



December 27, 2017

**WE ARE PLEASED TO ANNOUNCE THAT THE FIRM HAS CREATED A
COMMERCIAL LITIGATION AND TRANSACTIONS DEPARTMENT**

The Commercial Litigation and Transactions Department focuses on creditor representation in litigation in the state and federal courts from case inception through trial, appeal, and collections, and in transactions from negotiation and due diligence through closing, including but not limited to:

- Commercial foreclosures, motions to appoint rent receivers, prejudgment attachments, trial and appeals in state and federal courts;
- Bankruptcy proceedings in commercial matters, including contested motions for relief from stay, objections to discharge and contested proofs of claim;
- Title insurance litigation regarding easements, boundary disputes, and title issues;
- Rights of insureds under property and casualty policies and title insurance policies;
- Escalated contested residential foreclosures, special defenses and counterclaims, alleging violations of the FDCPA, unfair trade practices, truth in lending, breach of contract and tort claims in the trial and appellate courts;
- Commercial evictions and landlord/tenant disputes;
- Disputes among partners and members of limited liability companies;
- Commercial finance and workouts;
- Commercial leasing;

CONNECTICUT PARTNERS

Geoffrey K. Milne

Managing Litigation Partner, Hartford, CT

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Geoffrey K. Milne is the Managing Litigation Partner of the Commercial Litigation and Transactions Dept. and a shareholder in the law firm. Mr. Milne has been recognized as a Connecticut *Super Lawyer* for Business Litigation 2011-2017. He is co-author of *Connecticut Foreclosures*, 7th ed., Caron and Milne, which contains analysis of the FDCPA, TILA, MERS, mortgage fraud, contested foreclosures and failed financial institutions. Mr. Milne is also a contributing author to *Business Torts, a Fifty State Guide*, by Morton Daller. Mr. Milne is a speaker at various national litigation conferences involving creditor's rights and litigation trends. Over 24 years, he has represented banks, mortgage companies and servicers in lender liability, mortgage fraud, title insurance and consumer related claims under truth in lending, fair credit

reporting, and fair debt collection matters through trial and appeal in Connecticut and federal courts. Some of his key decisions include:

Insurance Coverage:

Austin-Casares v. Safeco Ins. Co. of Am., 310 Conn. 640 (2013): trial court decision denying lender's motion to intervene in homeowner's insurance coverage claim reversed. Lender's motion to intervene related back to the filing of the original action, even though lender did not file its own claim within one year suit limitation provision.

Bank Litigation: Receiver of Rents appointed on Major Downtown Hartford Office Building:

Attorney Milne successfully prosecuted a Motion to Appoint a Receiver on a major downtown Hartford office building with a loan balance in excess of \$20 million. After a day of contested evidentiary proceedings, the Defendants agreed to the appointment of a receiver but disputed the scope and extent of the powers of the receiver. BACM 2006-4 Office 960, LLC v. HDR Office Holdings SPE, LLC, 2015 Conn. Super. LEXIS 1992 (July 31, 2015).

Moot Appeal:

JP Morgan Chase Bank v. Rodrigues, 132 Conn. App. 757 (2012): Borrowers' appeal of order striking special defenses dismissed because trial of mortgage foreclosure action rendered the appeal moot.

Summary Judgment for Lender in Federal Court:

Rodrigues v. JP Morgan Chase Bank, 2011 US Dist. LEXIS (2011) (Dorsey, J.): Borrowers' claims for breach of forbearance agreement and CUTPA defeated on lender's motion for summary judgment based upon collateral estoppel.

Order Striking Counterclaims Affirmed:

JP Morgan Chase Bank v. Rodrigues, 109 Conn. App. 125 (2008): Borrower's appeal of order striking their counterclaims of unfair trade practice and breach of contract affirmed.

No Emotional Distress Damages in Unfair Trade Practice claim:

Packer v. SN Servicing Corp., 2008 U.S. Dist Lexis 9017 (Kravitz, J.): Borrowers' claims for emotional distress against servicer defeated on motion for summary judgment.

Title Insurance Litigation:

Finance California v. Lawyers Title, 2010 U.S. Dist. LEXIS 123292 (Kravitz, J.): Title insurance company's motions to dismiss suit for breach of commercial escrow instructions denied. Agent of holder of note had standing to sue for breach of escrow instructions under California law.

Truth in Lending:

Moazed v. First Union Mortgage Corp., 319 F. Supp. 2d 268 (2004): Borrowers' state and federal truth in lending rescission claims defeated on motion for summary judgment. Case cited extensively in multiple jurisdictions on truth in lending and rescission rights.

