

Transcript

December 1, 2011

Good afternoon everybody. Attorney General Martha Coakley, with me is our Deputy Chief Stephanie Khan from our Public Protection and Advocacy Bureau. To her left is our Bureau Chief Chris Barry-Smith, to my left is my deputy Attorney General Kevin Conroy, and to his left Amber Villa, Assistant Attorney General in the Public Protection and Advocacy Bureau and to her left is John Stephen. All are part of the team involved in today's announcement.

We announce today a lawsuit against the major banks for unlawful and illegal foreclosure against homeowners in Massachusetts. This is the first comprehensive lawsuit seeking to attain accountability and real relief for the bank's role and their misconduct in the foreclosure crisis. We have two clear goals with this lawsuit. One is to provide for real accountability for the roles the banks have play in unlawful and illegal foreclosures and secondly to provide for real and enforceable relief for homeowners in Massachusetts for the harm that the misconduct has caused. This suit is against Bank of America, Wells Fargo, JP Morgan Chase, Citi GMAC and also MERS and its parent, MERSCORP Inc.,.

In the next couple of minutes I want to do four things. I want to tell you what are suit alleges. I want to explain why it is important that we brought this suit. I want to talk about the bank's responsibility and our role in the past in looking at bank's role in predatory lending and in securitization, another misconduct, and I finally want to talk about why we are bringing the suit now.

First, this suit seeks accountability against the banks for both cutting corners and also rushing to unnecessarily foreclose homeowners without following the rule of law. That bank conduct includes, and this is in the more than 60 page complaint that we filed, but in summary, that complaint includes allegations about wide and fraudulent use of false documentation in the bank's rush to foreclose on homeowners, commonly known or called robo-signing.

Secondly, the suit alleges bank conduct of unlawful foreclosures of which banks began foreclosures without actually holding the mortgage – a process that's been ruled unlawful in Massachusetts by our Supreme Judicial Court in *Commonwealth v Ibanez*.

Third, the suit alleges that the bank's use of MERS, the acronym that stands for Mortgage Electronic Registration System, actually corrupted the public land recording system by not registering legal and proper transfers of ownership of property and as a result of that banks also avoided registration fees to the Commonwealth which increased their profit for all of these transactions.

The fourth allegation is that the deceptive conduct by the banks in connection with both representations about loan modification programs that might be available by them as well as their failure to keep up their end of the bargain once they had entered into loan modification agreements or promises with homeowners. We believe that that is false and that is unfair and deceptive conduct.

So why is this suit important? First of all, we believe that the stakes could not be higher at this stage of the game. That the foreclosure crisis continues to be at the root of the economic mess that we find ourselves in and our inability to turn it around. In the last four years, for instance, five million people in this country have lost their homes to foreclosure. In Massachusetts alone, more than forty-five thousand

families have been foreclosed upon and we know that there are thousands more today who are on the brink of foreclosure struggling to stay in their homes, struggling to find loan modifications that would be appropriate. We hear directly every day from homeowners who are frustrated, at their wits end, who are seeking for loan modifications and who frankly are good candidates for loan modification. We also know that throughout Massachusetts there are not-for-profits who have the same experience we do. Let me give you an example, one not-for-profit in East Boston since last January through June was able to file and obtain loan modifications for eighty-four families. But meanwhile there are five hundred other applications for whom they have not been able to process and get the appropriate loan modifications even though those are eligible candidates, good candidates, for loan modification. That's just one example of a much larger emblematic problem across Massachusetts. And we are talking about unnecessary foreclosures. There is no question that addressing the foreclosure crisis and avoiding unnecessary and illegal foreclosures, helping people to stay in their homes, is the single most important task we face in turning this economic around.

So let's talk a little bit about the bank's responsibility here. First, we acknowledge that in the sorted history of this economic crisis that no one group is solely responsible. We know that there is plenty of fault by government, by regulators, and in fact, by many individual homeowners. We acknowledge that. We also believe that there is no question that the deceptive and unlawful conduct by Wall Street and the large banks played a central role in causing this economic crisis through predatory lending and securitization of those loans.

It was the banks who were ultimately bailed out by tax payers. While individual investors and homeowners were left on their own. And whether those institutions believe they are too big to fail, they certainly have demonstrated that they believe they are too big to care about the impact of their actions and we believe that they are not too big to have to obey the law. Interestingly, we found in alleging this suit that it carries all of the hallmarks of what we saw in the predatory lending practices: no documentation, no documentation, false information, misrepresentation, and an absolute unwillingness and inability to care about what the impact of their behavior was not just on individual consumers but on cities and towns and the entire economy.

We have seen that in Massachusetts, we have seen it across the country. The continued behavior, every day of bank's behavior continues to fray the fabric of a very fragile economy - a fragile economy their own behavior contributed to, and now as they rush to foreclose, we believe unnecessarily, unlawfully in Massachusetts, and indeed across the country - we say today that enough is enough.

We have in the past focused on accountability and relief here in Massachusetts for homeowners. We have brought landmark cases on foreclosure rescue schemes and against major banks for their role in predatory lending, like Fremont and Option One. We have had three major cases on securitization, against Wall Street giants like Goldman Sachs, Morgan Stanley and even this week against the Royal Bank of Scotland recovering fifty-two million dollars for Massachusetts. As a result of our actions in the last five years, we have recovered more six hundred million dollars for Massachusetts and Massachusetts homeowners. We have been able, through the structured settlements around loan modifications; we have been able to keep twenty-four thousand people in their homes. But it is not enough.

And so let me tell you why we have filed suit today. Those experiences in those cases through foreclosure rescue schemes, predatory lending, securitization, have shaped our understanding around the how and

why of the servicing fraud that this suit alleges today. This servicing fraud has been the subject of negotiations for over a year, between Attorneys General across the country, the federal government and the banks who are named in today's lawsuit. I will say that when those negotiations began over a year ago, I was hopeful that we would be able to reach a strong and effective resolution. Indeed the banks acknowledged their role in robo-signing. That seemed like a hopeful start. But it is over a year later, and I believe that the banks have failed to offer meaningful and enforceable relief to homeowners for their deceptive conduct and the scope of the harm they have caused. They have attempted to obtain broad relief for every imaginable unlawful conduct for which they might be liable. We have been very clear from the start here in Massachusetts that we would not sign on to an agreement that releases banks from liability for MERS or MERS related conduct or other related issues to Massachusetts. We believe now that the banks have not been willing to do that, and are not willing to do that.

They have had more than a year to show that they have understood their role and the need to show their accountability for this economic mess, and they have failed to do so. That's why we are filing suit today. We are confident in our case, we will move forward with this litigation aggressively. We believe that the large banks have not even seen the devastation on the individual homeowners and communities across this country. We know they have not heard us or other Attorneys-General and the federal government about the need for effective relief, for accountability of their actions and a way to turn this economy around. We believe that today's law suit will provide for a stronger voice for these issues here in Massachusetts at least, and we hope on a larger platform. Whether through the courts or through negotiation we will accept only one result, obtaining accountability from these banks and other large intuitions and getting real relief for homeowners here in Massachusetts. We believe it's the only way that our Commonwealth and our country will move forward out of the economic crisis. Thank you.