
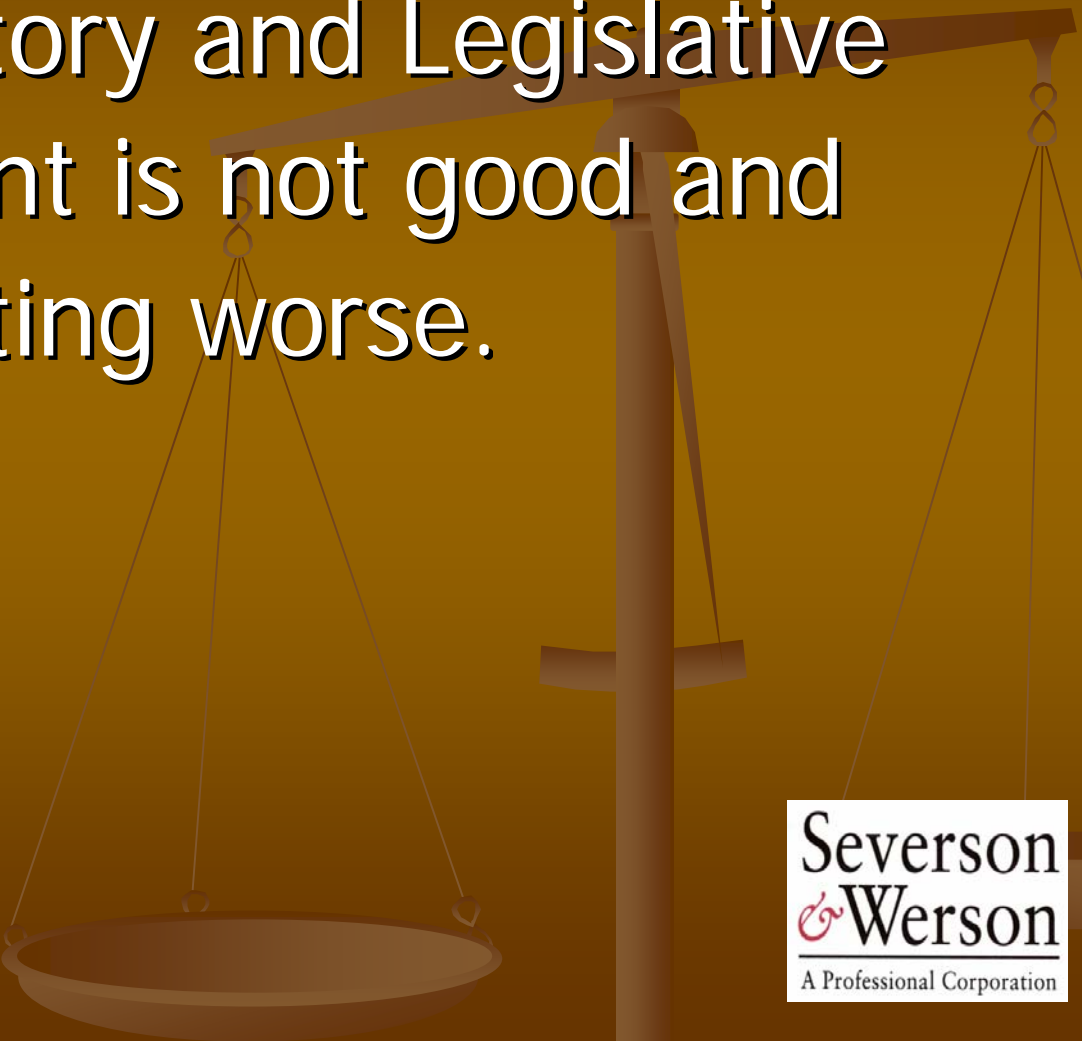


“Harmonic Convergence” of
Alternative Mortgage Products,
the Subprime Meltdown and the
new notion of “suitability.”

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Severson
& Werson
A Professional Corporation

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- ❖ The Advent of Alternative Mortgage Products
 - ❖ Nature of the Products and their Unintended Consequence



The Regulatory and Legislative
Environment is not good and
getting worse.

