



## Practices & Industries

# Consumer Finance & Creditors' Rights

## Overview

Day Pitney represents creditors, including financial institutions, banks, mortgage companies, automobile lenders and retailers, credit card companies, and collection companies in disputes brought under state and federal consumer protection laws, as well as defending them against common-law claims. That representation includes the defense of individual and class actions. Clients also call on us for tax and labor advice for their human resources departments, defense in housing discrimination claims, and prosecution of claims against former employees who violate noncompete agreements. Our clients look to us for advice and comprehensive defense strategies regarding suits brought under the:

- Equal Credit Opportunity Act;
- Fair Credit Reporting Act;
- Fair Debt Collection Practices Act;
- Real Estate Settlement Procedures Act;
- Retail Installment Sales Financing Act;
- Truth-in-Lending Act;
- Unfair Trade Practices Act;
- Uniform Commercial Code.

In addition to defending creditors, Day Pitney represents clients in connection with significant creditors' rights matters, representing those institutions as plaintiffs in commercial loan recovery and foreclosure matters in New Jersey, New York, Connecticut and Massachusetts. The creation and standardization of forms have enabled our clients to quickly and cost-effectively collect monies due. In our representation of clients in consumer finance and creditors' rights real estate litigation matters, we are able to provide efficient service due to our development of a databank of forms and research, resulting in a significant reduction in the amount of time we need to spend gathering and preparing these documents.

## Experience

*No aspect of this advertisement has been approved by the highest court of any state. Prior results do not guarantee a similar outcome.*

- Originators of loans on a nationwide basis, defending claims by borrowers concerning the origination of their loans. We have had an unprecedented success rate on those claims, the majority of which have been dismissed on demurrer or in response to a motion to dismiss or motion for summary judgment, with little or no discovery.
- Servicers of loans on a regional basis, defending claims by borrowers concerning the servicing of their loans. We actively work with our clients to see whether a modification of the loan is possible and, if not, aggressively move for the dismissal of any counterclaims intended to slow the foreclosure process.

- Banks in the collection of millions of dollars by way of foreclosure or suits on notes and guarantees.
- Credit card companies in actions under the Fair Credit Reporting Act (FCRA), including the representation of a major credit card issuer in numerous actions by cardholders brought in state and federal courts.
- A lender in a landmark case that resulted in the first reported decision rejecting the imposition of a fiduciary duty on a lending bank in its relationship with a borrower, and in a precedent-setting truth-in-lending case.
- A lender in connection with a putative class action arising under the Truth-in-Savings Act (TISA) alleging misleading advertisements and inadequate disclosures.
- A bank in putative class actions in both federal and state courts alleging violations of the Truth-in-Lending Act (TILA) and various state disclosure laws, respectively, arising from assignment of residential mortgages.
- A bank in a certified class action in federal court alleging violations of TILA, the Real Estate Settlement Procedures Act (RESPA), the Fair Debt Collection Practices Act (FDCPA) and various state statutes in connection with the satisfaction of residential mortgage loans.
- A home equity lender in a national class action in federal court alleging violations of TILA and various state disclosure laws.
- A mortgage company in a national class action involving 32,000 class members in federal court alleging wrongful payment of broker premiums and wrongful charging of satisfaction fees, as well as violations of the Racketeer Influenced and Corrupt Organizations (RICO) Act, RESPA, TILA, and various state statutes.
- A home equity lender in a multistate class action relating to the purchase of home improvement loans, alleging violations of TILA, FDCPA and state law claims.
- Debt collectors in purported class actions alleging claims under FDCPA.
- A client in a putative class action in a state superior court, involving credit insurance charges.
- A bank that made motor vehicle loans, in a statewide class action pending in a state superior court, alleging claims under certain state laws.
- Lenders and collection agencies in individual actions involving claims under TILA, the Fair Billing Practices Act, FCRA and FDCPA.