

## Joshua D. Davey

Partner

Charlotte

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Josh has a nearly two-decade track record of achieving favorable outcomes for companies facing their most complex and high-stakes litigation, appeals, and government investigations. He works closely with clients to identify winning strategies aligned with clients' business needs.

### OVERVIEW

A partner in the firm's Privacy + Cyber team and a Certified Information Privacy Professional, Josh has extensive experience in data breach and other privacy litigation, including serving as defense counsel for a cloud software company in one of the largest data breach multidistrict litigation proceedings in the U.S. Josh also regularly represents data brokers and other data and technology companies facing threatened or filed litigation and arbitrations and advises these companies on strategies for minimizing litigation risk. His experience includes litigating FCRA, DPPA, CPPA, judicial privacy (Daniel's Law), and numerous other statutory and common law claims in state and federal trial and appellate courts around the U.S.

Outside of his privacy practice, Josh has deep knowledge of the financial services industry and regularly represents banks, mortgage companies, auto and credit card lenders, and other financial services industry clients facing complex litigation, mass arbitration, and government enforcement matters. Josh also has significant experience in First Amendment matters, including representing religious organizations in litigation involving the Free Exercise Clause, RLUIPA and RFRA, as well as in defending media clients in defamation and intellectual property litigation and counseling faith-based nonprofit organizations.

A versatile litigator, Josh is comfortable in any forum. He has handled numerous appellate arguments as well as trial-level work in courts around the country. Josh also has extensive regulatory enforcement experience, includes proceedings brought by the Consumer Financial Protection Bureau, the Office of the Comptroller of the Currency, the Department of Justice, and numerous state attorneys general. He further assists clients with legislative lobbying and media strategies, internal investigations, responding to MRAs, developing and implementing remediation plans, and compliance programs.

Josh is active in the community and has served as a board member of several local nonprofit organizations. He is committed to pro bono work and represents clients in immigration matters, landlord-tenant disputes, custody and guardian ad litem proceedings, Criminal Justice Act appointments, and as amicus curiae in the U.S. Supreme Court.

### REPRESENTATIVE MATTERS

- Served as one of the court-appointed lead defense counsel for a large cloud software company in multidistrict litigation proceedings; successfully obtained the dismissal of a number of the plaintiffs' key claims and denial of class certification.
- Obtained the denial of class certification of FCRA claims on behalf of a data broker client.
- Obtained dismissal of putative class claims against a healthcare provider sued in connection with a large data breach.
- Obtained the dismissal of putative FCRA and DPPA class action claims on behalf of a data broker client and affirmance of the decision in the Eighth Circuit.
- Representing numerous clients in litigation filed under New Jersey's Daniel's Law.
- Represented a financial services software company in numerous putative class actions filed arising from a data breach.
- Defended a retail company in multiple putative class actions arising from successful phishing of employee data.
- Successfully resolved putative class privacy claims for a data broker client.
- Successfully resolved putative class action claims against nationwide auto lender relating to repossession practices.
- Represented a religious organization in connection with dozens of lawsuits filed under statute of limitations revival law, including constitutional litigation and arguing multiple cases in the North Carolina Supreme Court.
- Defended a national bank in a mass arbitration proceeding involving approximately 4,000 claims asserted before the American Arbitration Association; successfully obtained a complete victory of all claims in first-filed "test case," and obtained dismissal of numerous others based on claimants' failure to comply with arbitrator orders governing pleading requirements.
- Represented a national bank's auto lending division in a putative nationwide class action challenging the bank's administration of guaranteed asset/auto protection products. After obtaining dismissal of most of the plaintiffs' claims and compelling arbitration as to certain claims, we negotiated a favorable settlement.
- Obtained the dismissal of putative class action claims against a major national bank relating to allegedly unpaid refunds of guaranteed auto/asset protection products following repossession.
- Represented a national bank in connection with one of the largest consent orders in CFPB history involving numerous aspects of the bank's auto lending business.
- Successfully resolved a CFPB enforcement action against a mortgage lender involving RESPA claims.
- Represented a national bank in a \$575 million settlement of a multistate attorney general investigation involving all 50 states and the District of Columbia.
- Represented a national bank in class action litigation concerning CARES Act mortgage forbearances during the COVID-19 crisis.
- Successfully resolved litigation brought by a state attorney general against a national bank over alleged failure to comply with consumer protection laws in connection with foreclosure and mortgage loan modification practices.
- Advised multiple banking clients concerning state-law compliance obligations across multiple business lines.
- Served as lead trial counsel for the world's largest contract food service company in a contentious protest of a multimillion-dollar food services contract; obtained judgment in favor of our client following a bench trial.
- Successfully resolved multiple lawsuits against an Alaskan Native Regional Corporation-owned general contractor relating to a troubled Marine Corps construction project.