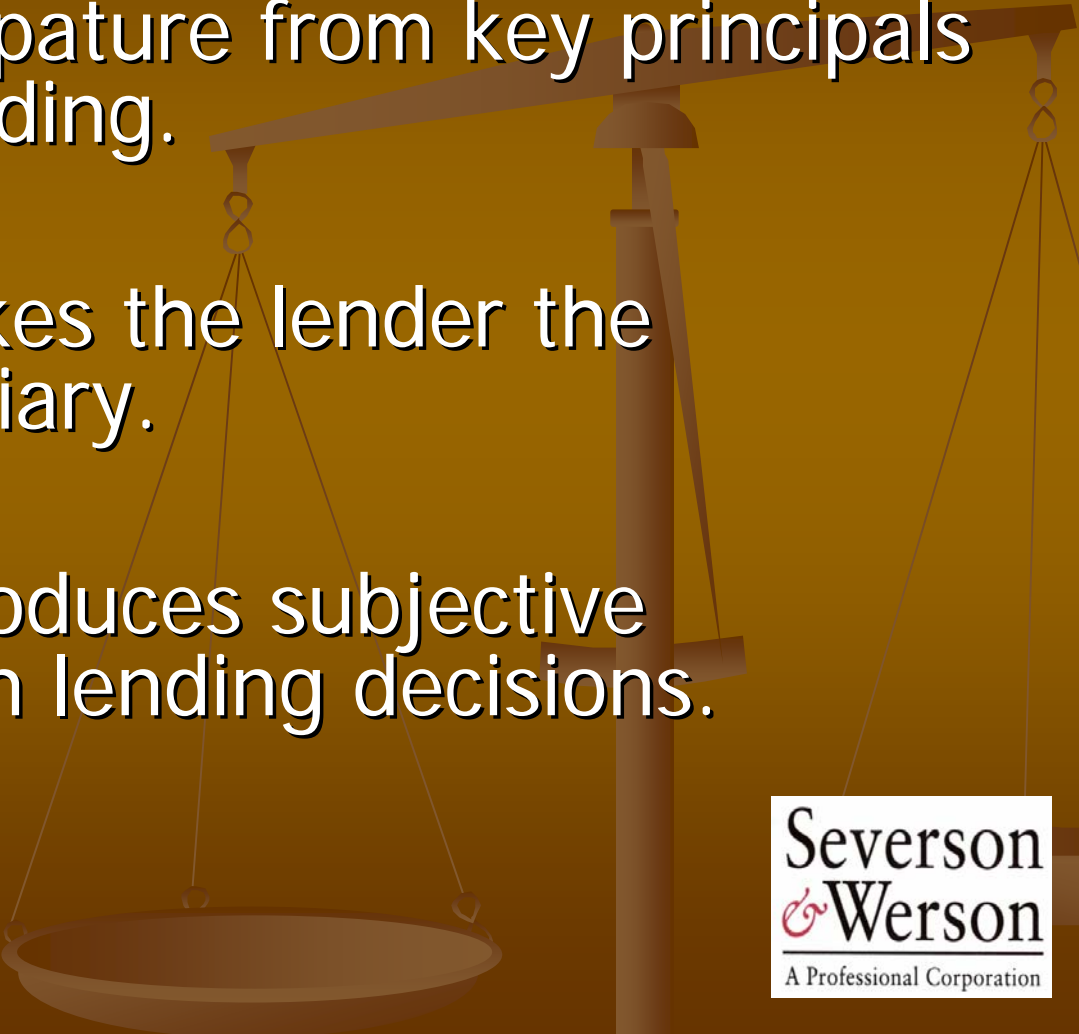
The Crisis:

- ❖ Dozens of Subprime Lenders have closed and are making no new loans.
- ❖ Subprime Lenders' stock prices have gone into free fall.
- ❖ Layoffs of employees are the norm.

What Happened?

- ❖ Massive numbers of early payment defaults have resulted in demands for equally massive numbers of bad loans.
- ❖ The investment banks have shut down credit lines.
- ❖ The Subprime Lenders are simply out of cash with which to make loans.

Rising Delinquencies + the Subprime Meltdown =
Suitability.

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- ❖ “Suitability” constitutes a radical and unwarranted departure from key principals of mortgage lending.
 - ❖ “Suitability” makes the lender the borrower’s fiduciary.
 - ❖ “Suitability” introduces subjective considerations in lending decisions.

What are the Anticipated Future Case Developments?

- ❖ Borrowers will raise suitability as defense to foreclosure actions.
- ❖ Parties will debate the “proximate cause” of the default.
- ❖ Disputes will be time consuming and costly to all involved.

What is Predatory Servicing?

