

# Planning and Deception

In research, you can come across many items that may assist you in understanding how the debt collectors get away with what they do, in Texas foreclosures. My opinion, you should read it.

In a “Meeting Of The Task Force On Judicial Foreclosure Rules”, November 7, 2007, available for download at the Texas Supreme Court website;  
<http://www.supreme.courts.state.tx.us/jfrtf/pdf/110707transcript.pdf>,

It is stated;

*ORDERED that:*

*The Texas Legislature has twice directed the Supreme Court to promulgate rules of civil procedure for the judicial foreclosure of home equity loans and reverse mortgage loans.*

The Supreme Court appointed a task force that consisted of 18 individuals. Some were Judges, some were Lawyers, some were advocates, real estate companies and title insurance companies.

A few of those making particular comments of interest in this task force meeting were;

*Tim Redding, Regional Underwriting Counsel, First American Title Insurance Company, 1500 South Dairy Ashford, Suite 300, Houston, TX 77077-3858*

*Tommy Bastian, Barrett Burke Wilson Castle Daffin & Frappier, L.L.P., 15000 Surveyor Blvd, #100 Addison, Texas 75001*

*W. Mike Baggett, Winstead, Sechrest & Minick, 5400 Renaissance Tower, 1201 Elm Street Dallas, Texas 75270-2199*

*Michael C. Barrett, Barrett Burke Wilson Castle Daffin & Frappier, L.L.P., 15000 Surveyor Blvd, #100, Addison, Texas 75001*

*Hon. Bruce Priddy, 116<sup>th</sup> District Court, 600 Commerce, 6th Floor, Texas 75202-4606*

The excerpts below should give one the idea that documents are being fabricated for the benefit of those who do not hold legal interest in the real property they are attempting to obtain.

(Transcript, Page 27)

5 MR. BAGGETT: Right. That's fair.

6 MR. BARRETT: Judge, I think that's a very

7 good point. This is Mike Barrett, and I know we've had

8 this difficulty. **There really isn't such a document**, and

9 maybe, Larry, you might explain mortgage servicing rights

10 because the servicer usually acquired their position in

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11 the file through the purchase of MSRs. There is an  
12 organized market in MSRs that really makes up maybe as  
13 much as 40 to 50 percent of any mortgage company's assets,  
14 and they acquired this -- their status of being a servicer  
15 through the purchase of an MSR most of the time, or they  
16 did it themselves, they created their own loan. So  
**17 finding a document that says, "I am the owner and holder,**  
**18 and I hereby grant to the servicer the right to foreclose**  
**19 in my name" is an impossibility in 90 percent of the**  
**20 cases.** So we're going to have to deal with that  
21 particular issue, and an understanding of who the servicer  
22 is and what an MSR is may be important to the transaction.  
23 MR. BAGGETT: Okay. Judge.  
24 HONORABLE BRUCE PRIDDY: Yeah, in Dallas  
25 we've wrestled with this issue, and I think most of the

(Transcript, Page 28)

1 courts in Dallas require some sort of assignment of the  
2 note to the applicant so the applicant is actually the  
3 person or the entity that has the rights under the --  
4 MR. BAGGETT: Judge Davidson, can you hear  
5 that?  
6 HONORABLE MARK DAVIDSON: Most of it.  
7 MR. BAGGETT: Speak up.  
8 HONORABLE BRUCE PRIDDY: **And what the --**  
**9 happens is they just execute a document like Mr. Barrett**  
**10 says doesn't exist. They just create one for the most**  
**11 part sometimes, and the servicer signs it themselves**  
**12 saying that it's been transferred to whatever entity they**  
**13 name as the applicant.** I think we can avoid a lot of  
14 problems if we specifically allow the servicer standing  
15 under Rule 736, because I think it's -- we don't  
16 specifically allow the servicer to proceed, and I think if  
17 we tie in with the Property Code provision that the  
18 servicer can proceed with foreclosure if certain  
19 circumstances are met, **if we tie into that in the rule I**  
**20 think we'll avoid a lot of these problems.**

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3 MR. BAGGETT: Pool No. 216.  
4 MR. BASTIAN: That just creates problems.  
5 MR. REDDING: Well, the other problem --  
6 Judge, this is Tim Redding. **The other problem that I see**  
7 **-- and, Tommy, you and I talk about it regularly -- that**  
8 **we have a bunch of servicers that are corporations or**  
9 **trusts attempting to foreclose on behalf of other trusts**  
10 **using a power of attorney, and I don't think that's really**  
11 **proper. I mean, we all kind of turn a blind eye to it,**  
12 but I think that's an issue that's out there that somebody  
13 could use to potentially attack a foreclosure.  
14 MR. NEWBURGER: That's what basically  
15 happened in Florida where MERS has been held as being  
16 unauthorized practice of law by a few judges when they  
17 filed foreclosures.

This is a very interesting document that I believe most should read to understand what has happened and is happening to victims of foreclosure.

The filing or recording of such fabricated documents is fraud in public records.

So, if I am correct, they were attempting to use Texas Property Code, all the while sliding silently through the Texas Penal Code, hoping not to get caught.

We hope the information provided to you is a valuable resource. We hope you keep your property. It belongs to you.