

Attorney Anthony R. Filosa Wins Landmark Victory in New York Court of Appeals

Ending mortgage-securitization practices, inconsistent judicial interpretations of acceleration, de-acceleration and statutes of limitations in foreclosures.

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Anthony R. Filosa

Filosa of Rosenberg Fortuna & Laitman LLP secured a major statewide victory yesterday (November 25, 2025) as the New York Court of Appeals—the State's highest court—issued a definitive opinion holding that the Foreclosure Abuse Prevention Act (FAPA) (L. 2022, ch. 821) applies retroactively and that the retroactive application of CPLR 213(4)(b) is fully constitutional under New York's guarantees of substantive and procedural due process.

In *Article 13 LLC v. Ponce De Leon Federal Bank*, the Court of Appeals unanimously upheld FAPA's retroactivity and rejected constitutional challenges raised by a major

financial institution seeking to avoid the statute's estoppel protections. The Court held that: “FAPA shall take effect immediately and shall apply to all [foreclosure] actions in which a final judgment of foreclosure and sale has not been enforced.”

The Court also expressly concluded that retroactive application of Section 7 of FAPA (codified at CPLR 213[4][b]) does not violate substantive or procedural due process under Article I, § 6 of the New York Constitution.

Filosa states: “I am gratified that New York's highest court affirmed what the Legislature made unmistakably clear: FAPA restores fairness, stops abusive foreclosure tactics, and protects homeowners and the court system from endless relitigation. Today's decision cements coherence, uniformity, and constitutional certainty into New York foreclosure law.”

A Statewide Precedent for Homeowners and Title Stability

The decision ends years of uncertainty following large-scale mortgage-securitization practices and inconsistent judicial interpretations of acceleration, de-acceleration, and statutes of limitations in foreclosure actions.

The Court embraced the Legislature's determination that FAPA was urgently needed to curb litigation abuses, protect homeowners, and restore fairness and predictability to New York's foreclosure process.

The Court agreed that FAPA's retroactivity was both specifically intended and rationally designed to stop lenders from reviving decades-old foreclosures through technical arguments and serial litigation—practices the Legislature identified as abusive.

Chief Judge Wilson's opinion emphasized: "It is rational for FAPA to apply retroactively to shield as many borrowers as possible from those practices."

Filosa's Advocacy Recognized at the Highest Levels

Anthony R. Filosa, counsel for the prevailing Respondent Article 13 LLC, briefed and argued the case before the New York Court of Appeals. His arguments defending FAPA's constitutionality and retroactive reach were embraced by the Court.

The Court's opinion repeatedly tracks positions advanced in Filosa's briefing—particularly the Legislature's urgent intent to correct Engel and other incorrect applications of New York law, the absence of any vested rights allowing lenders to evade the statute of limitations, and the compelling public interest in finality, title stability, and curbing foreclosure-litigation gamesmanship.

A Victory with Statewide Impact

This decision settles—authoritatively and conclusively—that: FAPA applies retroactively to all foreclosure actions where a judgment of foreclosure and sale has not yet been enforced; and the statute's retroactive estoppel provisions are constitutional under New York's substantive and procedural due process doctrines.

The ruling will immediately affect thousands of foreclosure cases statewide, bringing long-overdue finality to titles and protecting homeowners from revived lawsuits and serial foreclosures.

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About Attorney Anthony R. Filosa:

Partner Anthony R. Filosa of Rosenberg Fortuna & Laitman LLP represents clients in complex foreclosure, real-estate, commercial and appellate litigation throughout New York and the federal courts. He regularly appears before the Appellate Division, the New York Court of Appeals, and the U.S. Court of Appeals for the Second Circuit.

Anthony Filosa

Rosenberg Fortuna & Latiman LLP

+1 516-228-6666

anthony@rosenbergfortuna.com

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