



A Limited Liability Partnership formed in the State of New York

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FOR IMMEDIATE RELEASE

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Friedman Vartolo LLP Files U.S. Supreme Court Amicus Brief in Landmark Challenge to Retroactivity Clause of New York’s Foreclosure Abuse Prevention Act

WASHINGTON, D.C. — In a pivotal development in the ongoing legal battle over New York’s Foreclosure Abuse Prevention Act (“FAPA”), Friedman Vartolo LLP has filed an *amicus curiae* brief in the Supreme Court of the United States on behalf of five of the nation’s leading mortgage and banking trade associations. The brief, submitted on July 1, 2025, supports U.S. Bank National Association’s petition for writ of certiorari in *U.S. Bank v. Fox* and urges the Court to address the constitutionality of FAPA’s retroactive application.

The amici include the New York Mortgage Bankers Association (NYMBA), American Institute of Servicing and Legal Executives (AISLE), American Bankers Association (ABA), Mortgage Bankers Association (MBA), and New York Bankers Association (NYBA) (collectively, the “Joint Amici”). Together, they represent a broad cross-section of the national and state financial institutions directly impacted by the sweeping and retroactive reach of FAPA.

At the heart of the challenge is FAPA §10’s retroactivity provision, which applies the statute’s newly enacted foreclosure restrictions to cases that had already been litigated or dismissed under prior law. The amicus brief argues that this indefinite retroactive application—especially as it affects CPLR §205-a, New York’s foreclosure-specific savings statute—violates the *Due Process* and *Takings* Clauses of the U.S. Constitution.

"The indefinite retroactive application of FAPA introduces significant uncertainty into New York’s mortgage foreclosure process." said Michael DeRosa, Partner at Friedman Vartolo and co-author of the brief. "While this is primarily a state issue, the potential ripple effects could impact broader lending practices and investor confidence on a national scale."

The brief urges the Supreme Court to grant certiorari and hear U.S. Bank’s constitutional challenge, emphasizing that FAPA’s retroactivity has sown confusion and unpredictability throughout New York’s judicial foreclosure system—consequences that ripple far beyond state borders and implicate core constitutional protections.

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The amicus submission was authored by Friedman Vartolo LLP attorneys Michael DeRosa, Esq., Zachary Gold, Esq., and senior appellate counsel Stephen Vargas, Esq., all of whom bring deep expertise in appellate litigation, mortgage finance, and constitutional law.

“This is a case that sits at the intersection of state legislative reform, federal constitutional safeguards, and the national housing finance infrastructure,” said Zachary Gold. “We believe the Court’s intervention is warranted and necessary to preserve due process, protect property rights, and stabilize the lending environment.”

Friedman Vartolo LLP is proud to advocate on behalf of the Joint Amici and remains committed to advancing legal clarity and economic stability in the housing and mortgage finance sectors.

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