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# 'Unclean Hands' Key in Foreclosure Suit Over Inflated Premiums

Samantha Joseph, Daily Business Review

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A defendant in a Palm Beach County foreclosure accused loan servicer Bank of America N.A. of having unclean hands in a case set to come before Circuit Judge Peter Blanc.

Sandra Dolman claimed she defaulted on her mortgage after the bank charged at least four times market value for forced-placed insurance through its then-subsiary, Balboa Insurance Co. Those charges required her to pay nearly \$46,000 in three months, Dolman said.

Dolman reportedly owes more than \$2.2 million on a mortgage to The Bank of New York Mellon, the lender for which Bank of America administered the loan at the time, according to court documents. She executed the mortgage in June 2006 and defaulted in December 2009, owing nearly \$1.52 million on the principal and other charges, including about \$394,000 in interest.

Dolman claims the default occurred only after Bank of America pinned a \$45,907 forced-place hazard insurance policy to the home. Lenders place such policies to cover their interests if borrowers fail to maintain sufficient collateral protection.

Bank of New York Mellon's attorney Jessica Quiggle argued the lender acted well within its rights under the terms of the mortgage that permitted it to provide property insurance at its discretion and at Dolman's expense, if the homeowner failed to do so on her own.

Quiggle's motion for summary judgment argued Dolman "specifically contracted away her right to challenge" the insurance purchase.

"Defendant asserts plaintiff acted with unclean hands, but fails to plead the defense with any specificity whatsoever," Quiggle wrote.

But Dolman claimed the bank overpaid its former subsidiary, Balboa Insurance Co., tens of thousands of dollars for the policy in 2009 and passed the costs to her.

Balboa belonged to Countrywide Financial Corp. from 1999, but changed hands in 2008 when Bank of America acquired Countrywide. It traded again in 2011 in a deal between Bank of America and QBE Insurance Group.

"I think there's an excellent defense of unclean hands," Dolman's attorney, Davie lawyer Michael Wrubel, said.

Wrubel claimed his client held a nearly \$10,900 policy from Citizens Property Insurance Corp. in 2006 about \$35,000 cheaper than Balboa's product. His court filings suggest Florida property premiums later dropped — not rose — and a similar policy from Citizens cost \$5,682 in 2010.

Bank of America spokesman Rick Simon said lender-placed insurance typically costs more than homeowner policies underwritten on a property-by-property basis. These policies are typically short-term, until homeowners purchase private insurance and have high administrative costs, Simon said.

"All rates are justified and filed with the state regulator," he said. "The placement of lender-placed insurance is in the control of the property owners. Bank of America will not purchase lender-placed insurance until after several attempts have been made to notify borrowers that their insurance has lapsed, remind them of their obligation to maintain continuous coverage and encourage them to obtain their own preferred coverage, which is almost always less expensive."

Bank of America, Balboa, QBE FIRST Insurance Agency Inc., QBE Insurance Corp. and Banc of America Insurance Services Inc. reached a \$228 million class action settlement in 2015 with homeowners accusing them of inflating premiums on forced-placed insurance.

A bench trial in the Dolman case is set for Sept. 14 before Blanc.

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