



## Samit G. Patel

### Partner

SPatel@cullenllp.com

New York City Office

Phone: 212.510.2286

Fax: 212.742.1219

Samit G. Patel is a partner in the firm's Banking and Financial Services department. He represents banking and corporate clients in a broad range of state and federal litigation matters and he regularly advises officers and executives on complex pre-litigation issues and transactional matters. He has litigated claims involving mortgage and mechanic's lien foreclosures, commercial and business loan defaults, state and federal lender liability laws, mortgage priority and real property zoning disputes, title and property (including loss payee) insurance claims, breach of contract, fraud, conversion, forfeiture, and unfair and deceptive business practices. Samit has also advised and represented banking clients on disputes and claims related to check and wire fraud, and unauthorized ACH transfers, including under UCC Articles 3, 4 and 4A and the NACHA Operating Rules and Guidelines. He has represented lenders in a variety of complex loan workouts and in sales of performing and non-performing loans.

Samit also has extensive appellate experience and has successfully litigated numerous high-profile appeals involving mortgage foreclosures. He has also represented lenders in post-foreclosure litigation, state and federal governmental investigations and inquiries, loan participation disputes and subpoena compliance matters. Samit has had prior *pro hac vice* admissions in the U.S. District Court for the District of Massachusetts and for the Western District of Wisconsin.

#### **Areas of Concentration:**

- Lender liability
- Wrongful foreclosure litigation
- Loan enforcement and workouts
- Subpoena compliance
- Real estate litigation
- Technical defaults on commercial loans

- Civil Rights and Internal Investigations Unit
- Construction
- Banking and Financial Services
- Litigation

## Practices

- Banking and Financial Services
- Banking and Financial Services Litigation
- Commercial Litigation
- Commercial Foreclosures/ Total Debt Restructuring
- Loan Workout

## Industries

- Financial Institutions
- Insurance
- Real Estate
- Business Reorganization and Financial Restructuring

## Bar Admissions

- New York
- New Jersey
- U.S. Supreme Court
- U.S. Court of Appeals for the Second Circuit
- U.S. Court of Appeals for the Third Circuit
- U.S. Bankruptcy Court for the Eastern District of New York
- U.S. Bankruptcy Court for the Northern District of New York
- U.S. Bankruptcy Court for the Southern District of New York
- U.S. Bankruptcy Court for the Western District of New York
- U.S. District Court for the District of New Jersey
- U.S. District Court for the Eastern District of New York
- U.S. District Court for the Northern District of New York
- U.S. District Court for the Southern District of New York
- U.S. District Court for the Western District of New York

## Education

- J.D., Boston University School of Law, 2003
- B.A., Cornell University, 1999

## Representative Experience

### Lender Liability Litigation

- Successfully handled proceedings before the U.S. Supreme Court in an action against a bank alleging violation of the Equal Credit Opportunity Act (ECOA) and tortious interference with prospective business.
- Obtained dismissal of fraud and civil RICO claims against loan servicer in U.S. District Court for the Eastern District of New York.
- Obtained dismissal of multiple RESPA claims alleging improper loss mitigation procedures under 12 C.F.R. § 1024.41, including dual tracking and failure to respond to facially complete loss mitigation application, Requests for Information (RFIs) and Notices of Error (NOEs) in U.S. District Court for the Eastern District of New York.
- Obtained dismissal of breach of contract and breach of the covenant of good faith and fair dealing claims against bank alleging refusal to disburse funds from multiple building loans for the completion of a construction project, in the Commercial Division of the New York State Supreme Court in New York County.
- Obtained dismissal of claims against bank alleging breach of fiduciary duty, unjust enrichment and fraudulent misrepresentation in federal court in New York.
- Obtained dismissals of multiple wrongful foreclosure actions in federal courts in New York and New Jersey.

### Retail and Deposit Litigation

- Obtained dismissal of a wide range of claims brought by bank's depositor based on alleged unauthorized ACH transfers in U.S. District Court for the Eastern District of New York.
- Obtained dismissal of bank depositor's claims arising from check and wire fraud and obtained summary judgment on bank's counterclaims against depositor under UCC Articles 3 and 4 in New York State Supreme Court.
- Obtained dismissal of a Check 21 Act claim against a bank in an action seeking recovery based on an assignment of a dishonored check in the Superior Court of New Jersey.
- Obtained dismissal of depositor's complaint against bank arising from alleged unauthorized checks in New York State Supreme Court.

### Real Property Litigation

- Successfully intervened on behalf of leasehold mortgage lender in air rights dispute in Manhattan and obtained permanent injunction enjoining adversary's large-scale development on adjoining parcel of land in New York State Supreme Court.
- Successfully resolved federal tax lien enforcement action brought by U.S. Department of Justice in U.S. District Court for the Eastern District of New York.
- Successfully defended interstate natural gas pipeline company in foreclosure action seeking to extinguish recorded deed, easements, rights of way, licenses and other conveyances.
- Obtained dismissal of a public adjuster's claims against mortgagee for equitable lien, unjust enrichment, breach of fiduciary duty and conversion in the Superior Court of New Jersey.

### Commercial Litigation and Dispute Resolution

- Obtained an Order quashing multiple subpoenas at a pre-motion conference without the necessity of filing a formal motion in the U.S. Bankruptcy Court for the Southern District of New York.
- Obtained dismissal of loan purchaser's claims for breach of contract, fraudulent inducement, fraud, negligent misrepresentation and unjust enrichment in New York State Supreme Court.
- Successfully litigated appeal involving the Uniform Commercial Code and the issue of standing to commence a foreclosure action in the Supreme Court of the State of New York, Appellate Division, Second Department.
- Prepared lending officer in connection with a trial subpoena issued by loan purchaser in New York State Supreme Court.
- Coordinated a large-scale document production in response to a subpoena issued by the U.S. Bankruptcy Court for the Northern District of New York.
- Successfully handled mediation resulting in settlement in favor of lender on insurance policy despite allegations of arson against borrower.
- Successfully litigated numerous contested actions for breach of line of credit agreements and contested mortgage foreclosures, including at the appellate level.

### **Transactional and Advisory Services**

- Negotiated and closed numerous complex commercial loan purchase and sale, modification and workout agreements.
- Advised commercial lenders on technical loan defaults concerning financial reporting requirements, debt service coverage ratio (DSCR) requirements, prohibited transfers, and municipal violations and litigation affecting mortgaged commercial real estate.
- Advised a bank on a restructure of its subsidiaries and affiliates to maximize continuity of title insurance coverage from mortgage origination through the taking of title to foreclosed properties.

## **Professional and Community Activities**

- Member, New York State Bar Association

## **Speaking Engagements**

- "Overview of Foreclosure Abuse Prevention Act with Updates" (The New York Bankers Association's The Business of Banking Conference, September 2023)

## **Publications**

- "Commercial Real Estate Loan Defaults and Remedies (NJ)," (co-author), Lexis Practical Guidance (2021-2023).