

# Entree By Marshall Isaacs With Judicial Incompetence By Judge Martha Anderson For Dessert

Steve Dibert, MFI-Miami

I've written a couple times about my client with the Small Cell Carcinoma who was jerked around by Bank of America about a loan modification and was then illegally foreclosed on by Bank of America's foreclosure mill, Orlans Associates.

## Bank of America



In 2008, Lynne Lucas and her partner, Pat approached Bank of America, who acquired from when they acquired Countrywide Home Loans, about doing a loan modification because Pat being a car salesman and Lynne working at a local casino saw their paychecks drop due to the recession. They contacted Bank of America's servicing arm, BAC Home Loan Servicing, LP to see if there was anything that could be done and BAC referred them to one of their approved non-profit housing agencies. Like many other modification horror stories, BAC told Lynne and the non-profit housing agency the only way they could help is if Lynne and Pat quit making the payments.

Taking BAC's recommendation, they quit making the payment and with the help of the housing agency and housing counselor she spent nearly a year faxing and mailing copies of income documentation to BAC with what seemed to be endless repetition. Then, the non-profit unexpectedly folded presumably due to lack of funding from Bank of America.

Lynne found out about the closing of the office when she called to get update and the housing counselor informed her if she wanted her file it was in dumpster behind the building and that she better hurry because the dumpster was getting emptied the next day.

After digging through the dumpster on a cold February evening, she took her file and took it to another non-profit housing agency. BAC again told the new housing agency for her not to make the payments. While BAC was telling Lynne and the non-profit not to make a payment, they scheduled a foreclosure for July of 2009. However, BAC's attorney Orlans Associates canceled the sheriff's sale and BAC had continued with the modification negotiations. Pat and Lynne were approved for a loan modification in January of 2010.

What was supposed be a joyous event turned into a disappointment and twelve months of agonizing hell. When they opened the letter from BAC they discovered that their interest rate was being lowered from 6.5% to

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4.75% which sounded great until they read BAC's terms. Their Principal and Interest payment which was \$1,153.09 decreased only \$10.18 per month to \$1,142.91 and their total payment including taxes and insurance increased \$1,723.65. Like many other homeowners in their situation, Pat and Lynne looked at each other with blank stares and said, "huh?"

After an initial review of the file, MFI-Miami was able to decipher BAC's fuzzy math. What BAC had done was increase the balance of the loan from \$188,043.77 from the original foreclosure affidavit six months earlier in June of 2009 to \$201,164. Using the number from the June 2009 foreclosure notice, I calculated the balance to be roughly \$194,962. When questioned about how this dollar amount was calculated, BAC could offer no explanation of what the additional \$6202 is for. BAC had also shortened the amortization schedule from 30 years to 25 years. BAC then demanded that tax and insurance escrows of \$580.74 be paid every month despite their homeowners insurance being current and their taxes being current through July of 2009. This is a 250% increase from the \$231.17 Countrywide Home Loans used when they underwrote and funded the loan in 2005. The shortening of the amortization schedule and the exaggerated and excessive escrow fees increased Lynne and Pat's payment by \$570 per month to \$1,723.65.

What BAC was doing was essentially a forbearance agreement. I know this because BAC has a history of tacking excessive escrow payments to loans they place in modification programs and then apply the escrow payments to the loan balance or funneling it somewhere else. BAC also has a history of waiting until the last minute to pay taxes. Often waiting until the county is threatening tax foreclosure before making the payment.

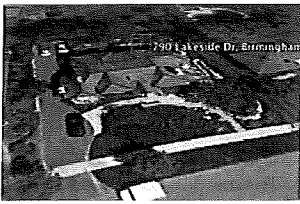
Lynne and Pat with help of the second non-profit housing agency tried to negotiate a more reasonable modification. On March 30, 2010, BAC denied the modification claiming "investor denied" and without warning a foreclosure sale took place the next day.

