

## Mark J. Windham

Counsel

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Mark is counsel in the firm's Consumer Financial Services Practice Group. Mark's practice includes representing national, regional and local banks, nonbank lenders, and mortgage servicers in federal and state litigation.

### OVERVIEW

Mark has particular expertise in defending claims under the Fair Credit Reporting Act (FCRA) and Regulation V (Reg V); the Truth in Lending Act (TILA) and Regulation Z (Reg Z); the Telephone Consumer Protection Act (TCPA); the Fair Debt Collection Practices Act (FDCPA) and state law analog statutes; the Real Estate Settlement Procedures Act (RESPA) and Regulation X (Reg X); federal and state Racketeer Influenced and Corrupt Organizations Act (RICO); Articles 2, 3, 4, 9 and 9A of the Uniform Commercial Code (UCC); the Georgia Fair Business Practices Act (GFBPA); and various state versions of the Unfair and Deceptive Trade Practices Act (UDTPA). Mark regularly defends against lender liability claims related to or alleging breach of contract, promissory estoppel, title and lien priority disputes, municipal violations, and matters affecting real estate-owned properties (REO).

Mark represents creditors in proceedings under Chapters 7, 11, and 13 of the U.S. Bankruptcy Code, with a particular focus on the overlap of bankruptcy and consumer protection laws, including claims under the FDCPA and FCRA. Mark also handles adversary proceedings involving stay violations and preference actions.

Mark employs alternative dispute resolution (ADR), including mediation and arbitration, in order to advance his clients' interests in a cost-effective matter. Mark has successfully counseled clients in cases throughout the U.S., including in matters in Alabama, Arizona, California, the District of Columbia, Florida, Georgia, Maryland, North Carolina, South Carolina, and Tennessee.

While in law school at the University of North Carolina at Chapel Hill, Mark wrote for the *North Carolina Banking Institute Journal*. Mark also has a master's degree in geographic information systems and has taught business courses in that field at the college level.

Mark provides analysis and commentary on legal and business developments in the consumer financial services industry through the [Consumer Financial Services Law Monitor blog](#).

### REPRESENTATIVE MATTERS

- National counsel for one of the nation's largest mortgage loan servicers, in state and federal actions around the

U.S. involving claims under FCRA, FDCPA, RESPA, TCPA, and TILA.

- Regional counsel to national banks for mortgage litigation and related consumer financial services litigation.
- Counsel to large Georgia- and North Carolina-based banks in actions involving wire fraud, breach of contract, and negligence.
- Counsel for a large nonbank mortgage servicer in relation to consumer complaints made to the Consumer Financial Protection Bureau and to state regulatory agencies and attorneys general.
- Counsel for national automobile lender in TCPA suits.
- Extensive experience representing banks, mortgage companies, and loan servicers in state and federal courts defending against mortgage-related claims, including “show me the note” claims, HAMP claims, and claims to rescind or reform mortgages.
- *Hsiao Yip v. Dynamic Recovery Solutions, LLC, et al.*, 18-cv-2586, 2019 U.S. Dist. LEXIS 191846 (N.D. Ga. June 18, 2019) adopted at 2019 U.S. Dist. LEXIS 191845 (Sept. 26, 2019) (secured dismissal of FDCPA claims against debt collector related to charging of statutory interest on charged-off debt).
- *Parker v. Trans Union, LLC et al.*, No. 1:19-cv-01897-TCB-JKL (N.D. Ga. Jan. 28, 2020) (secured dismissal of FCRA case against furnisher related to reporting of accurate historical payment information for charged-off account).
- *Holmes v. Ocwen Financial Corporation*, No. 1:17-cv-03979-CC, 2018 U.S. Dist. LEXIS 131675 (N.D. Ga. June 11, 2018), affirmed at 747 Fed. Appx. 836 (11th Cir. 2019) (secured dismissal of Truth in Lending Act claims brought by borrower seeking to rescind loan and invalidate mortgage).
- *Byers v. Ditech Financial, LLC*, No. 1:17-cv-01577-SCJ, 2016 U.S. Dist. LEXIS 189300, 2016 WL 8814359 (N.D. Ga. Nov. 14, 2016) (obtained dismissal of complaint against lender seeking to invalidate mortgage contract as “unconscionable”).
- *Matveychuk v. One West Bank, FSB*, 2013 U.S. Dist. LEXIS 182800, 2013 WL 6871981 (N.D. Ga. Dec. 19, 2013) (obtained dismissal of claims against mortgage servicer and insurer based on alleged denial of due process due to involvement of a government-sponsored enterprise).
- *DeSouza v. Fed. Home Mortg. Corp.*, 572 Fed. App’x 719 (11th Cir. 2014) (obtained an order affirming dismissal of wrongful foreclosure and fraud claims related to standing to foreclose under state law).
- *Lafayette v. Ocwen Mortg. Serv. (In re Lafayette)*, 2016 Bankr. LEXIS 4394 (N.D. Ga. Bankr. Dec. 15, 2016) (obtained dismissal of adversary proceeding based on the application of res judicata to wrongful foreclosure allegations).
- *Douglas v. Southstar Funding, LLC*, No. 1:18-cv-01802-MLB, 2018 U.S. Dist. LEXIS 222744 (N.D. Ga. Oct. 28 2018) (obtained dismissal of all claims brought by borrower against mortgage servicer under the FDCPA, RESPA, and TILA).
- *Stabb v. GMAC Mortg., LLC*, 579 Fed. App’x 706 (11th Cir. 2014) (obtained opinion affirming dismissal of wrongful foreclosure and quiet title claims by borrower against mortgage servicer).

