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COMMENTARY

Robosigning revisited: Is the foreclosure documentation crisis spreading to bankruptcy courts?

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The foreclosure documentation crisis emerged in late September following the public release of a deposition in which an employee of a major financial institution acknowledged that he had executed affidavits of indebtedness, later filed in court, with little review of the information contained therein.

The alleged practice, now referred to as "robosigning," drew the attention of the national media, borrowers, consumer advocates, legislators, and federal and state regulators alike, suddenly putting the actions of every major mortgage servicer under a microscope.

Initially, public concern centered on the processes by which employees of mortgage servicers prepared and executed debt affidavits, specifically, whether they sufficiently verified the information contained in the affidavits and followed proper notarization procedures when executing them. Within weeks, however, the scope of public scrutiny expanded dramatically.

The alleged technical infirmities in some affidavits were quickly used as a springboard from which a broad probe of servicing practices was launched. Older issues such as those highlighted in the Federal Trade Commission's landmark consent decrees with Fairbanks Capital Corp. and EMC Mortgage Corp. once again began to receive heightened attention.[1]

In addition, newer issues such as the documentation of loan ownership and its effect on a mortgagee's legal standing to foreclose also began to garner increased scrutiny.

Although these issues have arisen principally in the context of state court foreclosure proceedings, many of the same issues can be raised in bankruptcy actions as well. Some of these issues are:

- A servicer's ability to prove standing as a creditor.
- The reasonableness of fees.
- The accuracy of reported debts.
- A servicer's ability to substantiate amounts owed.

For example, with limited exception, Rules 3001 and 3002 of the Federal Rules of Bankruptcy Procedure require creditors to file proofs of claim as *prima facie* evidence of the validity and amounts of their claims.[2]

Proofs of claim differ slightly from debt affidavits in that they do not need to be notarized and do not require attestations from a creditor's personal knowledge. However, proofs of claim, like debt affidavits, must substantiate the existence of the debt owed and must set out the total dollar amount of the debt owed, including interest, fees and charges.

> Robosigning has put the actions of every major mortgage servicer under a microscope.

Accordingly, proofs of claim are vulnerable to many of the same attacks to which debt affidavits have been subjected because borrowers can challenge the accuracy of the information underlying the servicer's debt calculations. For this reason, issues similar to those being addressed en masse in state courts are beginning to manifest themselves in bankruptcy courts, making these courts the next likely battleground for mortgage servicer litigation.

Attention to bankruptcy-related mortgage servicing practices has been increasing for the past two years. As the current economic crisis unfolded, the Justice Department's U.S. Trustee Program began taking an active role in probing mortgage servicers' practices in pending bankruptcy matters.

This activity has expanded in the wake of the foreclosure documentation crisis, with the UST intervening in bankruptcy actions to launch attacks on the sufficiency of servicers' proofs of claim or motions for relief from stays, including challenges to servicers' standing to assert claims and challenges to fees requested and amounts alleged to be owed.

More recently, the UST also has submitted motions asking a number of bankruptcy courts to consider the imposition of sanctions against servicers whose processes or filings routinely were found to be insufficient.

The UST is not alone in focusing on issues related to the servicing of loans held by borrowers in bankruptcy. Servicing practices now are being challenged by debtors themselves, by other government regulators and by bankruptcy judges who have shown an increased willingness to address these matters even when they are unnecessary to the resolution of cases.

Recent decisions from bankruptcy courts have added to the complexity of the current legal environment, as federal judges opine on unresolved or underdeveloped aspects of state law, creating the potential for inconsistent or contradictory legal interpretations of state law.

Overall, these recent developments underscore the need for servicers to focus on the integrity of bankruptcy-related servicing practices in order to avoid costly litigation. In this regard, servicers should devote significant attention to issues relating to the accuracy of factual assertions in court filings or proofs of claim, compliance with necessary predicates to legal action, and adherence to proper procedures once legal action has commenced.

THE ROLE OF THE U.S. TRUSTEE

The UST is charged with protecting the integrity of the bankruptcy system by overseeing case administration and enforcement of the bankruptcy laws.[3]

As part of its mission, the UST has created an informal working group to identify and remedy violations of the Bankruptcy Code by mortgage servicers.[4] Based on the findings of this group, the UST has begun to prioritize consumer complaints regarding the accuracy of filings made by mortgage servicers with bankruptcy courts.[5]

Already the UST has played a significant role in a few high-profile consent decrees and settlements involving mortgage servicers. For example, the UST intervened or filed adversary cases in a number of bankruptcy actions involving Countrywide in order to challenge a number of its alleged bankruptcy-related servicing practices.