## AWARDS

- *Best Lawyers in America*®: Commercial Litigation (2022-2026)
- Business Litigation, North Carolina Rising Stars, *Super Lawyers* (2013-2017)

## TOP AREAS OF FOCUS

- Business Litigation
- Class Action
- Consumer Financial Services
- Insurance + Reinsurance
- Privacy + Cyber

## ALL AREAS OF FOCUS

- Antitrust
- Auto Finance
- Banking + Financial Services Regulation
- Banking Litigation
- Business Litigation
- Class Action
- Community Banking
- Consumer Financial Protection Bureau (CFPB)
- Consumer Financial Services
- Enforcement Actions + Investigations
- Fair Credit Reporting Act (FCRA)
- Fair Debt Collection Practices Act (FDCPA)
- Federal Trade Commission (FTC)
- Financial Services Litigation
- Insurance + Reinsurance
- Litigation + Trial
- Mortgage Lending + Servicing
- Payments + Financial Technology
- Privacy + Cyber
- Public Records/FOIA

## PROFESSIONAL/COMMUNITY INVOLVEMENT

- American Bar Association
- North Carolina Bar Association
- Mecklenburg County Bar
- Federalist Society, Charlotte Chapter Steering Committee
- Order of Malta
- Mecklenburg County Bar Leadership Institute Class of 2011
- Past member, Board of Directors, MiraVia
- Past member, Parish Council, St. Ann Catholic Church
- Past General Counsel, Mecklenburg County Republican Party

## EDUCATION AND CERTIFICATIONS

### EDUCATION

- Harvard Law School, J.D., 2006
- Northwest University, B.A., 2003

### BAR ADMISSIONS

- North Carolina

### COURT ADMISSIONS

- U.S. Court of Appeals, Fourth Circuit
- U.S. Court of Appeals, Eighth Circuit
- U.S. District Court, Northern District of Illinois
- U.S. District Court, Eastern District of North Carolina
- U.S. District Court, Middle District of North Carolina
- U.S. District Court, Western District of North Carolina
- U.S. District Court, District of Colorado
- Supreme Court of the United States

