

The Firm Obtains Appellate Victory in Dismissal of “RMBS Litigation Revival” Action

06.22.22



On June 16, 2022, in a 6 to 1 decision, Simpson Thacher secured the dismissal of a “revival” action in the New York State Court of Appeals on behalf of DB Structured Products, Inc. (“DBSP”), reaffirming a decision by the New York Supreme Court in March of 2016 that dismissed as time-barred a complaint brought by HSBC, as Trustee, in connection with allegations of breaches of representations and warranties with respect to several hundred millions of dollars in mortgage loans. HSBC appealed the Supreme Court’s decision to the Appellate Division, First Department, which affirmed the dismissal in November 2019, and the Court of Appeals granted leave to appeal. The Court of Appeals decision noted that HSBC, as Trustee, could not avail itself of CPLR 205(a) because the original action was initially filed by different plaintiffs, in this case certificateholders who lacked standing to do so, and because the complaint subsequently filed by the RMBS trustee in the prior action was untimely. In its decision, the Court reiterated its long held position that “the savings statute [CPLR 205(a)] ‘applies only where the second action is brought by the same plaintiff’ or an estate representative.” The Court ultimately reaffirmed that “HSBC is not ‘the plaintiff’ in the prior action and the benefit of CPLR 205(a) is unavailable to save its untimely complaint.”

The team received a “Shout Out” in *The American Lawyer*’s [“Litigator of the Week”](#) coverage.

The Simpson Thacher team included William T. Russell, Isaac Rethy, Anthony Piccirillo, Shanice Hinckson and Andrew Marrero.

Team and Contacts

William Russell, Jr.

Partner

wrussell@stblaw.com

+1-212-455-3979

Andrew Marrero

Associate

andrew.marrero@stblaw.com

+1-212-455-2450

Anthony Piccirillo

Counsel

anthony.piccirillo@stblaw.com

+1-212-455-7189

