

## Pa. County Officials Certified as Class in Federal Suit



Montgomery County's recorder of deeds has won class status for all of the 67 recorders of deeds across Pennsylvania in a suit she filed against Merscorp for its alleged failure to file mortgage assignments with the county offices.

U.S. District Senior Judge J. Curtis Joyner of the Eastern District of Pennsylvania held that all of the issues to be weighed in considering the grant of class status tipped in favor of the move.

"The gravamen of plaintiff's complaint is that defendants' creation of a separate recording system in which it offered its members the option of recording mortgage assignments in lieu of recording in the public recorders of deeds offices was in contravention of Pennsylvania law," Joyner said.

"The result of this legal violation, according to plaintiff, is that the accuracy of the public records has been compromised and the counties of the commonwealth have been deprived of the recording fees to which they would have been entitled had the assignments been properly presented for recordation," the judge said.

Since the operation of the Mortgage Electronic Registration System (MERS) has been the same across the state, each of Pennsylvania's 67 counties face similar issues, Joyner said. The only factual variation that he could see, Joyner said, was a difference in the number of unrecorded assignments and the resulting fees that were unpaid.

"In our judgment, the questions of law or fact common to class members which involve liability clearly predominate over the damages questions affecting only individual members," Joyner said.

Nancy Becker, the Montgomery County recorder of deeds who filed the suit, is one of many county officials nationwide to bring similar claims against MERS, according to Joyner's opinion that he issued in 2012 allowing the

suit to survive.

After finding that Becker was a party of interest, Joyner had held that she could pursue declaratory and injunctive relief, damages, and proceed on her unjust enrichment claim.

Becker "has successfully pleaded that the defendants have enjoyed the full benefits of the recording system without paying the full value for these benefits in the form of the fees properly due for each transfer of the beneficial interest of a mortgage," Joyner said in 2012. "She has further successfully alleged that the defendants did so in violation of a statutory command to record such assignments."

The only one of Becker's claims that he dismissed was her claim of civil conspiracy.