

Representation of National Bank in Mortgage Foreclosure Dispute in Louisiana Fifth Circuit Court of Appeal

November 30, 2004

Successfully represented a national bank on an issue of first impression before the Louisiana Fifth Circuit Court of Appeal. The bank foreclosed on a mortgage through executory process. The property owner was served with the notice of seizure and sale. Several days before the scheduled sale, the property owner filed for bankruptcy protection. However, after the first sale date had passed, the property owner voluntarily dismissed her bankruptcy petition. The Bank subsequently sold the property at sheriff's sale and the second notice of seizure and sale was not sent to the property owner. The property owner then moved to nullify the sale, contending that she should have been notified of the second sale date.

We convinced both the trial court and the appellate court that under Menonite, the notice of seizure and sale indicating that the property would be sold at the sheriff's sale or any day thereafter was constitutionally sufficient. The Fifth Circuit agreed.