PUBLICATIONS:

Connecticut Foreclosures, an Attorneys Manual of Practice and Procedure, 7th Ed., Caron and Milne, © 2017, The

Connecticut Law Tribune, a Division of American Lawyer Media. This treatise has been cited in over 50 decisions by the Connecticut courts, including:

Wells Fargo Bank v. Strong, 149 Conn. App. 384 (2014) (pooling and servicing agreement is not a basis to determine standing in a suit by a lender to foreclose a mortgage);

JE Robert Co. v. Signature Properties, LLC, 309 Conn. 307 (2013) (loan servicer has standing to foreclose a mortgage);

Silicon Valley Bank v. Miracle Faith World Outreach, Inc., 140 Conn. App. 827 (2013) (foreclosing lender may successfully obtain judgment with a lost or missing negotiable instrument).

Business Torts, a 50 State Guide, by Morton Daller, contributing author 2017.

Community Involvement:

Attorney Milne has completed the 2014, 2015 and 2016 New York City Marathons for Fred's Team, Memorial Sloan Kettering Cancer Center.

Education and Admission

Attorney Milne earned his Juris Doctor from Villanova University and earned his Bachelor's degree, cum laude, from Marist College. Geoff is admitted in all of the state and federal courts of Connecticut, the Southern and Eastern Districts of New York, the Second Circuit Court of Appeals, and the United States Supreme Court.

Peter A. Ventre

Partner, Hartford, CT

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Peter A. Ventre is a Partner and Deputy Assistant General Counsel in the law firm. Mr. Ventre clerked for the Honorable Stephen T. Brown, United States Magistrate Judge for the Southern District of Florida and is admitted to practice law in the state courts of Connecticut and Florida, and the Federal District Court for the District of Connecticut and the Second Circuit Court of Appeals. He has been practicing law for twenty-five years with a focus on lender representation in residential and commercial foreclosures. Peter has engaged in cases in Federal and State trial and appellate courts defending lenders against claims under TILA, RESPA, FDCPA, FCRA, and CUTPA, as well as matters as to standing, title insurance, mortgage fraud, and lender liability. He has an accomplished and successful appellate record which includes:

Bankers Trust Co. v. Vaneck, 95 Conn. App. 390, *cert. denied*, 279 Conn. 908 (2006);

Lucas v. Deutsche Bank Int'l Trust Co., Trustee, 103 Conn. App. 762, *cert. denied*, 284 Conn. 934 (2007);

Sunset Mortgage v. Agolio, 109 Conn. App. 198 (2008);

Gagne v. Vaccaro, 118 Conn. App. 367(2009);

Ulster Savings Bank v. 28 Brynwood Lane, Ltd., 134 Conn. App. 699(2012);

Fannie Mae v. Bridgeport Portfolio, 150 Conn. App. 610, *cert. denied*, 312 Conn. 926 (2014);

Zuvic, Carr & Assocs. v. Morande Bros., 157 Conn. App. 297 (2015)

AJJ Enterprises, LLP v. HERNs Jean-Charles, 160 Conn. App. 375 (2015).

Attorney Ventre has written several Articles, primarily for the USFN (nationwide network of pre-eminent law firms) which include the following:

- Connecticut: Court Applies Uniform Commercial Code in Determining Plaintiff in Possession of Original Note Not Endorsed to Plaintiff may Foreclose on Mortgage, USFN e-update, 2012
- Connecticut: Conveyance of Title after a Foreclosure Sale Ends the Court's Authority to Open the Judgment, USFN e-update, October, 2011
- Connecticut: Mortgagee Has Standing to Bring Foreclosure without Endorsement on the Note, USFN e-update, July/August, 2010
- Reaffirmation and Indemnification, USFN Report, November, 13, 2008
- Connecticut: Appellate Court Distinguishes Default Language from Late Charge Language, USFN e-update, September, 2008
- Connecticut Lender's Claim Upheld Despite Missing Loan History, USFN e-update, November/December 2007
- Connecticut: Recorded Discharge Order Wipes Out Judgment Lien, USFN e-update, November/December 2007
- Connecticut: Released Tax Liens, USFN Report, January 29, 2007
- In Connecticut: Trial Court Jurisdiction Retained after Approval of a Committee Sale, USFN e-update, November 21, 2006
- In Connecticut: Standing to Foreclosure Without Assignment of Mortgage, USFN e-update, August 8, 2006
- In Connecticut: When Amending an Answer is Too Late, USFN Report, May 17, 2006
- Unsalariated Business Owner does not Qualify for Relief under Connecticut's Foreclosure Moratorium Act, USFN e-update, February 4, 2006
- Connecticut: Dismissal of Foreclosure Actions, USFN Report, May 11, 2005
- Special Defenses Rejected, USFN e-update, August 18, 2004
- Counterclaims: What Doesn't Work, USFN e-update, August 18, 2004
- Mortgagee's Responsibilities as to the Sale of a Foreclosed Property, USFN e-update, July 7, 2004

