

Federal Courts must follow the law established by the Federal Rules of Civil Procedure together with the Supreme Court Rules as well as controlling cases decided by the U.S. Supreme Court on a given issue. These provisions of judicial proceedings are mandatory and are not discretionary. If a court ignores these principles, the court is acting beyond its legitimate authority to act. In short, the court is aiding and abetting in the commission of a fraud upon the court as well as a fraud upon the defendant if the plaintiff has no Article III standing to commence and maintain an action to collect on a mortgage note that the plaintiff does not own or has not obtained actual authority from the legitimate legal owner (also referred to as the "holder") to have commenced and maintained the action. Otherwise, without the legitimate party in interest duly represented by an authorized complaining party and authorized attorneys, the defendant is stymied in obtaining impeaching discovery documentation from the holder of the note in order to prevail on a counter-claim or setoff against the servicer for fabricating a default.

Recent case law on the issue of Article III jurisdiction was settled by the U.S. Supreme Court in the recent (1999) case of *Steel Co., v. Citizens for a Better Environment*, 523 U.S. 83, 118 S. Ct. 1003 in which the Court required that a court may not "proceed" to the merits absent the Court's determination of "Article III" jurisdiction. The requirement is that the Court must examine and answer in the affirmative that the plaintiff is the real party in interest or that the plaintiff proves that he/she/it has actual authority from the owner of the note to collect on the note on behalf of the owner/holder of the note.

In other words, if a he/she/it (as plaintiff) cannot prove legitimate authority to collect on a mortgage note that was given to the he/she/it by the actual holder/owner of the note, or the he/she/it cannot prove that he/she/it is the actual holder/owner of the note, the plaintiff has no STANDING to "stand" before the court and seek the Court's decision making process and judgment without being able to show "an injury in fact" OR authorization by the he/she/it that he/she/it has sustained "an injury in fact." It's

that simple. Without being able to show an injury in fact, the he/she/it has no standing.

The duty of the Court is to protect the constitutional rights of the defendant from being harmed by having to defend an illegitimate claim without "due process of law." Part and parcel of due process is that the Court must address Article III jurisdiction. That means the he/she/it plaintiff must be able demonstrate and prove an 'injury in fact.'" The Court must exercise its inherent power to examine its jurisdiction BEFORE PROCEEDING TO THE MERITS. TO DO OTHERWISE IS UNCONSTITUTIONAL.

Federal Courts refusing to examine their jurisdiction is IMPROPER (if not unconstitutional) as the U.S. Supreme Court has determined in the Steel Company case mentioned above.

The U.S. Seventh Circuit Court of Appeals exercised that duty even though the U.S. District Court and the attendant attorneys failed to examine the jurisdiction of the court based on the lack of an injury in fact in the case of MERS v. Estrella (2005) which is posted on the legal forum on this website.

The well reasoned holdings of the OHIO District Courts together with the holdings of the U.S. Supreme Court do not excuse any of the other U.S. District Courts from examining their constitutional jurisdiction BEFORE PROCEEDING TO THE MERITS OF A CASE.

Posted by *Bishop* on the [MSFraud.org Forum](http://MSFraud.org) under: **Clearing the Ohio Federal Court Dockets of Foreclosures**