Supreme Court Clinic

Jesinoski v. Countrywide Home Loans
U.S. Supreme Court October Term 2014

Truth in Lending Act § 1635(a)

- A borrower "shall have the right to rescind the transaction until midnight of the third business day following . . . the delivery of the information and rescission forms required under this section . . . **by notifying the creditor** . . . of his intention to do so."

Truth in Lending Act § 1635(f)

- Statute of repose added in 1974.
- The borrower's "right of rescission shall expire three years after the date of consummation of the transaction" even if the "disclosures required . . . have not been delivered."
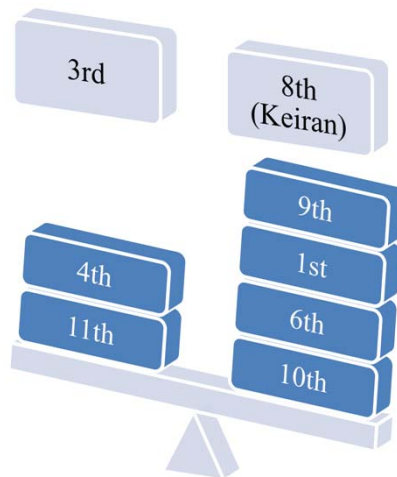
Issue that divided the Circuits

Can a borrower who claims she never received the required disclosures rescind by sending written notice within three years?

OR

If the lender disputes the right to rescind, must the borrower file a lawsuit within three years to exercise the right to rescind?

Circuit Split

How did the Clinic get involved?

- Discovered two consolidated cases decided together on July 12, 2013.
  - *Keiran v. Home Capital, Inc.* (8th Cir.)
  - *Sobieniak v. BAC Home Loans Servicing* (8th Cir.)
- *Jesinoski* was decided shortly after on Sept. 10, 2013. We called the lawyer that day, knowing we would be competing with the other two cases to get cert granted.

Title search: Supreme Court Clinic: Jesinoski v. Countrywide Home Loans – US Supreme Court 2015

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First appeared as part of the conference materials for the
49th Annual William W. Gibson, Jr. Mortgage Lending Institute session
"Rescission in the Truth in Lending Act: The UT Law Supreme Court Clinic's Victory on Behalf of Borrowers in *Jesinoski v. Countrywide Home Loans, Inc.*"