

Legal analysis to guide the mortgage industry and protect its interests.

October 2009 Issue

**Foreclosure Sale Valid Without Recorded Assignment
by Andrew W. Saag**

US Bank N.A. v. Mallory, 2009 WL 2915680, September 14, 2009

In a very favorable ruling for lenders and servicers, the Superior Court of Pennsylvania held that recording an assignment of mortgage was *not* a prerequisite to have standing to initiate a mortgage foreclosure action. In this case, the mortgagor, Mallory, argued that the lender did not have standing to pursue a foreclosure action where there was no assignment of record at the time the mortgage foreclosure action was initiated. The lender averred that it was the 'legal owner' of the mortgage and that it was in the process of formalizing the assignment at the time the foreclosure action was initiated. The Superior Court of Pennsylvania, in affirming the trial court's decision in favor of the lender, noted that the fact that a mortgage assignment is not recorded does not prove that a 'legal owner' does not have standing and that unrecorded interests in land are not rendered invalid under Pennsylvania law.