

# State of New York

## Court of Appeals

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No. 253 SSM 29  
DLJ Mortgage Capital, Inc.,  
Appellant,

v.

Thomas Kontogiannis, et al.,  
Defendants,  
Chicago Title Insurance Company,  
Inc., et al.,  
Respondents.

### MEMORANDUM

This memorandum is uncorrected and subject to revision before publication in the New York Reports.

Submitted by John P. Amato, for appellant.

Submitted by Arthur G. Jakoby, for respondent Chicago Title Insurance Company, Inc.

Submitted by Michael J. Schwarz, for respondent United General Title Insurance Co., Inc.

#### MEMORANDUM:

The order of the Appellate Division should be affirmed, with costs, and the certified question answered in the affirmative. As a matter of law, DLJ, as a third-party purchaser of mortgages on the secondary mortgage market, cannot rely on

pre-closing documents to establish that a proper conveyance and recording of the underlying property occurred or that title insurance for the property was issued (see Citibank v Chicago Tit. Ins. Co., 214 AD2d 212, 219 [1st Dept 1995], lv dismissed 87 NY2d 896 [1995])). The Appellate Division correctly determined that any such reliance was unjustifiable.

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On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and certified question answered in the affirmative, in a memorandum. Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

Decided November 14, 2013