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Two Surviving Spouses Represented By AARP Foundation Litigation Win Reverse Mortgage Case

Washington, DC - Two plaintiffs represented by AARP Foundation Litigation have won a major victory in a case against the Department of Housing and Urban Development (HUD) that involved potential foreclosure and eviction on reverse mortgage loans.

The U.S. District Court for the District of Columbia has ruled that HUD violated federal law by failing to protect the plaintiffs – surviving spouses of holders of reverse mortgages – from foreclosure as a result of the death of the spouse named on the mortgage note. The Court remanded the case to HUD to determine the appropriate remedy for the problem.

“The decision marks a turning point for surviving spouses such as our clients and ensures that they will receive the protections guaranteed by the law: that they will be able to remain in their homes, despite the loss of their husband or wife,” said Jean Constantine-Davis, senior attorney with AARP Foundation Litigation.

A reverse mortgage is a loan that allows older homeowners to convert a portion of the equity in their homes into cash. It is the “reverse” of a traditional mortgage, in which the borrower repays the borrowed sum on a monthly basis. Reverse mortgage borrowers receive money in exchange for their home equity.

Reverse mortgage borrowers are not required to make monthly or other periodic payments to repay the loan. Instead, the loan balance increases over time, and the loan does not become due and payable until one of several specific events occur. In this case, the loans became due because the borrowing spouse died.

In March, 2011, AARP Foundation Litigation and the law firm of Mehri & Skalet of Washington, DC, filed suit on behalf of plaintiffs who are surviving spouses of reverse mortgages borrowers. (The case is *Robert Bennett, et al v. Shaun Donovan, Secretary, HUD*.)

The case challenged the termination of the mortgages based on the death of one spouse and claimed the surviving spouses, who were not named on the mortgages, were “homeowners” entitled by the Home Equity Conversion Mortgage (HECM) statute to be protected from being displaced from their homes. The case argued that HUD violated federal law by demanding that lenders foreclose on surviving spouses unless they can pay off the loans. The court agreed.

After the plaintiffs filed for an injunction to stop the foreclosures on their homes, HUD required the lenders to delay the foreclosure and eviction of the plaintiffs until the case was resolved.

The plaintiffs are Robert Bennett of Annapolis, MD and Leila Joseph of Brooklyn, NY.

ABOUT AARP FOUNDATION

AARP Foundation is working to win back opportunity for struggling Americans 50+ by being a force for change on the most serious issues they face today: housing, hunger, income and isolation. By coordinating responses to these issues on all four fronts at once, and supporting them with vigorous legal advocacy, the Foundation serves the unique needs of those 50+ while working with local organizations nationwide to reach more people, strengthen communities, work more efficiently and make resources go further. AARP Foundation is AARP’s affiliated charity. Learn more at www.aarpfoundation.org

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