MFI-Miami was then hired to commence a full blown investigation and the results were quite disturbing. First, according to BAC there was no investor. BAC had filed an affidavit on July 2, 2009 in Benzie County, Michigan alleging that they acquired the not from their acquisition of Countrywide Home Loans. This date incidentally is 17 days after Lynne and Pat were served with the initial foreclosure notice on June 15, 2009. BAC's attorney, Orlans Associates commenced foreclosure proceedings under the name Countrywide Home Loan Servicing. Countrywide Home Loan Servicing was a registered assumed name of Countrywide Home Loans in California where Countrywide Home Loans and Countrywide Bank were headquartered. However, according to the state of California, Countrywide Home Loans ceased all operations on March 8, 2008.

It is apparent BAC and Orlans put a rush on this file in order to have the Sheriff's Sale prior July 15, 2009, the day revisions of Michigan statute 600.3204 became effective.

When Orlans realized they bungled the paper work they withdrew the sale. Had this foreclosure gone through it would have clearly violated Michigan law which requires a 28 day advertising

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Linda Orlans \$4 million house foreclosure fraud helped pay for.

period and can only be authorized by the owner or the servicer of the indebtedness.

The first problem with this loan is that Orlans assigned it to BAC after Bank of America's corporate office dissolved Countrywide Home Loans and Countrywide Home Loan Servicing in March of 2008. You can not assign anything from a defunct entity. As an attorney once told me, "A dead man can't transfer ownership of his property."

At the sheriff's sale on March 30 2010 BAC's attorneys, Orlans Associates sold the property at Sheriff's Sale to Fannie Mae. This again violated Michigan law because the statutory 28 day advertisement requirement was not met.

During the investigation, MFI-Miami staff contacted the office of President Barbara DeSoer at BAC Home Loan Servicing, LP on four different occasions. We wanted to know who the owner of the Lucas mortgage was prior to the Sheriff's sale. We were told "Fannie Mae" on the first call, "Freddie Mac" on the second call, "FHA" on the third call and then finally she was told, "BNA Countrywide CIG" on the fourth call which is an old Countrywide investment group Bank of America acquired when they purchased Countrywide. This run around is typical of BAC especially Barbara DeSoer's office. If my staff was calling some \$1 a day call center in India, I could understand. However, these employees worked in Barbara DeSoer's office and should know what is going on. After all, they are pretty high on the Bank of America Pyramid.

 foreclosure help robo-signing The signature of Marshall R. Isaacs on the Purchaser Affidavit purchasing this mortgage on behalf of Fannie Mae does not belong to Marshall R. Isaacs. Through extensive research, the staff of MFI-Miami found both the warranty deed and mortgage on Marshall R. Isaacs's home at 33745 Hunter Pointe Blvd. in Farmington Hills, Michigan. MFI-Miami also found ten other mortgage assignments signed by Marshall Isaacs and the signature on the Purchaser Affidavit filed with Benzie County during the Lucas foreclosure clearly does not belong to Marshall Isaacs.

The staff of MFI-Miami also found the Purchaser's Affidavit is also dated 7 days prior to the Sheriff's sale. This would make it invalid.

It is pretty clear that Andrew Collins, the notary on this affidavit committed perjury by attesting to the fact that he witnessed Marshall Isaacs sign this affidavit. Andrew Collins lied by claiming that Isaacs, "subscribed and sworn before me this 24 day of March, 2010, by Marshall Isaacs, Attorney for The Federal National Mortgage Association."

MFI-Miami also investigated Fannie Mae's database and Fannie Mae has no record of owning this note.

On September 9, 2010, Lynne Lucas filed a lawsuit against BAC, Orlans and Marshall Isaacs.