Among other things, the UST asserted that Countrywide inflated proofs of claim, attempted to collect discharged debts, and charged impermissible or undisclosed fees.[6] These cases ultimately were settled as part of the $108 million consent decree reached between Countrywide and the Federal Trade Commission in June 2010.[7]

Beyond the Countrywide matters, the UST has used its authority under Section 307 of the Bankruptcy Code to intervene on behalf of debtors to challenge specific servicing practices.[8] In a number of actions filed in the U.S. Bankruptcy Court for the Northern District of New York, for example, the UST recently intervened on behalf of debtors to challenge the reliability of creditors' assertions of standing to file proofs of claim.

In those cases, *In re Szumowski* and *In re Bevins*, the UST argued that several mortgage creditors failed to meet the statutory definition of a "creditor" because they failed to produce sufficient evidence to support allegations in their proofs of claim that they were the current assignees of the debtors' notes and mortgages.[9]

In the same cases, the UST also attacked creditors' counsel, arguing that counsel violated Federal Rule of Bankruptcy Procedure 9011 by failing to take adequate steps to verify the accuracy of statements appearing in their proofs of claim.

Citing a state court order in an unrelated case sanctioning creditors' counsel for filing foreclosure petitions containing false statements related to standing, the UST argued that the bankruptcy judge should impose sanctions against creditors' counsel for engaging in a pattern or practice of conduct that undermined the integrity of the bankruptcy system.[10] The UST's challenges in these cases are pending.[11]

Similarly, in a recent Connecticut case, *In re Kritharakis*, the UST filed a motion pursuant to Federal Rule of Bankruptcy Procedure 2004, asking the court to examine the proofs of claim submitted by a mortgagee.[12] Rule 2004(a) provides that upon motion of a party in interest, the court may order an examination of an entity regarding the acts, conduct, property, liabilities or financial condition of the debtor or any matter that may affect the administration of the estate of the debtor.[13]

In its motion, the UST expressed concern both about the integrity of documents used by the creditor to support its proofs of claim and about the process used by the creditor to file those proofs of claim.

> Issues such as the documentation of loan ownership and its effect on a mortgagee's legal standing to foreclose began to garner increased scrutiny.

In particular, the UST was concerned that:

- The creditor failed to establish that it was the owner of the note and mortgage.
- The assignments submitted by the creditor contained conflicting effective dates and may have been signed on behalf of entities that no longer had any rights to assign.
- The creditor failed to establish that the signer of its proof of claim was the creditor's legal counsel.[14]

The UST sought the examination of a duly authorized representative of the creditor regarding the creditor's process for drafting proofs of claim and confirming ownership of notes and mortgages. As with the New York cases discussed above, the outcome of the UST's request in *Kritharakis* is pending.

There also has been a significant uptick in UST requests for discovery using other procedural avenues in connection with allegations made in mortgage creditors' proofs of claim.

In two recent cases in Georgia, *In re Johnson* and *In re Chambers*, the UST challenged the sufficiency of documentation attached to servicers' proofs of claim. The UST sought discovery in both cases, including 30(b)(6) depositions from each servicer, as well as the production of various documents by the servicers.[15]

The UST's discovery requests focused not just on the creditors' alleged standing, but also on the computation of amounts reflected in the proofs of claim or motions for relief from stay, and the processes used to prepare the proofs of claim or motions for relief.

In *Johnson* the servicer withdrew its motion for relief from the stay and agreed to produce the requested documents, but it lost its bid to quash the deposition subpoena and was ordered to produce a representative for a 30(b)(6) deposition.[16] The UST continues to press its inquiry in *Johnson*; for example, it sought additional testimony after the first deposition suggested inconsistencies between the trust holding the mortgage and the endorsements on the note.[17] The UST's discovery requests in *Chambers* are pending.

These cases highlight the UST's active role in monitoring mortgage foreclosure practices and underscore how challenges to servicing practices are arising in bankruptcy litigation.

THE INCREASINGLY ACTIVE ROLE OF BANKRUPTCY COURTS

Like the UST, a number of bankruptcy judges have sought to address the propriety of servicing practices and in some instances have expressed opinions on these matters in extensive dicta. Most judges have focused on upholding the integrity of the judicial process by ensuring the accuracy of servicers' court filings and factual assertions, but a few have gone beyond such measures to weigh in on seemingly unrelated or unnecessary allegations regarding industry practices.