- ❖ Imposing unwarranted and improper fees.
- ❖ Failing to credit payments received in a timely fashion.
- ❖ Misapplying payments.
- ❖ Prematurely referring the account to foreclosure and collections.
- ❖ Failing to timely respond and communicate with customers.

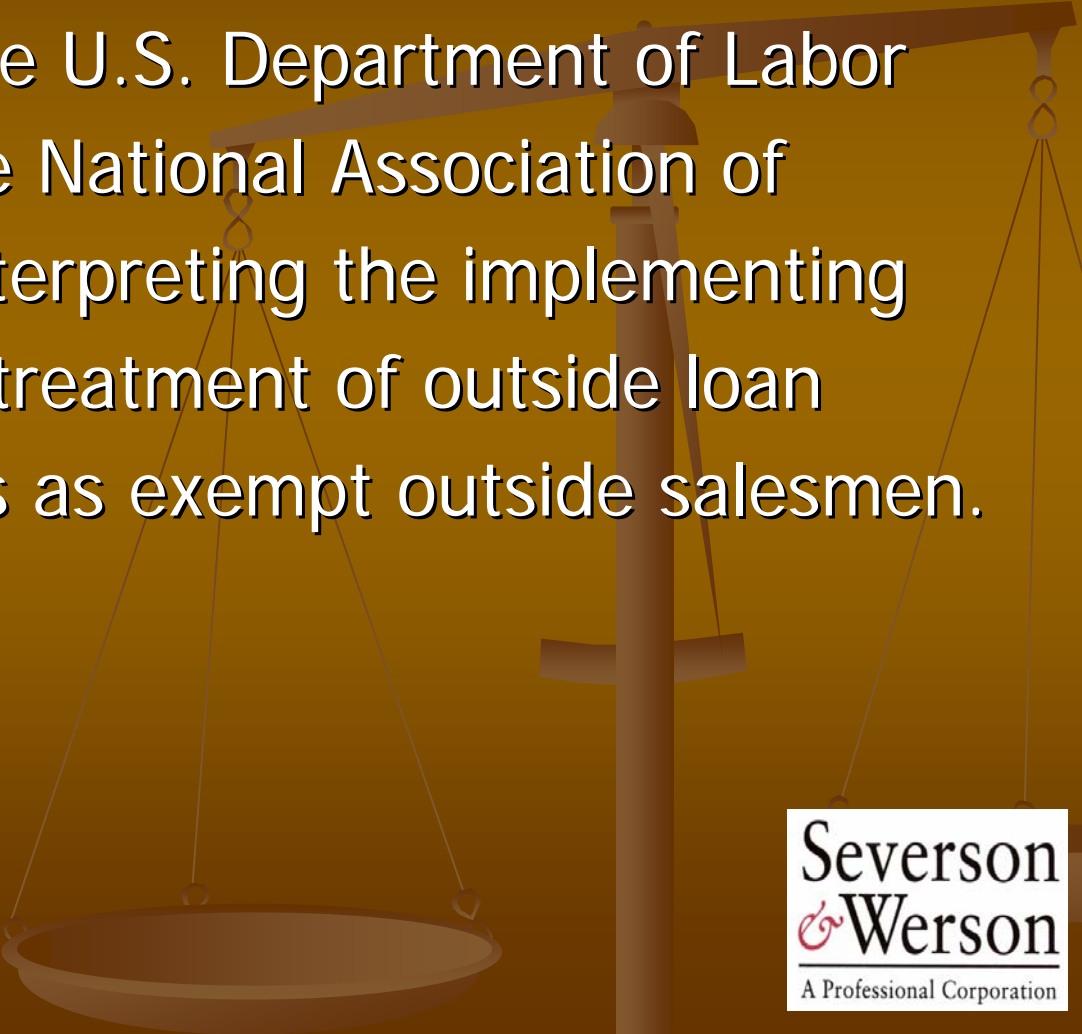
Wage and Hour Litigation



Cases have gone both ways:

Olivio v. GMAC Mortgage Corp.

Belton v. Premium Mortgage



On May 21, 2006, the U.S. Department of Labor Issued a letter to the National Association of Mortgage Brokers interpreting the implementing regulations to allow treatment of outside loan sales representatives as exempt outside salesmen.

Preemption Update

Wachovia Bank, N.A. v. Watters:

Bank's operating subsidiary is subject to the OCC's superintendence, and not to the licensing, reporting and visitorial regimes of several states in which the subsidiary operates.

