

Testimony of

Robin Atchley

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Senate Judiciary Subcommittee on Administrative Oversight and the Courts "Policing Lenders and Protecting Homeowners: Is Misconduct in Bankruptcy Fueling the Foreclosure Crisis?"

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TESTIMONY OF ROBIN ATCHLEY

Good afternoon. My name is Robin Atchley. I am honored to testify before the subcommittee about my family's struggle to save our house from foreclosure in the bankruptcy court. My husband, John, and my children, Kally, Payden, Alec and Morgan, are here with me today. Our lawyer, Howard D. Rothbloom, is sitting next to me. I work as a letter carrier for the United States Postal Service. John works as a lineman for the power company. In 2004, our family moved from a single-wide mobile home into our own brand new house that we bought in Waleska, Georgia. We put down \$22,000 on the house and we financed the rest.

One year later, our mortgage was refinanced by American Freedom Mortgage to put up a fence and to finish the basement so that our children would each have their own bedrooms. We did most of the work ourselves. We were notified to make payments to a company called "Countrywide".

For some time, we were able to keep up with our payments to Countrywide. But when my sister passed away unexpectedly, I needed time to grieve. So, I took unplanned and unpaid leave from my job.

Then, we struggled to pay our bills. We didn't have much debt. But we did fall behind on our mortgage payments. Our lawyer explained to us that in Georgia, a mortgage company can foreclose in just over a month without going to court. So, in October 2005, we sought refuge in the bankruptcy court. We had hoped that bankruptcy would allow us to pay our debts and to keep our house. When we filed for bankruptcy, we were about \$5,000, or three mortgage payments, behind. The \$5,000 was to be paid in monthly installments through the bankruptcy court, and the current due mortgage payments were paid monthly directly by us.

Our bankruptcy case was a tug of war with Countrywide over our house. Sometimes, our mortgage payments were late. But Countrywide, through its lawyers, McCalla Raymer, was too quick to "pull the trigger". Legal papers became weapons.

In February and in May 2006, Countrywide filed motions for relief from the automatic stay asking the bankruptcy judge for permission to foreclose on our house when we were current on our mortgage payments. Both times, not until our lawyer gave McCalla Raymer proof that the payments had been made, did Countrywide withdraw its motions. It was unforgiving. It seemed that we had no room for error. And each time that it sought permission to foreclose, there was confusion: no person with Countrywide or McCalla Raymer could ever give us clear information on what they claimed that we owed and why we owed it. It was as if all they wanted was to take our house.

We had hoped that bankruptcy would give us a fair chance to save our house. But that was a false hope. It seems as if Countrywide used the bankruptcy court to gain even more opportunities to take advantage of our predicament and to profit from our struggle.

Nonetheless, with our lawyer's help, we won the battles.

Eventually, however, John and I just tired of the war. And it took a toll on our whole family. Our son, Payden, even insisted that we use his lunch money to help pay the mortgage payments.

We did the best that we could. Our lawyer did the best that he could. Together, we did the best that anyone could.

Our house was our family's first house... it was our dream home. John and I had hoped to raise our children there and live there for the rest of our lives. But, regretfully, John and I decided that it would be best to sell it. The monthly bankruptcy payments, the monthly mortgage payments, and the whole bankruptcy process were drowning us. We knew that selling the house would enable us to get our heads above water.

In May 2007, Countrywide sent a Payoff Demand Statement showing that the total amount owed on our loan was \$199,004.80. The proof of claim Countrywide filed in our case in December 2005, however, showed that we owed \$184,896.72: \$14,108.08 less than the payoff amount demanded by Countrywide... and that is without giving us credit for post-petition mortgage and bankruptcy court payments sent to Countrywide. Yes, we were behind on payments on the day that we sold the house, but we don't know why the payoff amount was so high.

Also, on the payoff statement, there was a \$2,793.00 charge for "fees due". We don't know what the fees were for or why they were so high. In the proof of claim, Countrywide said that we owed just \$242.50 in fees: \$2,550.50 less than the fees listed in the payoff statement.

We sold the house in the middle of May and paid the amount that Countrywide said that we owed. In fact, we had to pay money out of our pockets at the sale to get out of the house... that just didn't seem right. And, according to our lawyer, Countrywide continued to take money from us through the bankruptcy court even after it was paid in full from the sale. That didn't seem right either. They didn't stop until after our lawyer objected.

The saddest day was the day that we told our children to pack everything in their bedrooms. With suitcases in hand, my husband, our four children and I stuffed the car with our belongings and moved in with my parents until we could save enough money to rent.

We are not bad people. We work hard. We try to follow the rules. John and I are trying to raise our children to be good and decent. We are probably just a typical American family.

Our house is gone. There is nothing that anyone can do to change that. Now our home is a house that we rent from someone else. And our son doesn't have to worry about his lunch money anymore.

We hope our story will help others. Thank you.