



## David W. Merritt

### Partner

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### Overview

As a partner in the firm's litigation group, David's primary focus is consumer finance litigation on behalf of financial institutions, mortgage loan servicers and government sponsored entities. He has experience with all phases of litigation from complaint to trial and appeal. In particular, he has first-chaired bench and jury trials in the Housing, District and Superior Court, successfully defended appeals in front of the Massachusetts Appeals Court and Massachusetts District Court Appellate Division, argued dispositive motions, conducted and defended depositions, and successfully arbitrated and mediated matters in lieu of trial.

He has specialized experience in post-foreclosure evictions, wrongful foreclosure litigation, municipal tax lien litigation, condominium/HOA foreclosure litigation and receivership/code enforcement litigation. He has also successfully defended lenders in Truth in Lending Act, Real Estate Settlement Procedures Act, Fair Credit Reporting Act, Fair Debt Collection Practices Act and Massachusetts Consumer Protection Law matters.

Before to joining Bernkopf Goodman, David was a consumer finance litigation associate at a national law firm where he specialized in representing securitized mortgage trusts and mortgage loan services. Prior to that he worked at a general practice firm in Dorchester for five years where he represented local financial institutions, small to medium sized business, families and individuals in both litigation and transactional related matters.

### Matters & Transactions

- *Nationstar HECM Acquisition Trust 2018-1 v. Pammy A Nickerson, et. al.*, Southeast Housing Court, 19H83SP00651CI, on summary judgment, successfully defeated former-owner's validity of title defense along with the former-owner's claims based on supposed violations of G.L. c. 93A, FDCPA, TILA, and RESPA.
- *Federal National Mortgage Association v. Carl Rellstab, et. al.*, Central Housing Court, 17H85SP000938, on summary judgment, successfully defeated former-owner's validity of title defense along with the formerowner's claims for insurance fraud and breach of G.L. c. 93A.
- *Russell and Catherine Palmer v. Nationstar Mortgage LLC, et. al.*, Wareham District Court, Docket No. 1660CV00215, obtained dismissal on borrower's claims alleging negligence, breach of contract, and breach of G.L. c. 93A.
- *Joseph-Lacet v. Nationstar Mortgage LLC, C.A. No. 16-11906-GAO*, 2017 WL 4164078 (D.Mass. Sept. 20, 2017). Convinced Massachusetts Federal District Court that mortgage-borrower's complaint was barred by res judicata and should be dismissed
- *OneWest Bank, FSB v. Ronald S. LaRoche*, Decision No. Mem 15-023 (April 2, 2015). Convinced Maine Supreme Judicial Court on Motion for Reconsideration to vacate entry of judgment in favor of mortgagor in judicial foreclosure matter
- *The Bank of New York Mellon Corp. v. Wain*, 85 Mass.App.Ct. 498 (2014). Convinced Massachusetts Court of Appeals to uphold validity of MERS mortgage assignment and resulting foreclosure sale under M.G.L. c. 240, §§6-10
- *Wells Fargo Bank, N.A. v. Okamura*, 2014 Mass.App.Div. 42 (2014). Convinced District Court Appellate Division to uphold trial court's dismissal of mortgagor's appeal following entry of summary judgment in favor of mortgagee
- *The Bank of New York Mellon Corporation v. Wain*, 2012 WL 5475849. Obtained Land Court

### PRACTICE AREAS

- Litigation
- Bankruptcy and Creditors' Rights
- COVID-19 Response Team

### Credentials

#### Education

- New England School of Law, JD
- Assumption College, BA, *magna cum laude*

#### Bar Admission

- Massachusetts
- Maine
- New Hampshire

summary judgment decision in favor of financial institution that affirmed validity of mortgagee's foreclosure sale under M.G.L. c. 240, §§6-10

- Obtained \$50,000 judgment in favor of foreclosing mortgagee in a Massachusetts District Court summary process jury trial (March, 2014)
- Successfully defended financial institution against mortgage fraud and M.G.L. c. 93A claim in a Massachusetts Superior Court jury trial (June, 2014)
- Successfully defended financial institution against mortgagor's Quiet Title complaint in a Massachusetts Superior Court bench trial (January, 2014)
- Obtained Superior Court bench trial verdict in favor of restaurant upholding parking space rights under a commercial lease
- Successfully defended client in Superior Court non-compete violation action
- Successfully obtained variance and special permit from Boston Zoning Board of Appeals
- Represented local financial institutions in commercial/residential secured lending matters

## News

- Eleven Bernkopf Attorneys Recognized on 2022 Massachusetts Super Lawyers® Lists
- David W. Merritt Appointed to the YMCA Board of Incorporators
- David W. Merritt Elevated to Partner
- Three Bernkopf Attorneys Recognized as Rising Stars
- Four Bernkopf Goodman Attorneys Chosen as Rising Stars
- Five Bernkopf Goodman Attorneys Chosen as Rising Stars
- Eleven Bernkopf Goodman LLP attorneys recognized as 2018 Massachusetts Super Lawyers and Rising Stars
- Ten Bernkopf Goodman LLP attorneys recognized as 2017 Massachusetts Super Lawyers and Rising Stars
- Eleven Bernkopf Goodman LLP attorneys recognized as 2016 Massachusetts Super Lawyers and Rising Stars