

# **OUT OF STATE AFFIDAVITS**

Recently, the New York Appellate Division held an affidavit [supporting](#) an Oklahoma bank's motion to foreclose a New York mortgage conformed to New York statutory requirements. An affidavit acknowledged out of state must be accompanied by a certificate of conformity under N.Y. Civil Practice Law and Rules §2309(c), providing that an oath taken outside New York is treated as if taken in New York if accompanied by a certificate required to entitle a deed to be recorded in New York. Oaths acknowledged outside New York by non-New York notaries require a certificate of conformity in substantially the form set out in Real Property Law §309-b. Here, an affidavit of the holder's senior foreclosure litigation specialist established the mortgage, the default and assignment of the mortgage. It was accompanied by a "Uniform, All Purpose Certificate of Acknowledgment" which substantially conformed to Real Property Law §309-b. The borrowers did not oppose the motion to foreclose; the holder was therefore entitled to judgment. *Midfirst Bank v. Agho*, 991 N.Y.S.2d 623 (Aug. 13, 2014).