



## News

### Reviewing Landmark NY High Court Ruling in "Mortgage Prom" Litigation: Schuyler Kraus and Brian McGrath Provide Analysis in Law360 and American Banker

March 10, 2021

In mid February, the New York State Court of Appeals handed down a landmark decision in favor of mortgagees in a series of cases insiders had nicknamed the "Mortgage Prom." At issue were disputes over the timeliness of mortgage foreclosure claims, with the court ruling providing a bright line rule for determining what constitutes an acceleration of a mortgage debt for purposes of calculating the statute of limitations.

Hinshaw partners Schuyler Kraus and Brian McGrath offered extensive analysis of the ruling in a series of media articles. The following is a summary of their analysis:

Kraus said the decision will allow mortgage noteholders to foreclose more quickly on defaulted borrowers and could help reduce a backlog of litigation still pending from the 2008 financial crisis:

"There are many cases that are still on the court's docket from the financial crisis. The decision will factor into the willingness [of both parties] to work out a resolution and could allow noteholders to move more quickly on foreclosures where settlement is not feasible."

As a result of the decision, Kraus also said that banks and other noteholders should review their inventory of loans to see if enforcement of a mortgage that was thought to be time-barred under a prior analysis can now be the subject of a timely foreclosure action.

McGrath said the decision would have an immediate impact on the legal landscape in New York, and represented a rare example of where an appellate court in New York has "really [got] into the public policy issues at play."

"The consolidated decision provides bright-line rules for both mortgagors and mortgagees to follow in future litigation and how to calculate the statute of limitations. That clarity is very important, not just for fairness to the parties, but for the overall mortgage system to work."

...

"There was a noticeable appreciation in the opinion as well as during argument that the lending industry isn't simply trying to foreclose on

#### Attorneys

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#### Service Areas

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homes. They're looking to resolve what is effectively a contractual dispute, so adopting rules that make it harder for a lender to be more flexible to work with a borrower in a dynamic relationship could hurt borrowers."

"[N.Y. appeals court sides with lenders in foreclosure case](#)" was published by *American Banker*, February 23, 2021. (*subscription required*)

"[NY High Court Resolves Foreclosure Timeliness Issues](#)" was published by *Law360*, February 19, 2021. (*subscription required*)

## Related Content

- [Landmark New York Court of Appeals Decision Clarifying Calculation of Statute of Limitations in Mortgage Foreclosure Actions](#), Hinshaw *Consumer Crossroads* blog