
Week of August 24

Welcome to our Supreme and Appellate Court summaries webpage. On this page, I provide abbreviated summaries of decisions from the Connecticut appellate courts which highlight important issues and developments in Connecticut law, and provide practical practice pointers to litigants. I have been summarizing these court decisions internally for our firm for more than 10 years, and providing relevant highlights to my municipal and insurance practice clients for almost as long. It was suggested that a wider audience might appreciate brief summaries of recent rulings that condense often long and confusing decisions down to their basic elements. These summaries are limited to the civil litigation decisions. I may from time to time add commentary, and may even criticize a decision's reasoning. Such commentary is solely my own personal opinion.. Pullman & Comley's Appellate Practice Group of which I am a member includes experienced appellate advocates in almost every area of the law. Should you have a need to consult about a potential appeal, please email me at emccreery@pullcom.com I hope the reader finds these summaries helpful. – Edward P. McCreery

Posted August 24, 2015

Appellate Court Advance Release Opinions:

- AC36558 - [State v. Wood](#)
- AC37579 - [State v. Wilkins](#)
- AC36576 - [State v. Riley](#)
- AC36219 - [Deutsche Bank National Trust Co. v. Bliss](#)

In this decision the Court once again rejected a homeowner's attempt to stave off a foreclosure based upon a "standing" argument. The mortgage debt was found to be \$1.8 million and the property was found to be worth \$1.3 million, but a foreclosure by sale was ordered despite the lack of equity because of an existing federal lien. The trial court found that the plaintiff was the holder of the note and of an endorsement of the note in blank from the original lender. The trial court rejected an argument by the homeowner that the mortgage was void because the original lender surrendered its CT lending license just before the loan was made. While normally that might void the mortgage, the original lender was a subsidiary of a nationally chartered bank and so federal law pre-empted local state licensing laws for mortgage lenders.

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On appeal the homeowner again raised the validity of the mortgage and asserted the Dodd-Frank Act did away with the “federal pre-emption” defense asserted by the plaintiff. Without acknowledging whether the Act did or did not set aside the pre-emption defense, the Appellate Court concluded that the passage of the Dodd Frank Act did not have retroactive effect, and since its passage post-dated the execution of the Note & Mortgage, it would not impact the ability of the plaintiff to assert pre-emption. Accordingly the mortgage was not void despite the loss of a CT lender’s license before the loan was made.

Finally, the homeowner also raised on appeal for the first time that the plaintiff lacked standing to prosecute the foreclosure because while it had possession of the note when it started the foreclosure, it never established it also had possession of the executed assignment (a.k.a. “blank endorsement”) at the time it started the foreclosure. This decision again stated that mere possession of the note conferred prima facie standing upon the plaintiff to initiate the foreclosure. In any event, even though the endorsement had been attached to the note after its execution, one could not extrapolate that evidence into a conclusion that the stapled endorsement was not with the note when the plaintiff took assignment of the loan portfolio.

[Query - if mere possession of the note conferred standing, why did the Court bother going into great detail analyzing the evidence of when the endorsement was created and who had possession of it, and how to interpret the testimony about it?]

- AC37505 - [State v. Skipwith](#)

The facts and holdings of any case may be redacted, paraphrased or condensed for ease of reading. No summary can be an exact rendering of any decision, however, so interested readers are referred to the full decisions. The docket number of each case is a hyperlink to the Connecticut Judicial Department online slip opinion. Copyright 2015 Pullman & Comley, LLC. All Rights Reserved.

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