

Mortgage firm wins jury defense verdict

by Anna Vitale

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Clarion Mortgage Capital received a defense verdict in a mortgage fraud case brought against the company by a Kansas City woman. The case is fifth in a series of nine similar claims recently brought against the company.

Margaret Stanley applied for a cash-out refinance loan to remodel her home. The loan was brokered by Clarion and approved and funded by Wells Fargo. Stanley was under the impression that a \$21,500 check made out to her and the remodeling company, KC Builders, at closing would not be deposited until the work on her home was completed and inspected. The plaintiff alleged that KC Builders immediately cashed the check, however. Although Stanley's name appeared on the check, her daughter claimed that her signature had been forged.

KC Builders then wrote a separate check to Hartwell Mortgage Group, which was owned by the loan originators for Clarion.

The plaintiff claimed that KC Builders had effectively bribed Hartwell Mortgage Group by offering the group a kickback. The plaintiff also claimed KC Builders would have properly completed the work on her home had the check written out at closing been held and that she was overcharged for KC Builder's remodeling work.

The defense claimed there was no proof that the check from KC Builders to Hartwell was a kickback and that the check was not from the plaintiff's loan proceeds. The defense also claimed that there was no representation made in regard to holding the funds. Additionally, the defense claimed that the plaintiff was aware of the check, as she had signed it. At trial, the defense said that any problems with the workmanship or rates of KC Builders and the plaintiff did not involve Clarion.

"In today's economy, mortgage companies are looked upon unfavorably, but the loan was very good," said defense attorney Steve Aaron.

Aaron, who honed his trial chops as a state prosecutor before joining Husch Blackwell, said the case is the fifth in a series of nine similar cases brought against Clarion by individuals represented by attorneys John Campbell and Paul Hentzon.

Aaron has represented Clarion in each case so far and said he has obtained favorable verdicts on all of them. Four of the cases resulted in complete defense verdicts, and the fifth is on appeal, which resulted from a split verdict in which the plaintiff obtained \$8,600 after asking for \$1.2 million.

Plaintiff attorney John R. Campbell did not respond to requests for comment.

- **Defense verdict**
- **Mortgage fraud**
- **Court:** Jackson County Circuit Court
- **Case Number/Date:** 0816-CV35358/October 2, 2009
- **Judge:** Edith L. Messina
- **Plaintiff's Expert:** Mark Heinze, Overland Park, Kan. (construction/home remodeling)
- **Caption:** Sherri Stanley as the Administrator of the Estate of Margaret Stanley v. Clarion Mortgage Capital Inc.
- **Plaintiff's Attorneys:** John R. Campbell Jr., John R. Campbell Jr. LLC, Leawood, Kan., and Paul K. Hentzen, Hentzen Law Firm, Leawood, Kan.
- **Defendant's Attorneys:** Steven Martin Aaron and Joshua M. Ellwanger, Husch Blackwell Sanders, Kansas City

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