

Eric R. Hail

Partner

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Practices

FOCUS: Litigation

Class Action Litigation

Commercial Litigation

Consumer Finance Litigation and
Regulatory Compliance

Financial Markets Litigation and
Enforcement

Securities Litigation

White Collar and Internal Investigations

Industries

Finance and Financial Markets

Education

JD, Southern Methodist University

BA, The University of Texas at Austin

Bar Admissions

Texas

Court Admissions

US District Court, Eastern District of Texas

US District Court, Northern District of Texas

US District Court, Southern District of Texas

US District Court, Western District of Texas

Community Involvements

American Bar Association, Section of
Litigation

Dallas Bar Association

Patrick E. Higginbotham Inn of Court,
Barrister

Eric Hail represents banks, consumer finance companies and fintechs in litigation and regulatory compliance and enforcement matters. He has also represented numerous clients, including closely held companies, in shareholder and dissenter's rights matters and business divorces. In a climate of increased scrutiny of the banking and consumer credit industry, Eric brings a wealth of knowledge in advising clients on federal and state law compliance matters and defending them in litigation and regulatory investigations and enforcement actions.

Intense devotion with a long-game perspective

Eric is intensely devoted to his clients' goals and objectives. He works aggressively to protect his clients' interests, whether during engagement with regulators, in the courtroom, or when guiding them on long-term compliance risk issues outside the courtroom. When a case must go to trial or to a final administrative hearing, clients trust Eric to represent them to the final decision or verdict.

Specifically, Eric defends clients involved in state and federal agency investigations and enforcement actions before the Consumer Financial Protection Bureau (CFPB), Federal Trade Commission (FTC), state consumer credit agencies and state attorneys general investigations. He also advises banks and consumer finance companies on end-to-end regulatory compliance issues, from consumer contract issues to consumer disclosures, licensing issues and Unfair, Deceptive, or Abusive Acts or Practices (UDAAP) compliance.

Eric writes and speaks frequently on the latest trends and challenges facing his clients and their industries. In law school, he was managing editor of the *SMU Law Review*. Before law school, Eric served as a business development volunteer for the US Peace Corps in Ukraine.

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Partner

Representative Experience

- Lead counsel for bank in a multi-million dollar lawsuit involving claims by an insider director and shareholder who alleged the bank had wrongfully sought to foreclose on collateral for the large loan and breached a loan agreement. After three weeks of trial, the court entered a take-nothing judgment against the plaintiff, denying his \$2.2 million damages claim, along with all other claims.
- Represented numerous consumer finance and fintech companies in investigations and enforcement actions brought by federal and state consumer protection agencies, including the CFPB, FTC, California DFPI, state attorneys general, and state consumer credit and consumer protection agencies.*
- Represented large Texas bank against national car dealership finance company for fraud, breach of contract and theft of collateral. After two years of litigation, the case settled favorably for approximately \$8 million.*
- Lead counsel for \$4 billion bank in lawsuit against a checking account software company. After obtaining a temporary injunction, and numerous depositions, the case settled favorably on the eve of trial.*
- Lead counsel for group of bank executives who sued former bank owner for failing to distribute proceeds from the multi-million dollar sale of a bank. Following a temporary injunction hearing, the case settled for \$28.4 million.*
- Obtained complete dismissal of class action brought against national retailer and consumer finance company alleging violations of the Equal Credit Opportunity Act. See *Dorton v. Kmart Corp. and WhyNot Leasing, LLC*, 229 F. Supp. 3d 612 (E.D. Mich. 2017).*
- Successfully argued personal jurisdiction challenge to the Fourteenth Court of Appeals of the State of Texas on behalf of out-of-state clients in a case involving the alleged breach of a \$19 million gas turbine services agreement. Trial court's order dismissing claims was affirmed following

Eric R. Hail

Partner

oral argument by Eric. See *Waller Marine, Inc. v. Magie*, 463 S.W.3d 614 (Tex. App.—Houston [14th Dist.] 2015, no pet.).*

