



## S. David Smith

### Partner

David Smith focuses on providing counsel to financial service companies across a number of states, representing lenders and servicers in the mortgage, auto finance, credit card, payday and unsecured lending areas. His litigation experience is broad, having tried a wide variety of financial services cases whether to a jury, court, or in arbitration.

David is board certified in Consumer and Commercial Law by the Texas Board of Legal Specialization. He also served as chair of the Board of Trustees of the Texas Center for Legal Ethics.

## Experience

### GENERAL EXPERIENCE

#### Landlord-tenant action

Represented national bank in landlord-tenant action arising from the landlord's failure to keep the property in good condition and obtained judgment on behalf of client.

#### Unrecorded interest in property

Defended lender at trial against a plaintiff who claimed to have an unrecorded interest in a property in which the client held the deed of trust. The court awarded a take nothing judgment against the plaintiff.

#### Obtained deficiency judgment

After a lengthy trial, obtained a significant deficiency judgment for claims arising from the sale of commercial aircraft. The debtor had claimed the collateral was not disposed of in a commercially reasonable manner and, in a case of first impression, the court held for the lender.

#### Residential mortgage claims

Regional counsel for lenders and servicers for claims relating to residential mortgages, including supervising judicial foreclosure trials and/or defending against FCRA, TCPA, UDAP, Reg X and related claims.

#### Wrongful repossession claims

Defended national bank at trial against claims arising from an allegedly wrongful repossession in which the result was the same as that offered by defendant



### Houston

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## Practices

Litigation

Financial Services Litigation

Auto Finance

Consumer Financial Protection

Bureau (CFPB)

Small Dollar & Unsecured Consumer Lending

Cybersecurity & Privacy

Payments

## Education

Southern Methodist University

Dedman School of Law, 1987, Law Review, J.D.

Georgetown University, 1984, B.S.F.S.

## Licensed In

Oklahoma

Texas

## Admitted In

Supreme Court of the United States

United States Court of Appeals, 5th Circuit

United States District Court,

Southern District of Texas

United States District Court, Eastern District of Texas

prior to trial.

United States District Court, Western  
District of Texas

#### **Receiver in multimillion-dollar judgment**

Served as receiver to collect a multimillion-dollar judgment in which the judgment creditors obtained a complete recovery of their judgment.

United States District Court,  
Northern District of Texas

#### **Representation of national bank in lender liability action**

Successfully defended national bank in multimillion-dollar lender liability action in which the borrower contended that the funding had been wrongfully withheld. Obtained complete summary judgment as to all claims, including the borrower's fraud allegations.

#### **Representation of client in vendor contract violations**

Obtained temporary and permanent injunction on behalf of financial services company to shut down vendors who had violated their contractual obligations to the client.

#### **Successfully protected bank's lease**

Successfully prevented a landlord from evicting national bank client from leasehold premises by obtaining temporary injunction and final judgment.

#### **Auto finance**

Successfully defended lender in jury trial arising from allegation that automobile was purportedly wrongfully repossessed even though payments were current.

#### **Shareholder litigation**

Resolved claims among shareholders in closely held businesses, including injunctive relief, business valuation, sale of interests and dissolution.

## **Accolades**

- Martindale-Hubbell® AV Preeminent Rated
- Listed in *Texas Super Lawyers*, Consumer Law, 2018-2020

## **Professional & Community Activities**

State Bar of Texas

Council of the Consumer and Commercial Law Section

Texas Center for Legal Ethics, Board of Trustees, Chair, 2016-2017

Minimum Continuing Legal Education Committee, Chair, 2008-2010

Advanced Consumer & Commercial Law Seminar, Co-course Director, 2015

Visiting Professor, Lazarski University (Warsaw, Poland), Survey of American  
Consumer and Commercial Law, 2016

Texas Bar Foundation, Sustaining Life Member

Texas Board of Legal Specialization

Consumer and Commercial Law Advisory Commission, Board of  
Directors, 2009–2012

Consumer and Commercial Law Exam Commission, Chair 2010–2013