

Financial Services Alert

Minnesota Supreme Court Opens Door to Private Right of Action to Enforce HAMP

Gretsch v. Vantium Capital, Inc., A12-2270 (Minn. April 2, 2014)

This week, the Minnesota Supreme Court ruled that an individual borrower has standing under the Minnesota Mortgage Originator and Servicer Licensing Act (Minn. Stat. §§ 58.01-58.19) to sue for injury caused by a servicer's failure to perform in conformance with its written agreements with third-parties. The court specifically found that the statute granted a private right of action to borrowers to sue for violations of the Servicer Participation Agreement governing a servicer's participation in the federal HAMP program.

This ruling marks a significant shift in Minnesota law which, prior to the ruling, had never recognized a borrower's right to sue for violations of the HAMP requirements. The ruling also potentially opens the door to litigation by borrowers over compliance with other written agreements that lenders and servicers have with investors and federal and state agencies.

For more information regarding the decision and its potential implications for lenders and servicers, please contact:

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