

MVP: McKool Smith's Courtney Statfeld

By Sydney Price

Law360 (November 18, 2024, 3:11 PM EST) -- Courtney Statfeld of McKool Smith's commercial litigation practice led residential mortgage-backed securities investors in winning recent landmark cases entitling them to millions of dollars in compensation, earning her a spot as one of the 2024 Law360 Complex Financial Instruments MVPs.

Her biggest accomplishment:

Statfeld said she is proud of recent back-to-back "twin victories" for her clients in California and New York courts. Both judgments ratified the inclusion of deferred principal value in determining the termination price for residential mortgage-backed securities that had been securitized several years ago.

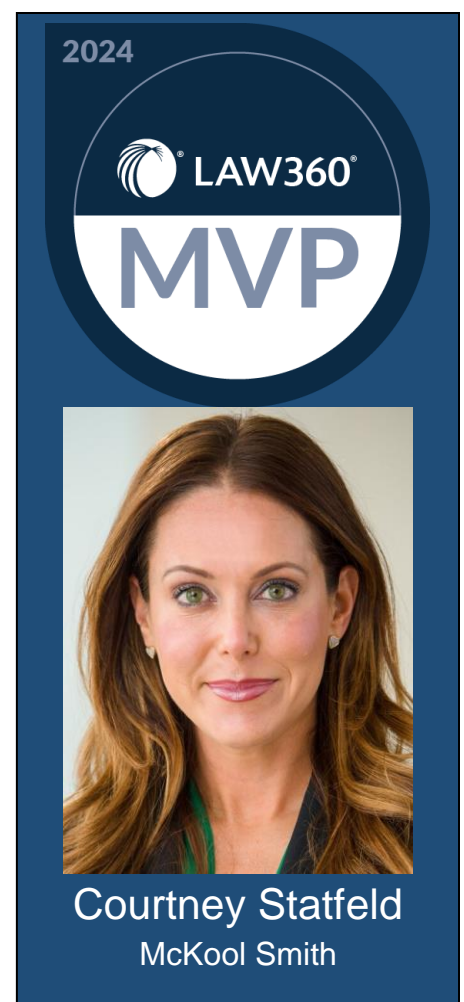
"There are certain actors who purchased these rights, and, when they terminated the trusts, did not pay the full amount," Statfeld said. "We're talking about potentially billions of dollars in what are forbearance payments that are owed on loans as a result of modifications that were done during the [2008 subprime mortgage] crisis."

In August 2023, a California state court issued a summary judgment ruling that the price paid to investors should take into account the \$75 million of deferred principal payments owed by mortgage holders who utilized home loan modification programs during the subprime mortgage crisis.

In a congruent case in October 2023, Statfeld and her team helped secure another win for residential mortgage-backed securities investors. The New York Civil Court ruled that the trust servicers' termination price should be recalculated and should include deferred principal balances.

Statfeld said these cases introduce broad implications for the industry given the timing and the status of these forbearance payments

"The question in these cases is, 'Who should get the money — borrowers who invested in the payments and took on the risk or rights holders who want to profit?'" she said.



Statfeld said refined time management skills have helped her manage her case load this year.

"Balancing cases to garner the results we had was probably both my biggest challenge and my biggest success," Statfeld said.

Why she is a complex financial instruments attorney:

Statfeld said she originally had no interest in financial litigation and intended to go into biopharmaceutical law. After being introduced to the complex commercial litigation world a couple years into her career, however, she quickly jumped to take on the challenges the work presented.

Statfeld said she acknowledges that her work may seem dull and tedious to those outside the industry, but she truly enjoys what she does.

Even though she felt overwhelmed by the workload in her early days, working on hundreds of cases has acquainted her with the field, she said.

"It's a real collaborative relationship with our clients, as well, so that makes it very fun," Statfeld said. "But the work is actually not boring. Shockingly, it's really not. And I kind of feel like a detective at the end of the day."

Other notable cases she's worked on:

In December 2023, Statfeld and her colleagues helped junior bondholders secure a win in a New York state court. The court determined rights to over \$400 million in principal recoveries related to the modification of mortgage loans underlying 36 residential mortgage-backed securities trusts.

The trusts at issue were also related to the subprime mortgage crisis. In 2009, as a response to the crisis, the federal government introduced the Home Affordable Modification Program, which deferred billions of dollars of mortgage principal payments until the end of the mortgage term, lowering the borrowers' required monthly payments. The deferred amounts were written off as a loss. Homeowners can sell or refinance their homes, resulting in the repayment of the deferred principal amounts.

Senior bondholders — including PIMCO, DW Partners LP and Deer Park Capital — opposed a 2020 policy change prohibiting senior bonds in the trusts to be written up from subsequently recovered principal.

The court determined in its ruling that deferred mortgage principal stemming from the HAMP modifications was properly treated as a "subsequent recovery" and that only subordinate certificates may be written up upon receipt of such recovery.

Her advice to younger attorneys:

Statfeld said that young attorneys should not be intimidated by the complexities of the field, and that wisdom comes with time.

"It takes a little bit of reading and a little bit of talking through it, but don't be scared," Statfeld said.

--As told to Sydney Price. Editing by Melissa Treolo.

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