

## News & Insights

### Tom Schehr, Andrew Kolozsvary Co-Author Article in *Mortgage Banking Magazine*

Despite Repeated Challenges, Courts Have Affirmed Legitimacy of MERS Business Model

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Two Dykema attorneys—Thomas M. Schehr, Detroit-based member and leader of Dykema’s Financial Services Litigation Practice Group, and Andrew J. Kolozsvary, Detroit-based member in the Firm’s Business Litigation Practice Group—co-authored an article, “MERS Weathers the Storm,” that appears in the July 2013 issue of *Mortgage Banking* magazine.

The article discusses Mortgage Electronic Registration Systems, Inc. (MERS), a U.S. company that serves as mortgagee of record and nominee for the beneficial owners of mortgage loans tracked on an electronic registry owned by a separate company (MERSCORP Holdings), and repeated attempts by defaulting borrowers to challenge the legal authority of MERS with the hope of delaying eviction after legitimate foreclosure proceedings.

Schehr and Kolozsvary cite a host of cases—at both the state and federal level—that have recognized the validity of MERS’ business model and have repeatedly affirmed that the company’s operating principles conform with mortgage and agency law. The co-authors suggest that, despite the likelihood of future challenges to MERS’ authority, these court decisions reinforce the legal standing of the firm’s operational practices.

Schehr and Kolozsvary draw from personal experience in several of the referenced cases. The two achieved a favorable outcome in *Residential Funding Co., LLC v. Saurman* (in which the Michigan Supreme Court reversed a Court of Appeals decision holding that tens of thousands of MERS-conducted foreclosures by advertisement were void *ab initio*). Schehr and Kolozsvary also collaborated on a win in *Conlin v. Mortgage Electronic Registration Systems, Inc.* (in which the Sixth Circuit affirmed dismissal of claims of robo-signing and fraud and upheld a contested foreclosure) is one of the most significant recent decisions in the financial services industry.

To read this article in its entirety, [click here](#).

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#### Practice Areas

Business & Commercial

Financial Services Litigation – Commercial

Financial Services Litigation – Consumer

Litigation

#### Industries

Financial Industry Group