



The Due Process Advocate

"No Person shall be . . . deprived of life, liberty, or property without the due process of law"
- Fifth Amendment of the United States Constitution

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This edition focuses on the plight of one Massachusetts homeowner who lost, literally, everything he had as the proximate result of pursuing his life-long ambition to finally get ahead in life by purchasing and restoring an old Cape home and carriage house originally built in 1715.

FORMER MASSACHUSETTS HOMEOWNER VOWS TO EXPOSE MORTGAGE FRAUD THAT DESTROYED HIS "AMERICAN DREAM"

Just over 10 years ago, on November 6, 2006, a now 70 year old Christopher Dawson bought the residential property at 12 North Street in Marion, Massachusetts that he believed would become his "American Dream."

The property boasted exceptional development potential with almost 6500 feet; 6 bedrooms, 5 baths, golf course frontage, distant water views of Marion Harbor, a carriage house, and a lot of charm and character. Dawson purchased, and set out to develop the property with a total of \$1.8 million in financing.

His timing couldn't have been worse. The sub-prime mortgage crisis was just rearing its ugly head and the big banks were "crying foul" while they blamed millions of homeowners for the mid-2007 recession that almost bankrupted the country after the bursting of the housing bubble.

Foreclosures sky-rocketed and Dawson was not spared.

On August 27, 2010, Litton Loan Servicing, LP, foreclosed Dawson's \$1.4 million first mortgage and Dawson's dream became Dawson's nightmare.

But the story doesn't end here. In fact, Dawson has believed for years that the most important part of the story hasn't been exposed - and he hopes that after years of frustrating litigation, the real story will finally come out and those who actually orchestrated the U.S. financial crisis that ruined so many homeowners' lives will finally get their just rewards.

Notwithstanding that Dawson will readily admits that his timing was awful and he did default on the financing, he is adamant that he "had a lot of help" doing so by the financial power-houses and the Wall Street crowd who have been given a complete "pass" while Dawson and millions of other homeowners lost everything. He claims the banks made millions while millions of homeowners lost millions as abuse of process became the modus operandi for the foreclosure mills.

Dawson has tried for years, still without success, to have the foreclosure deed on his former home to be invalidated by a court. As this juncture, Dawson has taken his case once again to a Massachusetts Superior Court; and hoping to get a chance to get some recourse for some or all of the events and circumstances that call into question whether or not Dawson got a fair shake at the legal process while he contested what he has relentlessly claimed to be a wrongful foreclosure.

Specifically, Dawson wants a court to finally acknowledge, and appropriately address, the following irrefutable facts, as a matter of record, in his case:

1. Litton acquired the rights to foreclose the first mortgage based on an "allonge" that was attached to his original \$1.4 million promissory note. Basically, an allonge is paper attached to commercial paper, such as Dawson's note, to provide room for endorsements. There appears to be a significant problem and defect with the allonge attached to Dawson's \$1,400,000 note dated November 6, 2006. It has BOTH a special endorsement and a blank endorsement made by the same person - and, additionally, the endorsement stamps appear to be "robo-signed" (i.e. they are no more than two similarly-configured short "squiggles" with no discernable letters or characters).

2. As if to add insult to injury, the foreclosure deed, and its affidavit, recorded at Book 39489, Page 143 at the Plymouth County Massachusetts Registry of Deeds. The foreclosure deed itself - and its affidavit - were executed by a recognized robo-signer (Debra Lyman) who also "doubles" as an Assistant Secretary of Mortgage Electronic Registration Systems (MERS) the organization that has come under fire for serving as a lender's "nominee", for the purpose of transferring the ownership of mortgages for the purpose of foreclosing. The exact legal status of MERS in connection with making such transfers has been subject to controversy, resulting in a host of different interpretations by legal authorities in many state and federal district courts across the country. While Massachusetts recognizes the authority of MERS as such an agent, Debra Lyman is a recognized robo-signer that signed Dawson's foreclosure deed as a Vice-President of Litton Loan Servicing LP's general partner; despite having a record of also being a Vice President of MERS.

3. Now, as if to add insult to injury, Dawson learned during mid-2015 that Litton, during Dawson's previous litigation efforts against Litton, had concealed material information. Dawson once again filed suit against Litton and, in his complaint filed in late September of 2015, contained all of the following (in paragraphs 17 through 19 of Dawson's complaint):

17. *However, during the past several month's, Dawson learned about the following facts that did not exist at the time that Dawson attempted to recover the damages he alleges he has sustained as the proximate result of Litton's wrongful acts and conduct regarding the servicing, foreclosure, and summary process actions related to his former home.*

- (a) *Along with authorities in 49 states, and the District of Columbia, the Consumer Financial Protection Bureau filed an order in December of 2013 (hereafter "Order") requiring Ocwen to pay for years of systemic misconduct in mortgage servicing;*
- (b) *The misconduct included unfair shortcuts, unauthorized fees, deception, illegal foreclosures, and other illegal practices;*
- (c) *The misconduct resulted in a settlement with Ocwen;*

ABOUT THIS PUBLICATION: *The Due Process Advocate is published monthly. It is available online and distributed via free email subscriptions. The express purpose of this publication is to expose and stop the proliferation of "government endorsed" actions and policies designed to remove due process rights from the common person to serve private interests and political agendas.*

