

Scott Kelly

Partner

Richmond

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Scott represents companies that specialize in consumer data – most notably consumer reporting agencies, credit agencies, employment/tenant screeners, software providers, multinational banks, and mortgage companies. He helps clients navigate bet-the-company class actions under the Fair Credit Reporting Act and state analogs. Scott is also a trusted source for client audits to ensure compliance with an ever-changing landscape of consumer protection and data privacy laws.

OVERVIEW

Scott focuses his practice on issues involving consumer data and privacy. He regularly defends against data breach lawsuits and class action claims asserted under federal and state consumer-protection statutes (FCRA, FDCPA, TCPA, UCC, UDAAP, RICO). He represents companies on an array of data privacy issues, including background screening, consumer reporting, data breaches, ransomware attacks, and related regulatory investigations by the Consumer Financial Protection Bureau (CFPB), Federal Trade Commission (FTC), and state attorneys general.

Scott also represents clients in complex individual lawsuits asserting claims under the Securities Exchange Act and FTC Holder Rule – most notably through his representation of a *Fortune* 150 banking institution's national automobile lending portfolio.

Scott served as the first law clerk to the Honorable John A. Gibney, Jr., U.S. District Court for the Eastern District of Virginia, and regularly advises clients as lead and local counsel in all three divisions of the "Rocket Docket."

Scott provides ongoing analysis and commentary on developments in the consumer financial services industry, with a focus on data privacy, background screening, and FCRA issues, through the *Consumer Financial Services Law Monitor* blog at www.consumerfinancialserviceslawmonitor.com.

REPRESENTATIVE MATTERS

Class Actions, Consumer Data, and Privacy Litigation

- **Fourth Circuit:** Obtained reversal and dismissal as a matter of law for the online lending arms of a Native American tribe in the first decision issued by the Fourth Circuit on tribal sovereignty.
- **Ninth Circuit:** Obtained summary judgment, denial of class certification, and affirmance by the Court of Appeals for the Ninth Circuit in two national FCRA class actions filed in the District of Nevada against leading mortgage

servicers.

- **EDVA:** Obtained denial of class certification in a national FDCPA class action filed in the Eastern District of Virginia, Alexandria Division, against a leading debt collector.
- **EDVA:** Represented a *Fortune* 100 federally chartered bank in an MDL proceeding in the Eastern District of Virginia aggregating more than 70 class actions arising out of a prominent data breach.
- **EDVA:** Obtained denial of class certification as lead counsel for a national background screening company in a significant class action asserting novel claims for liability under the FCRA with more than \$1.7 billion in potential exposure.
- Served as lead national counsel to an international, nonprofit software provider in an MDL proceeding in the District of South Carolina emanating from a ransomware attack.

Financial Services Litigation

- **Fourth Circuit:** Obtained dismissal as a matter of law in a large-scale federal mortgage action filed against a *Fortune* 100 company in the Eastern District of Virginia, involving a 108-page complaint and 26 causes of action.
- **Fourth Circuit:** Achieved favorable ruling for regional tobacco company in declaratory action implicating sale on interest in qualified settlement fund escrow accounts.
- **D.C. Circuit:** Obtained affirmance of Rule 12(b)(6) dismissal on behalf of a *Fortune* 100 banking institution against claims of mortgage fraud, negligence, and statutory violations.
- **EDVA:** Successfully defended a *Fortune* 500 company and board of directors challenging a planned merger and alleged breach of fiduciary duties and violations of the Securities Exchange Act of 1934.
- Served as national counsel to a *Fortune* 150 banking corporation with regard to motor vehicle and RV claims asserted under the FTC Holder Rule and related state consumer protection statutes.

Pro Bono

- Served as advisor to Greater Richmond Stop Child Abuse Now.
- Counseled a local, church-based educational institution in providing general business advice on collections, billing practices, and compliance with consumer-protection statutes.
- Counseled a former armed service member relating to involuntary civil commitment litigation in Virginia state court.

AWARDS

- Up & Coming Lawyers, *Virginia Lawyers Weekly* (2019)

TOP AREAS OF FOCUS

- Class Action
- Consumer Financial Protection Bureau (CFPB)
- Consumer Financial Services

ALL AREAS OF FOCUS

- Class Action
- Consumer Financial Protection Bureau (CFPB)
- Consumer Financial Services

- Consumer Reporting Agencies + Background Screening
- Fair Credit Reporting Act (FCRA)
- Fair Debt Collection Practices Act (FDCPA)
- Federal Trade Commission (FTC)
- Financial Services
- Financial Services Litigation
- Litigation + Trial
- Tribal Lending

PROFESSIONAL/COMMUNITY INVOLVEMENT

- Director, Greater Richmond Stop Child Abuse Now (SCAN) (July 2021-present)
- Member, Lewis F. Powell, Jr., Inn of Court
- Member, Associates Board, Richmond Performing Arts Alliance (RPAA) (2018-present)
- Director (2015-2018), vice-president (2017-2018), Westwood Club
- Member, Professional Background Screeners Association (PBSA) (2017-present)
- Troutman Sanders Recruiting Committee (2014-2018)
- Federal Bar Association, Richmond Chapter
- Virginia Bar Association

EDUCATION AND CERTIFICATIONS

EDUCATION

- Washington and Lee University School of Law, J.D., member, University Board of Appeals; Champion, Robert J. Grey Jr. Negotiations Competition
- University of Virginia, B.A.

