

Consumer Finance Litigation & Compliance

Burr & Forman's financial services team defends and advises banks, commercial and consumer lenders, credit card issuers, mortgage originators, mortgage servicers, finance companies, and debt collection/debt buying professionals, in class, mass, and individual actions throughout the country.

Our attorneys advise clients on all the latest state and federal court opinions addressing the fields of mortgage servicing, credit cards, auto finance, retail consumer loans, debt collection, and other consumer finance industries, with a spotlight on federal consumer protection statutes. This includes the Truth-in-Lending Act (TILA), Real Estate Settlement Procedures Act (RESPA), Fair Credit Reporting Act (FCRA), Fair Debt Collection Practices Act (FDCPA), the Telephone Consumer Protection Act (TCPA), and provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

We also regularly defend against suits brought by various governmental entities such as state attorneys general and Consumer Financial Protection Bureau (CFPB) investigations.

Appellate Law

Our financial services team handles a wide variety of appellate matters in both state and federal courts, even if another law firm may have been involved in the original trial court decision. Our team has an excellent track record in achieving favorable decisions from appellate courts and setting precedent for our industry. Burr & Forman is at the forefront of mortgage litigation in Florida, where appeals from lower court decisions are prevalent.

Auto Finance

Our financial services litigators handle auto finance claims for national and international financial institutions. We handle defense of state law claims involving wrongful repossession, intentional

PROFESSIONALS

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Taylor Barr Johnson
Richard C. Keller
Kermit L. Kendrick
John M. Lassiter
Ryli Wallace Leader
Alan D. Leeth
Brian J. Levy
William "J." Long, IV
Mignon Lunsford
Allyson R. Mancuso
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Ellen T. Mathews

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tort, and contract claims to federal claims alleging violations of the Telephone Consumer Protection Act (TCPA), Fair Credit Reporting Act (FCRA), and Truth in Lending Act (TILA) as well as numerous other alleged violations of state and federal law. Additionally, our attorneys are experienced in enforcing arbitration agreements contained in retail sales installment contracts.

Banking & Credit Card Issuers

Burr attorneys handle litigation matters for those in the financial industry including class actions, individual matters, and governmental and Attorney General investigations involving:

- Actions to recover from principals or guarantors
- Alleged lender & servicer misconduct
- Bankruptcy adversary proceedings
- Bankruptcy procedures & practices
- Breach of contract
- Lending disputes
- Unauthorized asset transfers

Our experience includes litigation involving:

- Depository Institutions Deregulation & Monetary Control Act (DIDMCA)
- E-sign & Uniform Electronic Transactions Act (UETA)
- Electronic Funds & Transfer Act (EFTA)
- Fair Credit Billing Act (FCBA)
- Fair Credit Reporting Act (FCRA)
- Fair Debt Collection Practices Act (FDCPA)
- Federal preemption of state law causes of action
- Gramm-Leach-Bliley Act (GLBA)
- Home Owners' Loan Act (HOLA)
- Home Ownership and Equity Protection Act (HOEPA)
- Racketeer Influenced & Corrupt Organizations Act (RICO)
- Regulation Z
- State predatory lending laws, privacy laws, & Unfair & Deceptive Acts and Practices (UDAP)
- Telephone Consumer Protection Act (TCPA)

Christopher D. Meyer
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Matthew T. Mitchell
Samuel A. Morris
Robert A. Neilson
Denzel E. Okinedo
Thomas K. Potter, III
Katherine R. "Kiki" Rogers
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Joshua H. Threadcraft
Rik S. Tozzi
Mark H. Tyson
Kelly E. Waits
Michael Waskiewicz
Kristen Peters Watson
Ricardo A. Woods
Jennifer E. Ziemann

SCOPE OF SERVICES

Financial Institution Regulatory

RELATED AREAS

Bankruptcy Litigation
Commercial & Corporate Finance
Mediators & Arbitrators

RELATED INDUSTRIES

Financial Services

Consumer Finance Litigation & Compliance

- Truth-in-Lending Act (TILA)
- Truth-in-Savings Act (TISA)

Collection Professional & Debt Buyer Representation

Our attorneys represent retail collection professionals and attorneys, as well as debt buyers, in litigation throughout the country. This includes representation in both individual and class actions involving alleged violations of federal and state statutes, as well as state common law claims.

Our attorneys work with clients in the following areas:

- **Telephone Consumer Protection Act (TCPA)**
Our attorneys defend financial institutions against nationwide TCPA class actions. Additionally, we stay on top of case law developments and communicate those changes and implications to clients and the business community through our TCPA blog ([blogs/telephone-consumer-protection-act/](#)) and other newsletters and client updates.
- **Fair Debt Collection Practices Act (FDCPA)**
Our attorneys work to develop case law and regularly present on the FDCPA both internationally and throughout the United States. Our attorneys are experienced in dealing with both FDCPA class actions and individual lawsuits and have had substantial success attacking the merits of plaintiffs' claims at the outset of litigation.
- **Fair Credit Reporting Act (FCRA)**
When lawsuits against collection professionals and debt buyers include FCRA claims, our attorneys regularly defeat these claims in the initial stages of litigation. Additionally, our team is involved in the development of positive case law defining and expanding the reach of the FCRA in preempting state law claims related to credit reporting.
- **State Collection Laws**
Our attorneys defend clients against alleged violations of state collection laws, including the Florida Consumer Collection Practices Act (FCCPA).
- **State Common Law Claims**
Our attorneys defend collection activity and credit reporting state common law claims.
- **Proving Ownership (assignments and transfers in ownership)**
Burr attorneys are experienced in handling issues faced by collection professionals and debt buyers in proving the ownership of debt obligations in state court. We advise industry leaders on best practices in assigning and obtaining ownership of accounts and the evidence required to prove ownership in state court collection lawsuits.

