



Financial Services Litigation

The financial services industry is dynamic and ever changing, requiring experienced legal counsel who understands the market and the client's business needs. Krieg DeVault's [Financial Institutions Practice](#) is well-respected on local, state and national levels, and our firm's Financial Services Litigation team is an integral part of that practice. We have a long history of advocating for financial institutions on a broad range of regulatory, enforcement and liability issues. Krieg DeVault has played a major role in shaping the financial institutions landscape in Indiana over the last several decades. Our litigators have been at the forefront of developing new law having significant impact on the financial services industry, their services and operations.

The Krieg DeVault Difference

Our firm brings a true team approach to any financial services litigation matter. This involves the strategic collaboration of our seasoned banking lawyers and our formidable litigators, who together share a sophisticated grasp of the legal landscape and can offer the necessary depth and resources to take on the most complex of cases. Our bench strength comes from former bank executives and in-house counsel, leaders and advisers to financial service providers, regulators and industry organizations, and a former U.S. Attorney, making us well-equipped to address the diverse challenges those in the financial services industry face. This combination of skills, experience and collective knowledge of the substantive law and regulations enables us to pursue optimal and efficient outcomes for our clients. Krieg DeVault is the go-to litigation firm for financial institutions of all sizes.

The Work We Do

We represent community and regional banks, state and nationally chartered banks, federally regulated financial institutions, specialty finance companies, investment banks, bank holding companies, broker/dealers and investment advisors, as well as other entities and individuals in the financial services industry. As we continue to monitor and stay abreast of regulatory and litigation trends in the financial services industry, we have seen an increasing number of lawsuits filed against financial institutions alleging violations of consumer protection statutes, including:

- Fair Credit Reporting Act (FCRA)
- Fair Debt Collection Act (FDCPA)
- Telephone Consumer Protection Act (TCPA).

We regularly defend against these types of claims. We also have experience representing individuals and entities in the financial services industry in a wide variety of other litigation matters, including:

SOLUTIONS®



- Antitrust issues
- ATM litigation
- Broker-dealer non-compete/non-solicitation disputes
- Broker, broker-dealer, and registered investment advisor disputes involving banking and securities laws
- Check liability issues (forged checks, endorsement issues, etc.)
- Class actions
- Collection and guaranty enforcement actions
- Deposit account disputes
- Disposition of distressed/contaminated properties
- Employment disputes (wages, non-compete/non-solicitation agreements, etc.)
- Employee embezzlement and theft
- Fiduciary litigation
- Fraud claims (money laundering, False Claims Act, Patriot Act, Foreign Corrupt Practices Act, RICO, etc.)
- Government agency investigations
- Grand jury and internal investigations
- Lender liability actions
- Mortgage foreclosure actions
- Mortgage fraud and lending litigation (non-foreclosure)
- NASD (now FINRA) arbitrations
- Negligence actions
- Overdraft and bank fee litigation
- Personal injury claims
- Property damage and trespass claims
- Securities litigation
- Trust and estate litigation
- UCC violations
- Wire transfer and electronic payment issues.

In addition to traditional litigation services, we offer specialized consulting, policy development and training to assist those in the financial services industry with regulatory compliance. Areas in which we have provided such services include:

- General business ethics
- Patriot Act
- Anti-money laundering
- Financial privacy and data protection
- Foreign Corrupt Practices Act and OFAC compliance.

SOLUTIONS®



Our Financial Services Litigation team is experienced in effectively and efficiently resolving disputes not only in the state and federal courts, but also through arbitration, mediation and other forms of alternative dispute resolution. In addition, our litigators have been counsel of record in a number of important appeals resulting in legal precedent affecting our financial institution clients, including:

- ***LaPlace Indiana, LLC v. Lakeland West Capital XXIV, LLC***, 2018 WL 701004 (Ind. Ct. App. Feb. 5, 2018) (Unpublished Disposition). Prevailed in mortgage foreclosure case involving the interpretation of exculpation and recourse provisions, which allowed lender to foreclose on the property and seek a monetary judgment from the debtor.
- ***Old Nat'l Bank v. Kelly***, 31 N.E.3d 522 (Ind. Ct. App. 2015). Affirming trial court's decision in class action that bank's charges of overdraft fees to depositors' accounts did not constitute civil or criminal conversion and could not support a claim for unjust enrichment.
- ***Canada v. Countrywide Home Loans, Inc.***, 982 N.E.2d 487 (Ind. Ct. App. 2013) (Unpublished Disposition). Affirming dismissal of putative class action brought by homeowners alleging fraud on the court and state racketeering violations in state mortgage foreclosure proceedings through the use of "robo-signers."
- ***Fifth Third Bank v. Peoples Nat'l Bank***, 929 N.E.2d 210 (Ind. Ct. App. 2010). Prevailed in a matter of first impression in Indiana involving depository bank's automatic perfected security interest in deposit account under Revised Article 9 of the UCC.
- ***Bank One, Nat'l Ass'n v. Surber***, 899 N.E.2d 693 (Ind. Ct. App. 2009). Successful appeal of judgment against bank for alleged breach of contract arising out of bank's failure to add spouse to depositor's bank accounts as joint account holder prior to depositor's death. Bank was represented by different trial counsel.
- ***Pisciotta v. Old Nat'l Bancorp***, 499 F.3d 629 (7th Cir. 2007). Judgment in favor of bank in class action lawsuit brought by consumers claiming database security breach and fear of identity theft. Established new Indiana law that consumers could not recover costs associated with creditor monitoring services.
- ***Auto-Owners Ins. Co. v. Bank One***, 852 N.E.2d 604 (Ind. Ct. App. 2006), aff'd 879 N.E.2d 1086 (Ind. 2008). Successful defense of bank against claims for conversion and negligence involving forged endorsements. Established new Indiana law regarding statute of limitations under the Uniform Commercial Code (UCC).
- ***Conder v. Union Planters Bank, N.A.***, 384 F.3d 397 (7th Cir. 2004). Dismissal of class action lawsuit brought by victim of well-publicized Ponzi scheme against depository bank, alleging conversion and negligence for allowing checks made out to the malefactors to be deposited without proper endorsements. Established for the first time under Indiana law that depository bank owed no duty of care to Ponzi scheme victims to prevent schemers from defrauding them.

Members of our Financial Services Litigation team also contribute to the growing body of financial

SOLUTIONS®



services industry knowledge that is of interest to our clients, including as:

- Regular contributors to the Indiana Bankers Association's *Hoosier Banker* monthly publication, including its Compliance Connection section.
- Speakers on regulatory and compliance issues to organizations like the American Financial Services Association and its state counterparts.
- Presenters through the Krieg DeVault Financial Institutions Webinar Series.
- Authors of *Business Torts: A Fifty State Guide*, Indiana Chapter, 2009-2019 editions.
- Author of INDIANA PRACTICE, Articles of the Uniform Commercial Code, Volumes 8, 8, and 8A.

Financial Services Litigation Professionals

SOLUTIONS®