Such judicial activism can be problematic, especially when it involves the interpretation of intricate or unresolved points of state law, resulting in inconsistent or contradictory legal standards in state and federal courts.

For example, the U.S. Bankruptcy Court for the Eastern District of New York recently issued a controversial opinion questioning the authority of the Mortgage Electronic

Registration System to make assignments under New York law. In that case, *In re Agard*, the debtor challenged a creditor's motion for relief from stay by arguing, in part, that the creditor lacked standing to foreclose because it had obtained an assignment of the debtor's mortgage from MERS. The debtor claimed that MERS lacked authority under New York law to assign mortgages among its members.[18]

Although the court found that a prior state court judgment had already established the creditor's standing to foreclose and therefore that standing could not be challenged again in federal court pursuant to the *Rooker-Feldman and res judicata* doctrines,[19] the court went on for an additional 10 pages to discuss whether MERS could make valid assignments under New York law.

After rejecting several of the arguments made by the creditor and by MERS as intervener, the court said the record contained insufficient evidence to show that MERS could act as an agent of its members, and as a result, the court declared that MERS lacked the requisite authority to make assignments on behalf of its members.[20]

The court's additional analysis in *Agard* provides a vivid illustration of the problems that can occur when bankruptcy courts opine on unresolved or underdeveloped aspects of state law. Though the analysis in *Agard* was dicta, the court explicitly noted that its analysis regarding MERS and standing was "necessary for the precedential effect it will have on other cases pending before this court."[21]

Less than a month after the *Agard* decision was handed down, a New York state court issued its opinion in *Bank of New York v. Sachar*, a decision contradicting *Agard* by affirming MERS' ability to make assignments on behalf of its members under New York law.[22] Although the *Sachar* court did not discuss *Agard*, it clearly upheld MERS' authority to assign a note and mortgage as nominee for a lender whenever the mortgage contract provides MERS with the power to "take any action required of" a lender, "including, but not limited to, the right to foreclose."[23]

THE INCREASINGLY ACTIVE ROLE OF GOVERNMENT REGULATORS

With foreclosure documentation issues continuing to make headlines, government regulators also are taking an interest in policing servicers' bankruptcy-related activities. For example, the Office of the Comptroller of the Currency, the Federal Reserve Board and the Office of Thrift Supervision announced April 13 that they had entered into consent decrees with 14 of the nation's largest mortgage servicers.[24] The consent decrees are the outgrowth of a horizontal review conducted by federal regulators during the fourth quarter of 2010.

> As in foreclosure actions, issues related to a servicer's ability to prove standing as a creditor can be raised in bankruptcy actions.

While not admitting to wrongdoing, the servicers agreed to examine their past servicing practices and to substantially enhance their current policies, procedures and practices. They agreed to conduct reviews to determine whether past foreclosures were conducted in accordance with state and federal laws, including applicable bankruptcy laws.

In addition, they agreed to undertake new measures that will have a direct and substantial effect on their handling of future bankruptcy actions. The new measures include requirements that they:

- Adopt action plans outlining the measures taken to comply with bankruptcy laws.
- Establish compliance programs containing processes and procedures to ensure that:
  - > They are proper parties in all their bankruptcy actions.
  - > They hold all necessary assignments of notes and mortgages in accordance with state law.
  - > They comply with automatic stay provisions, discharge injunctions and applicable court orders.
- Institute policies and procedures to ensure the accuracy of all documents used in bankruptcy proceedings.
- Institute policies and procedures that create a certification process for all their bankruptcy counsel.

Given the breadth of these measures, the consent decree provisions are likely to be instrumental in shaping *de facto* bankruptcy mortgage servicing standards implemented in the future.[25]

Moreover, in addition to the settlements by federal banking regulators, states may pursue their own settlements with mortgage servicers, and those settlements may contain additional provisions affecting bankruptcy processing.

In March, the Mortgage Foreclosure Multistate Group, organized by state attorneys general to address foreclosure issues common to all 50 states, sent a 27-page proposed settlement agreement to the five largest mortgage servicers. The proposal, a clear attempt to create national servicing standards, contained very specific provisions, including terms that would require significant changes to how servicers handle bankruptcy cases.

