February 18, 2021

Day Pitney Consumer Finance Team Secures Precedential Victory

On February 18, Day Pitney's Consumer Finance team secured a monumental and precedent-setting victory before the New York Court of Appeals. *Ditech Financial, LLC v. Naidu*, Court of Appeals No. APL 2020-00023 (Feb. 18, 2021), which included three other appeals on similar issues, addressed when the six-year statute of limitations commences to run in a mortgage foreclosure action, and how a lender may revoke the acceleration. In a 26-page decision, the New York Court of Appeals reversed the ruling rendered against one of our clients by the Appellate Division and held that, absent a contemporaneous statement to the contrary from a lender, a voluntary discontinuance revokes the acceleration where the loan was accelerated by the commencement of a foreclosure action. The decision will have a far-reaching effect on foreclosure cases in New York.

The Day Pitney team was led by Christina Livorsi, who argued the appeal, with substantial support from Alfred W.J. Marks and Erin Hodgson, who were instrumental in the drafting of the papers. Day Pitney routinely represents mortgage servicers and lenders on issues like that involved in *Naidu*. Learn more about Day Pitney's Consumer Finance and Creditors' Rights group here.

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