



Ellis M. Oster

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Ellis Oster manages foreclosure and real estate matters, including litigation, real estate transactions, distressed property, settlement negotiations, evictions, and appeals for clients in the consumer finance, mortgage lending, and loan servicing industries. He maintains close relationships with institutional clients on the impact of regulatory developments and assists them in implementing compliance policies.

As a highly experienced attorney with over fifteen years handling these types of cases, Ellis has over forty published appellate victories encompassing all four departments of the New York Appellate Division, and he has successfully advocated for his clients thousands of times on the trial court level in foreclosure and real estate matters. He appears in court regularly throughout New York State.

In addition to his litigation and appellate experience, Ellis has also negotiated multiple favorable settlements and regularly advises his clients on the frequent changes to New York foreclosure law and consumer protection regulations.

Prior to joining Hinshaw, Ellis practiced as the director of litigation in the New York office of a full-service financial services law firm. Previously, he started his legal career working for a title insurance company in Western New York.

Professional Affiliations

- New York State Bar Association

Honors & Awards

- Cornell Law School
 - *Cornell Journal of Law and Public Policy*, Events Editor

Representative Matters

- Successfully defended a bank in a foreclosure action involving a \$592K mortgage and overturned an order granting summary judgment in favor of the client. The appellate court determined that the bank had proven its standing as the noteholder to start the foreclosure process. Additionally, the court upheld the trial court's decision to deny the borrowers' motion to

Practices

Appellate
Commercial Litigation
Consumer and Class Action Defense
Consumer Financial Services
Mortgage Servicing and Lender Litigation
Regulatory and Compliance Counseling

Industries

Banking & Finance

Education

J.D., Cornell Law School, 2006

M.A. and B.A., *magna cum laude*, Politics, The Catholic University of America, 2003

Admissions

New York

U.S. District Court for the Northern District of New York

U.S. District Court for the Western District of New York



compel the bank to produce the original note for discovery and inspection. *HSBC Bank USA, NA v. Thoppil*, 2024 NY Slip Op 02906 (App. Div. 2d Dept. 2024)

- Secured affirmance of a judgment of foreclosure and sale exceeding \$1.6 million in favor of the mortgagee. *Deutsche Bank Natl. Trust Co. v. Fresh*, 224 A.D.3d 405 (App. Div. 1st Dept. 2024)
- Successfully persuaded the appellate court to deny the current owner's attempt to dismiss the foreclosure action despite a \$682K+ judgment of foreclosure and sale already entered in favor of the plaintiff. *U.S. Bank Trust, N.A. v. Rahman*, 218 A.D.3d 626 (App. Div. 2d Dept. 2023)
- Successfully obtained an affirmation of an order denying the borrowers' motion to stay a foreclosure sale in a New York appellate court. The court definitively held that alleged violations of 12 CFR 1024.41 did not provide a basis to stay the foreclosure sale. *Deutsche Bank Natl. Trust Co. v. Singh*, 216 A.D.3d 1080 (App. Div. 2d Dept. 2023)
- Successfully obtained dismissal of an appeal where a \$734K+ foreclosure judgment was entered in favor of the mortgagee. *Nationstar Mtge., LLC v. Warsi*, 214 A.D.3d 994 (App. Div. 2d Dept. 2023)
- Secured rare reversal of a trial court's denial of summary judgment in favor of a mortgagee where the original mortgage amount was \$624K. *U.S. Bank N.A. v. Valme*, 210 A.D.3d 1034 (App. Div. 2d Dept. 2022)
- Obtained a rare reversal of an order that compelled the mortgagee to accept the borrowers' late answer. The deadline to answer had lapsed by only three (3) days. The appellate court held that the borrowers' proposed statute of limitations defense lacked merit in a \$735K consolidated mortgage foreclosure action. *HSBC Bank USA v. Pantel*, 208 A.D.3d 643 (App. Div. 2d Dept. 2022)
- Persuaded the appellate court to reject the borrower's fraud allegations and uphold the foreclosure and sale judgment in favor of the bank. *Wells Fargo Bank, N.A. v. Echeverria*, 204 A.D.3d 955 (App. Div. 2d Dept. 2022)
- Secured affirmance of \$662K+ judgment of a foreclosure and sale in favor of the bank, with the appellate court rejecting the borrower's arguments that he was entitled to a computation hearing on amounts owed prior to the issuance of the judgment. *Bank of America, N.A. v. Lino*, 203 A.D.3d 1004 (App. Div. 2d Dept. 2022)
- In a case involving a foreclosure and sale judgment of over \$1.9 million, successfully obtained affirmance of the order rejecting the borrower's attempt to vacate the foreclosure sale on alleged fraud grounds. *KeyBank N.A. v. Venziano*, 203 A.D.3d 809 (App. Div. 2d Dept. 2022)
- Successfully obtained a rare reversal of a trial court's decision to deny the mortgagee's pre-answer dismissal action in a quiet title case. The current owner was seeking to discharge a mortgage as time-barred but successfully persuaded the appellate court that the statute of limitations to enforce the mortgage had not expired. *IPA Asset Mgt., LLC v. Bank of N.Y. Mellon*, 202 A.D.3d 1068 (App. Div. 2d Dept. 2022)
- Successfully defended a court order granting summary judgment in favor of government-sponsored enterprise (GSE) upon renewal. This case involved RPAPL § 1304, which is one of the most hotly contested issues in New York foreclosure law. The appellate court found that an affidavit by GSE's sub servicer demonstrated strict compliance with the state's 90-day notice requirement. *Federal Natl. Mtge. Assn. v. Ambrosio*, 197 A.D.3d 560 (App. Div. 2d Dept. 2021)
- Persuaded the appellate court to affirm the denial of the borrower's motion to vacate the judgment and dismiss the foreclosure action due to lack of personal jurisdiction. The Appellate Division upheld the trial court's decision after a post-traverse hearing, stating that the borrower's testimony was unpersuasive despite his estimated height and weight being inaccurately stated in the service affidavit. *Deutsche Bank Natl. Trust Co. v. Chung*, 194 A.D.3d 478 (App. Div. 1st Dept. 2021)
- Obtained rare reversal of a trial court's denial of a motion to vacate stay and for a default judgment in favor of the mortgagee. The foreclosure action involved a \$557K mortgage. *U.S. Bank N.A. v. Auteri*, 191 A.D.3d 729 (App. Div. 2d Dept. 2021)
- Successfully upheld a judgment of foreclosure and sale totaling \$859K+ in favor of the bank. The appellate court determined that the bank demonstrated strict compliance with New York's 90-day notice requirement (RPAPL § 1304) and substantial compliance with the mortgage's default notice provisions. *AXIOM Bank v. Dutan*, 190 A.D.3d 672 (App. Div. 2d Dept. 2021)
- Following the appellate court's prior reversal of summary judgment, successfully proved in the trial court that the mortgagee assignee had the standing to bring the foreclosure action as the noteholder at the time the case commenced. This was accomplished through the trial testimony of an officer of its loan servicer and attorney-in-fact. *U. S. Bank Trust, N.A. v. Moomey-Stevens*, 189 A.D.3d 1790 (App. Div. 3d Dept. 2020)