Under the proposed terms, servicers would be required to document their proofs of claim by attaching copies of all relevant loan instruments, including a detailed itemization of all amounts claimed. Additionally, the proposed settlement would require that, 45 days before filing a motion for relief from stay, servicers provide debtors with an itemized account summary covering the prior 36 months of account activity. Any fees not appearing on this account statement would be deemed waived and uncollectible.[26]

Beyond this, the proposed settlement also contained a number of more general terms that could affect bankruptcy proceedings. For example, the settlement would impose heightened standards for the execution of sworn statements whenever those statements are to be submitted as part of a court proceeding. It would also require servicers to conduct regular audits of documents prepared for court proceedings and to implement policies and procedures to govern agents used in the bankruptcy context.[27]

The proposed settlement has been widely criticized, because, among other things:

- It likely exceeds the authority of the state attorneys general.
- It contains certain terms that conflict with the requirements of governing law.

- It would invite oversight of servicers' day-to-day operations by the attorneys general and the Consumer Financial Protection Bureau.

In fact, these and several other significant concerns have led a number of attorneys general to oppose the proposed settlement openly.[28] Though these recent events have put the deal into doubt (at least in its current form), there is no question that any future settlement will contain provisions affecting the conduct of servicers in bankruptcy proceedings.

Attention to bankruptcy-related mortgage servicing practices has been increasing for the past two years.

LITIGATION AVOIDANCE STRATEGIES FOR SERVICERS

With federal and state regulators intensifying their enforcement efforts and bankruptcy courts heightening their review of servicers' pleadings and motions, servicers currently face significant legal risks. Servicers and related parties should consider the following risk-mitigation strategies to reduce the likelihood of litigation and an enforcement action:

Institute robust document verification procedures

Servicers should review policies, procedures and processes related to the verification and documentation of debts owed to ensure that they are sufficiently robust. Among other things, policies should outline in detail:

- Steps that should be undertaken to verify debts.
- Documentation that should be reviewed in order to confirm amounts owed.
- Documentation that must be in place in order to establish standing to foreclose.

Insofar as new procedures are implemented, output needs to be analyzed routinely to ensure that reality is consistent with aspiration. Specifically, servicers need to ensure that their employees are generating accurate and sufficiently documented results.

Monitor customer complaints

Servicers should monitor customer complaints to identify negative trends because a consistently high volume of complaints about an issue may indicate a compliance problem. Servicers should be using such trending data to inform process changes.

Ensure adequate training of personnel

In the frenzy to keep up with increasing demands in the servicing industry, some institutions have found themselves putting untrained or poorly trained personnel on the frontlines, compounding the problems witnessed in recent months. However, the marginal gain in output from using such employees is rarely worth the potential legal or reputational cost.

Though it is important to respond quickly to ever-increasing workloads by ramping up staffing levels, servicers should not sacrifice the quality of their work product in the process. Staff must be appropriately trained before being asked to make high-stakes decisions in this fast-moving legal environment.

Perform quality control and data integrity checks

Servicers must ensure that they have instituted processes that provide some reasonable level of confidence in the quality and accuracy of debt-related data when a loan transfers from a prior servicer. This is particularly true when the loan is already in default and the figures will form the basis for legal action.

Perform due diligence on business partners

It is imperative that servicers conduct due diligence on business partners, in particular on foreclosure and bankruptcy law firms and other default service providers. Due diligence should evaluate each business partner's adherence to governing legal standards, as well as their compliance with emerging industry best practices.

These business partners should be evaluated meaningfully on a periodic basis in order to reaffirm that they are fulfilling their roles in a manner that is consistent with expectations. The importance of such due diligence has been highlighted in recent months, as increasing numbers of foreclosure or bankruptcy law firms have come under fire for filing documents alleged to contain inaccuracies, omissions and other deficiencies.

CONCLUSION

At this point, not all of the consequences of the recent foreclosure documentation crisis are apparent. Although the bulk of litigation and enforcement activity has concentrated on state court foreclosure actions, already there are indications that servicers will come under increased fire in the bankruptcy context as well.

With regulators, courts and consumers certain to intensify scrutiny, mortgage servicers must make risk management a top priority by implementing a comprehensive, cogent and cohesive response to the root causes of the alleged evidentiary and procedural infirmities underpinning the foreclosure documentation crisis.

