



## Banks drop foreclosures in Southwest Florida

Hundreds of lawsuits dismissed

BY DICK HOGAN • DHOGAN@NEWS-PRESS.COM • JANUARY 19, 2011

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Banks in recent weeks have been dropping hundreds of their Southwest Florida foreclosure lawsuits instead of facing defendants at trial, according to local attorneys and court records.

Opinions varied sharply on whether that means banks are just taking a breather before refileing with stronger evidence - or giving up for good on hopelessly flawed cases.

Some foreclosures at large law firms were never actually read by the attorneys who filed them here and elsewhere, and some of the mortgages that ended up in mortgage-backed securities sold to investors were never legally transferred by the banks, defense attorneys have alleged.

"We think they're going to come back and refile," Lee County Clerk of Court Charlie Green said.

That's an expensive proposition, he said, noting foreclosure suits carry a hefty filing fee: about \$1,900 for a \$250,000 house, for example.

What happens is lawyers for the banks are asking judges to dismiss their cases, which is "very much out of the ordinary," Green said. "You don't see cases dismissed without prejudice that often."

Foreclosures were rare in Southwest Florida until the housing market crashed at the end of 2005, bringing on waves of mortgage defaults by investors and homeowners.

Green said he hasn't calculated exactly how many foreclosures are being dismissed.

But eight voluntary dismissals were filed Tuesday alone by seven different banks including Bank of America, one of the largest filers of foreclosures in this area. Bank of America did not reply to a request for comment Tuesday.

At one court hearing alone, attorney Kevin Jursinski said, one of his associates watched as "50 in a row" were withdrawn.

"Can they re-litigate?" Fort Myers-based attorney Carmen Dellutri asked. "I don't think so."

Most of the mortgages in dispute were sold to Wall Street and sold in bundles to investors as mortgage-backed securities, he said. But so many mistakes were made in the process it's unlikely the banks can win those cases.

Some mortgages still held by the bank that made the loan might be defensible but those are in the minority, Dellutri said.