Financial Services Compliance

Burr & Forman offers comprehensive internal and external compliance services to lenders, loan servicers, and debt buyers/collectors. Our attorneys understand the differing compliance needs of consumer finance businesses of all sizes and we work with each individual client to create a customized compliance plan tailored to their business needs.

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Our services include:

- **Comprehensive Risk Analysis and Report:** We review policies and procedures, disclosures, marketing material, contracts, and training material to ensure compliance with the rules of industry-specific regulatory bodies, such as the National Credit Union Administration (NCUA) and Consumer Financial Protection Bureau (CFPB), as well as applicable state and federal law and regulations such as RESPA, TILA, TCPA, ECOA, FCRA, HMDA, FDCPA, SAFE, HIPAA, and GLBA. We also provide support for implementation, training, and control testing.
- **Vendor Due Diligence:** We provide contract review, onboarding and annual due diligence audits, and vendor accountability reporting.
- **Regulatory Action Support and Defense:** We provide on-site regulatory audit preparation and support, response to civil investigative demands and regulatory inquiries, and administrative and civil representation in associated litigation.

Foreclosure & Consumer Bankruptcy Litigation

Our team has experience in both foreclosure and consumer bankruptcy litigation to successfully create case law precedent for compelling and enforcing, in bankruptcy court, a Chapter 7 debtor's statement of intention to surrender real property that is the subject of foreclosure litigation.

We represent clients in a variety of consumer bankruptcy matters, including:

- Adversary proceedings defense (violations of the automatic stay or discharge injunction & preferential or fraudulent transfers)
- Chapter 11
- Chapter 13
- Claims administration process
- Motions to avoid or strip liens
- Motions for relief from the automatic stay

Mortgage & Consumer Loan

Our consumer finance attorneys represent mortgage originators, correspondent lenders, mortgage servicers, and investors in disputes brought under both state and federal laws. This includes origination claims brought under TILA, HOEPA, Real Estate Settlement Procedures Act (RESPA), Equal Credit Opportunity Act (ECOA), as well as other federal statutes. We are experienced in defending class actions and mass actions down to single plaintiff cases dealing with both origination and servicing disputes.

Our team handles state common law claims throughout the country. Our attorneys play a leading role in developing favorable case law for mortgage lenders throughout our footprint. We recognize the threat state common law claims present to mortgage lenders, regardless of compliance with federal law, and work to resolve these claims either through negotiated settlements, dispositive motion practice, or at trial.

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Our large Florida team is also adept at handling contested foreclosure matters across the entire state. Our team has taken an active role in battling the substantive and procedural defenses promulgated by the foreclosure defense bar, ultimately obtaining favorable resolutions for our clients in state foreclosure actions. Our focus is a speedy and efficient adjudication of contested foreclosures.

Trials, Arbitration, & Class Actions

Burr & Forman's attorneys are frequently retained on behalf of their clients to try and arbitrate cases not only within the firm's footprint but throughout the country.

News

- Denzel Okinedo Details Opportunity Zone Investment Program and Future Changes for Business Alabama
Media Mention, *Business Alabama*, 12.21.2023
- Jacqueline Simms-Petredis Named to Florida Trend's 'Legal Elite Notable Women Leaders in Law' List
Firm News, 12.06.2023
- 58 Burr Attorneys Named to 2023 Mid-South Super Lawyers and Rising Stars List
Firm News, 11.28.2023
- Zach Miller Elected Fellow of American College of Consumer Financial Services Lawyers
Firm News, 05.01.2023
- Three Burr & Forman Attorneys Named to ALM's Southeastern Legal Awards
Firm News, 04.28.2023

Events

- Sara Solano Presents "Pleading Privacy Post-Hunstein III" at the Fall Consumer Financial Services Conference
Speaking Engagement, 11.03.2023

Publications

- The State of CFPB Focus on Credit Reporting of Medical Debt
Articles / Publications, Reprinted with Permission from Law360., 12.18.2023
- Zach Miller Says "It's Time to Remove the Element of Surprise from Mass Arbitration" in American Banker's BankThink
Media Mention, 07.13.2023
- Standing Room Only - Eighth Circuit Holds that Non-Consumer Attorney Lacks Standing to Bring FDCPA Claim
Blog Articles, 09.08.2022
- Investigating and Defending Identity Theft Claims Against Furnishers Under The Fair Credit Reporting Act
Articles / Publications, 06.27.2022

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- Frank Springfield Featured in Bitcoin Panel Discussion on E-Crypto News Articles / Publications, 06.17.2021