

THE ANDRICH LAW FIRM P.C.

Real Estate · Estate Planning · Commercial Transactions

4538 North Fortieth Street Phoenix, Arizona 85018

Telephone: 602.774.3200 Facsimile: 602.774.3205

AL ROKER AND THE GIN BLOSSOMS ARE
PERFORMING AT YOUR FORECLOSURE
THIS WEEK AND TEN OTHER
THOUGHTS FOR 2011

In case you have not heard (and in this town that would be nearly impossible, the “Wells Fargo Television Network” (aka - Channel 12 Phoenix) has decided to take all that advertising revenue Wells Fargo gave them and move into a building with their friends at “The Arizona Republic.” And in a demonstrative effort to sort of thumb their noses at everyone that lost their home to foreclosure, WFTN is throwing a party for all Phoenicians (and to honor itself, of course), Wednesday, January 12, 2011. I have not witnessed this kind of blind arrogance toward the middle class and poor, since Joaquin Phoenix (as Commodus in “Gladiator”) reopened the Roman Coliseum.

And historically, there is no better way to entertain people whose lives have been ruined for at least the next 25 years, than a visit from everyone’s favorite weather personality – Al Roker.¹ All of you that Wells Fargo, Chase, BOA, IndyMac and CitiMortgage illegally foreclosed against, please descend upon 200 East Van Buren² at 4:00am to be on television with Al Roker!!! For those of you that still remain in your homes, after your spirits are temporarily-lifted by Mr. Roker – and later - The Gin Blossoms, please drop off your keys and deeds-in-lieu of foreclosure to Wells Fargo’s main office, located two blocks away.

¹ Because the memorial for the victims of the “Tragedy in Tucson” is to occur Wednesday, January 12, 2011, NBC and Al Roker determined that it would be in better taste to postpone his Phoenix visit for a few weeks. You would think that Channel 12 would follow suit, and postpone its self-serving festival. Instead, Channel 12 decided to sneak a last-minute blood drive into the festival schedule to justify and rationalize continuing its celebration. Channel 12 continues to act in an unprecedented, deplorable manner. As the spokesperson for your lenders, Channel 12, once again, has proven that they have no concern whatsoever for the people of Arizona.

² Channel 12 calls it “200 EVB”, but I am fairly certain that the City of Phoenix has not changed the name of the street from East Van Buren. Just another example of WFTN’s arrogance toward the people of Arizona. “You will call the street what we at the network tell you to call it.” Cute.

Growing up in St. Louis, I witnessed a time where the local media and its investigative reporters actually aired stories for the benefit of its viewers (how quickly Mark Curtis forgets). Back then, the big story was raising awareness about the homeless. No fewer than four reporters secretly lived as homeless people on the streets, while filmed by nearby, but hidden, cameramen. As a result, the City of St. Louis and the community in general made dramatic improvements in reaching the homeless and establishing programs to put people back to work and back into homes.

And yet as 2010 ended, some of the lasting images from December were both Melissa Blasius exclaiming how only God and she could save peoples' homes, and Mark Curtis showing off one of the gaudier watches you will see. I wonder how people that are at risk of losing (or have already lost) their homes feel when Mark Curtis waves his fancy "wrist-clock" in their faces, each evening. What are you trying to be, Mr. Curtis, a professional poker player?

All that time WFTN spent in December, taking credit for doing nothing and flaunting their new wealth, and not once did they mention that thanks to A.R.S. §33-807.01, no one ever has to lose their home to foreclosure. That's right – never – never again. Why does WFTN insist on withholding foreclosure prevention information from its viewers?

I see that Ms. Blasius and a Scottsdale attorney have decided to join forces to create some "short sale closing document review panel" that resembles the "Death Panels for Healthcare Reform." Is that really the answer? Should we all simply walk-away from our homes and hope that the Canadians invade Arizona; buy our foreclosed homes; and rent them back to us? Wait – that is sort of what we did with our State Capitol!!! I wonder if Al Roker will visit there as well.

I thought that I would give you some thoughts for 2011. Some thoughts are very critical for you to adopt this year. Some are just random thoughts that you can use, as you deem it appropriate.

Thought No. 1

No One With a Primary Residence in Arizona Ever Has to Lose Their Home to Foreclosure, Because There Is a State Law That Protects You

In Arizona, the foreclosure crisis is over! Under A.R.S. §33-807.01, your lender must either comply with the federal government's Home Affordability Modification Program ("HAMP") (that is complete compliance with all guidelines) or must offer you foreclosure-prevention alternatives 30 days prior to recording a Notice of Trustee's Sale.