BAR ADMISSIONS

- Virginia

COURT ADMISSIONS

- Supreme Court of Virginia
- U.S. Court of Appeals, Fourth Circuit
- U.S. District Court, Eastern District of Virginia
- U.S. District Court, Western District of Virginia
- U.S. District Court, Central District of Illinois
- U.S. District Court, District of New Mexico
- U.S. District Court, District of Nebraska
- U.S. District Court, Eastern District of Oklahoma

CLERKSHIPS

- Hon. John A. Gibney, Jr., U.S. District Court, Eastern District of Virginia, 2011-2012

SPEAKING ENGAGEMENTS

- Speaker, “Is the FHA the New FCRA for Tenant Screeners?,” Professional Background Screening Association Annual Conference, Boston, MA, September 9, 2024.
- Speaker, “Ready for It? An Annual Update on Tenant Screening Laws and Litigation,” Professional Background Screening Association Webinar, April 25, 2024.
- Speaker, “Background Screening Bingo,” PBSA Mid-Year Legislative & Regulatory Conference, March 26, 2024.
- Speaker, “Navigating FCRA Trends: A 2023 Review and Forward-Looking Insights for 2024,” Troutman Pepper, October 19, 2023.
- Speaker, “Outside the Box: Future Screening Developments and Non-Traditional Products,” PBSA Annual Conference, September 12, 2023.
- Speaker, “Supreme Court Decision: *TransUnion v. Ramirez*,” Troutman Pepper, July 1, 2021.
- Speaker, “2019 in Review: Key Developments for Background Screeners and Companies Subject to the FCRA,” Troutman Sanders Webinar, March 4, 2020.
- Instructor, FCRA Advanced Certificate Classroom Course, 2019 NAPBS Mid-Year Conference, March 24, 2019.
- Presenter, “Navigating Risks, Threats and Lawsuits in the Credit and Collection Industry,” Lorman Education Services webinar, July 28, 2016.
- Presenter, “Navigating Risks, Threats and Lawsuits in the Credit and Collection Industry,” Lorman Education Services webinar, August 27, 2014.
- Presenter, “CFPB, FTC, State Regulators and Compliance,” *Credit and Collection News Seminar*, Chicago, IL, October 1-2, 2013.

PUBLICATIONS

- Podcast, “2024 Credit Reporting Review: Impactful Changes and Future Forecast,” *FCRA Focus*, March 28, 2025.
- Co-author, “2024 Consumer Financial Services Year in Review & A Look Ahead,” Troutman Pepper Locke, February 13, 2025.
- Co-author, “Troutman Pepper Publishes 2023 Consumer Financial Services Year in Review and A Look Ahead,” Troutman Pepper, February 1, 2024.
- Co-author, “A Look at Consumer Reporting in 2023, and What’s to Come,” *Law360*, January 9, 2024.
- Co-author, “FCRA Legislation to Watch for the Remainder of 2023,” *Law360*, September 11, 2023.
- Co-author, “The 7 Most Notable FCRA Cases of 2023 So Far,” *Law360*, August 31, 2023.
- Co-author, “2022 Consumer Financial Services Year in Review & A Look Ahead,” Troutman Pepper, March 17, 2023.
- Co-author, “What We Learned From 2022’s Top FCRA Developments,” *Law360*, January 13, 2023.
- Co-author, “Choice of Law for Tort Claims in Virginia: A Brief History and Current Status,” *Virginia Lawyer Magazine*, October 2022.
- Co-author, “Another California Court of Appeals Weighs In on Availability of Attorneys’ Fees Under the FTC’s Holder Rule,” Troutman Pepper, March 24, 2022.
- Co-author, “California Supreme Court Prepares to Weigh In on Holder Rule,” Troutman Pepper, March 3, 2022.
- Co-author, “The Holder Rule and Attorneys’ Fees: The FTC Speaks,” *National Association of Legal Fee Analysis Blog*, February 24, 2022.
- Co-author, “Ninth Circuit Affirms Summary Judgment for CRA in Seven-Year Look-Back Case,” Troutman Pepper, February 15, 2022.

- Co-author, "2021 Consumer Financial Services Year in Review & A Look Ahead," *Troutman Pepper*, January 28, 2022.
- Co-author, "Key Takeaways From the New Onslaught of FCRA Filings," *Law360*, January 28, 2022.
- Co-author, "The Holder Rule and Attorneys' Fees: The FTC Speaks," *Troutman Pepper*, January 24, 2022.
- Co-author, "2020 Consumer Financial Services Year in Review & A Look Ahead," *Troutman Pepper*, February 26, 2021.
- Co-author, "2019 Consumer Financial Services Year in Review & A Look Ahead," *Troutman Pepper*, February 24, 2020.
- Co-author, "2018 Consumer Financial Services Year in Review & A Look Ahead," *Troutman Sanders*, January 28, 2019.
- Co-author, "Annual Report: 2017 Consumer Financial Services Year in Review and a Look Ahead," published by Troutman Sanders LLP, Jan. 10, 2018.
- Co-author, "FTC Enforcement Trends In 2013 And 2014 For FDCPA," *Law360*, May 1, 2014.
- Co-author, "Court Clears the Way For CFPB," *Law360*, February 10, 2014.
- Co-author, "Top 5 Questions About the CFPB's 'Larger Participant Rule'," *Corporate Counsel*, January 14, 2013.
- Co-author, "CFPB's Reach Extends To 'Larger Participants' And Beyond," *Law360*, December 7, 2012.

MEDIA COMMENTARY

- Mentioned, "Law360's Legal Lions of the Week," *Law360*, May 17, 2024.