

MCCALLA RAYMER LEIBERT PIERCE, LLC

LITIGATION

THE QUARTERLY NEWSLETTER



Colleagues, Clients & Friends,

We are excited to publish the first MRLP Litigation newsletter and hope you enjoy it. MRLP has been representing clients in the mortgage industry for over three decades and I am sure that many of you have worked or are currently working with attorneys in our 10 states. Even in today's challenging environment, we continue to grow and expand to meet our clients' needs:

- We have opened an office in Portland, Maine to handle litigation matters in the state
- We are expanding our default practice to include Texas, with attorneys handling foreclosure, bankruptcy, evictions and litigation cases out of our Dallas office
- Wendy Lee has joined the firm as Managing Partner of our Northwest Foreclosure & Litigation practice, supervising our new offices in Seattle, Washington and Portland, Oregon

We will continue to offer coast to coast coverage for all of your litigation needs and this newsletter will be a way to keep you updated on the latest news and trends. Please feel free to reach out with any questions and comments.

Marty Stone, Firm Managing Partner

MARTY STONE

Managing Partner and CEO





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Geoffrey Milne | *Managing Partner, Connecticut Litigation*

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Defeating Counterclaims Alleging Mediation Misconduct In Connecticut.

The Connecticut Supreme Court issued a significant opinion in 2019, *United States Bank Nat'l Ass'n, Trustee v. Blowers*, addressing the "making, validity and enforcement" test, which involves defenses and counterclaims in a foreclosure action. The issue narrowly framed for the Supreme Court was whether a trial court order striking special defenses and counterclaims that challenged conduct both before and after the filing of the foreclosure satisfied the test.

Jane Bond | *Managing Partner, Florida Litigation*

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HUD Face to Face: How do we refile and succeed?

If a case is dismissed due to the HUD face to face meeting not taking place at all or taking place untimely; how can the issue be cured? From looking at the HUD regulations (24 CFR 203.604(b)), it may appear there is no resolution. The time period has passed to meet the regulations specific requirements and the "default date" is a specific date and cannot be changed. Here are some tips for ensuring success upon refileing the foreclosure.



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Marcos Posada | *Managing Partner, Illinois Litigation*

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Keep Your Receipts: Illinois Appellate Court Finds That Paragraph 22 Notice Sent Certified Mail Is Not Presumed To Be Given Upon Mailing

Fannie Mae/Freddie Mac uniform mortgages are so ubiquitous that many in the servicing industry have certain provisions committed to memory. For example, paragraph 22 requires that notice be sent to the borrower prior to acceleration and enumerates the content of such notice (the "Notice of Acceleration").



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Michael Gonzales | *Managing Partner, California/
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Volunteering with World Central Kitchen

I know I am not alone when I say this, but the past few months have been the most mentally challenging of my life. Early April found me quarantined, laying off people that have worked with me for a decade, going stir crazy, consumed by the uncertainty of what the future held. I struggled with what to do, how to counter the frustration I was feeling. Thankfully, my thoughts settled on how I could be of service, knowing a lot of people were far worse off than me.

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Rich Haber | *Managing Partner, New Jersey/
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New York's Highest Court Considers Statute of Limitations

Since the financial crisis, servicers and their counsel have struggled with statute of limitations (SOL) challenges in New York. Longer timelines, frequently dismissed cases and tougher proof standards - even in uncontested cases - have created a toxic mix that can lead to total lien loss. Even worse, inconsistent and sometimes contradictory application of the law by different trial and appellate courts has led to confusion and uncertainty.



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