Either way, your lender cannot foreclose against you without legitimately trying to help you (and they better be able to prove it in writing too). I found it silly that in the first part of the year, attorneys representing your lenders would argue to the court that your lender is not legally-required to comply with HAMP. But then in August (about when the new state law took effect), those same attorneys now argue that your lender is "HAMP compliant." And the lenders still are not compliant. Fascinating.

Thought No. 2

If You Communicate With Catherine Reagor From the Arizona Republic, Remind Her That You Do Not Need Permission From Her or the Local Media to Sue Your Lender

I am notoriously-critical of Melissa Blasius, and rightfully so. No one has harmed Arizona borrowers in the last two years with careless, incorrect information more than Melissa Blasius. I have seen most of her reports, and most are garbage, generated by someone that seems to have the behavioral characteristics of a lemming and not a legitimate investigative reporter³.

But Catherine Reagor (at the last moment) won the prize for the stupidest, most inaccurate statement made in 2010. Ms. Reagor filed a story about the Arizona Attorney General suing Bank of America. At the instruction of The Arizona Republic and presumably the WFTN, Ms. Reagor stated:

³ The endless promotion of professionals, unlicensed in Arizona. The shameless promotion of a California attorney that was disbarred. The announcement that "Save My Home AZ" would help people facing foreclosure. The constant coddling of the Arizona Attorney General's Office. The inexplicable refusal to hold your lenders accountable. And, most notably, telling viewers to contact their lenders when facing foreclosure. Ms. Blasius, I could go on for hours about your ineptness as an investigative reporter. But it is well-documented.

“The lawsuit, though, could help pave the way for Arizona homeowners to file civil lawsuits against BofA, Goddard said. A successful settlement or lawsuit would establish bad practices by BofA.” “Arizona Sues BofA for Alleged Mortgage Fraud” The Arizona Republic, December 17, 2010 (C. Reagor) (the quote was Ms. Reagor’s, not Mr. Goddard’s).

Really? My clients have been suing their lenders for last two years. None of their cases have been dismissed. The Arizona Attorney General (“AG”) is suing under the Arizona Consumer Fraud Act. Private citizens are also allowed to sue parties under the Arizona Consumer Fraud Act. Ms. Reagor, what am I missing?

Ms. Reagor, why do my clients need your blessing to sue their lenders? If my clients sue now, they have a chance to save their homes from foreclosure. Even the AG’s lawsuit admits the people that have already lost their homes stand no chance of getting their homes back. Tell you what. I will continue filing lawsuits for my clients, and you can go back to blogging about “lead paint disclosures” or whatever it is that you actually do during the day. Typical socialist reporter. You may not sue the lender that indirectly pays the reporter’s salary, unless the reporter first gives you permission to sue your lender. Just ridiculous.

Thought No. 3

Here Is a Brief Scouting Report on All Your Major Lenders

Bank of America – Too much is being made about BOA. When my clients have problems with BOA, it usually takes a few letters and some paperwork to resolve the dispute. You rarely have to sue them to save your house. BOA took the position that when it signed that consent order, BOA would continue violating it, unless its borrowers threatened lawsuits. A lot of people lost their homes unnecessarily, because they did not hire an attorney – or even consult with a HUD counselor. People kept filing their complaints with the Arizona Attorney General, and nothing got done in time. And Ms. Reagor still tells you that if you have a problem with BOA, then file a complaint with the AG. Ms. Reagor, give me a break!

Chase – Chase has been, by far, the most reasonable lender to deal with. While it is true, you must first sue them. Every lawsuit that I have filed

against Chase, it immediately offers HAMP and HAFA (the HAMP federal short sale program) to my clients. Chase was also recently the first lender to agree to the “AZ Borrowers’ Rights” settlement agreement with the AG (better late than never - eh Terry?). My suspicion is that Chase will continue to violate the consent agreement, unless its borrowers sue Chase. But upon being served with a lawsuit, Chase will then comply and legitimately try to keep you in your home.

IndyMac – When the FDIC seized IndyMac, most mortgages were sold to Deutsche Bank where OneWest acts as its trustee. If OneWest can successfully foreclose against you, its losses under the foreclosure are 100% covered by the FDIC (Kind of neat – huh? Your tax dollars go to throwing you out on the street). You also have to question the FDIC’s wisdom in selling your mortgage to a German bank. Most of my clients that have to sue OneWest are minorities – single women, African Americans, Latinos and (the always most-crucified protected class) senior citizens. But like Chase, after IndyMac/DeutscheBank/OneWest is sued, they have immediately offered HAMP/HAFA to its borrowers.

