 2008).

Mortgage Electronic Registration Systems, Inc. v. Chong, 824 N.Y.S.2d 764 (2006). MERS did not have standing as a real party in interest under the Rules to file the motion... The declaration also failed to assert that MERS, FMC Capital LLC or Homecomings Financial, LLC held the Note.

Landmark National Bank v. Kesler, 289 Kan. 528, 216 P.3d 158(2009). “Kan. Stat. Ann. § 60-260(b) allows relief from a judgment based on mistake, inadvertence, surprise, or excusable neglect; newly discovered evidence that could not have been timely discovered with due diligence; fraud or misrepresentation; a void judgment; a judgment that has been satisfied, released, discharged, or is no longer equitable; or any other reason justifying relief from the operation of the judgment. The relationship that the registry had to the bank was more akin to that of a straw man than to a party possessing all the rights given a buyer.” Also In September of 2008, A California Judge ruling against MERS concluded, “There is no evidence before the court as to who is the present owner of the Note. The holder of the Note must join in the motion.”

LaSalle Bank v. Ahearn, 875 N.Y.S.2d 595 (2009). Dismissed with prejudice. Lack of standing.

Novastar Mortgage, Inc v. Snyder 3:07CV480 (2008). Plaintiff has the burden of establishing its standing. It has failed to do so.

DLJ Capital, Inc. v. Parsons, CASE NO. 07-MA-17 (2008).