

Michigan Mortgage Foreclosures: a roadblock for MERS



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This is hot and important news for debtors and creditors who have mortgages expedited (how ironic) through MERS (Mortgage Electronic Registration Systems, Inc.) in Michigan. The Michigan Court of Appeals just ruled in a 17 page opinion that MERS can't act to foreclose or evict in its name, because MERS, simply put, is not the owner of the debt which underlies the mortgage (a mortgage is just a lien, a debt is evidenced by a note).

So, MERS based mortgages are halted, but what about the foreclosures and evictions which have already occurred....no cases on that issue?...yet. However, there are lots of mortgages in foreclosure right now, where the process of foreclosing may have to be re-started as the result of this ruling.

As many as 60 million mortgages were written by MERS, which is a company set up by big financial institutions to expedite the process. Perhaps the underlying law may be changed. Perhaps future foreclosures will be done under the lender's name...who knows. This information came through several sources. Michigan Lawyers Weekly, Vol. 25 No. 25 page one has a great write up on the topic. Its web site is attached: <http://www.milawyersweekly.com/>. The case name is Residential Funding v. Saurman.

Additional Resources

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