

Alerts & Publications

A Classic Case of Regulatory Overreach

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KEY CONTACTS

Tancred Schiavoni

New York

D: +1-212-326-2267

Gary Svirsky

New York

D: +1-212-326-4305

Janine Panchok-Berry

New York

D: +1-212-326-2246

In an op-ed for *Crain's New York Business*, O'Melveny partners Tancred Schiavoni and Gary Svirsky and associate Janine Panchok-Berry discuss a recently annulled New York state regulation that barred certain marketing practices typical in service industries, which, "[r]ather than helping consumers, would have undermined the market for a product essential to getting a mortgage"—title insurance.

"This is an example of how unintended consequences often result from well-intentioned attempts at social engineering," the authors write.

Land title insurers sued the superintendent, arguing that she exceeded her statutory authority by prohibiting marketing activities that were standard tools for networking and building relationships. In a detailed decision this summer, a New York judge annulled the regulation in its entirety.

With the superintendent announcing her intention to appeal, an appellate court will now take up the issue, which may eventually reach the state's highest court.

"Whether or not it prevails in court, the Cuomo administration may have already achieved its desired goal of showing its base that it is a consumer-rights leader," the authors conclude. "But proposing regulations that portray New York as hostile to business and would undermine markets that consumers depend on is the wrong way to do that."

Read the full op-ed [here](#).