



# Legal Forum

Serving and Protecting You Through Tough Times™

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## How to find out who really owns your mortgage



The following documents will help you and your legal representative determine whether or not your bank is the actual holder of your mortgage:

- A copy of your original Note
- A copy of your Deed of Trust
- A copy of any Substitution of Trustee relating to your property, if any.
- A copy of any Assignments of Deed of Trust, if any.
- A copy of any Notice of Default, if any, with any attachments.
- A copy of any Notice of Trustee's Sale, if any.
- A copy of any Trustee's Deed Upon Sale, if any.
- Any letter or correspondence you have received from your bank or mortgage servicer relating to previous attempts at loan modification.

## Legally Speaking by Norberto F. Reyes, III

2011 may indeed still be a Happy New Year, even if you're a homeowner facing foreclosure, or if you have already been foreclosed upon.

Earlier this month, the Massachusetts Supreme Judicial Court invalidated the seizure of two homes after Wells Fargo & Co and US Bancorp failed to show they held the mortgages on these homes at the time they foreclosed.

I have no doubt that this case ruling will reverberate in all the other states, including California.

Although this ruling is binding only in MA, the legal basis and reasoning is fundamentally sound and correct.

In fact, my firm, **REYES LAW GROUP, APLC**, is handling many cases using similar litigation strategies, and raising the same legal issues with respect to securitization, as those used in Massachusetts. I am looking forward to the day when the judiciary in California catches up to Massachusetts and the rest of the country.

Please go to page 2 to read the details of the case

*("Court voids foreclosures when lenders, banks fail to prove ownership of mortgage")*

Then, bring the documents listed in the article above to our office, and we will assist you to determine who rightfully and legally owns your mortgage!



*Banks foreclosed on 69,847 properties in December, bringing 2010 total to 1.05 million*  
---RealtyTrac



*In December, REYES LAW GROUP, APLC joined the thousands of concerned groups and homeowners urging our clients and associates to sign the petition to their Attorney Generals to hold big banks accountable for mortgage fraud.*

## **“We will put people in jail!”**



State Attorney Generals take a tough stand in their negotiations with big banks over mortgage fraud.

The lead Attorney General of the 50-state foreclosure investigation, Iowa's Tom Miller, said "We will put people in jail," in response to questions during a meeting last December with more than 100 people from 15 states representing community, faith, and labor organizations, foreclosure victims and struggling homeowners from across the country.

## **Court voids foreclosures when lenders, banks fail to prove ownership of mortgage**

### **Highlights of U.S. Bank vs. Ibanez and Wells Fargo vs. LaRae,:**

- Banks that made the loans to homeowners subsequently sold them
- Sold loans are part of a pool or bundle comprised of thousands of other mortgages, to other entities as part of the securitization process.
- However, in order to perfect ownership for the buyers of these pools, the notes and mortgages had to comply with strict and timely procedures.
- Massachusetts Supreme Court held that because those procedures weren't followed, the buyers (investors) in those mortgages had no right to foreclose.
- CONCLUSION: There is a growing trend for courts to more closely examine claims of ownership and proper documentation by the banks, refusing to take the claims of mortgage lenders and servicers at face value.

# Legal Forum: Temporary Restraining Orders

In last month's segment of "Legal Forum" on KSCI-TV, I discussed two types of legal proceedings that are used to help homeowners in foreclosure: Temporary Restraining Orders and Preliminary Injunction:



## TEMPORARY RESTRAINING ORDER (TRO)

This is a legal proceeding that requires filing a lawsuit, then (usually) simultaneously filing an ex parte (emergency) application for a TRO to stop a foreclosure sale.

In order to be successful, we must convince a judge that "irreparable harm" will result to our client if the foreclosure sale is not stopped.

"Irreparable harm" is a legal concept that means damage sustained by a person that cannot be easily calculated. An example would be the loss of a home, or any other real estate, which under the law is considered unique and not replaceable.

So, if the court is convinced that we have strong enough evidence to grant a TRO, then a TRO would be granted for a period of up to 22 days. All foreclosure and collection activity has to stop for this time period.

Before that time period expires, there will be a second hearing to hear the arguments of both sides about whether the TRO will be extended beyond the initial period of up to 22 days, all the way up to trial, which could be about one year away.

## PRELIMINARY INJUNCTION

A court order to extend the TRO pending trial is called a Preliminary Injunction. To successfully obtain a preliminary injunction, we have to prove that our client is likely to win at trial. In addition, the court balances the harm resulting to the homeowner if the injunction is not granted, versus the harm to the bank if the injunction is granted.

A Preliminary Injunction means that the bank cannot foreclose on a homeowner until after all of the legal issues are fully decided after a full-blown court or jury trial, usually about one year after filing the case.

This can be a very powerful weapon for the homeowner, and is a good incentive for banks to come to the table to make a meaningful settlement offer. Tying the property up in court means that banks are unable to sell the property to recover their money. It increases the severity of the bank's losses on that particular property and makes a settlement more likely.

**Got a question for Atty. Reyes that you'd like him to answer on the show?**

**Email us your question: [contactus@reyeslawgroup.com](mailto:contactus@reyeslawgroup.com)**

**Put "Legal Forum Question" in the subject line.**

**Kababayan L.A.—KSCI TV Channel 18**

**Weekdays at 4:30 pm**



REYES LAW GROUP  
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## Foreclosure Defense Events:

We hold foreclosure defense events at REYES LAW GROUP, APLC every month. Call us and sign up for the next free event to learn more and answer your questions.

REYES LAW GROUP  
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**STOP FORECLOSURE**  
**SAVE YOUR HOME**  
**ELIMINATE YOUR DEBTS**  
**IMPROVE YOUR FINANCIAL OUTLOOK**  
**TAKE CONTROL OF YOUR LIFE**

Was Your Mortgage SOLD or Transferred  
From One Lender To Another?  
Was Your Mortgage SECURITIZED? Find Out NOW!  
The Bank You're Paying May Not Own Your MORTGAGE  
or Have The Legal Right To FORECLOSE!  
LOAN MODIFICATION is like THROWING MONEY away.  
**FIGHT the BANKS!**

Call (213) 382-6600 for FREE Consultation!

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## SECURITIZED MORTGAGE LITIGATION

**REYES LAW GROUP** represents homeowners against banks and mortgage servicers who may have no legal right to foreclose on your home.

We file lawsuits against banks if we discover that your original mortgage lender securitized, sold or transferred the loan improperly.

We may be able to prove that they are not the real party in interest and have no legal standing to foreclose on your mortgage!

If a securitization audit reveals that the loan was securitized/transferred improperly by the lender, we can file a lawsuit to

**FIGHT FORECLOSURE!**

REYES LAW GROUP, A Professional Law Corporation, is designated as a Federal Debt Relief Agency by an Act of Congress and the President of the United States, and proudly represents consumers and businesses seeking relief under the U.S. Bankruptcy Code.

Call for your FREE CONSULTATION!

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