### CLERKSHIPS

- Hon. Dennis W. Shedd, U.S. Court of Appeals, Fourth Circuit, 2007-2008

## SPEAKING ENGAGEMENTS

- Speaker, "Teamwork Triumph: Crafting Legal Success in Defeating Security Breach Class Certification Through Collaboration," Privacy + Security Forum: Spring Academy, May 7, 2025.
- Speaker, "You're Not in Kansas Anymore, Tarheels: Navigating the Complex Landscape of Privacy Law," Association of Corporate Counsel (ACC) Greater Charlotte Chapter, November 6, 2024.
- Speaker, "Privacy Parade: How to Navigate the Rush of New State Privacy Laws," Association of Corporate Counsel, July 20, 2023.
- Co-presenter, "AG Investigations: Navigating Unwritten Rules, Protecting Confidentiality, and Managing Class Actions Risks," Strafford Publication, Inc., November 29, 2022.
- Speaker, "Navigating the Critical Differences Between the CCPA and the CPRA," Troutman Pepper, May 26, 2022.
- Speaker, "Colorado Privacy Act – What It Means for Businesses," Troutman Pepper, September 8, 2021.
- Speaker, "Key Considerations: CFPB's Proposed Debt Collection Rule," June 2019.
- Speaker, "Top 10 Insurance Coverage Decisions of 2018," North Carolina Bar Association, January 2019.
- Speaker, "New and Emerging Healthcare Risk Factors," 11th Annual Healthcare Provider Conference: Healthcare Finance and Growth, October 2016.
- Speaker, "Cyber Risk and Cyber Insurance Issues," 10th Annual Healthcare Provider Conference, September 2015.
- Speaker, "Insurance Coverage for Government Investigations," 2015 Insurance Law Section Annual Meeting, April 2015.

## PUBLICATIONS

- Co-author, “West Virginia’s Daniel’s Law Held Facially Unconstitutional,” *Troutman Pepper Locke* and *Privacy + Cyber + AI* Blog, August 22, 2025.
- Co-author, “New Wave of Privacy Litigation: Plaintiffs Press Untested Theories Under 2005 Colorado Prevention of Telemarketing Fraud Act,” *Troutman Pepper Locke*, July 7, 2025.
- Co-author, “New Jersey Releases Proposed Privacy Regulations,” *Troutman Pepper Locke*, June 10, 2025.
- Contributor, “2024 Privacy, AI & Cybersecurity Year in Review,” *Troutman Pepper Locke*, February 12, 2025.
- Co-author, “How Cos. Can Use Data Clean Rooms to Address Privacy,” *Law360*, February 10, 2025.
- Co-author, “Consumer Protection: Understanding Enforcement Actions Brought by State Attorneys General,” American Bar Association, 2024.
- Co-author, “Proposed Amendments to New Jersey’s Daniel’s Law,” *Troutman Pepper*, May 16, 2024.
- Co-author, “2023 Privacy Year in Review,” *Troutman Pepper*, February 1, 2024.
- Co-author, “2022 Regulatory Privacy Year in Review,” *Troutman Pepper*, February 2, 2023.
- Co-author, “The CFPB Takes Aim at Overdraft Fees,” *Troutman Pepper*, December 22, 2021.
- Author, “Supreme Court to Consider the CFPB’s Constitutionality: Key Takeaways,” October 21, 2019.
- Author, “The CFPB’s Debt-Collection Proposal: Key Details,” and Complimentary Webinar, May 17, 2019.
- Author, “NY Launches Consumer Protection and Financial Enforcement Division,” May 8, 2019.
- Author, “CFPB Issues Proposed Debt Collection Rule,” May 7, 2019.
- Author, “Primer on the CFPB’s Imminent Fair Debt Collection Practices Act Rule Proposal,” May 1, 2019.
- Author, “Kraninger Speech Forecasts CFPB FDCPA Rules, Clarification of “Abusive” Acts or Practices,” April 18, 2019.
- Author, “Justices to Consider Whether District Courts Must Defer to FCC Interpretation of TCPA,” November 15, 2018.
- Author, “CFPB Signals Potential for Fair Lending Rulemaking,” November 9, 2018.
- Author, “Democrats Decry Kraninger at Hearing, but Republicans Appear Supportive,” July 23, 2018.
- Author, “CFPB Announces a New “Office of Innovation,”” July 23, 2018.
- Author, “No Changes to CFPB This Year,” May 2, 2018.
- Author, “Senate Votes to Strike Down Key CFPB Bulletin on Lending Discrimination in the Indirect Auto Market,” April 20, 2018.
- Author, “Full D.C. Circuit Court, Reversing Decision Below, Holds that CFPB’s Independent Structure Is Constitutional; Also Reinstates Important RESPA Rulings,” January 31, 2018.
- Author, “CFPB Issues Game-Changing Rule on Arbitration Clauses,” July 11, 2017.
- Author, “Treasury Department Recommends Broad Reforms to CFPB,” July 6, 2017.
- Author, “CFPB Fails to State Case Against Payment Processor,” March 27, 2017.
- Author, “D.C. Circuit Grants Rehearing in PHH Case,” February 21, 2017.
- Author, “Senators Introduce Bill to Restructure CFPB Leadership,” February 14, 2017.
- Author, “Trump Signals Beginning of Efforts to Curtail Dodd-Frank,” February 7, 2017.
- Author, “Companies Challenge CFPB’s Authority to Issue Civil Investigative Demands,” December 16, 2016.
- Author, “CFPB Report Highlights Continued Focus on Mortgage Redlining,” November 22, 2016.
- Author, “D.C. Circuit Rebukes CFPB in PHH Case,” October 11, 2016.
- Author, “CFPB Announces that ECOA Protects LGBT Persons From Discrimination in Lending,” September 29, 2016.
- Author, “House Financial Services Committee Takes Aim at the CFPB,” September 26, 2016.

