

# Wells Fargo Bank Sues Itself

By [Al Lewis, Dow Jones Newswires Column](#)

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You can't expect a bank that is dumb enough to sue itself to know why it is suing itself.

Yet I could not resist asking Wells Fargo Bank NA why it filed a civil complaint against itself in a mortgage foreclosure case in Hillsborough County, Fla.

"Due to state foreclosure laws, lenders are obligated to name and notify subordinate lien holders," said Wells Fargo spokesman Kevin Waetke.

Being a taxpayer-subsidized, too-big-to-fail institution, it's possible that one of the few ways for Wells Fargo & Co. (WFC) to know what it is doing is to notify itself with a court filing.

In this particular case, Wells Fargo holds the first and second mortgages on a condominium, according to Sarasota, Fla., attorney Dan McKillop, who represents the condo owner.

As holder of the first, Wells Fargo is suing all other lien holders, including the holder of the second, which is itself.

"The primary reason is to clear title and ownership interest in a property to prepare it for sale," Waetke said in an email exchange. "So it really is not Wells Fargo vs. Wells Fargo."

Yet court documents clearly label "Wells Fargo Bank NA" as the plaintiff and "Wells Fargo Bank NA" as a defendant.

Wells Fargo hired Florida Default Law Group., P.L., of Tampa, Fla., to file the lawsuit against itself.

And then Wells Fargo hired another Tampa law firm — Kass, Shuler, Solomon, Spector, Foyle & Singer P.A. — to defend itself against its own lawsuit, according to court documents.

Wells Fargo's defense lawyers even filed an answer to their client's own complaint.

"Defendant admits that it is the owner and holder of a mortgage encumbering the subject real property," the answer reads. "All other allegations of the complaint are denied."

This is even dumber than the lending practices that led to this foreclosure mess, yet this is what the court record says. I learned about this from "The Consumer Warning Network" Web site, which posted an article by Angie Moreschi titled, "Have The Banks Gone Crazy?"

"We've apparently reached the perfect storm for complete and utter idiocy by some banks trying to foreclose on homes," Moreschi wrote.

McKillop, the condo owner's attorney, told me he thinks Wells Fargo doesn't know what it's doing, and that its lawyers figure it is all billable hours to them.

"You can't sue yourself," McKillop said. "It's just so ridiculous. .. It's a waste of paper. It's a bastardization of the legal process."

Wells Fargo's two law firms didn't return messages to explain their filings.

The condo owner is belly up and hired McKillop to pursue a "friendly foreclosure," attempting to escape any lingering liabilities after the foreclosure sale.

"It was a property they thought they were buying as a good investment as a lot of people did back in 2005 and 2006," McKillop said. "All we want to do now is get this property taken care of as fast and as easily as possible for all parties."

Rather than suing itself — a stunt that was never even attempted on the MTV show "Jackass" — wouldn't it be easier for Wells Fargo to release one of the liens to itself? Or pursue some other internal accounting strategy rather than tie up the court with nonsense?

"This is just folks cranking out paperwork without conscious thought," said Anthony Sabino, a law professor at St. John's School of Law in New York City.

Sabino added that it is possibly more confirmation of the old saw that a lawyer is one who can speak from both sides of the mouth.

Still trying to comprehend this legal lunacy, I called the Florida Bar, which put me in touch with Florida mortgage foreclosure lawyers. One of them, Tampa attorney Kristofer Fernandez, said he's seen several cases where a large bank has sued itself for foreclosure as the holder of both first and second mortgages.

"Four or five years ago, you would have never seen this," Fernandez said. "Now, it's very common."

In the final years of the housing boom, banks were lending to homeowners with no money down. To do this, they often made 80/20 loans, giving homeowners an 80% first mortgage and a 20% second mortgage.

Now, it seems these moronic mortgages require moronic foreclosures.

Perhaps this strategy may speed up a summary judgment. Or maybe it preserves the position of the second lien holder so it is next in line to collect surplus funds after the first lien is satisfied, Fernandez said.

But fat chance of surplus proceeds in the Florida condo foreclosure market these days.

It takes some pretty shameless lawyers and a rich culture of corporate stupidity for a company to sue itself. I hope Wells Fargo loses this case and ends up having to drag itself all the way to the Supreme Court.

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