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'We Know What They Did': Wells Fargo Accused of Quietly Changing Mortgage Maturity Dates Nationwide

August 11, 2020

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Benjamin Widlanski of Kozyak, Tropin & Throckmorton in Coral Gables.
Courtesy photo.

A putative class action lawsuit alleging California-based Wells Fargo Bank N.A.

fraudulently changed the maturity dates on thousands of mortgages across the country has landed in the Middle District of Florida, and it could prove costly for the bank.

The lawsuit is the latest example of bad actors in large banks taking advantage of unsophisticated borrowers, in the eyes of plaintiffs attorneys Benjamin Widlanski of Kozyak Tropin & Throckmorton in Coral Gables and Ocala solo practitioner George Franjola.

“The history of consumer protections in America is replete with instances where institutional, large corporate entities figure out ways to game the system in their favor, and to prejudice the working class and prejudice unsophisticated borrowers and buyers,” Widlanski said. “That’s what happened here. They’re taking advantage of their ability to do things that Regular Joes can’t do.”

Widlanski and Franjola represent plaintiffs Philip and Ingrid Tippet, who obtained a standard purchase-money mortgage with Wells Fargo for their new Marion County home in 2003. The loan covered 75% of the purchase price, and instead of putting money down, the couple took out a second mortgage called a home equity line of credit — also known as HELOC — for the remaining 25%.

That second mortgage came with a 10-year draw period, during which time the plaintiffs could take out cash advances. After that, they’d have to start paying it off over a decade or more.

But for the Tippetts and thousands of others, Widlanski and Franjola claim Wells Fargo listed the end of that mortgage as the same date the draw period ended — instead of years later when the repayment period was supposed to end.

That essentially turned the mortgages into unsecured loans — no longer anchored by property.

Scrivener's error?

Then in 2013, without informing borrowers or getting their permission, the complaint said Wells Fargo entered thousands of affidavits of corrections into county clerk records across the country, changing the mortgage maturity dates to decades in the future. The bank claimed a scrivener's error caused the incorrect dates, but plaintiff counsel Widlanski argues that doesn't make sense.

"It's impossible to believe that the people that were filling out this paperwork made the exact same error thousands of times, even though they were different people all over the country," Widlanski said.

What's more, Widlanski notes that anything affecting the material substance of a document can't be a scrivener's error. Instead it was a fraudulent act, according to the lawsuit, as it means the bank perjured itself. In Florida and many other states, it's illegal to file a false or fraudulent document in connection with the ownership of real property.

Wells Fargo declined to comment.

"We know what they did," Widlanski said. "We need to know why they did it."

Widlanski said that while the most innocent explanation could be that Wells Fargo really did make a mistake and went in to correct it, there's another more cynical possibility: that it could have something to do with the way banks repackage loans for secondary markets.

Loans with shorter maturity dates are considered less risky. And because many of the people who took out these loans were lower to middle class, recharacterizing them to appear less risky would have meant the bank could sell them for more.

Widlanski's co-counsel discovered the issue when working on another Florida property case, in which he stumbled across a similar affidavit of correction in his client's case files. That became class action lawsuit *Cory v. Wells Fargo*,

which settled for more than \$3 million in 2019.

The Tibbett's complaint claims Wells Fargo regularly offers home equity lines of credit without properly explaining their terms to borrowers, and points to what it says is a pattern of deceptive lending practices at the bank.

U.S. District Judge Brian Davis in the Middle District of Florida will preside over the case.