

Attorney wins mortgage fraud case

BY GARY GOULD

810-452-2650 • ggould@mihomepaper.com

DAVISON TWP. — A United States Court of Appeals Judge for the 6th Circuit in Cincinnati has ruled in favor on a Lapeer family in its case against U.S. National Bank and Saxon Mortgage Services over a fraudulent mortgage.

Davison Attorney Rex Anderson represented the family in what he called a “long, hard fought battle.”

The court recently ruled the bank was not entitled to an “equitable” mortgage while in the sole and exclusive possession of the lender. The lower court ruled the the lender’s notary lied that the homeowners signed a mortgage in Oakland County when the homeowners were in California at the time.

Anderson represented Lapeer homeowners Daniel and Sheryl Sutter who, six years ago, came to him after their bank attempted to foreclose on them. After filing Chapter 13 bankruptcy in order to stop the foreclosure, the bank submitted a proof of claim.

The homeowners immediately realized this was the first time they had ever seen their mortgage and their signatures had been forged and notarized and then filed with the Lapeer Register of Deeds office, said Anderson.

The homeowners, he said, were never presented with a mortgage to review and sign.

Anderson addressed the three judge panel of the 6th Circuit Court to present oral arguments as to why the defendants in this case should not be allowed to receive an

equitable mortgage.

This is after a court determination that the crime of forgery had been committed while the mortgage was in the possession of the lenders, said Anderson.

The bank dragged the case on for 6-7 years, spending thousands of dollar in legal fees, prompting Anderson to take on the case pro bono to see it through to the end.

“When you’re wrong don’t try to win the battle by attrition,” he said. “(The Sutters) still owe the debt, but it is not secured by a mortgage on their house.”

There is no precedent in the United States Courts to give a bank an equitable mortgage where the homeowners’ signatures are forged while in the possession of the lender, said Anderson.

Anderson said the bank can still appeal the case to the U.S. Supreme Court.

Calls to U.S. National Bank and Saxon Mortgage Services were not returned.