- Obtained a rare reversal of a trial court's denial of summary judgment upon re-argument in favor of the mortgagee. The appellate court found that the mortgagee had proven its standing to bring a foreclosure action as the noteholder at the time the case commenced. *Wells Fargo Bank, N.A. v. Khan*, 188 A.D.3d 952 (App. Div. 2d Dept. 2020)
- Secured affirmance of an order granting summary judgment in favor of a government-sponsored enterprise (GSE) was upheld on re-argument, with the appellate court finding that the GSE had proven its standing to commence the foreclosure action as the noteholder. *Federal Natl. Mtge. Assn. v. Farkas*, 179 A.D.3d 1021 (App. Div. 2d Dept. 2020)
- Successfully opposed appeal from a foreclosure judgment in favor of government-sponsored enterprise (GSE) and upheld denial of the new owner's intervention. *Federal Natl. Mtge. Assn. v. Sanchez*, 172 A.D.3d 1005 (App. Div. 2d Dept. 2019)
- Obtained affirmance of the order granting summary judgment in favor of a mortgagee in a foreclosure action involving a \$618K mortgage. The appellate court found that the mortgagee had proven its standing to commence the action as the noteholder. *Deutsche Bank Natl. Trust Co. v. Kingsbury*, 171 A.D.3d 871 (App. Div. 2d Dept. 2019)
- Successfully persuaded the Appellate Division to affirm a judgment dismissing Article 78 proceeding against a town's zoning board of appeals. Additionally, the judgment was modified to expressly declare that the town's commercial sign law was constitutional. This decision involved the First Amendment and commercial speech, and was cited favorably in 2020 by the Court of Appeals, New York's highest court. *Matter of Expressview Dev., Inc. v Town of Gates Zoning Bd. of Appeals*, 147 A.D.3d 1427 (App. Div. 4th Dept. 2017)

Personal

Ellis and his wife, Betsy, live in Canandaigua with their two children, Caroline and Eli, where he actively participates in his local community. When he isn't attending his kids' sporting events and music concerts, Ellis enjoys cooking, traveling, spending time at the lake, and rooting for the Buffalo Bills.