Recent Significant Decisions in Commercial Foreclosure cases:

AJJ Enterprises, LLP v. Hems Jean-Charles, 160 Conn. App. 375 (2015) (Unanimous Decision): Appellate Court upheld the trial court's application of the doctrine of equitable subrogation plead by Attorney Ventre as a defense to place the Bank's (defendant) mortgage ahead of a prior mortgage on property, thereby reversing the Appellate Court's past fifty year trend of not applying the doctrine in Connecticut.

Fannie Mae v. Bridgeport Portfolio, 150 Conn. App. 610, cert. denied, 312 Conn. 926 (2014) (Unanimous Decision): Appellate Court upheld the trial court judgment in which the plaintiff was awarded both a prepayment premium and default interest in a commercial loan under the provisions of the parties' loan documents. The Appellate Court held that contract law applied, that the loan was between financially experienced and sophisticated parties, and to make the provisions unenforceable would be tantamount to providing the defendant with better contract than they were able to negotiate.

Connect REO, LLC v. W&W Holdings, LLC, 2014 Conn. Super. LEXIS 2405, 2014 Conn. Super. LEXIS 2409 (September, 2014): The trial court appointed a receiver and

ordered defendant borrower and guarantor to disclose assets following a hearing in which all the elements of a receivership were established through witnesses and exhibits, and that a disclosure of assets was required without the need for a probable cause hearing based on the law provided by Attorney Ventre.

Ulster Savings Bank v. 28 Brynwood Lane, Ltd., 134 Conn. App. 699 (2012) (Unanimous Decision): The defendant's claim that the plaintiff lacked standing to bring the foreclosure action failed at both the trial court and appellate court levels. The defendant claimed that the note was not endorsed to the plaintiff, however through documents, affidavit and law (applying case law and the Connecticut Uniform Commercial Code), Attorney Ventre showed that the plaintiff was the property party to bring the action as a transferee in possession of the unendorsed note. The Appellate Court also held there was not statutory requirement that a party use exact language or form provided in a statute (Conn. Gen. Stat. §49-10) in an assignment of mortgage.

Education and Admission

Attorney Ventre received a Bachelor's Degree from Western Connecticut State University and a Juris Doctor from Nova University. Thereafter, he clerked for the Honorable Stephen T. Brown, United States Magistrate Judge for the Southern District of Florida. Attorney Ventre is admitted to practice law in the state courts of Connecticut and Florida and the Federal District Court for the District of Connecticut and the Second Circuit Court of Appeals.

Community Involvement:

Alternate Member on the Town of New Hartford Planning and Zoning Commission (presently serving on second consecutive term as elected [November 17, 2015 - November 17, 2020), and Alternate Member on the Aquifer Protection Agency (presently serving on second term).

FLORIDA PARTNERS

William ("Will") O. Tate

Partner

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Will Tate is a Partner in the law firm, and is admitted to practice law in all state and federal courts in Florida and Georgia. Mr. Tate has focused on lender representation and creditors' rights throughout his career, representing lenders in loan and real property closings and acquisitions, title analysis and corrective work, real property and loan portfolio acquisitions and due diligence, lawsuits on notes and guaranties, receiverships, foreclosures, Georgia confirmation actions, fraudulent conveyance actions, collections, and bankruptcy cases, discovery, motions practice, workouts, settlements, as well as defense of lender liability claims. Mr. Tate was a summer associate at the Atlanta firm of Morris, Manning & Martin, LLP and accepted an associate position at that firm upon his graduation from law school in 2009. Mr. Tate joined McCalla Raymer, LLC in 2013 as a senior associate and was voted a partner in the firm in 2016.