NOTES

[1] These issues include the propriety of default fees, the substantiation of those fees, data integrity, the resolution of consumer disputes and the adequacy of quality-control procedures. *FTC v. EMC Mortgage Corp.*, No. 08-338-RAS, *stipulated final judgment and order entered* (E.D. Tex. Sept. 9, 2008), ECF No. 4; *United States v. Fairbanks Capital Corp. et al.*, No. 03-12219-DPW, *order preliminarily approving stipulated final judgment as to Fairbanks Capital Corp. and Fairbanks Capital Holding Corp. entered* (D. Mass. Nov. 21, 2003), ECF No. 6, modified by *United States v. Select Portfolio Serv.*, No. 03-12219-DWP, *modified stipulated final judgment and order entered* (D. Mass. Sept. 4, 2007), ECF No. 96.

[2] Fed. R. Bankr. Proc. 3001 & 3002.

[3] 28 U.S.C.A. § 586 (West 2011).

[4] Policing Lenders and Protecting Homeowners: Hearing Before the S. Judiciary Subcomm. on Admin. Oversight and the Courts, 110th Cong. 5-6 (2008) (statement of Clifford J. White, Director, Executive Office for the U.S. Trustees), available at http://www.justice.gov/ust/eo/public_affairs/testimony/docs/testimony20080506.pdf.

[5] *Id.*; *see also* Donald F. Walton & Saleela K. Salahuddin, *United States Trustee's Perspective in Consumer Cases*, 8 COMM. CONSUMER BANKR. NEWSLETTER 139, 141 (2010), *available at* http://www.abiworld.org/committees/newsletters/consumer/vol8num2/trustee.pdf.

[6] *E.g.*, *In re Hill*, No. 01-22574-JAD, *amended motion for rule to show cause filed* (Bankr. W.D. Pa. June 30, 2008), ECF No. 236; *In re Sanchez*, No. 01-42230-AJC, *complaint filed* (Bankr. S.D. Fla. Mar. 1, 2008), ECF No. 74; *In re Atchley*, No. 05-79232-MHM, *complaint filed* (Bankr. N.D. Ga. Feb. 28, 2008), ECF No. 48; *see also* Clifford

J. White III, Director, Exec. Office for U.S. Trustees, Remarks at the 2010 Annual Meeting of the National Association of Bankruptcy Trustees 3 (Sept. 20, 2010); Press Release, Exec. Office for U.S. Trustees, U.S. Trustee Program Announces Resolution of Litigation Against Countrywide Home Loans Inc. in Consumer Bankruptcy Cases (June 7, 2010), *available at* http://www.justice.gov/ust/eo/public_affairs/press/docs/2010/pr20100607.htm.

[7] White Remarks, *supra* note 6, at 3.

[8] 11 U.S.C.A. § 307 (West 2011) ("The United States trustee may raise and may appear and be heard on any issue in any case or proceeding under this title but may not file a plan pursuant to Section 1121(c) of this title.").

[9] Response at 3-5, *In re Bevins*, No. 10-12856-1-REL (Bankr. N.D.N.Y. Jan. 6, 2011), ECF No. 29; Response at 2-3, *In re Szumowski*, No. 10-12431-REL (Bankr. N.D.N.Y. Jan. 6, 2011), ECF No. 26.

[10] *Bevins* at 5-8; *Szumowski* at 3-4. In *Bevins*, the UST further challenged the fact that creditors' counsel appeared to have been involved in representations on both sides of the assignment of mortgage submitted to the Bankruptcy Court, both as legal counsel to the assignee and as an officer of the assignor. *Bevins* at 6-7.

[11] Although the UST's challenges to the mortgage creditors' claims in these cases remain pending, a number of cases pre-dating the foreclosure documentation crisis shed light on the circumstances under which bankruptcy courts impose sanctions. For example, in *In re Stewart*, the U.S. Bankruptcy Court for the Eastern District of Louisiana sanctioned a servicer $5,000 and ordered it to conduct an audit of its processes for executing proofs of claim after the court found that the servicer allegedly filed multiple proofs of claim that were inconsistent, "so significantly erroneous that a reconciliation was not possible" and fraught with "systemic mistakes." 391 B.R. 327, 356-57 (E.D. La. 2008). The court also assessed damages of $10,000, plus over $12,000 in legal fees (*id.* at 357), after finding that the servicer systemically failed to notify debtors of assessed fees, costs and charges (*id.* at 341-42); imposed unreasonable or undisclosed fees for property inspections and broker's price opinions (*id.* at 344-46); and assessed impermissible post-bankruptcy fees (*id.* at 350). Likewise, in *In re McKain*, the same court ordered another servicer to implement broad new accounting procedures for all its Chapter 13 cases because the court found that the servicer repeatedly had attempted to claim fees and costs previously discharged or disallowed. No. 08-10411, 2009 WL 2848988 at *4-*5 (Bankr. E.D. La. May 1, 2009). However, in *Countrywide Homes Loans v. McDermott*, the U.S. District Court for the Northern District of Ohio reversed a bankruptcy court's award of sanctions against a servicer for filing an unwarranted proof of claim because the record lacked evidence that the servicer had engaged in a systemic pattern or practice of sanctionable conduct nationwide. 426 B.R. 267, 281 (N.D. Ohio 2010). The sanctions motion in *McDermott* was prosecuted by the UST as an adversary proceeding based on the servicer's alleged failure to ensure the accuracy of its pleadings and accounts in bankruptcy cases. *Id.* at 270-71.

