

Treasure Coast homeowners say banks illegally locked them out

By George Andreassi

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Bank operatives changed the locks at Jillian Winterberg's Vero Beach house twice this year even though the property has not yet gone through the mortgage foreclosure process.

Even worse, Winterberg said, after the first break-in she found her personal documents had been rifled through, putting her at risk of identity theft and financial ruin.

"Someone had opened the trunk where I keep my old financial documents, all of my old tax returns, payment info. It was spread all around," said Winterberg, a banking industry employee. "I still just cannot get over it. This is something I'm probably going to have to monitor for the rest of my life."

In response, Winterberg filed a lawsuit charging Wells Fargo Bank, the Federal National Mortgage Association (Fannie Mae) and First American Real Estate Information Services with breach of contract, trespass, invasion of privacy and intentional infliction of severe emotional distress.

Representatives of Wells Fargo Bank, Fannie Mae and First American Real Estate Information Services, which is now known as CoreLogic, said they would discuss the case with corporate legal officials, but generally do not comment on litigation.

Some banks appear to have over stepped legal boundaries by prematurely taking control of homes whose owners are behind on their mortgage payments, said Winterberg's lawyer, Kevin Rollin of Vero Beach, and several other Treasure Coast lawyers involved in foreclosure defense.

"The practice being employed by some banks in Florida to simply lock out property owners without obtaining a court order or the owners expressed consent is simply unlawful," Rollin said. "Florida courts have held it to be trespass where a mortgagee changes the locks on a property in advance of obtaining title pursuant to a foreclosure sale — even if the mortgagee mistakenly believed they could do so."

Trent Steele, a Hobe Sound lawyer whose practice includes foreclosure defenses, said he has several clients who fell behind on their mortgage payments and had the locks changed on their homes by bank operatives without a court order.

However, the banks and their maintenance companies claim they're entitled to

secure the properties whose mortgages are in default to make sure the assets are not damaged, Steele said.

"I've had many clients call me in a panic and say, 'I tried to get into my house tonight and the locks were all changed,' which is something I think shouldn't be going on," Steele said.

"They go in and they change the locks and turn the power off and do all kinds of other things to supposedly protect the property," Steele said. "The problem is that in many cases my clients are taking perfectly good care of the property. There is no evidence that they're not maintaining it."

Ramsey Harris, a disabled veteran who had been renting a house in Rocky Point that went into foreclosure, said he believes JP Morgan Chase moved way too fast when the bank hired a company to move his belongings into the street during a rain storm.

One of the movers was arrested for allegedly pocketing some of Harris' valuables, a sheriff's report says.

"I think it was cold," Harris said about the eviction. "They destroyed everything that I had worked for. All of my valuables were ransacked and gone through. I had devastating losses, stuff that I can't replace."

Most of his clothing, furniture and decorations were ruined by the rain or hauled off by scavengers, Harris said. He's been staying at a neighbor's guest house since the eviction, while trying to find an apartment.

A West Palm Beach law firm has agreed to represent him for free, Harris said.

Daisy Cabrera, a spokeswoman for JP Morgan Chase in Florida, declined to comment on how Harris was treated by the law firm that handled the eviction proceedings in Martin County Circuit Court, or the company that moved his belongings into the street.

"The whole thing from start to finish was wrong because the paperwork (of the bank's lawyers) filed at the courthouse was wrong," Harris said. "They knew I was there. They didn't notify me at all. They acted as if I was a non-person."

"It happened to me and it still seems like it was a bad dream," Harris said. "I want somebody to slap me upside the head and wake me up because it doesn't seem like it was real."

TREASURE COAST FORECLOSURES

Martin County

2005: 127

2006: 253

2007: 797

2008: 1,742

2009: 2,082

2010

January: 158

February: 180

March: 128

April: 126

May: 101

June: 121

July: 129

August: 140

September: 122

Total: 1,205

St. Lucie County

2005: 485

2006: 1,327

2007: 4,873

2008: 9,570

2009: 8,324

2010

January: 507

February: 646

March: 442

April: 465

May: 333

June: 338

July: 420

August: 429

September: 471

Total: 4,051

Indian River County

2005: 183

2006: 335

2007: 1,086

2008: 2,493

2009: 2,471

2010

January: 190

February: 215

March: 159

April: 163

May: 132

June: 159

July: 157

August: 169

September: 163

Total: 1,507



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