



Brian M. Forbes

Partner

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OVERVIEW

Brian Forbes is a partner in the financial institutions and services litigation group at K&L Gates. Based in the firm's Boston office, Brian regularly represents banking, mortgage lending and consumer financial services institutions in consumer class actions and individual litigation matters in federal and state courts throughout the United States. These actions typically concern challenges under federal statutes, including the federal Real Estate Settlement Procedures Act, the Truth in Lending Act, the Fair Debt Collection Practices Act, the Equal Credit Opportunity Act, the Fair Credit Reporting Act, and the Racketeer Influenced and Corrupt Organizations Act, as well as state unfair and deceptive acts and practices statutes, and common law claims. Brian also has extensive experience in complex commercial litigation, including trials and appellate advocacy.

Brian has written and spoken extensively on financial services litigation and class actions and he is a co-author of multiple chapters in the treatise *Defense of Class Action Litigation in Federal Court* (Bloomberg Law 2018). Prior to joining K&L Gates, Brian served as Law Clerk to the Honorable Judith Gail Dein, United States District Court, District of Massachusetts, 2000-2001, and as Law Clerk to the Justices of the Superior Court of Massachusetts, 1999-2000.

PROFESSIONAL BACKGROUND

Prior to joining K&L Gates, Brian served as Law Clerk to the Honorable Judith Gail Dein, United States District Court, District of Massachusetts, 2000-2001, and as Law Clerk to the Justices of the Superior Court of Massachusetts, 1999-2000.

PROFESSIONAL / CIVIC ACTIVITIES

- Mortgage Bankers Association
- Boston Bar Association
- American Bar Association

SPEAKING ENGAGEMENTS

- Panelist, FinTech and Consumer Finance: Analyzing the Latest Innovations, Compliance Challenges of the Bank Partner Model and OCC FinTech Charter, and the Rise of “True Lender” Litigation, American Conference Institute's 31st National Forum on Consumer Finance Class Actions and Government Enforcement; Chicago, July 2019
- Speaker, 2018 Consumer Financial Services Symposium, December 2018.
- Impact of Regulatory Actions on Private Litigation; Consumer Financial Services Litigation Hot Topics 2017, Consumer Financial Services Symposium by David E. Fialkow, Stavroula E. Lambrakopoulos, Brian M. Forbes, Gregory N. Blase, Nagle, Jennifer J
- The Mortgage Lifecycle: Litigation Hotspots From Origination Through Foreclosure, *Powerpoint Webinar Presentation*, by Irene C. Freidel, Brian M. Forbes, Robert W. Sparkes, III, and Jennifer Janeira Nagle, February 24, 2016
- Panelist, Anatomy of a Class Action Trial, The Boston Bar Association, October 6, 2015
- Just Trying to Help: Application of Federal and State Debt Collection Laws in the Workout and Modification Process, Powerpoint Webinar Presentation, by Steven M. Kaplan, Jonathan D. Jaffe, Brian M. Forbes, and David A. Tallman, February 2010
- Finding New Ways to Motivate Them: Debt Collection Laws and Alternative Communication Strategies, Webinar Powerpoint Presentation, by David L. Beam, Brian M. Forbes, Nanci L. Weissgold, and David G. McDonough, Jr. March 2010

EDUCATION

- J.D., Northeastern University School of Law, 1999
- B.A., University of New Hampshire, 1995 (*magna cum laude*; *Phi Beta Kappa*; *University Honors Program*)

ADMISSIONS

- Bar of Massachusetts
- United States Court of Appeals for the Eighth Circuit
- United States Court of Appeals for the Eleventh Circuit
- United States Court of Appeals for the First Circuit
- United States Court of Appeals for the Fourth Circuit
- United States Court of Appeals for the Ninth Circuit
- United States Court of Appeals for the Second Circuit

- United States Court of Appeals for the Seventh Circuit
- United States Court of Appeals for the Third Circuit
- United States District Court for the District of Massachusetts