Representative Matters:

- Florida: Represented institutional lender in fraudulent conveyance action involving multiple parties and more than thirteen properties resulting in a lump sum settlement to lender.
- Florida: Represented both private and institutional lenders in commercial foreclosures.
- Florida: Represented private lenders in the sale of real estate and loans.
- Georgia: Summary Judgment affirmed by Court of Appeals for Georgia in favor of institutional lender client. *MAH Properties, LLC, et al. v. State Bank and Trust Co.*, A14A1272 (Ga. Ct. App., November 7, 2014).
- Georgia: Summary judgment for institutional lender client on over \$10mm in promissory notes and guaranties. *First Citizens Bank and Trust Company v. HWY 81 Venture, LLC, et al.*, 2012WL779894 (N.D.Ga., March 6, 2012).
- Georgia: Represented private investor in acquisition and disposition of various real estate assets.
- Georgia: created and implemented new loan products for two different private lenders leading to the extension of millions of dollars in loans.
- Bankruptcy: Represented and/or acted as co-counsel for a national lessor of semi-trucks in multiple bankruptcy cases across the United States.
- Bankruptcy: Represented various institutional and private lenders as creditors in bankruptcy cases in adversary proceedings, motions for relief, motions to value, and other actions.
- Bankruptcy: Represented the FDIC as receiver for failed banks in multiple actions regarding ownership of tax refunds against failed bank holding companies in bankruptcy

Community Involvement:

Mr. Tate is a volunteer Guardian ad Litem with the Florida Guardian ad Litem Program in Broward County, Florida. As a court appointed Guardian ad Litem, Mr. Tate works with children in foster care, visiting them and making recommendations to the court as to the children's best interests, and the children's wishes, as well as monitoring the children's safety and well-being.

Education and Admission

Attorney Tate received his Bachelor of Science (cum laude) from the University of Georgia in Athens, Georgia and his Juris Doctor from Tulane University Law School in New Orleans, Louisiana. Attorney Tate is admitted to practice law in all state and federal courts in Florida and Georgia.

GEORGIA PARTNERS

Lisa Frank

Managing Partner, Commercial Litigation and Transactions, Roswell, Georgia

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PRACTICE AREAS

Commercial litigation, Contract litigation, Real Estate Litigation, Commercial Transactions, leasing and UCC matters, and Commercial and Residential foreclosure,

EXPERIENCE

Ms. Frank specializes in Commercial litigation and transactions and has been practicing law in the State Of Georgia in this practice area for over eighteen years. Ms. Frank is a partner at McCalla Raymer Leibert Pierce, LLC. She has a litigation and transactions practice with an emphasis on commercial and contractual issues, and all issues related thereto, including litigation, work outs, foreclosure, receiverships, landlord-tenant matters, professional malpractice, post-judgment collection and bankruptcy, as well as appellate work. Ms. Frank's representation of major companies, and financial institutions, both on the community bank level, national level and in the private equity arena have provided her with a wide range of experience and Ms. Frank has practiced in the State and Superior Courts of almost all of Georgia's 159 counties, has supervised outside counsel in various jurisdictions and has engaged in oral argument and written many briefs for the Georgia Court of Appeals. Ms. Frank also has jury and bench trial experience.

SIGNIFICANT REPRESENTATIONS

Of recent note, Attorney Frank has represented:

- Banks as successor to Receiverships of FDIC in litigation and transactional matters, including oversight of discovery issues involved in FDIC litigation against former officers and directors;
 - Private equity funds seeking judgments and collection of debts and foreclosure of properties;
 - a National servicer in commercial foreclosure transactions;
 - Community-based and national lenders in claims relating to Notes, Deeds landlord-tenant issues, and collection
- Received a professional malpractice judgment against a North Carolina law firm and lawyer who engaged in a closing of a fraudulent transaction
- Received summary judgment in favor of lenders based on precedent set forth in the HWA Properties, Inc. v. Community Southern Bank which is the seminal case in Georgia allowing lenders to sue guarantors after foreclosure for deficiency amounts without having to confirm the foreclosure sale first.

EDUCATION AND ADMISSIONS

Attorney Frank graduated from Tulane University in 1996 where she double-majored in English and Political Science. Attorney Frank graduated from Georgia State University College of Law, *cum laude* in 1999. Upon graduation Attorney Frank joined a small local firm where she had her first opportunity to engage in oral argument before the Georgia Court of Appeals. That opportunity arose again during Attorney Frank's stint at Thompson, O'Brien, Kemp & Nasuti, P.C. where she practiced as a litigation attorney specializing in commercial and contractual matters, Article 2A leasing and collection from 2003 to 2012. Ms. Frank also authored the article for the American Bar Association *Keeping Title Insurance Companies Honest: Bad Faith Fees in Title Insurance Litigation*. Attorney Frank joined McCalla Raymer, LLC in August, 2012 as a Partner.