Washington Mutual – The FDIC sold WaMu mortgage to Chase. See the above-mentioned Chase report for how it handles mortgage disputes.

CitiMortgage – You apply for HAMP, and CitiMortgage will simply ignore the application. I see a big lawsuit coming against them.

U.S. Bank & MorEquity - These lenders are pretty good in that simply threatening a legitimate lawsuit usually produces results. MorEquity was recently purchased by another lender. Thus, sometimes my clients have to sue them.

Wells Fargo – The “Al Capone” or “Frank Costello” of all lenders. Wells Fargo offers warm chocolate-chip cookies and bullet-proof glass at its branches for a good reason. Whatever type of mortgage you have, FHA, FDIC-insured, Freddie Mac, Fannie Mae, VA – anything, Wells Fargo will not comply with HAMP or HAFA under any circumstances. Wells Fargo will fight every lawsuit to the bitter end. If I had to guess, I think the people sneaking on my property during the middle of the night are hired by Wells Fargo.

My suspicion is that Wells Fargo is fully-protected by its friends at Channel 12 and The Arizona Republic. I further suspect that Wells Fargo has used its influence on the Arizona Attorneys General's Office to avoid investigation or prosecution.

In Arizona, BOA is not the problem. Chase is not the problem. As long as the Arizona Attorney General refuses to investigate or prosecute Wells Fargo, there will always be a foreclosure crisis in Arizona. I laughed when Ms. Blasius tried to interview the local president of Wells Fargo. That was staged for television. The president just giggled at Ms. Blasius. I am sure they both joked about it over lunch, the next day.

Thought No. 4

Ms. Blasius and Ms. Reagor, Stop Telling Your Viewers/Readers That You Are Interviewing/Quoting a Foreclosure Expert

Every time Ms. Blasius and Ms. Reagor interview a "foreclosure expert", I check one source to verify the "expert's" legitimacy: the docket for the United States District Court of Arizona. If you are an Arizona attorney, dealing with foreclosure cases, then you presently have cases in the federal court. Some in the state courts too, but if you are a legitimate attorney, you have cases in the federal court. Why? When lenders are sued, most attempt to remove your lawsuit from state court to federal court. Even the cases in state court require the borrower's attorney to often fight and seek remanding the case back in state court.

As usual, Ms. Blasius⁴ and Ms. Reagor are free to correct me. But every Arizona attorney they have dubbed a "foreclosure expert" does not have an active case in federal court; has not appeared recently in federal court or (in the case of Ms. Blasius' favorite attorney) has **never entered an appearance in a federal court.**

Ladies, please explain to me how you are interviewing and promoting local attorneys as "foreclosure experts" if those attorneys have never made one appearance in federal court? How does that happen? How is your reporting so inept? I will give you the names of five attorneys in Arizona that are legitimate foreclosure experts.

⁴ That attorney from the Lake Havasu case that she interviewed does not count. That case has virtually nothing to do with the foreclosure crisis. Judge Yarnell is a legitimate interview. But he has retired from practice, and his opinion is not sought enough.

Thought No. 5

I Wonder If Terry Goddard Regrets Not Suing Your Lenders Sooner

Watching Terry Goddard the last few weeks, I got the feeling that he delayed suing your lenders until he was elected the next governor. I have no evidence beyond my instinct and opinion, but something tells me that Mr. Goddard gave the banks a free pass in 2010. He did not need 500 complaints to file a lender lawsuit. One complaint that breaks the law is good enough to file the lawsuit. He got some horrible political advice, and was too consumed with SB1070. I suspect that if he had acted more quickly and made a name for himself as the “Elliot Ness of the Foreclosure Crisis” then he would be governor, today. I could tell by watching those December press conferences that Mr. Goddard felt betrayed by the lobbyists that support your lenders. It was his way taking a swing at the banks that fooled him. Again, I have no concrete evidence to support my position. That is simply my suspicion.

One thing is clear. Had Terry Goddard sued BOA and Chase last January, instead of wasting time with settlement negotiations for the entire year, then more Arizonans would be in their homes, today.

Thought No. 6

Here Is What People Say About Me

I spend lots of time criticizing the lenders, local media and politicians. So it is only fair that I provide you a few quotes about what some of you think about me. It is never a good idea to read your own press, but if I offer criticism, then I cannot be afraid to receive it either.

