

Consumer & Commercial Litigation



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Ulmer & Berne LLP provides in-depth litigation expertise to financial institutions and service providers in all aspects of consumer and commercial litigation.

Our attorneys have defended banks, hedge funds, mortgage brokers, and other financial institutions – as well as their individual directors, officers, and third-party agents – in virtually every type of consumer, compliance and/or financial litigation. These include: complex claims related to mortgages (including documentation and fraud claims), counterclaims asserted in foreclosure actions, collateralized mortgage obligations (CMOs), mortgage backed securities (MBSs), auction rate securities (ARSs), truth-in-lending and consumer disclosure requirements, financial privacy, the Uniform Commercial Code, debt collection practices, credit reporting, identity theft, federal preemption, electronic consumer financial services, credit discrimination, unfair or deceptive practices, and consumer and commercial lender liability.

In addition to handling consumer and commercial regulatory and litigation matters, Ulmer & Berne also represents financial institutions in their trustee capacities, both as personal and as indenture trustees. Our trust litigation experience includes claims for breach of fiduciary duty, violations of the Employee Retirement Income Security Act, trustee negligence and breach of contract.

Because our litigators deal with financial institutions on a daily basis, we can effectively and efficiently address the unique structural, regulatory and information management issues that financial institutions encounter in litigation.

The Firm's trial attorneys are regularly recognized by *The Best Lawyers in America*, *Chambers USA: America's Leading Lawyers for Business*, and *Law and Politics Magazine's Ohio Super Lawyers* and have litigated in numerous jurisdictions throughout the United States with excellent results. Our comprehensive experience allows Ulmer & Berne to provide not only successful representation in litigation matters, but also valuable insights on the latest developments in banking, commercial law, and class action litigation.

You reap the benefit of our broad experience. You receive quick answers to legal questions and informed strategic advice with less research time. Examples of our recent successes include:



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- Garnering dismissal of the federal public nuisance case brought by the City of Cleveland against national banks and related entities involved in securitization of subprime mortgages.
- Obtaining a favorable federal jury verdict on behalf of national bank on claims of aiding and abetting a \$65 million Ponzi scheme (after defeating motion for class certification and obtaining dismissal of seven other defendant banks and financial institutions on UCC and conspiracy to defraud claims arising from handling of customer accounts).
- Obtaining dismissal of FDCPA and state RICO claims in a putative class action against a financial institution and its attorneys alleging irregularities in state court foreclosure actions.
- Securing the dismissal and affirmance in the Sixth Circuit on behalf of four national banks and their holding companies in multi-million dollar putative class action involving National Bank Act preemption issues arising from claims that defendant banks improperly charged fees in garnishment proceedings.
- Obtaining dismissal of putative class claims alleging violations of UCC and Retail Installment Sales Act in auto repo activities based upon federal preemption.
- Successfully defending a national bank in multistate litigation by 300 individual plaintiffs alleging securities violations and fraud arising from bank's loans to investors in defunct company.
- Prevailing at the summary judgment stage in a putative class action against a major national bank based upon alleged violations of the Electronic Funds Transfer Act (EFTA); a decision that was affirmed by the Sixth Circuit Court of Appeals.
- Resolving claims against a large national bank and executives accused of causing over \$40 million in damages to a customer based on alleged violations of various federal securities laws and lending laws.
- Defending a national banking institution accused of breach of fiduciary duty under ERISA for failing to timely invest participants' contributions to the pension and profit sharing plan of a major insurance company.
- Representing financial institutions in matter brought against the Office of the Comptroller of the Currency seeking Suspicious Activity Reports ("SARs") and SARs-related documents, in which



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the trial court ultimately determined that the plaintiff was prohibited from such documents pursuant to federal laws and regulations.

- Securing dismissal of cases involving allegations of predatory lending practices and violation of federal and state truth-in-lending statutes, consumer protection statutes, fraud, and racketeering.



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