

trust documents did not allow for inclusion of notes that had been endorsed in blank, the borrower was not a party to those trust documents and therefore lacked standing to challenge them.

**OUTCOME:** Reversed and remanded.

**CORE TERMS:** mortgage, legal conclusions, endorsement, foreclosure, endorsed, blank, expert witness, inception, holder, final judgment, legal opinions, attorney-in-fact, substantial evidence, promissory note, expertise, borrower, involuntarily, impermissibly, questionable, post-trial, conclusory, relevance

### LexisNexis(R) Headnotes

***Civil Procedure > Justiciability > Standing***

***Civil Procedure > Appeals > Standards of Review > De Novo Review***

***Civil Procedure > Appeals > Standards of Review > Substantial Evidence***

[HN1] Generally, the determination of whether a plaintiff has standing is a legal issue subject to de novo appellate review. To the extent that the trial court's standing determination involves factual findings, an appellate court upholds such findings only if supported by competent, substantial evidence.

***Civil Procedure > Justiciability > Standing***

***Real Property Law > Financing > Mortgages & Other Security Instruments > Foreclosures***

***Contracts Law > Negotiable Instruments > Negotiation > Indorsement > Blank Indorsements***

***Contracts Law > Negotiable Instruments > Negotiation > Indorsement > Special Indorsements***

***Contracts Law > Negotiable Instruments > Transfers***

[HN2] To have standing, a plaintiff who is not the promissory note's original payee must have possession of the note at the inception of the foreclosure case. This plaintiff also must provide the trial court with either an assignment in favor of the plaintiff or a note that bears either an endorsement in blank or a special endorsement in favor of the plaintiff.

***Evidence > Testimony > Experts > Admissibility***

***Civil Procedure > Appeals > Standards of Review > Reversible Errors***

[HN3] Witnesses, even witnesses qualified as experts, generally are precluded from providing testimony in the form of legal conclusions. Regardless of the expertise of the witness, generally, and his familiarity with legal concepts relating to his specific field of expertise, it is not the function of the expert witness to draw legal conclusions. That determination is reserved to the trial court. Opinion testimony of experts amounting to conclusions of law are inadmissible because the determination of such questions is exclusively within the court's province. And, it constitutes reversible error for a trial judge to rely upon expert testimony to determine questions of law.

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