## TOP AREAS OF FOCUS

- [Consumer Financial Services](#)
- [Financial Services Litigation](#)

## ALL AREAS OF FOCUS

- [Consumer Debt Servicing + Protection](#)
- [Consumer Financial Services](#)
- [Financial Services](#)
- [Financial Services Litigation](#)
- [Litigation + Trial](#)

## EDUCATION AND CERTIFICATIONS

### EDUCATION

- Florida State University, M.S., 2006
- University of North Carolina at Chapel Hill, J.D., 2004, member, *North Carolina Banking Institute Journal*
- Troy University, B.A., *summa cum laude*, 2001

### BAR ADMISSIONS

- Georgia

### COURT ADMISSIONS

- Supreme Court of Georgia
- Court of Appeals of Georgia
- U.S. Court of Appeals, Eleventh Circuit
- U.S. District Court, Northern District of Georgia
- U.S. Bankruptcy Court, Northern District of Georgia
- U.S. District Court, Middle District of Georgia
- U.S. Bankruptcy Court, Middle District of Georgia
- U.S. District Court, Southern District of Georgia
- U.S. Bankruptcy Court, Southern District of Georgia

### LANGUAGES

- French

## PUBLICATIONS

- Co-author, "Troutman Pepper Publishes 2023 Consumer Financial Services Year in Review and A Look Ahead," *Troutman Pepper*, February 1, 2024.
- Co-author, "2021 Consumer Financial Services Year in Review & A Look Ahead," *Troutman Pepper*, January 28, 2022.
- Co-author, "U.S. District Court Rules That an FDCPA Plaintiff's Vague, Self-Serving Testimony of Oral Revocation Is Insufficient To Trump Debt Collector's Detailed Call Records," February 26, 2020.
- Co-author, "2019 Consumer Financial Services Year in Review & A Look Ahead," *Troutman Sanders*, February 24, 2020.
- Co-author, "Troutman Sanders Secures Dismissal of FDCPA Claims against Debt Collector Related to Statutory Interest on Charged-off Debt," *Consumer Financial Services Law Monitor*, January 8, 2020.
- Co-author, "Court Rejects FDCPA Claim Based on Allegedly Inaccurate Credit Reporting," *Consumer Financial Services Law Monitor*, December 27, 2019.
- Co-author, "CFPB Private Education Loan Ombudsman Recommends Crackdown on Scam Student Loan Debt Relief Companies," *Consumer Financial Services Law Monitor*, October 28, 2019.
- Co-author, "Court Dismisses Putative FDCPA Class Action Based on Use of 'Client' Versus 'Creditor' in Collection Letter," *Consumer Financial Services Law Monitor*, October 6, 2019.
- Co-author, "FTC Settles Charges Against Background Screening Company for Falsely Claiming Compliance with EU-U.S. Privacy Shield Framework," *Consumer Financial Services Law Monitor*, August 26, 2019.

- Co-author, “FTC Seeks Comments on Children’s Online Privacy Protection Act Rule,” *Consumer Financial Services Law Monitor*, July 26, 2019.
- Co-author, “CFPB Settlement Effectively Forgives \$168 Million in ITT Private Student Loans,” *Consumer Financial Services Law Monitor*, June 26, 2019.
- Co-author, “Injury – Not Notice – Starts FDCPA SOL, Second Circuit Rules,” *Consumer Financial Services Law Monitor*, May 28, 2019.
- Co-author, “Traffic-Related Judgment Is Not a “Consumer Debt” Under FDCPA, Finds District Court in Eighth Circuit,” *Consumer Financial Services Law Monitor*, March 26, 2019.
- Co-author, ““Misleading’ Debt Dispute Instructions in Collection Letter Result in Summary Judgment Win for Plaintiff in FDCPA Class Action,” *Consumer Financial Services Law Monitor*, February 26, 2019.
- Co-author, “Law Firm Not a ‘Debt Collector’ Under FDCPA, says Fifth Circuit,” *Consumer Financial Services Law Monitor*, January 28, 2019.
- Co-author, “2018 Consumer Financial Services Year in Review & A Look Ahead,” *Troutman Sanders*, January 28, 2019.
- Co-author, “Seventh Circuit Affirms Dismissal of FDCPA Suit Based on Incorrect Reference to Location of Debt Validation Disclosure,” *Consumer Financial Services Law Monitor*, December 27, 2018.
- Co-author, “Seventh Circuit Holds that Borrower Failed to Show Harm Caused by Servicer’s QWR Response,” *Consumer Financial Services Law Monitor*, November 26, 2018.
- Co-author, “N.D. Ill. Applies “Competent Lawyer” Standard to Dismiss FDCPA Claims Based on Collection Letter Sent to Consumer’s Attorney,” *Consumer Financial Services Law Monitor*, October 26, 2018.