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Lenders, Protect Your Place in Line

Mark Salah Morgan, Christina Parlapiano and Alba Aviles wrote an article, "[Lenders, Protect Your Place in Line](#)," for *The New Jersey Law Journal*. The article is about the significance of the New Jersey Supreme Court decision in *Rosenthal & Rosenthal v. Benun*, No. A-6-15, 076266. The ruling held that an intervening lien will take priority over optional future advances made by a lender that holds a mortgage to secure optional future advances and has actual notice of the intervening lien. The court's holding puts lenders on notice that they must obtain subordination agreements when operating under an optional future advance agreement before lending additional monies or they risk losing priority. As a result, in order to safeguard their priority, lenders should ensure that as soon as they have notice of an intervening lien, either by running a title search or other actual notice of the intervening lien, a subordination agreement is obtained and executed prior to any advance of discretionary monies.

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