

NEWS

DS News Q&A with Linda Finley

Linda Finley was recently profiled in a DS News Q&A. Ms. Finley comments on a hot topic in default servicing litigation; standing, or the right of a party to bring an action.

Ms. Finley says, "Standing . . . is basic to every lawsuit. The burden is on the party bringing suit. For example, the lender in a judicial foreclosure has to prove that it has the right to bring that suit. However, standing has become a "boilerplate" defense or allegation by the consumer bar, whether or not the position is legitimate or not. In most cases, a charge of lack of standing is defeated by the recorded instruments themselves. However, it remains critical that the instruments which transfer the note and the note itself be handled with care as those document likely will be needed at some time during a court case."

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