- Author, “CFPB’s Proposed Arbitration Rule Prompts Thousands of Comments,” August 23, 2016.
- Author, “CFPB Proposes Multiple Changes to TRID “Know Before You Owe” Rule,” August 9, 2016.
- Author, “CFPB Issues Final Mortgage Servicing Rules,” August 5, 2016.
- Author, “The CFPB Issues New Proposals Overhauling The Debt Collection Industry,” August 3, 2016.
- Author, “Parties in PHH Case Argue the Impact of Recent Supreme Court Decision,” July 5, 2016.
- Author, “CFPB’s Proposal Marks Government’s Latest ? and Largest ? Step Regulating Arbitration Clauses,” May 10, 2016.
- Author, “Oral Arguments in PHH Case Signal Trouble for CFPB,” April 14, 2016.
- Author, “CFPB Director Forecasts Rulemaking on Consumer Arbitration Clauses in American Constitution Society Speech,” March 10, 2016.
- Author, “CFPB Poised to Continue Focused Scrutiny of Indirect Auto Lenders,” February 25, 2016.
- Author, “CFPB Takes Aim at Overdraft Fees and Screening Inaccuracies,” February 23, 2016.
- Author, “CFPB Compliance Bulletin Outlines Requirements for Automatic Debit Authorization,” January 21, 2016.
- Author, “Challenging a CFPB Civil Investigative Demand Can Be Done without Revealing a Company Is Being Investigated,” December 9, 2015.
- Author, “CFPB Takes Action Under FCRA Against Employment Background Check Providers,” November 11, 2015.
- Author, “CFPB’s Cordray Issues Warning to Vendors,” November 4, 2015.
- Author, “CFPB Shines Spotlight on Credit Card Complaints,” November 3, 2015.
- Author, “CFPB Director Cordray Elaborates on Planned Consumer Arbitration Rulemaking,” November 2, 2015.
- Author, “DOJ Policy Shift Will Have Significant Effect on D&O Claims,” *Practice Points*, October 28, 2015.
- Author, “The CFPB Strongly Scrutinizes Marketing Services Arrangements Under RESPA,” October 26, 2015.
- Author, “CFPB Targets Pension Lenders in Dodd-Frank Suit,” October 14, 2015.
- Author, “CFPB Online Loan Suit Sent to California,” October 9, 2015.
- Author, “CFPB Obtains Injunction Against World Law Group,” September 29, 2015.
- Author, “New Poll Finds Many Americans Dissatisfied with CFPB,” September 8, 2015.
- Author, “CFPB Announces Results of eClosing Pilot Project,” September 1, 2015.
- Author, “DC Circuit Upholds Standing of Texas Bank to Challenge Constitutionality of CFPB,” August 5, 2015.
- Author, “CFPB Targets Practices Impacting the Elderly,” July 30, 2015.
- Author, “FFIEC Assessment Helps Financial Institutions Prevent Cyber Attacks,” July 29, 2015.
- Author, “CFPB’s Corday Reiterates Intent to Pursue Rulemaking on Consumer Arbitration Clauses, Despite Opposition,” July 21, 2015.
- Author, “JP Morgan Chase to Pay \$216 Million Over Credit Card Debt Sales Practices,” July 10, 2015.
- Author, “CFPB Drives Action Against Auto-Finance Company,” July 1, 2015.
- Author, “CFPB’s TRID Rule Delayed Again – Uncertainty Persists for Good-Faith Grace Period,” June 30, 2015.
- Author, “CFPB Asserts Sweeping RESPA Enforcement Authority In First Appellate Decision,” June 15, 2015.
- Author, “CFPB Issues Final Rule Governing Non-Bank Auto Lenders,” June 12, 2015.
- Author, “With Rule-Making Expected, CFPB’s March 2015 Arbitration Study Continues to Draw Attention,” June 4, 2015.
- Author, “CFPB, DOJ Join in Fair Lending Enforcement Action Against Provident,” June 1, 2015.
- Author, “Here to Stay? Appellate Court Rejects Challenges to CFPB,” May 26, 2015.
- Author, “CFPB Proposal to End “Payday Debt Traps” Meets Serious Criticism,” May 6, 2015.

