

Attorney Admits Foreclosure Defense Always Fails

But Foreclosure Pretender Defenders (FPDs) Scam Their Clients Anyway

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Note: in this article I shall refer to Foreclosure Pretender Defenders as “FPDs”

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Tampa Bay Journalist Susan Martin Exposes FPD Racket

"I fight like hell for people, but I'm also constantly telling my clients that at the end you're probably going to lose it."

Mark Stopa, Tampa Bay area Foreclosure Pretense Defense (FPD) attorney.
<http://www.tampabay.com/news/confusing-lawyer-fees-complicate-foreclosure-battles/1173271>

Tampa Bay Times Writer Susan Taylor Martin NAILED IT in her 2 June 2011 article recounting her above-cited interview of attorney Mark Stopa. She wrote this:

"With 466,500 Florida mortgages in default, more and more lawyers are vowing to 'help you fight foreclosure.' ... But no matter what the client chooses, the bottom line is usually this: Hiring an attorney will delay a final judgment of foreclosure, but it won't keep the bank from ultimately taking back the house."

Martin pointed out that the client could hope for nothing better than to avoid a deficiency judgment in the final order of foreclosure. She quoted Stopa as saying this:

"The hope is that by making it difficult for the bank, they'll get frustrated and work out some sort of solution my clients want,"

Here we have a prominent Foreclosure Pretender Defender attorney (FPD) admitting to a world-class journalist that he cannot win a foreclosure battle at all. The client will lose the house, period, end of subject. I don't know how Martin got that admission from Stopa, but

she has become my hero for doing it. America needs more reporters/writers with Martin's talent and lust for truth.

I applaud Martin's incisive, and uniquely honest, reporting about the the Foreclosure Pretense Defense (FPD) “scam” which lawyers like Mark Stopa perpetrate across America. I have tirelessly exposed this flagrant legal malpractice, to the chagrin of some of those attorneys. And I now highlight Martin's article here in my own commentary about Mark Stopa's outing of himself and fellow Foreclosure Pretender Defender attorneys (FPDs) in his interview with Martin. I congratulate Martin on getting that admission from Stopa.

I work tirelessly to expose the Foreclosure Pretense Defense (FPD) scam perpetrated by Mark Stopa, Matt Weidner, Randall Reder, Tom Ice, Mike Wasyluk, and lawyers like them. I also expose their fellow scammers like [Ryan Zimmerman](#) and [Richard Kahn](#) who provide fake “loan audits” or worthless “securitization audits,” and chain of title audits. See my articles at <http://lixer.org>.

But I don't have the altitude and readership of Martin, so not enough mortgage victims see my commentaries in time to save themselves from the vampire vultures of the foreclosure defense industry, including fake loan auditors and worthless securitization auditors.

Foreclosure Pretender Defenders (FPDs) Prey on Foreclosure Victims

FPDs prefer to call themselves “JEDTIs” in and around the Tampa Bay area. FPD Matt Weidner of St. Pete expained at <http://mattweidnerlaw.com/2011-rise-of-the-jedti-warriors/>:

*“JEDTI= Jurists Engaged in Defense of Title Integrity. The first JEDTI group was formed by Clearwater, Florida attorney and title insurance expert Greg Clark. It's a cohesive group of attorney members with vast and varied legal backgrounds and areas of expertise, including appellate law, trial work, corporate and business transactional and litigation experience. The members are committed to defending judges and our courts and to sounding the alarm that today's sloppy and improper **foreclosure practices** are going to have catastrophic consequences on property ownership in this country for decades to come. JEDTI presents both a warning and a solution.”*

<http://mattweidnerlaw.com/2011-rise-of-the-jedti-warriors/>

The reader can see from Weidner's laudatory comments that he has a slobbering love affair with fellow FPDs. They intend to whine over wrongful foreclosure while knowing with absolute certainty that the client breached the note by failing to make timely payments, and that the law requires the judge to enforce the note and mortgage by ordering the sale of the house in order to raise money to discharge the note. These days that generally results in giving the house to the foreclosure plaintiff because the loan balance far exceeds the amount the house will bring at auction.

