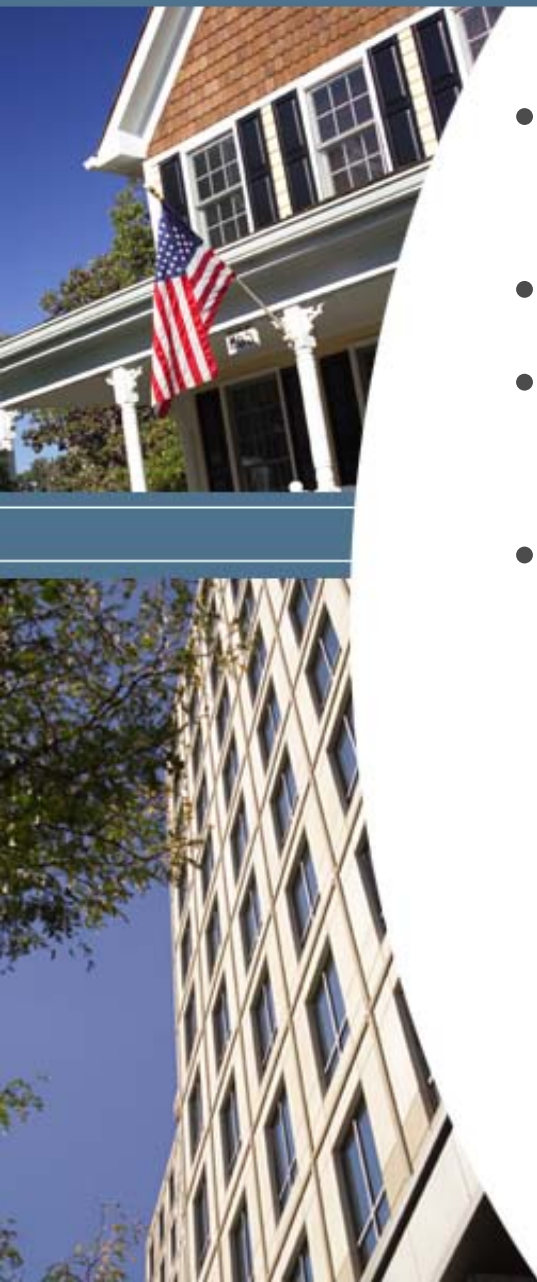


The Changed Legislative, Regulatory and Litigation Landscape of the Mortgage Industry

One GC's Top 10 Issues List for 2010



- **FLSA – PAYING OVERTIME TO LO'S AND UNDERWRITERS**
- **March 10, Administrator's Interpretation DOL**
- **Typical LO does not qualify for the administrative exemption under FLSA**
- **Whalen v. J.P.Morgan Chase & Co., 553 F.3d 187**
 - » **Second circuit reversed the district court and held that a Chase mortgage underwriter was not employed in a bona fide administrative capacity.**
 - » **Chase has petitioned the Supreme Court for cert.**

One GC's Top 10 Issues

List for

- **TELEPHONE CONSUMER PROTECTION ACT**
- **FCC PROPOSED RULE (75 Fed. Reg. 13,471)**
 - » **Prior Written Consent to Automated or Prerecorded Calls**
 - » **Elimination of Established Business Relationship Exemption**
 - » **Automated, Interactive Opt-Out Mechanism**
- **CONCERNS**
 - » **Timing – Economic crisis**
 - » **Loss Mit depends on talking to customers**
 - » **Time to change the law given cell phone usage and pricing protocols**

One GC's Top 10 Issues

List for

- **FORECLOSURE MEDIATION**
 - » Oxymoron?
 - » State laws or court rules
 - » Timing – delay the foreclosure?
 - » Mandatory attendance or telephonic?
 - » Ability to settle and bind the investor?
 - » Added cost
 - » Chance of success?

NOTE

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$_____ (this amount is called "Principal"), plus interest, to the order of the Lender. I will make all payments under this Note in the form of cash, check or money order.

2. INTEREST

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of _____%.

3. LENDER'S PROMISE TO MODIFY

If for whatever reason I violate my promise to pay, Lender promises to modify this Note to reduce the interest rate, the unpaid principal balance, or any other term of this loan as necessary to ensure that I can enjoy the lifestyle to which your loan accustomed me. Lender shall forbear in its enforcement of any related security instrument until I inform lender of the terms of my modification, if any.

One GC's Top 10 Issues

List for

- **SAFE ACT**
 - » **SERVICING PERSONNEL ARE NOT LOAN ORIGINATORS, EVEN THOSE DOING LOAN MODIFICATIONS**
 - » **DO YOU HAVE TO BE LICENSED IF YOU ARE NOT REGISTERED?**
 - What if you cannot get registered because the NMLS registration is not open yet?

One GC's Top 10 Issues

List for

- **MA – STATE FAIR LENDING, HMDA AND CRA EXAMINATION**
 1. **CITIFINANCIAL SETTLEMENT 3/23/2010**
 2. **35 states**
 3. **\$1.25 million penalty**
 4. **MA conducted an examination and found HMDA violations from missing records**
 5. **Read the settlement agreement and the announcement.**

One GC's Top 10 Issues

List for

- **HR 4953 MORTGAGE SERVICING CONFLICT ELIMINATION ACT (BRAD MILLER)**
- **HOUSE BILL WOULD AMEND TILA TO BAR MORTGAGE SERVICERS FROM HOLDING ADDITIONAL MORTGAGES ON THE SAME PROPERTY**
- **SEEKS TO ELIMINATE THE CONFLICT OF INTEREST THAT MIGHT BE CAUSING DELAYS TO VOLUNTARY MORTGAGE MODIFICATIONS**
- **OUTCOME MAY BE A SPIN-OFF OF MORTGAGE SERVICING BUSINESSES AT THE 4 LARGEST BANKS**

One GC's Top 10 Issues

List for

- **REPURCHASE REQUESTS and MI RECISSIONS**
- **BROKEN LOANS**
 - » **UNDISCLOSED LIENS**
 - **LOANS ON OR PURCHASES OF MULTIPLE PROPERTIES SHORTLY BEFORE OUR CLOSING**
 - » **TOOLS TO DETECT AND PROCESSES TO AVOID UNDISCLOSED LIENS**
 - **CLOSING AFFIDAVIT TOO LATE**
 - **LETTER TO SCARE OFF THE BAD GUYS**

One GC's Top 10 Issues

List for

- **PARK V. M&T BANK CORPORATION**
 - » 2010 U.S. Dist. LEXIS 24905
- **Do you owe a non-English speaking borrower a fiduciary duty?**
- **U.S. District Court for NJ said yes in the context of a motion to dismiss.**

One GC's Top 10 Issues

List for

- **H.R. 4229, the Borrowers' Right to Inspect Closing Documents Act**
- **The bill would require lenders to provide final disclosures to title agents four days before closing and provide borrowers the HUD-1 three days before closing.**
- **concern over the impact of the timelines required by this legislation**

One GC's Top 10 Issues

List for

- RISK RETENTION
- FIRST LOSS VS. PRO RATA?
- DON'T WE ALREADY RETAIN RISK IN THE REPS AND WARRANTS IN THE SALE DOCUMENTS?
- WELL UNDERWRITTEN FULLY DOCUMENTED EXCEPTION AND GOVERNMENT PRODUCTS EXCEPTION WITHIN THE STATUTE
- DON'T LEAVE IT TO THE REGULATORS
- KANJORSKI'S TOO BIG TO FAIL VS. THE EFFECT OF RISK RETENTION

HUD Official Explaining How to Properly Complete the New GFE