“It appears that the attorney [Mr. Andrich] in this case sees himself as the white knight in this process fighting for the underdog. He positions homeowners as victims, not as people who did not honor their end of an agreement. He is willing to ignore the entire transaction process i.e., the mortgagee was presented with a contract, informed of its content and the terms of the loan, and the paperwork was signed by the mortgagee and notarized, confirming the contract agreement.” Blogger’s Response to the Firm Newsletter: “Relationship Advice From a Real Estate Attorney – When to Walk Away” February 16, 2010

My Response: I am fat and I am getting old. That is all I see when I look in the mirror or think of myself – nothing more. If the banks want to hire me to throw people out of their houses – fine. Perhaps I will start with the Blogger’s house.

But presently, my clients hire me to keep them in their homes. Like every attorney, I try to do what my clients hire me to do. Ironically, in many of my cases the lenders actually breach their own deeds of trust, but argue to the court to enforce all-but-one paragraph of the deed-of-trust. Oh well. I cannot please everyone. Blog away! Blog-Blog-Blog!!!

Here is one of my favorites:

“[Mr. Andrich] Your offer of a “walk away” is respectfully declined. The primary factor in the decision is that you have indicated on prior occasions that you simply intend to bring further lawsuits against this firm when it acts as Trustee, even though it is clearly prohibited by... Based on your statements in this case, you believe that suing this firm when it acts as Trustee gives you some kind of leverage over the lender/servicer that we represent.” E-mail from a local up & coming attorney.

My Response: Your firm has gotten rich from its harassing, borderline unethical tactics against confused and terrified borrowers under the guise that you are simply performing your duties as foreclosure trustee. Foreclosure trustees often indirectly receive taxpayer money upon completion of a successful foreclosure. Accordingly, there is a financial incentive to ignore procedures and Arizona law and foreclose as quickly as possible, whether such foreclosure is even proper or improper. Arizonans will see an increase in their taxes, because a foreclosure trustee improperly made money. And for what? So you can sponsor a local golf tournament?

The same threats you make in your e-mails to me were arrogantly uttered by a Florida foreclosure law firm that is now under investigation by the Florida Attorney General.

We both have jobs to do. Your job is to throw people out of their homes as quickly as possible, whether or not the lender and its agents follow Arizona law. My job is to stop you from illegally throwing people out of their homes. And until the Arizona Attorney General does his job, I do not see

anyone else in this town that gives a damn about Arizona borrowers. I receive a nightly reminder when I watch Channel 12 or read The Arizona Republic.

Thought No. 7

The Firm Will Never Be On Facebook

My promise to my clients is this: Neither I, nor this firm will ever have a Facebook account. My clients have serious, often embarrassing legal problems. Accordingly, none of my clients want their pictures on a firm Facebook page, because it readily-identifies them as someone that has experienced trouble. In Arizona, there will always be a law firm you can hire when you seek as much anonymity as I can possibly give you. And Mr. Zuckerberg, you will never get any of my money.

Thought No. 8

Stay Off of Facebook

I just learned that “facebook” is what people from England call their high school yearbooks. I attended high school. I loved it. I attend the high school reunions. I thoroughly enjoy them. And when the reunion is over, I get on the plane; go back home; and get back to work.

There is no need for me to communicate with high school classmates via Facebook. If I want to talk to someone badly enough, I will telephone them. Moreover, I really doubt that anyone cares who my friends are; where I ate dinner last night; or what I like and dislike.

And for full disclosure, I have spent many days in Palo Alto. Even before the Facebook craze, many there believed that they are destined to be the next Zuckerberg. Please be careful, mindlessly following people that portray themselves to you as technologically-innovative and smart. If I recall accurately, between 1% and 3% of Harvard graduates spend time in federal prison.

Thought No. 9

Facebook All You Want!!!

I love you all!!! Many of the litigation cases now involve evidence that was produced (and is indefinitely-preserved) on Facebook. Your Facebook

obsession will generate enough legal fees to put my grandkids through medical school. Thank you in advance!!!

Thought No. 10
Twitter Is Worse

I will post one "tweet". Here are my 140 words (or so) that could apply on any given day:

"Woke up. Body still hurts. Getting old. Playing football in college was a mistake. I hope that I programmed the coffee pot, last night. I have that hearing with that one attorney, today. They sure do not like me. That is ok, because I do not like them either. Why do people always ask me if I am from Texas? Lots of Midwesterners talk like I do. Why is the Christmas tree still up? I have to find some time and take it down. It's almost Memorial Weekend. Thank goodness the courts will be closed, so I can catch my breath. Why do I have to get married? After all, I will always have the NFL Network. Good way to save money."

There. You have my post for the next 50 years. That is as entertaining as my life gets.

2011 will be a memorable year! Each day will be a little better than the previous day. Hang in there. And enjoy the WFTN festival! Do not forget to take your house keys with you.