- Co-author, “Chipping Away at The CFPB’s Clandestine Activities,” *Law360*, May 4, 2015.
- Author, “CFPB Targets PayPal’s Consumer Lending Service,” April 21, 2015.
- Author, “Rogue Agency or Champion of Consumers? House Votes for CFPB Transparency,” April 17, 2015.
- Author, “CFPB Continues Focus on Mortgage Lender Advertising,” April 16, 2015.
- Author, “CFPB Releases Study on Use of Arbitration Clauses in Consumer Contracts,” March 20, 2015.
- Author, “Appellate Practice in the 21st Century: Should North Carolina’s Appellate Courts Allow Hyperlinked Briefs?” *Appellate Practice Section newsletter, North Carolina Bar Association*, February 2015.
- Author, “White House Proposes Expansive Data Breach Notification Bill,” January 22, 2015.
- Author, “CFPB Cautions Mortgage Lenders Who Request Proof of Social Security Disability Income,” December 5, 2014.
- Author, “CFPB Issues Sweeping Proposal to Regulate Prepaid Financial Products,” December 1, 2014.
- Author, “CFPB Supervision Exposes Violations by Service Providers,” November 25, 2014.
- Author, “A Harbinger of Things to Come – CFPB Announces First Action for Violations of New Mortgage Servicing Rules,” October 15, 2014.
- Co-Author, “Reps and Warranties Insurance Rises in Health Care Deals,” *Law 360*, April 23, 2014.
- Author, “Middle District Affirms Availability of Chapter 75 Relief to Foreign Plaintiffs; *Ada Liss Group (2003) v. Sara Lee Corp.*,” *Antitrust News*, December 2010.
- Author, “ABA-NCSC Summit Addresses Challenges to Fairness, Impartiality of State Courts,” *State Court Docket Watch, The Federalist Society*, Summer 2009.
- Author, “Court of Appeals Reaffirms Broad Indirect Purchaser Standing Under N.C.G.S. § 75-16; *Teague v. Bayer AG*,” *Antitrust News*, March 2009.
- Author, “Management of Corporate Documents,” *Successful Partnering Between Inside and Outside Counsel, Thomson Reuters*, 2009.
- Author, “The North Carolina Supreme Court: A Special Issue Report,” *The Federalist Society for Law and Public Policy Studies*, October 21, 2008.
- Co-author, “A Plan for E-Discovery Should Be in Place Now,” *Business North Carolina*, June 1, 2007.

## **MEDIA COMMENTARY**

- Mentioned, “Law360’s Legal Lions of the Week,” *Law360*, May 17, 2024.