THE TRUTH ABOUT SECURITIZED TRUSTS AND FORECLOSURE STANDING

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One of the biggest myths in foreclosure defense litigation is believing that if the bank or servicer says your loan was placed into a securitized trust, then the case is over and they automatically have legal standing.

That could not be further from the truth.

A securitized trust is not magic, not proof and not a free path to foreclosure. It is just a claimed structure. And like every other claim in court, it must be supported by irrefutable and admissible evidence.

That is where homeowners and many lawyers make a costly mistake. They hear the words "trust," "trustee," or "mortgage-backed securities," and they assume the

foreclosing party must have authority. But assumptions do not win cases. Irrefutable evidence wins cases.

The real question is not whether someone mentions a trust. The real question is this:

"**Can the party seeking foreclosure prove that the debt was actually properly and legally transferred to a Trust in a real transaction that gives it the legal right to enforce?**"

What Is a Securitized Trust?

In plain English, a securitized trust is a structure used in the mortgage market where large numbers of mortgage loans are pooled together and used to support the sale of mortgage-backed securities to investors.

On paper, that sounds simple. In practice, it is NOT what actually occurred.

The trust usually has a trustee. There may also be a servicer, subservicer, document custodian, master servicer, and other parties. By the time a foreclosure starts, the homeowner is often facing a servicer acting in the name of a trustee for a trust with a long name that sounds official and intimidating. In many cases, they claim to own the loan themselves, a common Nationstar/Mr. Cooper ploy.

But sounding official is not the same as proving a case.

Why Securitization Does Not Automatically Prove Standing

Many foreclosure claims rely on a chain of assumptions that goes something like this:

- **The loan was originated.**
- **The loan was sold or transferred. (in reality this was often done improperly)**
- **The loan was supposedly placed into a trust.**
- **The servicer claims to act for the trust.**
- **Therefore, the claimant has standing.**

That leap is where the problem begins.

The court is not supposed to accept standing just because a lawyer recites a trust name unless you challenge this assumption. **A witness must still provide admissible evidence showing:**

- **who acquired the debt,**
- **when it was acquired,**
- **how it was acquired,**
- **whether value was paid, and**
- **who authorized enforcement.**

If those facts are missing, then the trust story may be nothing more than a story.

The Difference Between a Document Trail and a Transaction Trail

This is where many cases turn.

Foreclosure mills often produce and record a stack of paperwork and hope the judge treats it as proof. They may show an assignment, an endorsement, a lost note affidavit, a power of attorney, or a declaration from a servicer employee or MERS involvement.

But paperwork alone is not the same as a real transaction trail that affects title to your home.

A document trail shows that papers exist. A transaction trail shows that an actual transfer of rights occurred in a real-world financial transaction.

That means the question is not just whether there is an assignment. The question is whether the chain of assignments reflects a real transfer connected to actual value, actual authority, and an actual party entitled to enforce.

Many homeowners lose because they attack the paperwork without demanding proof of the underlying transaction. This is the bigger issue. They often lose cases also because the Judge knows that the homeowner at one time took out a loan and is reluctant to dismiss the case in favor of the homeowner and give the homeowner a “free house”. Judges will actually cite this reasoning and a savvy homeowners must be ready to address this issue.

Our founder, Neil Garfield advised our clients to state very simply this fact: “Your honor, I took out a loan at one time but it was not with these people before you here today; I don’t owe them any money. I would be happy to pay if we can figure out who really owns my loan and has the right to collect on it; all i know is that it is not these “pretend lenders”

So you see the real issue is not whether there was a loan obligation at one time. The issue is whether the foreclosing party can be verified as the party with the legal authority and capacity to act as the creditor with respect to that obligation.

See how to speak to the judge without offending him

Why Trust Names Often Hide the Real Problem

When a foreclosure is filed in the name of “U.S. Bank, as Trustee for XYZ Trust” or “Deutsche Bank, as Trustee for ABC Trust,” the title itself is designed to make the claim appear settled and unquestionable.

But those titles often raise more questions than they answer.

For example:

- **Did the trust ever actually acquire the debt?**
- **Is the trust still active?**
- **Was the loan transferred before the trust closing date?**
- **Who paid for the debt?**
- **Is the servicer acting under actual authority or just claiming it?**
- **Is it a true REMIC trust or is it just a STATIC Trust that never owns anything and is just a holding entity until the full number of loans has been acquired before being transferred into a true Trust?**

These are not technical side issues. These are basic standing questions.

Lack of standing in foreclosure cases

Why the Servicer Is Often the Real Actor

In many foreclosure cases, the trust is just a name in the caption while the servicer does all the real work. The servicer sends the notices. The servicer provides the affidavit. The servicer's witness testifies. The servicer's lawyers prosecute the case.

That should immediately raise another question:

What is the servicer's authority, and where is the proof of it?

A servicer cannot simply appear in court and use its own records to prove everything unless the foundation is established. And even then, the servicer still must connect its authority back to the party actually entitled to enforce.