Lynne Lucas's lawsuit claims the three defendants, Isaacs, Orlans and BAC recklessly violated Michigan Statute MCL 600.3204 which regulates how foreclosures can be handled in the state of Michigan. The suit claims BAC was not in ownership of the note or mortgage at the time the foreclosure was advertised by Orlans Associates in June of 2009 and they did not have the legal authority to do so because BAC had not transferred ownership to BAC before advertising the foreclosure. The suit claims Orlans Associates improperly sold the mortgage and note to Fannie Mae on March 31, 2010 on behalf of BAC and Marshall Isaacs improperly issued and filed a Sheriff's Deed for the property to Fannie Mae.

Timothy Myers, attorney for both Orlans and Marshall Isaacs and David Michael, attorney for BAC both filed a response claiming that they could not be sued because Lucas filed the lawsuit after the end of her redemption period. This is far from being accurate. Lucas's lawsuit was filed on September 9, 2010 with the redemption period ending on September 30, 2010.

Michael David's response filed on December 1, 2010, claims that his client, BAC became the grantee pursuant to the Sheriff's Deed.

Michael David tried claiming BAC bought the rights to the mortgage at the Sheriff's sale. Apparently, he never looked at any of the public records or spoke to his client prior to making this claim. However, his response is the first time BAC acknowledges they were only acting as a servicer.

Myers claimed that Orlans could not be sued because the work they were performing on behalf of BAC was legal work that could only be done by legal professionals. However, this is not entirely true. Other foreclosure mill law firms contract out assignment filings to document processing companies like LPS or NTC in Florida. So their argument essentially has no merit.

Myers also claimed that Orlans was enforcing BAC's rights as a mortgagee and claims BAC was the owner. However, on Friday, February 4, 2010, four days before the motion hearing, BAC's attorney, Michael David filed as a public document, an affidavit from Shanthi Premachandra, a Litigation Specialist from BAC's Simi Valley office stating that Countrywide Home Loans who originated the loan sold it to Fannie Mae on April 25, 2005.

This would mean that Timothy Myers lied to the court. Orlans had to know that Fannie Mae was the owner when they filed the initial advertisement.

This affidavit would also make the assignment filed by Orlans Associates on July 2, 2009 in Benzie County from Countrywide Home Loans to BAC Home Loan Servicing invalid because it was fraudulent. If the mortgage had already been assigned to Fannie Mae by Countrywide in April of 2005, this would mean Countrywide assigned a mortgage they no longer held.

The affidavit would also cancel out the Purchaser's Affidavit filed by Orlans at the Sheriff's sale regardless of the signature issue. If Fannie Mae already owned the mortgage and note, why is BAC transferring ownership to them?

Marshall Isaacs and his firm, Orleans Associates should have known that Fannie Mae owned Lucas's mortgage since April 2005 since Orleans represents both Fannie Mae and BAC. According to Fannie Mae, Marshall Isaacs is their contact attorney at Orleans for any matters pertaining to any loans owned by Fannie Mae. I find it very difficult to believe as Fannie Mae's attorney, Orleans Associates did not know about the assignment from April 2005.

So unless Marshall Isaacs was completely incompetent or derelict in his responsibilities as a lawyer, he should have known that his actions and the actions of Orleans were fraudulent when they filed both the original assignment between Countrywide and BAC with Benzie County on July 2, 2009 and then when his staff filed the Purchaser's Affidavit on March 31, 2010.

With all this compelling evidence of attorney misconduct, namely perjury and conspiracy, there would be enough for a judge to allow discovery at least allow Lynne Lucas her day in court to defend her property rights.



Oakland County Judge  
Martha Anderson

Well that's not exactly how it went down. At the hearing, Oakland County Circuit Judge Martha Anderson refused to hear any of it. She had four foreclosure cases that day and it appeared she read from a script at all four hearings. It also appeared that the script was prepared before the BAC affidavit was filed because when Lynne Lucas's attorney, William Maxwell tried to raise the issue, she refused to listen and rendered her decision. That's right she refused to listen to a key pieces of evidence that would have killed any claim BAC was attempting to make and would exposed blatant attorney

misconduct.