THOUGHT LEADERSHIP POWERED BY HUB

- 18 May 2020, COVID-19: Echoes Don't Fade (*Alerts/Updates*)
- 4 May 2020, COVID-19: Class Actions in Session (*Alerts/Updates*)
- 30 April 2020, COVID-19: Credit Reporting in the Age of COVID-19 (*Alerts/Updates*)
- 14 April 2020, COVID-19: Defending Class Actions in Massachusetts in the Wake of COVID-19 (*Alerts/Updates*)
- 31 March 2020, COVID-19: Impact on Consumer Financial Service Providers (*Alerts/Updates*)
- 12 June 2019, Ninth Circuit U-Turns And Approves Nationwide Class Settlement In Automobile Class Action Involving Potential Variations In States' Laws (*Alerts/Updates*)
- 2 February 2018, Back from the Dead: The D.C. Circuit Breathes Life Into RESPA Section 8 Safe Harbor (*Alerts/Updates*)
- 15 June 2017, CFPB Director Informs Consumer Advisory Board That Bureau Will Not Shy Away from Issuing Debt Collection Proposed Rule (*Research Surveys*)
- 1 March 2017, Proposed Fairness in Class Action Litigation Act of 2017 Seeks to Curb Attorney Abuses of Class Action Device and Expand Class Action Defendant Protections (*Alerts/Updates*)
- 24 January 2017, "Survey Says": CFPB Report Provides Further Insight Into Forthcoming Debt Collection Regulations (*Research Surveys*)
- 10 August 2016, Change Order: The CFPB Previews Its Proposed FDCPA Regulations (*Alerts/Updates*)
- 8 August 2016, Light Reading for the Dog Days of Summer: CFPB Finalizes Amendments to Mortgage Servicing Regulations (*Research Surveys*)
- 27 June 2016, It's Time For An Upgrade — Outdated Technology Puts Mortgages Servicers At Risk For Increased CFPB Scrutiny and Potential Servicing Violations (*Research Surveys*)
- 16 May 2016, Supreme Court Vacates and Remands Ninth Circuit Decision on Article III Injury-in-Fact in Spokeo (*Research Surveys*)
- 7 April 2016, Don't Look a Gift Card in the Mouth: Beware of Liability Under the Electronic Fund Transfers Act (*Alerts/Updates*)
- 21 January 2016, Step by Step: Stricter Requirements for Class Certification Inch Closer to Legislative Enactment (*Alerts/Updates*)

- 21 January 2016, Step by Step: Stricter Requirements for Class Certification Inch Closer to Legislative Enactment (*Research Surveys*)
- 22 September 2015, You Had Me at “Hello” Letter: Second Circuit Concludes That a RESPA Transfer-of-Servicing Letter Can Be a Communication in Connection with Collection of Debt (*Research Surveys*)
- 5 August 2015, Against the Tide: A New Take on RESPA’s Section 8(c)(2) Safe Harbor by the CFPB (*Alerts/Updates*)
- 5 August 2015, Against the Tide: A New Take on RESPA’s Section 8(c)(2) Safe Harbor by the CFPB (*Research Surveys*)
- 29 April 2015, *Spokeo, Inc. v. Robins*: U.S. Supreme Court to Consider Whether Plaintiffs Have Standing to Assert a Statutory Violation without Alleging any Actual Harm (*Alerts/Updates*)

NEWS & EVENTS

- August 2020, K&L Gates Lawyers Provide Insights on Impact of COVID-19 Across Various Industries (*Media Mention*)

AREAS OF FOCUS

- Financial Institutions and Services Litigation
- Appellate Litigation
- Class Action Litigation Defense
- Complex Commercial Litigation and Disputes
- Payments, Banking Regulation, and Consumer Financial Services

INDUSTRIES

- Financial Services
- Fintech

REPRESENTATIVE EXPERIENCE

- Defend financial institution through trial in connection with claims brought under the Uniform Commercial Code
- Defend financial institutions in putative class actions alleging violations of the federal Americans with Disabilities Act

- Defend national mortgage servicer in putative class action alleging violations of Washington state statutes and common law claims in connection with property preservation activities
- Defend national mortgage loan servicers in connection with various class actions alleging violations of the Fair Debt Collection Practices Act and state unfair and deceptive acts and practices statutes
- Defend loan servicers and investors in response to subpoenas and civil investigative demands from state attorneys general and banking regulatory agencies related to mortgage servicing, foreclosures, and appraisal issues
- Defend national mortgage loan servicers in putative class actions in Massachusetts, Delaware, New York, among other states, alleging state and federal law claims in connection with servicer conduct under the Home Affordable Modification Program (“HAMP”)
- Defend national mortgage servicer in putative class action through successful appeal in West Virginia Supreme Court of Appeals in matter alleging violations of state law governing debt collection and raising issues regarding the enforceability of mandatory arbitration provisions
- Defend national mortgage lender and appraisal management company in nationwide putative class action alleging violations of the Real Estate Settlement Procedures Act related to an affiliated business arrangement
- Defend national mortgage loan servicers in connection with various class actions concerning lender-placed insurance
- Defend loan servicer and investors in connection with litigation around the country related to the Mortgage Electronic Registrations System, Inc. (MERS), including defense of claims in the MERS multi-district litigation proceedings.
- Defend national mortgage lender through successful trial and appeal in a class action alleging claims for violations of the Real Estate Settlement Procedures Act, the Racketeer Influenced and Corrupt Organizations Act, and the Maryland Consumer Protection Act, and for negligent misrepresentation, fraud, civil conspiracy and restitution/unjust enrichment in connection with the provision of services through an affiliated business arrangement