



Esther Slater McDonald

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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

Health Law

Ms. McDonald is a partner in the Commercial Litigation Practice Group of Seyfarth Shaw LLP. She represents clients in class actions and complex commercial litigation in federal and state courts across the country. Ms. McDonald has extensive experience helping clients resolve business and commercial disputes. Ms. McDonald's practice includes litigation on consumer protection, data privacy, 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, the Fair Debt Collection Practices Act, and other consumer protection and data privacy laws. She regularly defends clients in single-plaintiff and class actions involving credit reporting and background screening.

Ms. McDonald has represented clients before the United States Supreme Court, the federal appeals and district courts, and various state and local courts. Before joining Seyfarth, she was a senior official at the U.S. Department of Justice.

Ms. McDonald is the editor of and a frequent contributor to the *Consumer Class Defense Blog*. She is a member of the National Association of Professional Background Screeners and serves on the Best Practices and Litigation Avoidance Committees.

Education

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

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

- *Palacios v. DBI Beverage Inc.*, No. 217CV00204JAMEFB, 2017 WL 6383408 (E.D. Cal. Dec. 14, 2017) (negotiated early class settlement of FCRA class action complaint against employer)
- *Boergert v. Kelly Servs., Inc.*, No. 2:15-CV-04185-NKL, 2016 WL 6693104 (W.D. Mo. Nov. 14, 2016) *reconsideration denied in relevant part*, 2017 WL 440272 (W.D. Mo. Feb. 1, 2017) (district court held that plaintiff lacked standing to bring FCRA class action complaint against employer)
- *Muir v. Early Warning Servs., LLC*, No. CV 16-521 (SRC), 2016 WL 4967792 (D.N.J. Sept. 16, 2016) (district court granted consumer reporting agency's motion to dismiss employee's FCRA class action complaint)
- *Doe v. First Advantage LNS Screening Solutions, Inc.*, No. 2:16-cv-11373 (E.D. Mich.) (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.) (represented employer in class action alleging that employer failed to comply with Section 604 of the FCRA)
- *Kelly v. First Advantage Background Services Corp.*, No. 3:15-cv-5813 (D.N.J.) (representation in and settlement of class action alleging that employer 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 and settlement of class action alleging that defendant failed to comply with Sections 607, 611, and 613 of the FCRA)
- *Kirchner v. First Advantage Background Servs. Corp.*, No. 2:14-1437 WBS EFB, 2016 WL 6766944 (E.D. Cal. Nov. 14, 2016) (district court granted consumer reporting agency's motion to dismiss employee's FCRA class action complaint for lack of standing)
- *Larroque v. First Advantage LNS Screening Sols., Inc.*, No. 15-CV-04684-JSC, 2016 WL 4577257 (N.D. Cal. Sept. 2, 2016) (district court held that plaintiff lacked standing to bring

FCRA class action complaint against consumer reporting agency)

- *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.) (representation in and settlement of 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.)
- *Nygaard 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

- [Co-presenter, "Consero's Corporate Litigation Executive Roundtable," Seyfarth Shaw LLP \(May 10, 2018\)](#)
- Speaker, "Investigate Consumer Reports: Litigation Trends and the Salary History Ban Movement," 2018 NAPBS Mid-Year Legislative & Regulatory Conference (April 16, 2018)
- Speaker, "End-User FAQs: What Do I Say When My Client Asks _____?," National Association of Professional Background Screeners' Annual Conference (September 19, 2017)
- Speaker, "Conducting Legal and Compliant Background Checks," C4CM Events (May 9, 2017)
- Speaker, "Don't Be a Target: How to Respond to Disputes to Reduce Your Risk of Being Sued," National Association of Professional Background Screeners' Mid-Year Legislative & Regulatory Conference (March 20, 2017)
- 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 Ninth Circuit Demands Simplicity: Background Check Disclosure Forms That Contain State-Law Notices or Improper Grammar Violate the FCRA," *Management Alert*, Seyfarth Shaw LLP \(January 31, 2019\)](#)
- [Co-Author, "For Civil Litigants, Confusion About the Effect of the Federal Government](#)

- Shutdown," *One Minute Memo*, Seyfarth Shaw LLP (January 11, 2019)
- Co-Author, "CFPB Commotion Continues: Leandra English Resigns from CFPB Deputy Director Post," *One Minute Memo*, Seyfarth Shaw LLP (July 9, 2018)
 - Co-Author, "An SDNY Dilemma: CFPB Held Unconstitutional Over Director Removal Provision," *One Minute Memo*, Seyfarth Shaw LLP (June 27, 2018)
 - Co-Author, "Limiting Class Action Tolling: Supreme Court Rules That Filing A Class Action Does Not Toll The Limitations Period for Successive Class Actions," *One Minute Memo*, Seyfarth Shaw LLP (June 20, 2018)
 - Co-Author, "States Moving To Fill Perceived Void in CFPB Enforcement," *One Minute Memo*, Seyfarth Shaw LLP (April 12, 2018)
 - Co-Author, "Win Some, Lose Some: Trump Gets a Loss and a Win in the Fight to Control the CFPB," *One Minute Memo*, Seyfarth Shaw LLP (February 6, 2018)
 - Co-Author, "Under New Leadership, CFPB No Longer Interested in Pushing the Envelope on Consumer Protection Laws," *One Minute Memo*, Seyfarth Shaw LLP (January 29, 2018)
 - Co-Author, "D.C. Circuit to Hear Appeal in Fight to Control CFPB," *One Minute Memo*, Seyfarth Shaw LLP (January 17, 2018)
 - Co-Author, "Another One Bites the Dust - the President Kills the CFPB Arbitration Rule," *One Minute Memo*, Seyfarth Shaw LLP (November 3, 2017)
 - Co-Author, "Vice President Casts Deciding Vote to Overturn CFPB's Proposed Arbitration Rule," *One Minute Memo*, Seyfarth Shaw LLP (October 26, 2017)
 - 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)

