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Did Someone Say Estoppel? Courts Show Greater Acceptance of Applying Equitable Principles to Enforce Oral Forbearance Agreements

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With the national economy remaining on the edge of recession, unemployment stubbornly staying above 9%, and median home prices well below their 2007 peak, California courts have seen a significant uptick in challenges to residential foreclosure sales in recent years. In many of these cases, the plaintiff homeowners believed that they had entered into enforceable agreements with their lender, either in writing or orally, for forbearance or postponement of foreclosure and, after their homes were sold in apparent contravention of those agreements, filed suit to recover under claims of breach of contract and/or promissory estoppel.

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