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- (d) *The settlement involved Ocwen and two companies recently purchased by Ocwen: Litton Loan Servicing LP and Homeward Residential Holdings LLC;*
- (e) *Dawson's loan was serviced by Litton and Dawson's home was lost to foreclosure between Jan. 1,2009 and Dec. 31,2012; and*
- (f) *Dawson did not qualify for compensation under the settlement only because his loan was more than the threshold limit of \$729,750.*
18. *The Ocwen settlement exposed and evidenced facts and circumstances that Dawson could not have reasonably known at the times he sought relief for Litton's wrongdoing in connection with the foreclosure and loss of his home. Specific instances and practices that were operative in this case were the following:*
- (a) *Litton did not disclose it was required to withdraw any pending foreclosure actions in which filed affidavits were Robe-signed or otherwise not accurate, as is the case here with respect to their foreclosure deed;*
- (b) *Litton has not disclosed or identified the allocation of the foreclosure sale proceeds in the amount of \$1,716,966.40 that were received to satisfy the first mortgage obligation in the original principal amount of \$1,400,000.*
- (c) *Litton had not disclosed that in part the settlement with the Federal Government addressed a systemic practice of charging unauthorized fees;*
19. *In fact, Dawson has discovered [these] facts and circumstances by and through information obtained and presented to Dawson by and through the state and federal governments' investigations and actions which precipitated the recent settlement agreement as referenced in the Order.*

Dawson hopes his voice will finally be heard by someone, somewhere who has the guts to do something about it. He feels he has been denied any semblance of the due process rights that are guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution. The way he looks at the situation is that the government has collected well over \$100 billion from banks for their illegal actions contributing to the housing bust and, also, bailed out Freddie Mac and Fannie Mae to the tune of almost \$200 billion - but Dawson never got a dime.

NEXT EDITION WILL FOCUS ON HIDDEN WAIVERS IN STANDARD AGREEMENTS

Big Corporations, and government agencies at all levels, know that the average American simply does not know what his or her due process rights are in a given situation - and once an individual is "duped" out of his or her due process rights, that individual is left defenseless against a host of penalties, fines, and/or unnecessary costs and fees. There are unique due process rights associated with every single class of individuals in America: such as parents, teachers, disabled persons, employees, minorities, property owners, taxpayers, students, senior citizens, veterans, retired people, patients, and many, many more. All too often, unsuspecting consumers find out, way too late, that they have signed away their due process rights through the so-called "standard" contracts and agreements they sign in the course of their day-to-day business dealings. The next edition of The Due Process Advocate will address this alarming trend.

WE MUST FIGHT TO ELIMINATE "ARBITRARY RULE" OR WITNESS THE DEMISE OF THE UNITED STATES OF AMERICA AS WE CURRENTLY KNOW IT

By Bob Tobiasz

Several months ago, I wrote an article for The Due Process Advocate entitled "Every American Should Understand What Due Process of Law Means for Us." In that article, I pointed out the following:

1. "due process of law means that we will be given notice of any legal proceedings, that we will be afforded the opportunity to present our case at such proceedings and that such proceedings will be fair before any government attempts to take away our life, liberty and/or property;" and
2. "inherent in our due process of law constitutional guarantee is that any law, to which we are subject, shall not be unreasonable, arbitrary and/or capricious."

This article will focus on the word(s) "arbitrary" (double underscored above) or "arbitrary rule." What do these words mean? In simplest terms, they mean that any laws and/or rules to which we are subject must not be random, subjective, uninformed, illogical, haphazard, erratic, frivolous, inconsistent, irrational, irresponsible, unreasonable and/or unaccountable. Conversely, it means that any laws and/or rules to which we are subject must be consistent, dependable, logical, reasonable, rational, reasoned and/or supported.

When a decision is arbitrary, it means that the decision is not based on judgment or reason but instead on discretion without any regards to standards or rules. It implies a disregard of the evidence. In many circumstances, the term "arbitrary" implies an aspect of bad faith and it sometimes may be taken as despotic or tyrannical.

Why, as Americans, should we care about whether decisions by our federal and/or state courts and/or administrative agencies are "arbitrary?" Well, simply put, unless we care enough to dispute and fight to overturn "arbitrary decisions" by those courts and/or administrative agencies, we can expect the following to occur in the United States:

1. continued enrichment of the wealthy and politically well-connected individuals to the detriment of all others;
2. a complete elimination of the middle class way of life on which our country was built; and
3. an eventual complete loss of our "due process of law."

How do we, as Americans, fight to overturn "arbitrary" rules and/or decisions. I suggest that we consider the following steps:

1. In federal and/or state court proceedings, ask for "findings of fact" and "rulings of law." This is probably the best way to keep judges honest;
2. Also, in federal and/or state court and/or agency proceedings, make sure that, within financial reason, you appeal any decisions to higher courts and/or agencies. Learn the appeal process and use it to your advantage;
3. Since "arbitrary rule" flourishes well in environments which are void of practical checks and balances, you should support grass roots efforts to keep the system honest;
4. Do your homework! Support only those candidates at all levels of government who have demonstrated, by their actions, a true respect for "due process of law" for all people, not just the wealthy and/or politically well-connected.

At times, fighting to overcome "arbitrary rule" seems like an insurmountable obstacle. Nonetheless, the fight must continue if we want to maintain our way of life and, simultaneously, make the United States a positive example for the rest of the world.

Note: Bob Tobiasz is a graduate of both Boston College and the University of Chicago. He has an extensive background in business management and financial analysis; including several years as a high-level corporate executive, a real estate investor and manager, a venture capital consultant, and a private investor and entrepreneur. He is a life-long due process advocate.