Education

Georgia State College of Law (J.D., 1999) *cum laude*
Tulane University (1996)

Admissions & Qualifications

Georgia, 1999

Georgia Supreme Court, U.S. District Court, Northern District of Georgia, U.S. Court of Appeals for the Eleventh Circuit

PUBLICATIONS AND PRESENTATIONS

- *Keeping Title Insurance Companies Honest: Bad Faith Fees in Title Insurance Litigation*: American Bar Journal, Property Section
- Speaker at CLE in 2010 on the subject of Article 2A Leasing.
- Speaker on panel at Georgia IMN Conference on post-judgment collection, 2013
- Speaker on panel at Georgia IMN Conference on post-judgment collection, 2014

ASSOCIATES

Jennifer M. McGrath

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Jennifer M. McGrath is an Associate in the Commercial Litigation Department. Her practice in Connecticut has involved contract and partnership disputes, insurance coverage, fraud, civil theft, residential and commercial foreclosures, and title defense work that includes boundary disputes, easements, adverse possession, quiet title, and mechanic's liens. She joined the Commercial Litigation department of Hunt Leibert Jacobson, P.C. in 2013 after beginning her career in private practice and then as an in house litigator for a title insurance company. Jennifer's recent work, as an in house litigator for a national title insurance company, included a favorable decision from the Connecticut Appellate Court in *Ginsberg & Ginsberg, LLC v. Alexandria Estates, LLC*, 136 Conn. App. 511 (2012), successfully overturning the trial court's determination of priorities which had erroneously credited a claimant's interest outside the chain of title.

Federal Court Decision Regarding Discovery under Amended Rule 26:

Williams v Rushmore Loan Management Services LLC, 3:15cv673 (RNC), an action concerning alleged violations of the Fair Debt Collection Practices Act ("FDCPA"), where the plaintiff sought to depose two employees of our client, the defendant loan servicer. We moved for a protective order and successfully invoked the new Rule 26(b)(1), effective December 1, 2015, which emphasizes proportionately in the context of discovery requests. The Court granted the Motion for Protective Order and prohibited the depositions, finding them of "marginal utility" when considering the relatively small amount of damages available to the plaintiff.

Community Memberships:

- Connecticut Bar Association
- New England Land & Title Association

Education and Admission

Jennifer received her Bachelor's Degree, *magna cum laude*, from Marist College where she majored in Political Science and obtained a Paralegal Certificate. She received her Juris Doctor

from Pace University School of Law. Jennifer is admitted to practice in all state courts of Connecticut and New York, and in the United States District Courts of Connecticut and the Southern District of New York.

Jeffrey T. Schuyler
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Jeffrey T. Schuyler is an Associate in the Commercial Litigation Department. His practice in Connecticut has involved residential and commercial foreclosures, consumer collection actions, summary process evictions, employment discrimination matters and education law in the form of New Haven Public Schools expulsion hearing proceedings. He joined the Commercial Litigation department of McCalla Raymer Leibert Pierce, LLC in April 2017 after beginning his career in private practice at small firms in New Haven and New Britain. He has a successful appellate record which includes;

Connecticut Appellate Court Decision:

Antonio Colon v. State of Connecticut, Judicial Branch, (AC 31702), an action concerning employment discrimination and wrongful discharge, where the defendant was successful in dismissing the action in the Superior Court for the plaintiff's failure to include an ad damnum clause on a separate page. Attorney Schuyler presented oral argument in the Appellate Court and was successful in overturning the Superior Court dismissal.

Recent Significant Decision in Residential Foreclosure:

Northeast Family Federal Credit Union, TTD-CV14-6008554 (2016): The defendant's claim that the plaintiff came to court with unclean hands after wrongfully asserting its right of off-set, thereby could not bring the foreclosure action was defeated at a special hearing on the defendant's special defense.

Community Memberships:

- Greater New Britain Bar Association
- Connecticut Creditor's Bar Association

Education and Admission

Jeffrey received his Bachelor's Degree, from University of Vermont where he majored in Community Development and Applied Economics. He received his Juris Doctor from Quinnipiac University School of Law. Jeffrey is admitted to practice in all state courts of Connecticut and in the United States District Courts of Connecticut.

Allyssa St. Martin
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Attorney St. Martin joined McCalla Raymer Liebert Pierce in April of 2017. A recent law school graduate, she gained experience in both evictions and debt collection during her time in law school. Attorney St. Martin has worked in both federal and state courts throughout

Massachusetts, and looks forward to practicing in Connecticut as a member of the firm's Connecticut Litigation department.

Education and Admission

University of Hartford, BA, 2014; Western New England School of Law, J.D., 2017. Admitted in Connecticut 2017.

Should you have any questions please contact Geoffrey Milne, Esq. at Geoffrey.Milne@McCalla.com