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# Meet Day Pitney's Livorsi, the Woman Whose Big Courtroom Victory Continues to Reverberate Across 2 Sectors

**"As we move into 2022, we expect new lawsuits to emerge, and it will be interesting to see how borrowers attempt to stave off the impending foreclosures that have been subject to the COVID moratoriums for so long," said Christina Livorsi of Day Pitney.**

**By Charles Toutant**

For Christina Livorsi, representing banks and lenders in litigation means responding to an ever-changing set of curveballs dreamed up by lawyers representing borrowers.

In 2021, Livorsi scored a big victory in court that sent reverberations all through her practice. In February, the New York Court of Appeals reinstated four foreclosure actions after clarifying when a lender's actions starts and stops the statute of limitations. In one of the cases, *Ditech Financial v. Naidu,* Livorsi represented the lender.

Statute-of-limitations issues related to mortgage enforcement are still raised in consumers' lawsuits in New York, even after the ruling in *Ditech* and its companion cases. Some lawyers representing borrowers are crafting new arguments in light of the ruling and are calling for legislation to help soften the ruling's impact on borrowers, Livorsi said.

A 2008 graduate of Seton Hall University School of Law, Livorsi joined Day Pitney in Parsippany in 2012. She became a partner in 2017.

Livorsi answered questions about practice trends and what she sees coming in the near future. Here are her answers, edited for length and news style.

**First, what sort of matters do you generally deal with in your practice?**

I primarily represent banks, lenders and mortgage servicers in diverse claims, including alleged violations of the Real Estate Settlement Procedures Act, the Truth in Lending Act, the Fair Debt Collection Practices Act, and New York and New Jersey state-specific foreclosure laws. My practice spans both federal and state courts, and I often appear in both federal and state trial and appellate courts in New York and New Jersey. In most cases, our firm handles the more difficult claims, such as statute-of-limitations claims and standing claims.

Given my work in New York and New Jersey, I have been able to see how both courts deal with these matters and address the differences for clients in terms of strategies. For example, New York has mandatory settlement conferencing, which stays the foreclosure action until the parties are released from the conferencing part. In New Jersey, we are required to proceed with the litigation, even if loss mitigation is being discussed with a borrower.


Courtesy photo

Christina Livorsi of Day Pitney.

**What's the biggest litigation trend you're seeing right now?**

In New York, claims by borrowers that the statute of limitations to enforce their mortgage has expired continue to be a hotbed of litigation, with the borrowers' bar lobbying the Legislature to pass laws to circumvent a recent New York Court of Appeals decision in which Day Pitney's consumer finance team represented the lender in one of four companion cases. In those cases, the New York Court of Appeals reversed the Appellate Division decisions, holding that, absent a contemporaneous statement to the contrary from a lender, a voluntary discontinuance of a foreclosure action revokes the acceleration where the loan was accelerated by the commencement of that action.

As a result of the Court of Appeals decision, we are now seeing borrowers claim that the lender does not have the right to revoke the acceleration or there was some contemporaneous statement to the contrary. Litigation has otherwise been on a downturn, but once the COVID hardship-related stays are fully lifted, we expect to see an uptick in litigation, including borrower claims relating to alleged violations of the Coronavirus Aid, Relief, and Economic Security Act.

We expect that the alleged violations will be asserted as defenses and counterclaims to foreclosure actions as well as independent actions brought by borrowers who are trying to prevent foreclosure.

**What's the biggest lesson you learned as a litigator in 2020 and 2021?**

How to be flexible! From juggling new platforms with so much moving to virtual spaces, such as arguing appeals (even at the New York Court of Appeals level), taking depositions and having happy hours with clients and colleagues, to juggling work deadlines and day care-related lockdowns.

**What opportunities do you see for your practice in 2022?**

Some of the trends we have seen so far include borrowers using the CARES Act to try to delay foreclosure actions, borrowers litigating forbearance issues under the CARES Act, and borrowers asserting class action claims against credit reporting agencies. In addition, the Consumer Financial Protection Bureau is in the process of issuing new regulations, which impact the [Fair Debt Collection Practices Act] and loss mitigation procedures, and the CFPB has made clear that it will be aggressive in ensuring that lenders and servicers assist consumers during the pandemic. As a result, I believe we will likely continue to see an uptick in litigation surrounding the CARES Act, as well as enforcement actions by the CFPB.

As we move into 2022, we expect new lawsuits to emerge, and it will be interesting to see how borrowers attempt to stave off the impending foreclosures that have been subject to the COVID moratoriums for so long.

**What are the major threats to your practice, and what are you doing to adjust?**

The ongoing challenge of handling litigation remotely while certain courts are reopening (such as the New York Appellate Divisions). For example, some courts are holding only in-person arguments with no virtual option, which can be challenging if someone cannot appear due to COVID-19 exposure or other conflicts. Technology is great when it works, but when an attorney or the court has internet issues or other glitches, it can create delays in the process. We are continually testing our technology in advance of any appearances so things can proceed as seamlessly as possible. Additionally, we have focused on increasing our client-service initiatives and making sure that we are consistently exceeding clients' expectations with our responsiveness and availability.

**Who had the greatest influence in your career?**

My greatest influences would be my two mentors and sponsors at Day Pitney: Beth Sher and Joy Harmon Sperling. Beth is a partner and general counsel at our firm, and has been a mentor to me since I first arrived at Day Pitney as a fourth-year associate in 2012. I started working with Joy in late 2013, and found her guidance and leading by example to be tremendously helpful and inspiring. Both women guided, pushed and supported me to move up the ranks to partner a mere four years later.