Without that foundation, the court is often being asked to accept layers of hearsay, assumptions, and unsupported business-record claims.

What Homeowners Should Force Them to Prove

If the foreclosing party claims to act on behalf off a securitized trust, then throw the ball back in their court to prove; forcing the issue. Do not just accept labels. Or assumptions. Demand proof.

That proof should include, at a minimum:

- the identity of the current creditor,
- the basis for claiming that creditor owns or holds enforceable rights,
- the authority of the servicer to act,
- the transaction history showing how the debt was acquired,
- the supporting business records with proper foundation, and
- the witness's personal knowledge or legally sufficient basis to testify. If loan servicing changed hands many times and their affidavit or declaration is attesting to events that happened long before the current servicers involvement, then their evidence is pure hearsay-something they cannot legally attest to.

This shifts the case from assumption to proof.

Why This Matters More Than Generic “Fraud” Allegations

Many pro se litigants and even some lawyers waste time throwing broad fraud allegations into pleadings. That usually goes nowhere unless it is supported by specific facts, documents, dates, and a clear legal theory.

A better strategy is often simpler and stronger: demand proof of standing.

If they cannot prove who acquired the debt, who rightfully owns the claim, and who authorized enforcement, then the entire foreclosure is built on a weak foundation.

You do not need to yell “fraud” to expose a defective case. Sometimes you just need to ask the right questions and insist on real answers.

How This Fits the LivingLies/DefendtheForeclosure Approach

The LivingLies method has always been about cutting through the noise. The point is not to impress the court with several complicated and unsupported theories. The point is to make the claimant prove the core facts it has assumed nobody will challenge.

That means focusing on:

- **standing,**
- **real party in interest,**
- **authority,**
- **irrefutable admissible evidence, and**
- **the money trail behind the paperwork.**

Keep it simple. Too many arguments allow more room for argument, errors and technicalities that could jeopardize your case. Foreclosure cases are lost because the opposing side redirects the Court away from the very FACTS that they cannot challenge because they are TRUE! That approach works because it forces the case back to fundamentals.

What to Ask in Discovery

If your case is in litigation, discovery should target the exact points they hope to avoid. For example, you may seek:

- **identification of the TRUE current creditor by obtaining the loan level data showing who is reporting the loan as an asset on Wall Street. (ask us how we do this)**
- **documents showing acquisition of the debt, and proof of payments.**
- **servicing agreements or excerpts showing authority, including a valid Power of Attorney to act on creditors behalf**
- **payment history and boarding records for your specific loan.**
- **identity of each prior servicer,**
- **communications regarding transfer or acquisition of the loan, and**
- **the factual basis for alleging standing at the time suit was filed.**

The goal is not discovery for its own sake. The goal is to make them either produce proof or reveal that the proof is missing.

Another important tool to also use is getting a subpoena to obtain critical evidence that you KNOW they cannot provide. When they cannot properly comply, they are in violation with the Court which works in your favor. This is a step few use, yet it could easily end their false claims

Ask us about how we help you use discovery to win cases.

What Homeowners Should Stop Doing

Stop assuming that a trust name proves ownership and that a servicer witness automatically knows what they are talking about.

Stop assuming that endorsements and assignments tell the whole story.

And stop thinking securitization is either a magic defense or a meaningless distraction.

It is neither.

Securitization matters when it exposes weak standing, weak authority, and weak proof.

If you can demonstrate to the Court that legal transfer of the Deed of Trust or Mortgage did not follow the same path as the Note (evidence of the debt), your loan became UNSECURITIZED by title.

If a title claim was not properly transferred, there can be no legal foreclosure. Foreclosure is an attempt to take title to the property as payment for your defaulted debt.
Collection of a debt is very different from a legal title claim.

Why pro se homeowners lose in court

Conclusion

The truth about securitized trusts is simple: they do not eliminate the need for evidence. They increase the need for it.

The more layers there are between the homeowner and the party bringing the foreclosure, the more important it becomes to force proof of authority, proof of acquisition, and proof of the right to enforce.

Do not let labels win the case.

Make them prove it. Ask us how we provide evidence in cases to show who really owns your loan. It matters to have the evidence. That's what matters to the Judged and that's why it matters to us when we help homeowners save their home from an illegal foreclosure. We've been doing it for over 20 years.

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Frequently Asked Questions

Does a securitized trust automatically have standing to foreclose?

No. A claimed trust relationship does not automatically prove standing. The foreclosing party still must show admissible evidence of authority and the right to enforce.

Is an assignment enough to prove the trust owns my loan?

Not necessarily. An assignment is just one piece of paper. It does not automatically prove a real transfer of the debt in an actual financial transaction especially if there are missing interim assignments that never occurred.

Can a servicer testify for the trust?

Sometimes, but only if the proper legal foundation is laid and the witness can establish authority and admissible records.

Unsupported conclusions should be challenged. A servicer can only attest to what they have first hand knowledge in knowing. They cannot attest to someone elses claims.

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