

U.S. Bank v. Ibanez

- What is the suit? How does it arise?
- Dec. '05 -- Ibanez Mortgage (*M*) – 103K with Rose Mortgage (*M'ee*)
- June '06 -- Rose Assigns *M* to Option One
- Allegedly assigned from Option One to Lehman, then Lehman Holdings, then Structured Asset, then U.S. Bank
 - All in '06
 - “will be” assigned
 - part of mortgage-backed security

U.S. Bank v. Ibanez

Rose Mortgage, Inc. (originator)



Option One Mortgage Corporation (record holder)



Lehman Brothers Bank, FSB



Lehman Brothers Holdings Inc. (seller)



Structured Asset Securities Corporation (depositor)



U.S. Bank National Association, as trustee for the Structured Asset Securities Corporation Mortgage Pass-Through Certificates, Series 2006-Z

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 - part of mortgage-backed security
- July '07 – U.S. Bank forecloses on Ibanez
- Sept. '08 – Am. Home Mortgage (successor to Option One) assigns *M* to U.S. Bank

U.S. Bank v. Ibanez

- May '05 -- LaRace Mortgage (*M*) – 103K with Option One (*M'ee*)
- Same month – Option One executes blank assignment
- July '05 – Option One transfers to B of A
 - No document to reflect this assignment
- Oct. '05 – B of A assigns to ABFC
- ABFC pools mortgages and transfers to Wells Fargo
 - Unexecuted
 - No referenced schedule attached
 - Unsigned document that links Option One, BofA, and Wells Fargo

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Option One Mortgage Corporation (originator and record holder)



Bank of America



Asset Backed Funding Corporation (depositor)



Wells Fargo, as trustee for the ABFC 2005-OPT 1, ABFC Asset-Backed
Certificates, Series 2005-OPT 1

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- April '07 – Wells Fargo moves to forecloses on LaRace
- May '07 – Option One assigns *M* to Wells Fargo

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- M'ee statutory power of sale
- M'or must have notice of M'ee foreclosing

- Is U.S. Bank or Wells Fargo the M'ee at time of foreclosure?
 - Mass. a Title Theory state
 - U.S. Bank “will be” assigned
 - Wells Fargo referenced schedule not included

- Is mortgage note enough?
- Do post-sale assigns cure?
- Is this form over substance?

- Is this ruling good for the real estate market?



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