David E. Fialkow

Partner

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OVERVIEW

David focuses his practice on creditors' rights and financial services litigation, with a particular emphasis on CMBS and other commercial lending disputes. He represents banks, nonbank lenders, special servicers, and loan servicers in high?stakes disputes and distressed situations across the country, and counsels them on risk mitigation throughout the life cycle of their credit products.

On the commercial side, David's practice centers on enforcing creditors' rights and defending against borrower claims. He represents lenders, servicers, and special servicers in lender liability and servicer liability actions, complex commercial foreclosures, receiverships, guarantor and indemnitor litigation, cash?management disputes, MLPA representation breach and put back claims, and other loan and servicing?related controversies in state, federal, and bankruptcy courts. David collaborates with the firm's restructuring and insolvency practitioners to navigate defaults, workouts, restructurings, and insolvency proceedings, and to develop strategies that protect collateral, maximize recoveries, and minimize downside risk in distressed real estate portfolios.

David also maintains a robust consumer financial services litigation practice. He defends national banks, mortgage servicers, auto and other consumer lenders, and financial technology and specialty finance companies in litigation, arbitrations, administrative proceedings, and appeals. His experience includes claims involving loan and mortgage origination and servicing, credit cards, auto finance, alternative lending products, student loans, debt collection, credit reporting, and unfair and deceptive trade practices, as well as related statutory and regulatory regimes at both the state and federal levels.

In addition to his financial services work, David represents corporate and individual clients in a range of commercial disputes, including contract, competition, fiduciary duty, real property, and unfair trade practices matters. Across his practice, he combines a deep understanding of lenders' business and regulatory environments with a practical, results?driven approach to resolving complex disputes and distressed credit situations.

TOP AREAS OF FOCUS

- Bankruptcy + Restructuring
- Class Action

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- Commercial Mortgage-Backed Securities Special Servicing
- Financial Services Litigation
- Securitization + Structured Finance

EDUCATION AND CERTIFICATIONS

EDUCATION

- Suffolk University Law School, J.D., *summa cum laude*, 2006, note editor, *Suffolk University Law Review*
- Florida State University, B.S., *magna cum laude*, 2002

CERTIFICATIONS AND MEMBERSHIPS

- IADC Trial Academy Alumni (International Association of Defense Counsel Trial Academy)

BAR ADMISSIONS

- Massachusetts
- New York
- Rhode Island

COURT ADMISSIONS

- U.S. Court of Appeals, First Circuit
- U.S. District Court, District of Massachusetts
- U.S. District Court, District of Rhode Island
- U.S. District Court, Eastern District of New York
- U.S. District Court, Southern District of New York
- U.S. District Court, Western District of Wisconsin

PUBLICATIONS

- Co-author, "Massachusetts' Price Disclosure Rules Raise the Bar: Class Action and AG Enforcement Risks in a Post-Click-to-Cancel World," *Troutman Pepper Locke*, October 19, 2026.
- "The Growing Trend of Revenue-Based Financing and Its Legal Implications," *The Banking Law Journal*, February 2023.
- "Third Time Is the Charm: Eleventh Circuit Allows Creditor's Use of Commercial Mail Vendor," *The Banking Law Journal*, January 2023.
- "ABA Business Law Section's Review of Developments in Business and Corporate Litigation (Chapters on Class Actions)," 2010-2014.
- "The Trend Toward Using The Risk-Utility Test," *Law360*, 2010.
- "The Media's First Amendment Rights and The Rape Victim's Right to Privacy: Where Does One Right End and The Other Begin?," *39 Suffolk U. L. Rev. 745*, 2006.