

CASE STUDIES

Summary Judgment for Mortgage Provider

Real Property Litigation / 2017

Type of Case: Real Property Litigation

Court: United States District Court for the Western District of North Carolina

Amount in dispute: Approximately \$3.0 million

Result: Summary judgment for client

Baker Donelson prevailed on summary judgment in a negligence suit brought against a lender, servicer, and real estate company in federal court in North Carolina in which it was alleged that the Defendants wrongfully advertised property as a foreclosure, and that the wrongful advertisements caused the Plaintiff's property to lose value. The Plaintiff's property was adjacent to the vacant land that had been foreclosed. The Plaintiff sought more than \$3 million in damages including claims for treble damages under North Carolina's Unfair and Deceptive Trade Practices Act.

Exposure was high since the Plaintiff's property was valued at more than \$1 million. However, the Plaintiff failed to conduct discovery on the non-party website that ran the ad, and the ad and its contents were never introduced. Similarly, the Plaintiff presented no evidence linking any conduct of the Defendants to the alleged diminution of value to the property, nor did the Plaintiff offer any evidence other than the Plaintiff's lay testimony regarding the alleged drop in value of the property. Summary judgment was affirmed by the Fourth Circuit Court of Appeals.