



MORTGAGE FORECLOSURE & LENDER LIABILITY SEMINAR

Agenda

1. Introduction & Background
2. Lender Liability (and Related Issues)
 - a. Definition
 - b. Helping to Avoid Issues
 - c. Examples
 - Breach of contract
 - Misrepresentations/Breach of Duty of Good Faith
 - Failure to close loan
 - Failure to advance under the loan
 - Fraud or false statements
 - Exercising control over borrower's business
 - Conflict of interest
 - Interfering with borrower's business or contractual relationships
 - Improper disclosure of information
 - Improper demands
 - Exercise of remedies when no default
 - Improper exercise of remedies
 - Rushed closings; inadequate opportunities to consult with counsel;
 - "Predatory" Lending
 - Unfair Trade Practices
 - d. Why Should We Discuss It (Potential Exposure, Delay in Collection, etc.)
 - e. General Considerations & Best Practices
 - i. Documenting Transactions
 - ii. Dos & Don'ts
 - f. Communications with Borrowers/Potential Borrowers
 - g. The Single Action Rule
 - h. Selected Loan Provisions (PJR Waivers, Jury Trial Waivers, Attorneys' Fees Provisions, etc.)
3. Commercial v. Residential Foreclosures; Distinctions
4. Pre-foreclosure/default considerations & requirements, including:
 5. Municipal property registration requirements;
 6. Emergency Mortgage Assistance Program;
 7. Complying with Notice Requirements
 8. Ensuring Proper Documentation relating to Standing
 9. Connecticut Foreclosure Mediation Program



10. The Foreclosure Case

a. Pleadings

- i. Elements of the Complaint
- ii. Pleading Alternative Causes of Action
- iii. Reformation
- iv. Equitable Liens
- v. Unjust Enrichment
- vi. Actions on the Note
- vii. Guarantor Liability

b. Responding to Answers, Special Defenses and/or Counterclaims

c. Discovery (Both Propounded and Served Upon)

- i. Written Discovery
- ii. Depositions

d. Defenses, Counterclaims and Standing Challenges

e. Requests to Revise, Motions to Strike, Motions for Summary Judgment

f. Prejudgment Remedies

g. Trials

- i. Witness Testimony
- ii. Documentation

11. Appeals/Appellate Stays

Motions to Dismiss

Motions to Terminate

12. Bankruptcy Stays

13. Title Issues

14. Wrap-Up and Conclusion