In plaintiff's view, the failure to transfer the loan within the three months constitutes "a violation of federal law."

Plaintiff, using such ominous terminology as "prohibited transactions" and "violation of federal law," argues that beneficiaries of the trusts could not ratify a trustee's late acceptance of mortgages because it would threaten the viability of the REMIC**. Making the fantastical leap from a prohibited transaction for tax purposes to "prohibited by law," plaintiff insists that because certificate holders have no right or power to ratify a belated assignment that is "independently forbidden" by law the transaction is void.**

While plaintiff fails to cite any authority to support her argument, several federal courts have rejected it. (See, e.g. *Meixner v. Wells Fargo Bank, N.A., supra*, 2016 U.S.Dist. Lexis 77440; *Wagner v. Nat'l Default Servicing Corp.* (D.Nev. June 10, 2015, No. 2:15-cv-506-JCM (VCF)) 2015 U.S.Dist. Lexis 75096.) The United States District Court for the Northern District of California dismissed the faulty securitization argument this way: "Moreover, **the alleged breach seems to affect only the trust's ability to claim a certain tax status, a matter wholly irrelevant to Plaintiff's claims.**" (*Elliot v. Mortgage Elec. Registation Sys.* (N.D.Cal. Apr. 30, 2013, No. 12-cv-4370 YGR) 2013 U.S.Dist. Lexis 61820, at p. *8.) The United States District Court for the Southern District of New York echoed the same sentiment. "If a mortgage is transferred to a REMIC following the REMIC's startup date, the REMIC may lose its favorable tax treatment. Plaintiffs argue that the endorsement to U.S. Bank as trustee for a REMIC trust was invalid because the REMIC's startup date was in 2006, and therefore, Plaintiffs' note could not be transferred to the REMIC in 2011. This point is unpersuasive. **While transferring a note to the REMIC might have negative tax consequences for the REMIC investors, Plaintiffs have not argued any reason why such a transfer would be `meaningless and legally unenforceable**.'" (*Williams v. GMAC Mortg. Inc.*, (S.D.N.Y. June 6, 2014, No. 13 civ. 4315 (JRO)) 2014 U.S.Dist. Lexis 77540, at pp. *13-*14.)

We will follow the federal guidance. Like those courts, we do not believe that losing favorable tax treatment renders a transaction void as a matter of law. Plaintiff has taken liberties with the language used in the tax code and ascribed a meaning far beyond the law of taxation to invalidate transactions by trustees. **Because a transfer of a mortgage may be characterized as a "prohibited transaction" for tax purposes does not mean it is inherently an act in "violation of federal law" as plaintiff maintains.** Moreover, the defendants aptly point out that plaintiff's selective extraction of tax code provisions leaves out the

important distinction **that not all transfers must be qualified to retain the favorable tax exemptions and thus the late transfer of plaintiff's mortgage may not necessarily jeopardize the tax status of the entire trust.** (26 U.S.C. § 860D(a)(4); *New York State ex rel. Jacobson v. Wells Fargo Nat'l Bank, N.A.*, (2d Cir. 2016) 824 F.3d 308, 319.) Either way, **we reject the notion that an untimely transfer to a REMIC automatically voids the transaction. The tax implications of securitization simply do not render a voidable transaction void.**

