

12. RESPA Violations Mortgage Servicer Real Estate Settlement Procedures Act

Background

The homeowners entered into their first mortgage in 2008 and made mortgage payments as required under the terms of the financing. The home was refinanced in 2011 and the homeowners continued to make payments regularly.

In January 2013 the homeowners were served with a Foreclosure Petition from the mortgage servicer, claiming that the homeowners were in default of their obligations under the original 2008 mortgage. The homeowners presented the servicer with a mortgage satisfaction and payment documents and engaged in court proceedings to disprove claims advanced in the Foreclosure Petition. However, the attempted mortgage foreclosure continued.

Issues

The mortgage servicer failed to recognize that the 2008 mortgage had been satisfied with a new mortgage in 2011 and that the homeowners were not in default. The servicer continued to contact the homeowners even after the Foreclosure Petition was dismissed.

Outcome

Dr. Musil was retained as an expert by the homeowners' attorney. During discovery of the servicer's documents and records, Dr. Musil identified a pattern of poor and unsupervised business, recordkeeping, and collection practices.

Landmark Real Estate Research, Inc. prepared the Expert Report and Analysis of the mortgage servicer's actions and duties under the Real Estate Settlement Procedures Act (RESPA). The case settled in favor of the homeowners.