



Phoebe S. Winder

Partner

Boston
+1.617.261.3196

phoebe.winder@klgates.com

OVERVIEW

Phoebe Winder focuses her practice on bankruptcy consumer finance matters.

Phoebe has represented a variety of servicers, lenders, and other financial institutions on bankruptcy-related compliance, regulatory and litigation matters. Phoebe currently serves as national outside bankruptcy counsel for some of the largest mortgage servicers, and has been involved in some of the largest, national bankruptcy settlements.

PROFESSIONAL / CIVIC ACTIVITIES

- Trustee, Henry Kendall Foundation (non-profit focused on creating a resilient and healthy food system in New England by increasing the production and consumption of local, sustainably produced food).

SPEAKING ENGAGEMENTS

- Speaker, July 2019, Annual Conference of National Association of Chapter 13 Trustees (Indianapolis, IN), Overview of Law and Trends in Post-Petition Fee Notices.
- Speaker, May 2019 MBA Legal Issues Conference (New Orleans, LA), Bankruptcy Servicing Trends.
- Speaker, April 2019 Black Knight Information Exchange Conference (Orlando, FL), Hot Bankruptcy Trends.
- Speaker, December 2018 Consumer Financial Services Symposium (Washington, DC), Bankruptcy Regulatory Trends.
- Government Enforcement and Litigation Trends, 2017 Consumer Financial Services Symposium, 4 December 2017

EDUCATION

- J.D., University of Michigan Law School, 1994 (*Editor, Michigan Journal of International Law*)
- B.A., Vanderbilt University, 1991 (*Phi Beta Kappa*)

ADMISSIONS

- Bar of Massachusetts
- United States Court of Appeals for the First Circuit
- United States Court of Appeals for the Second Circuit
- United States District Court for the District of Massachusetts
- United States District Court for the Northern District of Texas

THOUGHT LEADERSHIP POWERED BY HUB

- 30 March 2020, COVID-19: How the CARES Act Will Impact Chapter 7 and Chapter 13 Consumer Bankruptcies (*Alerts/Updates*)
- 9 August 2017, Upcoming Amendments to Bankruptcy Rule 3002 to Impact Bankruptcy Filing Practices for Mortgagees (*Alerts/Updates*)
- 24 May 2017, Balancing Act: Supreme Court Rules That Filing a Proof of Claim for Stale Debt Does Not Violate the Fair Debt Collection Practices Act (*Alerts/Updates*)
- 22 November 2016, Bankruptcy Payment Change Notice Rule Changes to Take Effect December 1, 2016 (*BlogPost*)
- 19 May 2016, Take Notice of This Change: Supreme Court Adopts Recommended Amendments to Bankruptcy Notice of Payment Change Rule (*Alerts/Updates*)
- 6 July 2015, Advisory Rules Committee Adopts Amendments to Bankruptcy Rule 3002.1 (*BlogPost*)

OTHER PUBLICATIONS

- Coauthor, "A Closer Look at *Midland Funding v. Johnson*," *Law360*, June 15, 2017
- Coauthor, "Scope Of The Amendments To Bankruptcy Rule 3002.1," *Law360*, May 23, 2016
- Coauthor, "Where Proposed Changes To Rule 3002.1 Fall Short," *Law360*, April 9, 2015

AREAS OF FOCUS

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

- Restructuring and Insolvency

REPRESENTATIVE EXPERIENCE

- Negotiated and implemented multiple large settlements with the Executive Office for United States Trustees relating to bankruptcy servicing practices.
- Provide day-to-day advice to a number of mortgage servicers regarding consumer bankruptcy issues, including proofs of claim, payment change notices, post-petition fee notices, bankruptcy escrow, periodic statements to debtors, bankruptcy credit reporting, online account access to debtors, responses to notices of final cure, motions for relief from stay, bankruptcy loss mitigation, violations of the automatic stay and discharge injunction, and disclosure of personal identifying information as it relates to debtors in bankruptcy.
- Assist bank services clients in connection with bankruptcy-focused OCC exams and enforcement-related matters.
- Served as national coordinating counsel for a bank servicer in connection with a government investigation into bankruptcy servicing practices, leading up to the entry of the National Mortgage Settlement, and assisted on bankruptcy compliance as it relates to the National Mortgage Settlement.
- Oversee a comprehensive bankruptcy certification program for several mortgage servicers, involving a review of the work product of individual preparers of proofs of claim, post-petition fee notices, and payment change notices in order to determine whether the preparers possess the substantive skills necessary to prepare such documents.
- Defended in excess of one hundred 2004 exams initiated by the United States Trustees Program.
- Served as lead counsel in successful appeals before the Massachusetts Appeals Court and Supreme Judicial Court, centering on the client's status as a senior secured creditor, its attachment of real property, and various receivership issues.
- Serve as national coordinating counsel for several large servicers in connection with the remediation of improperly redacted bankruptcy filings.
- Handled numerous loan-level adversary proceedings relating to mortgage servicing and origination, including debtor actions involving allegations of wrongful disclosure, fraud, and unfair and deceptive practices.
- Coordinate, on a national level, all litigation relating to payment change notices for one of the largest mortgage servicers, including loan-level litigation, show-cause orders, and inquiries by chapter trustees and United States Trustees.
- Serve as national counsel for 5+ of the largest mortgage servicers in connection with government inquiries into bankruptcy servicing practices.
- Defended multiple servicers in bankruptcy courts arising from loan-level orders to show cause, sanctions hearings, and findings of contempt.

- Counsel mortgage servicers on sworn document execution (signing and filing) of bankruptcy documents, including local rules and ECF filing requirements relating to the same.
- Performed a comprehensive review of the bankruptcy operations of one of the largest bank servicers, and assisted several other servicers in analyzing their bankruptcy departments' operations, including on-site visits and written reports of findings.
- Oversaw the remediation of over 150,000 bankruptcy filings in 94 bankruptcy jurisdictions.
- Advise on all aspects of bankruptcy escrow, including handling of prepetition arrearages, calculation of post-petition escrow amounts, filing of escrow-related payment change notices, running of annual escrow analyses in bankruptcy, and the preparation of escrow for purposes of proofs of claim. Responded to CFPB Civil Investigative Demands relating to bankruptcy escrow.