



## News

### Maura McKelvey's Appeal to First Circuit in the Rhode Island *In re: Mortgage Foreclosure Cases* Docket Receives National Attention

February 6, 2013

Maura McKelvey, a Partner at Hinshaw & Culbertson LLP, was quoted in *The National Law Journal's* February 6, 2012 article, "Banks Claim Judge's Foreclosure Stay Violates Due Process." The U.S. Court of Appeals for the First Circuit, including Justice David Souter, sitting by designation, heard arguments concerning a Petition for Writ of *Mandamus* and an appeal of the U.S. District Court for the District of Rhode Island's order requiring the defendants in every case assigned to the *In re: Mortgage Foreclosure Cases* docket to participate in a mandatory mediation program without first determining personal or subject matter jurisdiction over the defendants or claims, and "staying" all defendants assigned to the docket from undertaking nonjudicial foreclosure actions or pursuing evictions in state court. Ms. McKelvey appeared and presented the oral argument on behalf of all of the defendants in the more than 143 consolidated cases. She urged the court to find that the district court in *In re Mortgage Foreclosure*, Misc. No. 11-mc-88-M, violated the defendants' due process rights by ordering the parties into mandatory mediation before determining personal and subject matter jurisdiction over the defendants and by applying its "stay" as an injunction without providing the enjoined defendants with notice or an opportunity to be heard prior to entry of its order.

Ms. McKelvey's practice includes the representation of mortgage lenders and servicers in cases alleging mortgage fraud, predatory lending and violation of consumer protection statutes relative to loan origination and servicing. These matters include claims arising under TILA, RESPA, HOEPA, HAMP and Mass. Gen. Laws ch. 93A, and lawsuits arising out of contested foreclosures and evictions in Rhode Island and Massachusetts state and federal courts.

#### Attorneys

Maura K. McKelvey