

Court Rules in Support of Homeowners Fighting Loan Mod Denials

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Wells Fargo Customers in some states now have the right to sue their lender if they are denied a loan modification.

If you attempted to get a loan modification through the Home Affordable Modification Program (HAMP) and were unsuccessful in doing so after completing your trial period plan (TPP), you may be able to sue your lender and force them to give you your loan mod, ruled a circuit court of appeals in California late last week. The 9th U.S. Circuit Court of Appeals ruled that Wells Fargo, specifically, was obligated to “offer plaintiffs a permanent mortgage modification since the plaintiffs submitted accurate financial documents and completed their trial period plan.” The bank had argued that it did not have to offer a permanent loan modification because it had never sent a signed modification agreement. Although Wells Fargo won in a lower district court via dismissal, the circuit court overturned the ruling and “held that the district court should not have dismissed the plaintiffs’ complaints when the record before it showed that the bank had accepted and retain the payments demanded by the TPP,” read the court opinion[1].

The ruling will affect borrowers in several western states, including **California, Arizona, and Nevada**. A federal appeals court in Chicago reached a similar conclusion last year. The lender says that its refusals to offer permanent loan modifications in specific circumstances have “merits” and “strong defenses” and said that it is “prepared to present its case”[2]. The ruling does not guarantee borrowers a loan modification, but simply guarantees them the right to sue the lender if the loan modification is denied after successful completion of the TPP. In its opinion, the appeals court said that HAMP “seems to have created more litigation than it has happy homeowners.”