

Partner Catherine Brennan quoted in Debtwire Madden case article

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On March 22, *Debtwire* reported that the long-standing *Midland Funding, LLC Interest Rate Litigation*, 11-cv-8149, in U.S. District Court for the Southern District of New York, known as the "*Madden*" case, is likely to settle. The parties in the case filed a joint motion to settle earlier in March, which provides about \$9.8 million in cash and debt relief to tens of thousands of impacted borrowers, according to court filings.

According to Hudson Cook Partner Catherine Brennan, the motion would end the *Madden* case, but does not resolve the issue of state usury laws that the litigation raised. "Marketplace lenders and fintech companies...are left to wrestle with the *Madden* rule," she said. Catherine noted that both banks and lenders have made a number of modifications to their loan agreements in order to comply with the *Madden* decision, in which the U.S. Court of Appeals for the Second Circuit overturned existing legal doctrine that held that the interest rate on a loan is valid after the sale of the loan to a third party in a different state, as reported. The ruling forces third parties to stay within the interest rate caps of the borrower's state, but only applies in the Second Circuit states of Connecticut, New York and Vermont. According to the *Debtwire* story, it has, however, created significant regulatory uncertainty among online lenders since 2015, as many of these platforms partner with FDIC-insured, state- chartered banks to originate the loans.

Catherine primarily assists investors in the consumer financial services and alternative business funding sectors. She engages in credit due diligence on behalf of investors in fintech firms, bank partnership platforms, small business lenders, merchant cash advance companies, consumer finance companies, title loan companies and payday lenders.

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