

Financial Services Litigation – Commercial

Related Practices

Appellate

Bankruptcy, Insolvency &
Creditors' Rights

Litigation

Real Estate

Related Industries

Financial Industry Group

Insurance Industry Group

In today's complex financial world, a defaulted loan often presents financial institutions, lenders, next-generation financial service providers, CMBS and other special servicers, and institutional investors with numerous issues requiring lenders to move swiftly to enforce their rights and protect their collateral. Defaulted loans are often complicated by delay tactics, deteriorating properties, bankruptcy filings, fraudulent transfers and adverse claims against the lender's collateral.

Dykema's Commercial Financial Services litigation team possesses the depth and breadth of experience to efficiently navigate the myriad disputes that arise when a loan is in default. At the outset of a matter, Dykema's attorneys develop and implement strategies to accelerate and maximize the lender's recovery on distressed loans. Such strategies include representing creditors in commercial foreclosure proceedings involving office buildings, retail malls, apartment complexes, warehouses and other commercial properties; seeking the early appointment of receivers to operate, manage, lease and in some instances sell the property; representing creditors in bankruptcy proceedings and Section 363 sales; enforcing guaranties and pursuing full recourse and springing recourse obligations; and negotiating loan workouts including forbearance agreements, deeds-in-lieu of foreclosure and loan modifications. Dykema's team is also well-versed in litigating and resolving mechanics liens, priority disputes and other adverse claims against a lender's collateral.

Dykema's litigation team provides representation and counseling across the broad spectrum of issues that arise for commercial lenders, including in the following areas:

- Appeals (state and federal)
- Bankruptcy representation regarding Chapter 11 plans, cram downs, and adversary proceedings, including pursuing carve-out liability, fraudulent transfers, preference liability and determinations of non-discharge generally and non-dischargeability of debts specifically
- Check and wire fraud
- Commercial mortgage foreclosure litigation
- Commercial real estate development and construction project disputes
- Construction and mechanics lien litigation, including claims on public projects under the Miller Act
- CMBS Pooling and Servicing Agreements
- Creditor and other committee representation in bankruptcy court
- Escrow and insurance claim litigation
- Fiduciary litigation involving director and officer liability
- Guarantor litigation, including enforcement of creditor claims against guarantors and other loan obligors
- Insurance coverage litigation
- Land use and property rights litigation, including claims involving entitlements

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- Landlord-tenant and leasing litigation
- Lender liability defense
- Loan repurchase claims
- Municipal litigation
- Performance bonds for construction of public projects
- Post-judgment enforcement litigation for lenders, including pursuit of turnover litigation, fraudulent transfer litigation and charging orders
- Real estate and other property disputes
- Receiverships and properties in various types of judicial oversight
- Subpoenas, garnishments and levies
- Title insurance disputes and related priority claims to real property
- Workouts of business and real estate loans

Publications

"Church and State: Determining Ownership of Church Property After Schism"

June 30, 2020

Texas Lawyer

"Continuing Jurisdiction: A Federal Court's Power to Enforce a Nationwide Class Action Settlement"

Spring 2020

American Bar Association Class Action & Derivative Suits Newsletter

A Primer on Virtual Litigation Practice

May 7, 2020

State Bar of Michigan

Escaping Paper and Going Digital

May 2020

MReport

"Illinois Courts May Increasingly Embrace Equity Receiverships"

April 16, 2020

Law360

"On Compliance: Should Your Credit Union Be A Plaintiff In A Data Breach Class Action Suit?"

July 25, 2019

Credit Union Management

Speaking Engagements

Receiverships for Distressed Commercial Real Estate: Lender, Servicer, and Borrower Concerns, Panelist, Strafford Webinar

August 20, 2020