But the FPDs NEVER intend to examine the mortgage or attack the lender and lender's agents for underlying causes of action. They generally do not have the legal knowledge and skill to do such an examination, and they typically would have to invest \$10,000 of lawyer time doing it IF they had the requisite competence. Their mostly impoverished clients cannot afford that.

But those slick lawyers know full well that clients can probably afford to pay them \$500 to \$1000 a month for as long as the lawyer can keep them in the house. It never occurs to the clients that they can drag out the inevitable foreclosure on their own, without a lawyer's help by using the loss mitigation methods or Regulation X to negotiate short sale, loan mod, deed in lieu of foreclosure, etc. Instead of telling their clients this reality, they lead the clients into paying them even more for arranging loan mods and short sales, a service for which most clients don't need a lawyer.

Bottom line, FPDs and JEDTI attorneys dealing with foreclosure defendants generally fight the wrong battle, one they can only lose. They never seem to want to fight the one battle they might win – the mortgage battle. In the mortgage battle, they can get the mortgage examined to find the causes of action, and then use those causes as a hammer to bludgeon the bank through settlement or lawsuit into giving the client compensation for the injury. Done right, they can win monumental damages awards and legal fees for the client.

The Only Battle Foreclosure Victims Can Win

See [Brown v. Quicken Loans](#) as an example of helping mortgage victims the right way. The attorney, one of apparently rare talent, examined the foreclosure victim's mortgage and found massive contract breaches and torts. A settlement effort failed. But the attorney won \$2.1 million in punitive damages for Brown, and half a million for his firm. Quicken appealed, the case went back to trial, and won nearly \$3.7 million for Brown and ¾ million for the firm. Last time I looked the dust had not yet settled, but this predatory lending scam of Quicken Loans will end up grossing over \$5 million for Brown and her attorney. FPD's should snatch a page from that lawyer's notebook and learn how to do what I've preached for the past several years.

I encourage attorneys and mortgage victims to focus on the mortgage battle because that gives them some hope of winning. The [FCIC Report](#) of January 2011 exposed the conspiracy between government and the lending industry in a predatory lending racket that created the recent financial crisis. Mortgagors get nowhere with that argument in court. They need specific proof that the lender or lender's agents injured them individually and personally. But FPD attorneys like Stopa never bother examining the foreclosure victim's mortgage-related documents comprehensively for evidence of torts, breaches, and legal errors that injured the mortgagor. So they always lose in court. The FPDs try to claim they won when they get a temporary dismissal, but they all know, as Stopa admitted to Martin, that the borrower will ultimately lose the house to foreclosure sale.

Comprehensive Mortgage Examination to the Rescue

I know only one company that has the demonstrable competence to examine mortgages and FIND the causes of action for a fourth to a tenth the price a competent law firm would charge. The Chief Examiner has 35 years as a criminal defense consultant and 7 years as a mortgage examiner. He teaches lawyers how to strategize and engineer a win, and sits beside them in court to guide them as necessary. I don't know any lawyer or loan auditor or other professional with his experience and ability. He does his job impeccably.

Three Cases in Point

I know two Tampa Bay area professional women, one a Realtor/Investor and the other a free-lance Court Reporter, who hired that company, received mortgage examination reports in less than 2 weeks, and found out that lenders or their agents had cheated them. The realtor had paid attorney #1 \$20,000 to defend her against the foreclosure, but she lost her home because he did not find and use the causes of action within the statute of limitations when he had the chance. The Court Reporter had paid Attorney #2 monthly for YEARS while he sat on the same papers she gave the mortgage examiner. On the verge of losing her house, she went back to Attorney #2 after firing him and asked him to help save her house using the information in the examination report. He did not want to do it, of course, because it makes him look like a fool. And I believe he will sabotage the case rather than admitting he committed LEGAL MALPRACTICE against his client, and in fact against ALL of his foreclosure victim clients.

