Financial Institution Litigation

As part of its comprehensive finance and banking practice, Miles & Stockbridge represents financial institutions in a broad range of litigation matters. Our lawyers represent commercial banks, mortgage companies, credit card companies, consumer loan companies, and other lenders in court and in other dispute resolution forums. We defend them against business and consumer account claims, lender liability claims, breach of privacy claims and an array of statutory claims (including class actions), and assert their rights in such matters as commercial collection and adversary proceedings in bankruptcies.

Whether representing financial institutions as plaintiffs or defendants, our goal is to pursue the course that is in our client’s best interests. We are vigorous advocates at trial, and yet are frequently able to reach a favorable settlement of issues at early stages. A key value-added aspect of our counsel is that we thoroughly understand the banking industry. Our many collective years of working with financial institutions enable us to effectively understand our clients’ businesses and their problems and to present complex, technical financial issues understandably to juries of non-specialists. This institutional knowledge is frequently a major advantage to our clients in what can be emotional disputes in which we assert their rights against borrowers, or defend them against class action claims aimed at securing a settlement from "deep pockets" defendants.

We represent financial institutions in general commercial litigation, including the following areas:

**RETAIL CLAIMS**

We represent banks against consumer and business actions involving Article 3 (negotiable instruments) and Article 4 (bank deposits and collections), as well as other provisions of the Uniform Commercial Code. Such disputes typically involve check and bank account fraud, privacy issues, attachment and
garnishment, wire transfer claims, letters of credit and retirement accounts. These matters sometimes involve smaller dollar amounts, but frequently hinge on the highly technical banking issues that we are adept at explaining to courts and juries.

LENDER LIABILITY CLAIMS

We defend banks, commercial credit companies and other lenders when they are sued by borrowers that claim fraud, breach of fiduciary duty, or other wrongs involving their loans. These suits frequently are brought by businesses claiming that their default or other problems resulted from lender interference in their operations, and their assertions can even involve the federal RICO racketeering statute. Lender liability claims can involve substantial sums of money, and we work to ensure that our clients’ rights are fully asserted.

CONSUMER PROTECTION CLAIMS

A significant share of our financial institution defense involves claims made under state and federal consumer protection statutes. These claims frequently allege fraud, deception or discrimination in lending. We have extensive experience with the consumer protection statutes of many states, and are especially knowledgeable about Maryland’s Consumer Protection Act, Secondary Mortgage Loan Law and Mortgage Lender’s Law. On the federal level, we regularly handle lawsuits brought under the Truth-in-Lending Act, Home Ownership Equity Protection Act, Equal Credit Opportunity Act, Fair Debt Collection Practices Act, Fair Credit Reporting Act and Real Estate Settlement Procedures Act, among others. Consumer protection statutory claims frequently are made as class action lawsuits, and our objective in such situations is to defend the matter in the way that works best for our client. We assess the merits of the case quickly, and aggressively move to dismiss it or deny class certification if we conclude it has no merit. We are well aware that the cost/benefit analysis for full-scale litigation of consumer class actions contains many variables, including a potential public relations challenge, and we are adept at reaching a favorable conclusion short of trial if necessary. We work hard to leverage every advantage we can into an early and favorable resolution of the case for the client. Should the case move to the trial stage, our experience enables us to assess the best approach for the court in which the trial takes place, and to present a knowledgeable, yet practical defense, that humanizes our client’s position so that it resonates with a jury.

COMMERCIAL COLLECTION
Our commercial litigators and creditors' rights lawyers work closely on disputes involving foreclosure of asset-based loans on real estate and such other property as inventory or receivables, seeking to recover our client’s collateral through the most effective means — including liquidation if necessary.

**ADVERSARY PROCEEDINGS**

We represent financial institutions in adversary proceedings involving consumer and business bankruptcies filed under Chapters 7, 11 and 13 of the bankruptcy code, including preference and fraudulent transfer claims, as well as actions to determine the dischargeability of debts.

For more information on the Financial Institution Litigation practice of Miles & Stockbridge, contact E. Hutchinson Robbins, Jr. via email or via telephone at 410.385.3408.

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