[12] Motion for Examination at 1, *In re Kritharakis*, No. 10-51328 (Bankr. D. Conn. Jan. 26, 2011), ECF No. 52.

[13] Fed. R. Bankr. Proc. 2004(a).

[14] *Kritharakis*, Motion for Examination at 6-8.

[15] Discovery Request, *In re Chambers*, No. 08-84081-CM (Bankr. N.D. Ga. Feb. 28, 2011), ECF No. 59; Discovery Request, *In re Johnson*, No. 10-82590-MGD (Bankr. N.D. Ga. Dec. 1, 2010), ECF No. 23.

[16] Order Denying PHH's Motion to Modify Subpoena, *Johnson*, No. 10-82590-MGD (Bankr. N.D. Ga. Feb. 10, 2011), ECF No. 32; Motion to Quash, *Johnson*, No. 10-82590-MGD (Bankr. N.D. Ga. Jan. 18, 2011), ECF No. 27; Withdrawal of Document, *Johnson*, No. 10-82590-MGD (Bankr. N.D. Ga. Jan. 4, 2011), ECF No. 25.

[17] Motion to Compel Further Deposition Testimony, *Johnson*, No. 10-82590-MGD (Bankr. N.D. Ga. Jan. 4, 2011), ECF No. 36.

[18] No. 810-77338, 2011 WL 499959 at*3 (Bankr. E.D.N.Y. Feb. 10, 2011).

[19] *Id.* at *8-11.

[20] *Id.* at *20.

[21] *Id.* at *2.

[22] No. 0380904/2009 (N.Y. Sup. Ct. Mar. 3, 2011).

[23] *Id.* at *2-3.

[24] Lorraine Woellert, *Banks Must Pay Victims of Botched Foreclosures, Regulators Say*, BLOOMBERG, Apr. 13, 2011, *available at* http://www.bloomberg.com/news/2011-04-13/banks-to-pay-victims-of-botched-foreclosures-in-settlement-with-regulators.html.

[25] *See, e.g., In re Bank of Am.*, No. AA-EC-11-12, *consent order entered* (O.C.C. Apr. 13, 2011), *available at* http://www.occ.treas.gov/news-issuances/news-releases/2011/nr-occ-2011-47b.pdf.

[26] Mortgage Foreclosure Multistate Group, Settlement Terms 6-7 (2011), available at http://cdn.americanbanker.com/media/pdfs/27_page_settlement2.pdf.

[27] *Id.* at 1, 7.

[28] A number of state attorneys general have criticized aspects of the proposed settlement. *See, e.g.*, Letter from Kenneth Cuccinelli, Virginia Attorney Gen., Greg Abbott, Texas Attorney Gen., Pam Bondi, Florida Attorney Gen., & Alan Wilson, South Carolina Attorney Gen., to Tom Miller, Iowa Attorney Gen. (Mar. 22, 2011) (on file with author); Dave Clarke, *Attorneys general in three states oppose mortgage pact*, REUTERS, Mar. 17, 2011, *available at* http://www.reuters.com/article/2011/03/17/us-financial-regulation-servicing-idUSTRE72G5KT20110317 (discussing a letter from the attorneys general from Alabama, Nebraska and Oklahoma objecting to some of the terms of the proposed settlement); David McLaughlin & Prashant Gopal, *Georgia Joins Dissenters Opposing Writedown Plan in State Foreclosure Deal*, BLOOMBERG, Apr. 19, 2011, *available at* http://www.bloomberg.com/news/2011-04-19/georgia-joins-dissenters-opposing-writedown-plan-in-state-foreclosure-deal.html.

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