

Scott E. Wortman | Partner
Financial Institutions Litigation and
Regulatory Compliance (“FILARC”)

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Scott E. Wortman’s practice focuses on consumer financial services law, with a hard-earned reputation as a persuasive, creative, and determined advocate for his financial services clients (from start-ups to *Fortune* 500 companies) and their specific business or strategic goals. Scott is at the forefront of consumer financial services litigation, and has successfully led the defense of numerous individual and putative class action lawsuits, regulatory proceedings, and arbitrations under federal and state statutes and corresponding implementing regulations, involving:

- Fair Credit Reporting Act (“FCRA”) – Regulation V;
- Fair Debt Collection Practices Act (“FDCPA”) – Regulation F;
- Telephone Consumer Protection Act (“TCPA”);
- Truth in Lending Act (“TILA”) – Regulation Z;
- Electronic Fund Transfer Act (“EFTA”) – Regulation E;
- Racketeer Influenced and Corrupt Organizations Act (“RICO”);
- Electronic Communications Privacy Act (“ECPA”);
- Bank Secrecy Act (“BSA/AML”);
- Equal Credit Opportunity Act (“ECOA”) – Regulation B;
- Credit Repair Organization Act (“CROA”);
- Servicemembers Civil Relief Act (“SCRA”); and
- Related state consumer financial services protection and privacy laws.

Scott also represents financial institutions in responding to government investigations, subpoenas, audits, and civil investigative demands from federal, state, and municipal regulators. In this regard, Scott works extensively with clients to design compliance procedures and corresponding dynamic compliance management systems. This is especially consequential as it relates to the intersection of consumer financial services and emerging technologies governed by

potentially outdated statutes. Here, clients benefit from Scott's technical FinTech knowledge and his experience with overcoming and mitigating legal exposure for adopting novel uses of emerging technologies.

In addition, Scott provides clients with comprehensive legal and strategic support, often filling the role of outside general counsel or aiding general counsel, with third party due diligence, contract drafting and negotiating with vendors, regulatory audit preparedness, legal analysis and interpretations, internal safety and soundness examinations, licensing, employee trainings, and comprehensive compliance guidance for operational or technology modifications.

Scott is a frequent speaker on topics of interest to the consumer financial services industry, and has been quoted extensively by publications, such as *Bloomberg Law*, *Credit Union Journal*, *Law360*, *American Banker*, *S&P Global*, *Wall Street Journal*, *New York Law Journal*, and *Thomson Reuters*.

Select Engagements

- Lead counsel for consortium of nationwide non-bank lenders who defeated a federal class action lawsuit seeking to invalidate rights of assignment and related state court judgments.
- Advised several financial institutions on designing and successfully launching compliant online lending platforms operating on a national basis.
- As lead counsel, obtained dismissals with prejudice in a series of targeted nationwide putative class action lawsuits, alleging violations of the Telephone Consumer Protection Act and Fair Debt Collection Practices Act against debt buyers and their affiliates.
- Obtained complete dismissal of Fair Credit Reporting Act lawsuit against debt collector, with subsequent prosecution of claims against plaintiff's attorneys for interposing frivolous factual allegations.
- Ensure nationwide compliance for the onboarding of proprietary and untested dialer technology by non-bank lender with specific focus on the Telephone Consumer Protection Act and state corollaries.
- Successful representation of financial institution accused by multiple states of violating fair lending laws, credit reporting prohibitions, and information privacy requirements.
- Advised New York state-chartered savings bank on fintech and financial innovation issues for technology upgrade regarding anti-money laundering and sanctions compliance.
- Successful defense of numerous putative class action lawsuits alleging violations of the Fair Debt Collection Practices Act.
- Obtained complete dismissal of putative class action lawsuit alleging unlawful transfers by credit union.
- Representation of several financial institutions in successful non-public retraction demand matters raised against a credit repair company for publishing defamatory information.
- Lead counsel for debt buyer and debt collector who won dismissal of a multimillion-dollar lawsuit alleging violations of RICO.

- Lead counsel for auto finance companies and servicers who defeated class certification in a putative class action and defending that win on appeal.
- Advised marketplace lender in connection with its AI/ML debt collection technology and drafted policies to comply with relevant consumer financial services statutes and regulations.
- Response for client to federal regulator on increased access to credit for consumers due to the purchase and sale of charged off and distressed receivables, along with proposed request for adoption of explicit preemption and exportability rights of assignee.
- Legal guidance and informal regulatory acceptance of non-traditional underwriting method for alternative credit bureau.
- Preparation of software as a service (“SaaS”) agreements for FinTech company automating credit decisioning for retail installment loans.
- Conduct onsite legal risk/compliance audits of technology vendors for large telecommunications company.
- Representation of timeshare company that was target of deceptive consumer lending practices investigation by state regulators. The investigation was fully closed without settlement or charges.
- Successfully represented nationwide consumer loan servicer against claims by regulators alleging failure to comply with licensing statutes.
- Successfully challenged informal regulatory interpretation of New York State Department of Financial Services regarding charged off debt and applicability of TILA to debt buyer.
- Compliance due diligence for company and institutional investors purchasing securitized consumer loan portfolios from nationally chartered bank as successor to failed bank.

Admissions

- U.S. District Court - Western District of New York
- New York
- U.S. District Court - Eastern District of New York
- U.S. District Court - Eastern District of Wisconsin
- U.S. District Court - Northern District of New York
- U.S. District Court - Southern District of New York
- U.S. District Court - Western District of Michigan
- United States Court of Appeals for the Second Circuit
- U.S. Bankruptcy Court - Northern District of New York
- U.S. Bankruptcy Court for the Western District of New York
- U.S. District Court - Western District of Wisconsin

Memberships

- New York State Bar Association
- ACA International, Attorney Division

Education

- New York Law School, JD
- CUNY Queens College, BA

Recognitions

- 2018, New York Metro “Rising Star” in Consumer Law, listed in Super Lawyers
- AV Preeminent®, listed by Martindale-Hubbell®
- New York Area’s Top Rated Lawyers of 2015, listed in *New York Magazine*

Professional Activities

Scott is an active member of the New York State Bar Association (“NYSBA”), fulfilling a three-year term as Chair of the Banking Law Committee. He is currently a member of the NYSBA Executive Committee for the Business Law Section. In addition, Scott is the Vice Chairperson of the board of directors for a nonprofit mental health and supported housing organization. Previously, Scott served as chairperson for RMA International’s (f/k/a *DBA International*) New York State Legislative Committee (August 2011–December 2015).