



## David E. Fialkow

### Partner

Boston

+1.617.261.3126

New York

+1.212.536.3900

david.fialkow@klgates.com

## OVERVIEW

David Fialkow serves as a practice group coordinator for the firm's Financial Institutions and Services Litigation group. He regularly represents an array of financial institutions and service providers in disputes involving commercial and consumer finance products.

On the consumer side, David represents national banks, mortgage servicers, student lenders, and other consumer financial services providers in litigation, class actions, arbitrations, administrative proceedings, appeals, and other disputes involving state and federal laws related to mortgage origination, loan servicing, auto loans, student loans, debt collection, credit reporting, unfair and deceptive trade practices, as well as a host of other consumer finance laws. He also advises these businesses in regulatory compliance matters.

On the commercial side, David represents lenders, servicers, and special servicers in lender/servicer liability actions in state and federal courts. In collaboration with our restructuring and insolvency group, David advises clients on issues arising out of loan transactions, cash management, risk mitigation, default, and other disputes.

Beyond financial services, David represents corporate and individual clients in commercial and personal disputes involving contracts, competition, intellectual property, antitrust, fiduciary duties, employment, and other matters.

## PROFESSIONAL BACKGROUND

Prior to joining K&L Gates, David was a partner at a national law firm.

## PROFESSIONAL / CIVIC ACTIVITIES

- ABA (American Bar Association)
- DRI (Defense Research Institute)
- IADC Trial Academy Alumni (International Association of Defense Counsel Trial Academy)

## EDUCATION

- J.D., Suffolk University Law School, 2006 (*summa cum laude*; *Note Editor, Suffolk University Law Review*)
- B.S., Florida State University, 2002 (*magna cum laude*)

## ADMISSIONS

- Bar of Massachusetts
- Bar of New York
- Bar of Rhode Island
- United States Court of Appeals for the First Circuit
- United States District Court for the District of Massachusetts
- United States District Court for the District of Rhode Island
- United States District Court for the Eastern District of New York
- United States District Court for the Southern District of New York
- United States District Court for the Western District of Wisconsin

## THOUGHT LEADERSHIP POWERED BY HUB

- 24 January 2024, Unprecedented Maine Supreme Court Reversal - A Huge Win for Maine Mortgage Lenders
- 17 May 2023, Developments in Revenue Based Financing
- November 2022, Decoding Digital Assets: Blockchain, Crypto, and NFTs Insight Series - Part I
- 28 September 2022 , The Third Time Is the Charm: The Eleventh Circuit Allows Creditor's Use of Commercial Mail Vendor
- 22 September 2022, The Growing Trend of Revenue-Based Financing and its Legal Implications
- 17 November 2021, New But Not Improved: On Panel Rehearing, 11th Circuit Issues Revised FDCPA Decision in *Hunstein v. Preferred Collection and Management Services*
- 12 May 2021, Not a Preferred Course: 11th Circuit Decides FDCPA Question in *Hunstein v. Preferred Collection and Management Services*
- 21 April 2020, COVID-19: Attention Massachusetts Mortgagees - New State Legislation Impacting Foreclosure Rights
- 31 March 2020, COVID-19: Impact on Consumer Financial Service Providers

- 19 March 2020, Turning Over a New Leaf: Maine Law Court Provides Path for Foreclosing Entities to Cure Greenleaf Defects with Assignments of Mortgage and Signals That Reconsideration of Greenleaf May Be Warranted
- 31 January 2018, Cryptocurrency 2018: When The Law Catches Up With Game-Changing Technology
- 30 January 2018, Cryptocurrency 2018: When The Law Catches Up With Game-Changing Technology
- 21 December 2016, Massachusetts Title Clearing Act To Take Effect December 31, 2016 - Are you Ready?
- 16 March 2016, Increased Scrutiny On “Auto-Defaults”— Road To Enforcement Or Impetus For Change?
- 10 December 2015, “An Act Clearing Titles to Foreclosed Properties” in Massachusetts ... Maybe

## OTHER PUBLICATIONS

- “The Growing Trend of Revenue-Based Financing and Its Legal Implications,” *The Banking Law Journal*, February 2023
- “Third Time Is the Charm: Eleventh Circuit Allows Creditor’s Use of Commercial Mail Vendor,” *The Banking Law Journal*, January 2023
- ABA Business Law Section’s Review of Developments in Business and Corporate Litigation (*Chapters on Class Actions, 2010-2014*)
- “The Trend Toward Using The Risk-Utility Test,” *Law360*, 2010
- “The Media’s First Amendment Rights and The Rape Victim’s Right to Privacy: Where Does One Right End and The Other Begin?,” *39 Suffolk U. L. Rev.* 745, 2006

## NEWS & EVENTS

- 20 May 2021, 2021 Consumer Financial Services Symposium - Virtual Edition: Panel 2 - Litigation and Enforcement in a Post-Pandemic World
- 30 July 2015, K&L Gates Strengthens Investment Management Practice with Boston Lawyer Addition

## AREAS OF FOCUS

- Financial Institutions and Services Litigation
- Antitrust, Competition, and Trade Regulation
- Appellate Litigation
- Payments, Banking Regulation, and Consumer Financial Services