



Esther Slater McDonald

Senior Counsel

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Biography

Practices & Sectors

Commercial Litigation

Insurance

Business Torts

Contract Disputes

Real Estate Litigation

Product Liability

Commercial Class
Action Defense

Labor & Employment

Consumer Financial
Services Litigation

Retail

Ms. McDonald is senior counsel in the Commercial Litigation Practice Group of Seyfarth Shaw LLP. She represents clients in class actions and complex commercial litigation. Ms. McDonald has extensive experience helping clients resolve business and commercial disputes, particularly in class or collective actions. Ms. McDonald's practice includes litigation on consumer protection, contract disputes, and employment matters. She also has experience litigating financial services claims, products liability, and insurance disputes, including coverage and bad faith.

Ms. McDonald's practice includes a special emphasis on the Fair Credit Reporting Act and related state laws. She regularly defends clients in single-plaintiff and class-action litigation involving background screening. Ms. McDonald is a member of the National Association of Professional Background Screeners and serves on the Best Practices and Litigation Avoidance Committees.

Ms. McDonald has represented clients before the United States Supreme Court, the federal appeals and district courts, and various state and local courts. She is a contributor to the Consumer Class Defense Blog and a member of the *CGL Reporter's* Editorial Board.

Education

- J.D., University of Notre Dame Law School, *summa cum laude* (2003)
Dean Joseph O'Meara Award
Articles Editor, *Notre Dame Law Review*
Dean's Fellowship
- B.A., Pensacola Christian College, *summa cum laude* (1996)

Admissions

- Virginia
- District of Columbia
- Georgia

Courts

- U.S. Court of Appeals for the Sixth Circuit
- U.S. Court of Appeals for the Ninth Circuit

- U.S. District Court for the District of Columbia
- U.S. District Court for the Eastern District of Michigan
- U.S. District Court for the Eastern District of Virginia
- U.S. District Court for the Western District of Virginia

Affiliations

- American Bar Association

Representative Engagements

- *Muir v. Early Warning Services, LLC*, No. 2:16-cv-00521 (D.N.J.) (ongoing representation in putative class action alleging that defendant failed to comply with Sections 604 and 607 of the FCRA)
- *Doe v. First Advantage LNS Screening Solutions, Inc.*, No. 2:16-cv-11373 (E.D. Mich.) (ongoing representation in putative class action alleging that defendant failed to comply with Sections 607 and 613 of the FCRA)
- *Blocker v. The TJX Companies, Inc.*, District of Columbia, Case No. 14-cv-1940 (D.D.C.) (ongoing representation in class action alleging that defendant failed to comply with Section 604 of the FCRA)
- *Kelly v. First Advantage Background Services Corp.*, No. 3:15-cv-5813 (D.N.J.) (ongoing representation in putative class action alleging that defendant failed to comply with Sections 607, 609, and 613 of the FCRA)
- *Huberty v. Wholesale Screening Solutions LLC*, No. 15-cv-1689 (E.D. Va.) (representation in putative class action alleging that defendant violated Sections 605 and 609 of the FCRA)
- *Oliver v. FirstPoint, Inc.*, No. 14-cv-517 (M.D.N.C.) (representation in individual and class action alleging that defendant failed to comply with Sections 607, 611, and 613 of the FCRA)
- *Kirchner v. First Advantage Background Services Corp.*, No. 14-cv-1437 (E.D. Cal.) (ongoing representation in putative class action alleging that defendant failed to comply with Section 604 of the FCRA)
- *Larroque v. First Advantage LNS Screening Solutions, Inc.*, No. 3:15-cv-04684 (N.D. Cal.) (ongoing representation in putative class action alleging that defendant failed to comply with Section 604 of the FCRA)
- *Tolbert v. TMG Financial Services, Inc.*, 1:15-cv-001131 (E.D. Va.) (representation in putative class action alleging that defendant failed to comply with Section 623 of the FCRA)
- *Henderson v. First Advantage Background Services Corp.*, No. 3:14-cv-00221 (E.D. Va.) (ongoing representation in individual and class action alleging that defendant failed to comply with Sections 605, 607, 609, 611, and 613 of the FCRA)
- *Lingle v. Chevron U.S.A. Inc.*, 544 U.S. 528 (2005)
- *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005)
- *Crawford v. Marion County Election Bd.*, 472 F.3d 949 (7th Cir. 2007)
- *Cottenham v. Jamrog*, 248 Fed. Appx. 625 (6th Cir. 2007)
- *Motionless Keyboard Co. v. Microsoft Corp.*, 184 Fed. Appx. 967 (Fed. Cir. 2006)
- *Blinson v. North Carolina*, 2006 WL 6342964 (N.C. Super. Ct. 2006)
- *Mount Vernon Fire Ins. Co. v. Nat'l Fire Ins. Co.*, Case No. 07-CV-01593 (M.D. Fla.)
- *Continental Insurance Co. v. Roberts*, Case No. 8:05-CV-1658 (M.D. Fla.)
- *In re Barber*, Case No. 07-60583 (S.D. Fla.)

- *Nygard Holdings Ltd. v. Greer*, Case No. 3:09-CV-135 (E.D. Va.)
- *Book Wholesalers Inc. v. District of Columbia*, Case. No. 2009 SC3 002890 (D.C. Super. Ct.)

Presentations

- Speaker, "What Consumer Reporting Agencies Should Know About Ban the Box Legislation and Its Impact on the Adverse Action Process," National Association of Professional Background Screeners' Annual Conference (September 20, 2016)

Publications

- Co-Author, "The Consumer Financial Protection Bureau's Summer Gift to Plaintiff's Counsel," *One Minute Memo*, Seyfarth Shaw LLP (July 17, 2017)
- Co-Author, "The Positives and Negatives of the FCC's Recent Omnibus Order on the TCPA," *Consumer Class Defense Blog*, Seyfarth Shaw LLP (July 15, 2015)
- Co-Author, "Game Changer? The Supreme Court Agrees to Consider Standards for Certifying FLSA Collective Actions and State Law Class Actions," *Wage & Hour Litigation Blog*, Seyfarth Shaw LLP (June 9, 2015)
- "Supreme Court to Weigh in on Trial By Formula," *Consumer Class Defense Blog*, Seyfarth Shaw LLP (June 8, 2015)
- "7th Circ. Says Random Sampling Works For CAFA, Not How," *Law360* (October 15, 2014)
- "Plaintiffs Seeking Remand Under CAFA Home State Exception Must Present Evidence of Putative Class Members' Citizenship," *Consumer Class Defense Blog*, Seyfarth Shaw LLP (September 24, 2014)
- Co-Author, "Supreme Court Receives Petitioner's Brief and Eight Supporting Briefs In Significant Class Action Involving "Unsettled Question" of Whether Tolling Applies to a Statute of Repose," *Consumer Class Defense Blog*, Seyfarth Shaw LLP (June 24, 2014)
- Co-Author, "Supreme Court Decision: Regulatory Takings," *Engage*, Volume 6, Issue 1 (May 2005)
- "Patenting Human Life and the Rebirth of the Thirteenth Amendment," *Notre Dame Law Review*, Volume 78, Issue 4 (2003)