

## Consumer Financial Services

# Understanding problems the Consumer Financial Services Industry faces



### When you need to

- manage portfolio litigation in various venues
- develop a strategic litigation vision for consumer financial disputes
- prepare a focused, cost-sensitive plan for case management
- have a team cognizant of the litigation challenges present in today's consumer financial services marketplace

our group can provide the right approach for you.

### We help manage your litigation with a consistent focus on quality

With more than 30 years of experience in the financial services sector, our lawyers defend clients across the country, calling upon a wealth of knowledge from battle-tested practitioners in a wide range of consumer financial claims:

- Loan origination claims
- Servicing claims
- Debt collection claims, including those arising under the FDCPA and TCPA
- Counterclaims in foreclosures
- Lender-placed insurance claims
- Alleged bankruptcy stay violations
- Attorney General investigations and parens patriae actions
- Arbitration, jury trials, and other mode of trial issues
- Appraisal rights issues
- Attorney-preference claims
- Robo-signing
- Creditor rights' issues
- Credit-reporting issues

### Related Practice Areas

[Alternative Lending & Other Non-Bank Financial Services](#)

[Appellate Practice & Legal Strategies](#)

[Commercial & Syndicated Lending](#)

[Cybersecurity & Data Privacy](#)

[E-Discovery - Encompass](#)

[E-Discovery & Information Governance](#)

[Emerging Growth & Venture Capital](#)

[Financial Institutions Corporate & Regulatory](#)

[Financial Services Advisory](#)

[FinTech](#)

[Multi-Claim & Class Action Litigation](#)

[Payments & Digital Commerce](#)

[Real Estate Capital Markets](#)

[Securities Offerings](#)

[Tax Lien Resolution & Litigation](#)

### Related Industries

[Banking & Financial Services](#)

[Real Estate](#)

- Affiliated business challenges
- Post-workout cancellation of debt and tax issues
- Class certification issues and class action defense
- State Consumer Protection Code claims
- Jurisdictional and procedural questions
- Alleged unauthorized practice of law (UPL)
- Intersection of law and technology
- Extraordinary writs
- State regulatory examinations and enforcement
- DOJ and US Attorney investigation responses
- CFPB CID and complaint responses
- FDIC, OCC, OTS, and Federal Reserve inquiries
- TCPA, FCRA, SAFE, SCRA, FDCPA, RESPA, TILA, UDAP/UDAAP/UTPA, UCC

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### **Our clients are leaders, large and small, in the financial industry**

- National banks
- Loan servicing companies
- Non-bank mortgage lenders
- Online lenders
- Mobile home lenders
- Regional banks
- Credit card companies
- Fintech
- Auto finance companies
- Student loan lenders and servicers
- Payday and title lenders
- Mortgage brokers
- Mortgage loan originators
- Lead aggregators
- Debt collectors
- Online legal document preparation providers
- Title companies
- Settlement service providers

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### **Our consumer financial services lawyers take a centralized case management approach**

Even small cases can present enterprise- or industry- wide risks. The group's leadership provides an overarching management role for clients to face the challenges

that often arise in cases concerning fundamental business practices, and in matters where industry-wide concerns are implicated. Our keen focus on the financial industry's ever-changing environment enables the group to collaboratively serve you in a direct fashion, while managing an effective response to the litigation or investigative matter. We provide practical, but tactical, advice for an industry facing unprecedented attention.

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### **Knowledge matters, and our lawyers see the field**

- **Issue spotting** – taking a deep look at the case early to marshal the facts and identify the issues of importance
- **Litigation management** – providing strategic litigation plans to maximize efficiency and effectiveness
- **Perspective** – handling a variety of matters for over 30 years enables both big picture and micro-level consideration of developing issues
- **A game plan** – endeavoring to develop strategies that focus on the end game
- **Problem solvers** – addressing tough questions with creative thinking each time
- **Breadth** – 50 + group members across 16 offices admitted to practice in AL, CA, CO, CT, DC, FL, GA, KY, MA, MD, ME, MI, NC, NH, NY, PA, RI, SC, TN, VA, and WA
- **Depth and experience** – group members include former prosecutors, bankruptcy trustees, and SEC regulator

## **Why Nelson Mullins?**

- Management of the repeat issues that give rise to our clients' legal difficulties in everyday business
- Concentration on identifying systemic issues
- Client-oriented collaboration: we team with our clients to work toward the desired outcome
- A deep bench to manage nationwide litigation and class actions with appropriate support to develop case strategies

## **Experience**

Following is a selected sampling of matters and is provided for informational purposes only. Past success does not indicate the likelihood of success in any future matter.

### **Select Class Action and Complex Financial Services Litigation Defense**

- Defended a national bank in putative CAFA class action involving allegations of denial of appraisal rights; dismissed on motion for lack of standing on grounds that lender had not sought to foreclose; dismissal affirmed on appeal
- Represented a major financial institution in an action involving claims arising from robo-signing; action involved 25 other lenders, servicers, and default service providers in addition to our client

- Defended an online mortgage lender and title company in three-week trial involving unauthorized practice of law allegations

### **Servicing and Signing**

- Supported a national bank in its efforts in South Carolina to respond to allegations of improper signing of documents for foreclosures and other litigation; services included investigation of practices, legal analysis, and defense strategy
- Defended, on appeal, a national bank concerning mode of trial rights arising out of the lender's attempt to satisfy a mortgage debt secured by real property
- Represented national lenders and servicers in two related qui tam actions alleging that lenders robo-signed numerous loan transaction documents in an effort to defraud consumers and misrepresent the status of debt assignments
- Represented mortgage servicers for alleged errors in property preservation and "trash outs" of wrong properties
- Defended lenders for alleged misapplication of insurance policy proceeds following substantial fires at properties

### **Collection Practices**

- Defended a mortgage loan servicer against claims alleging that FDCPA violations caused the death of borrower-husband and caused emotional distress and other damages to a borrower-wife; issues of first impression; dismissal achieved on numerous claims and case resolved in court-approved settlement
- Represented mortgage servicer in a putative class action involving allegations that the servicer engaged in abusive telephone collection practices; secured dismissal on grounds debtor failed to state an actionable claim
- Prevailed before the North Carolina Supreme Court in a matter of first impression related to whether lenders and servicers can voluntarily withdraw foreclosure proceedings without risking future foreclosures being barred by res judicata or collateral estoppel.
- Represented a national debt collector in multiple matters alleging TCPA claims
- Represented a medical debt collector in nationwide litigation, including in defense of FDCPA class actions

### **Uniform Commercial Code and Contract Actions**

- Represented a national lender in a series of cases addressing notices related to disposition of collateral required under various states' versions of the UCC; early dismissal of a putative class actions in the Eastern District of TN, followed by dismissal in the District of SC of a second suit by the same borrower; subsequent suits in the series were resolved
- Defended a credit card issuer against a UCC conversion claim related to automated payment processing technologies and third-party employee embezzlement
- Represented a bank syndicate in a \$90 million collection action against a real estate developer on a matter involving a guarantee issue

### **Bankruptcy Litigation**

- Defended a national mortgage lender against a class action and over 30 adversary proceedings regarding allegations related to simple interest loan calculations
- Defended and obtained dismissal of adversary complaints raising a variety of claims including preclusive effect of a plan confirmation on pre-confirmation conduct
- Defended actions to avoid liens brought by a bankruptcy Trustee related to errors in proof claim and failure to comply with bankruptcy procedural rules