On top of this, I know a professional woman with a PhD in drug counseling who lives in the Jupiter area of south Florida. The lender, the servicer, and Attorney #3 cheated her. I first learned about her when I saw a TV news show about her picketing in front of the lawyer's office. A landscaper acquaintance of hers called me (after reading one of my articles) while they lunched together and discussed her case. They had the same misfortune with the same lawyer telling them to breach their notes to qualify for a loan mod. He gouged money out of them monthly for YEARS. The drug counselor got her mortgage examined and found another lawyer. Because of her and other's complaints Attorney #3, the Bar told him to yield his bar license "or else," so he gave up his license. Now the landscaper has finally, after losing and leaving her house, decided to get her mortgage examined. Now she has at least a ghost of a chance of winning something from the bank.

Legal Malpractice Easier to Prove with Mortgage Examinations

Understand this point about the legal malpractice, such as the above, rife in the FPD community. Legal malpractice happens when an attorney breaches a duty to a client, and the client suffers an injury and damages as a result. An attorney owes to the client who asks for help defending a breach of contract lawsuit (such as foreclosure) the legal duty of examining that contract and related documents and assessing all surrounding circumstances in an effort

to discover whether the plaintiff or original lender breached the contract first, committed some related tortious act against the client, or committed some legal error related to lending and servicing the contract during its duration. A lawyer who fails to do that does not commit legal malpractice UNLESS the client suffers damages as a result.

Apparently, Foreclosure Pretender Defender attorneys (FPDs) feel safe not searching for causes of action because they know the mortgagor-client expects to lose the house anyway.

But, if the client loses the house to foreclosure because the attorney failed to examine the mortgage, and then the client gets a mortgage examination done which shows egregious causes of action that could have convince the plaintiff to let the mortgage victim keep the house, THEN loss of the house constitutes an enormous damage. I believe most foreclosure victims whom FPDs have injured that way COULD prevail in a legal malpractice lawsuit against the FPD.

America Needs a Mortgage-Attack Legal Culture

Unfortunately, America has no “Mortgage Attack” legal culture. So, lawyers don't know how to do proper mortgage examinations, lust too much for the money to pay for one, feel entirely too lazy to attack the lender and lender's agents over causes of action the exam report reveals, and FPDs manage to make plenty of money from the thousands of people they have bilked by filing cookie cutter pleadings other FPDs have shared with them (such as through the JEDTI group connections). Their clients always lose the house in the end if they don't do a loan mod.

Clarion Call for Reporters and Journalists

To any journalist of altitude who will commit to doing this story justice, I'll give you the contact information for the foreclosure victims, their crooked lawyers, and the mortgage examiner. It's up to you to get the lawyers to talk with you. The examiner is my personal friend, and he will gladly give you his story. And I believe the foreclosure victims will gladly give you their stories.

Here's the point: If the public really understood that lenders and their agents injured 9 out of 10 home mortgagors, and that a proper mortgage examination could provide them with proof that their lender injured them, THAT might cause a rush to get proper mortgage examinations, even after the victims lost their houses to foreclosure. That could lead to a flurry of legal malpractice lawsuits and litigation against recalcitrant lenders who cheated their borrowers since before the financial crisis began. Finally, mortgagors might get to save their homes from the ravenous jaws of foreclosure.

I imagine banks have their hooks into mainstream media boards of directors and they will never allow journalists and reporters to such a damaging exposure of malfeasance by lenders, appraisers, mortgage brokers, and lawyers. But SOMEBODY with a voice OUGHT to do it. I just don't have the requisite altitude, credentials, or voice.

Okay, Time to Call Bob Hurt

Call me if you want information on how to get a proper mortgage examination and want to know how to use the information it provides. Call me if you work gainfully as a journalist or reporter and feel willing to expose the corrupt underbelly of avarice and malpractice in the Foreclosure Pretense Defense (FPD) legal industry.

Meanwhile, remember that I am not a licensed attorney, I do not practice law or give legal advice, and you should consult a competent, qualified attorney in all questions of law and its application to your circumstances.



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