Plaintiff also insists that a robo-signed assignment is a void assignment, and a void assignment unravels the entire nonjudicial foreclosure. A**lthough the robo-signing allegation has been launched in many cases, plaintiff fails to cite any authority in which a court set aside a trustee's sale based on a robo-signed document. To the contrary, a federal court explained:** "**TO THE EXTENT THAT AN ASSIGNMENT WAS IN FACT ROBO-SIGNED, IT WOULD BE VOIDABLE, NOT VOID, AT THE INJURED PARTY'S OPTION."** (*Pratap v. Wells Fargo Bank, N.A.*, (N.D.Cal. 2014), 63 F.Supp.3d 1101, 1109.) **THE BANK, NOT THE BORROWER WOULD BE THE INJURED PARTY**. (*Ibid.*); **Tran v. Bank of N.Y**. (S.D.N.Y., 2014) ("courts considering EPTL § 7-2.4 have held that "even if it is true that the Notes were transferred to the trust in violation of the trust's terms [after the closing date of the trust], that transaction could be ratified by the beneficiaries of the trust and is therefore merely voidable."); **Anderson v. Countrywide Home Loans**, 2011 WL 1627945, *4 (D. Minn. 2011) (rejecting argument that assignment to a securitization trust was invalid because the PSA provided that the trust ceased accepting mortgages several years before the contested assignment from MERS because "compliance with the chain of assignment mandated by a PSA was not relevant to the validity of the assignee's interest."); **Maynard v. Wells Fargo Bank, N.A**. (S.D. Cal., 2013) ("Plaintiffs also allege that they conducted a Securitization Audit of Plaintiffs' chain of title and Wachovia's PSA, and as a result, determined that Plaintiffs' Note and DOT were not properly conveyed into the Wells Fargo Trust on or before July 29, 2004, the closing date listed in the Trust Agreement. (Id. at ¶ 34.)… To the extent Plaintiffs challenge the validity of the securitization of the Loan because Wells Fargo and U.S. Bank failed to comply with the terms of the PSA or the Trust Agreement, Plaintiffs are not investors of the Loan, nor are Plaintiffs parties to the PSA or Trust Agreement. Therefore, as many courts have already held, Plaintiffs lack standing to challenge the validity of the securitization of the Loan…Furthermore, although Plaintiffs contend they have standing to challenge the validity of the Assignment because they were parties to the DOT with the original lender (Wells Fargo), this argument also fails. (Doc. No. 49 at 11-12**.); AN ASSIGNMENT TO A SECURITIZED TRUST THAT IS MADE AFTER**

THE CLOSING DATE IS `MERELY VOIDABLE,'" NOT VOID, UNDER NEW YORK LAW. *Reed v. Wilmington Trust, N.A.*, No. 16-cv-01933-JSW, 2016 WL 3124611, at *4 (N.D. Cal. June 3, 2016) (citing *Saterbak v. JPMorgan Chase Bank, N.A.*, 245 Cal. App. 4th 808, 815 (2016)); *Zeppeiro v. GMAC Mortg., LLC*, 662 F. App'x 500, 501 (9th Cir. 2016) ("[A]n untimely assignment into a securitized trust is not void, but merely voidable, and . . . borrowers lack standing to challenge such assignments."). Because the allegedly improper assignment of the deed of trust is merely voidable, then, the Glasers lack standing to "challenge such alleged deficiencies in a wrongful foreclosure action." *Suruki v. Ocwen Loan Serv., LLC*, No. 15-cv-00773-JST, 2016 WL 7741734, at *3 (N.D. Cal. July 22, 2014); **"[A] BORROWER DOES NOT HAVE STANDING TO CHALLENGE AN ASSIGNMENT THAT ALLEGEDLY BREACHES A TERM OR TERMS OF A PSA BECAUSE THE BENEFICIARIES, NOT THE BORROWER, HAVE THE RIGHT TO RATIFY THE TRUSTEE'S UNAUTHORIZED ACTS.**" (*Mendoza v. JPMorgan Chase Bank, N.A.* (2016) 6 Cal.App.5th 802, 813.) Therefore, failure to comply with the terms of a pooling and service agreement renders the assignment voidable, not void. (*Saterbak, supra*, 245 Cal.App.4th at p. 815.) Such allegations are therefore insufficient to support a borrower's UCL claim for deceptive practices; **"Under New York law, unauthorized acts by trustees are generally subject to ratification by the trust beneficiarie**s. . . .

"The principle that a trustee's unauthorized acts may be ratified by the beneficiaries is harmonious with the overall principle that only trust beneficiaries have standing to claim a breach of trust. If a stranger to the trust also had such standing, the stranger would have the power to interfere with the beneficiaries right of ratification." (*Rajamin, supra*, 757 F.3d at pp. 87-89.)

"New York state and federal courts continue to uphold the same rationale; that is, a borrower does not have standing to challenge an assignment that allegedly breaches a term or terms of a PSA because the beneficiaries, not the borrower, have the right to ratify the trustee's unauthorized acts. As a consequence, an assignment after the publicized closing date is voidable, not void, under new york law." (See, e.g. *Berezovskaya v. Deutsche Bank National Trust Co.* (E.D.N.Y. Aug. 1, 2014, No. 12 cv 6055 (KAM)) 2014 U.S.Dist. Lexis 127532; *Erobobo II, supra*, 9 N.Y.S.2d 312; *U.S. Bank N.A. v. Carnivale* (App.Div. 2016) 138 A.D.3d 1220 [29 N.Y.S.3d 643]; *Bank of America, N.A. v. Patino* (App.Div. 2015) 128 A.D.3d 994 [9 N.Y.S.3d 656].)

however