- Successfully defended well-known consumer finance company in putative class action involving alleged Telephone Consumer Protection Act violations. After submission of briefing in opposition to class certification and prevailing on discovery motions, the case settled favorably.*
- Member of trial team that defended large international bank in case brought by trust beneficiaries who alleged the bank committed fraud and breaches of fiduciary duty in connection with the lease of approximately 100,000 acres in the Eagle Ford Shale oil play. The plaintiffs sought \$1 billion in damages, and the case settled favorably after a week of trial.*
- Successfully defended a large broker-dealer in a case involving alleged damages of \$1.6 million on claims of broker negligence, securities fraud and breach of fiduciary duty. After a two-week arbitration, a take-nothing award was rendered.*
- Successfully prosecuted a breach of contract claim on behalf of a major financial institution. Client was awarded \$1.3 million after a week-long AAA arbitration.*
- Represented global technology company in a multi-million dollar UCC lien-priority dispute.*
- Represented large broker-dealer in mandamus proceeding before the Texas Supreme Court regarding significant legal issue involving the Federal Arbitration Act.*
- Represented brokerage firms in numerous FINRA arbitration proceedings concerning handling of investment accounts.*
- Represented numerous insurance carriers and broker-dealers in interpleader and garnishment proceedings in Texas state and federal courts.*
- Successfully brought claim on behalf of a Texas bank against an insurer relating to the insurer's failure to pay claim under a multi-million dollar financial institution bond.*

*Experience prior to Katten

Eric R. Hail

Partner

News

- Katten Adds Seasoned Banking and Consumer Finance Litigator Eric Hail in Dallas (April 5, 2023)

Publications

- Supreme Court Finds CFPB Funding Constitutional (May 16, 2024)
- CFPB Overdraft Rule Could Mean Big Shift In Banking Biz (February 16, 2024)
- The Latest Chapter in the Government's War on Purported "Junk" Fees: The CFPB Moves to Define Overdraft Services as Credit and to Cap Fee Amounts (January 19, 2024)
- Nuances of Texas Bank Litigation (January 2024)
- Privacy, Data and Cybersecurity *Quick Clicks* | Issue 11 (November 2023)
- New FTC Rule Requires Certain Financial Institutions to Report Loss of Unencrypted Customer Data (November 1, 2023)
- Junk or a Value-Added Service? Federal Regulators and the Biden Administration Go After "Junk" Fees (October 17, 2023)
- CFPB, FTC Actions Show Consumer Terms Need Fresh Eyes (September 26, 2023)
- Privacy, Data and Cybersecurity *Quick Clicks* | Issue 9 (September 2023)
- CFPB Director Announces Intention to Propose Rules Targeting the Reliance on Non-Traditional Data Sources in Consumer Finance (September 8, 2023)
- Financial Markets and Funds *Quick Take* | Issue 17 (August 2023)

Eric R. Hail

Partner

- Is the CFPB Seeking to Expand the Definition of Credit and Its Regulatory Reach? The Bureau Sues Snap Finance and Asserts That Snap's Transactions are "Credit" Under Federal Law (July 26, 2023)
- CFPB's Focus on Standard-Form Consumer Agreements Warrants 'Fresh Eyes' on Consumer Template Disclosures (July 26, 2023)
- Privacy, Data and Cybersecurity *Quick Clicks* | Issue 6 (June 2023)
- Is Your AI Intelligent Enough? The CFPB Says It Will Actively Police the Use of Chatbots and Warns of Risks (June 15, 2023)
- Texas (Business) Courts to Open for Business: Law Creating Specialized Business Courts in Texas Becomes Official (June 12, 2023)
- A New Delaware? Texas Passes Legislation for Specialized Business Courts (June 9, 2023)
- Pennsylvania AG Settles With Snap for \$11.4 Million: The Importance of Compliance for Consumer Finance Companies Operating in the Virtual Marketplace (May 18, 2023)
- The CFPB Issues Rule Prohibiting Certain Arbitration Clauses | *Payments Journal* (July 21, 2017)
- The CFPB's Arbitration Rule, Its Requirements, Potential Legal Challenges, and What Companies Should Do | *American Bar Association* (July 21, 2017)
- ABA Broker-Dealer Survey (2004-2009)