This shouldn't be surprising since Judge Anderson is no stranger to attorney misconduct. On April 25, 1998, her husband, David C. Anderson had his law license suspended for 30 days because he failed to correct false statements made by a witness for his client that he knew were false. During his unsuccessful attempt in 2008 to join his wife on the bench, David Anderson was quoted in the Detroit News as part of their voter guide,

*"In the Fall of 1995, I was defending an insurance company regarding an arson claim. During the course of the litigation, a defense witness gave testimony which I did not know or believe to be incorrect information. When this issue was brought to my attention, I attempted to correct same within thirty (30) days of learning of the problem. The Grievance Panel did not believe my corrective actions were fast enough or broad enough in scope. The grievance filed against me had nothing to do with any allegations of moral turpitude, dishonesty, fraud, or criminal wrongdoing."*

However, David Anderson may spin it. His sister Diane was a bit more direct in her description of the event. She referred to it as *"aiding and abetting the fraud of one of the insurance companies he represents"*

After Martha Anderson was elected to the Oakland County Circuit Court in 2002, she was assigned to the Family division of the court. She soon became a very controversial judge. There are four page of sites on Google created by irate parents, custodians and guardians trashing her. It's worth checking out especially if you're an Oakland County taxpayer and voter.

Judge Anderson was later accused by her sister-in-law Diane Anderson, a former barrister in Australia, of using undue influence as an Oakland County judge to have now retired Oakland County Judge Barry Grant issue an ex-parte order declaring David and Diane's mother, Jewell incompetent and making David her guardian. You can see the video of Diane Anderson's claim here:

<http://video.google.com/videoplay?docid=9133271448701390820#>

All this controversy caused Martha Anderson to be reassigned to the civil/criminal division of the court.

Three weeks ago, Matt Taibbi from Rolling Stone wrote a great article entitled, "*Why Isn't Wall Street in Jail?*"

The answer is because banking and financial executives know they won't be punished if they get caught. This is exactly what happened in the Lucas case. BAC and Orlans were able to foreclose on a sick woman based on fraudulent statements and perjury committed by attorneys all because Martha Anderson did not want to be bothered by it. She refused to do the job she was elected to do and that was to serve the people. She is a perfect example of why Lenders are being allowed to steamroll over homeowners.

Here's the reason why. Like most county judges, she's a coward. Three years ago, Circuit Court judges in Florida, Massachusetts and New York were cowards too.

They were afraid to hold the attorneys and banks accountable. They wanted to leave it up to the judges on the Appellate level or Supreme Court level. They were afraid all the foreclosures they rubber stamped in the past ten years would come back to haunt them. They were all afraid they would feel the scorn of their peers who helped get them on the bench. They're afraid to piss off their financial backers who are mostly attorneys.

Then one day, a judge named Arthur Schack had the courage to stand up in a Brooklyn Court Room and decided to look at a homeowner's documents. Then Judge Keith Long in Massachusetts Land Court did it, and judges across Florida began doing it and Bankruptcy judges across the US began examining and questioning the legitimacy of the documents attorneys were filing with the court and with counties across the country.

Michigan is unique because judge are elected by the communities they serve and the judges are accountable to the people they serve. Unfortunately, judges in Michigan need to get with the times and they need to be held accountable for their actions. Michigan voters need to start paying attention because judges all over Michigan are trampling on

the rights of homeowners and running their courtrooms like their own little fiefdom. NRA activists used to say, "Know your rights, or lose them!" Michigan homeowners need to start learning their rights.

So where does this leave Lynne Lucas? Well, she is waiting for Fannie Mae to evict her. Judge Anderson's laziness and an inability to do her job left the door open for Lynne Lucas to appeal to the Michigan Court of Appeals. Unfortunately, she can't afford the legal costs because of her health problems.

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