HUSCH BLACKWELL



Marci V. Kawski

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OVERVIEW

With extensive industry knowledge, Marci guides consumer finance companies and financial institutions across the country through the complexities of compliance and litigation.

As leader of the firm's national Consumer Financial Services practice, Marci has devoted her career to counseling providers of consumer financial services, including installment loan companies, motor vehicle sales finance companies, banks, credit unions, fintechs, online lenders, and short-term lenders. She develops practical, proactive compliance policies, procedures, and strategies; consults on complex compliance questions and helps clients consider risks; and negotiates before state and federal regulatory agencies.

Marci's national practice gives her tremendous insight into matters in specific states and positions her to advise on trends across the country. As a result, Marci serves as a frequent speaker, author, and member of key financial services trade organizations and associations. She has experience addressing the alphabet soup of federal consumer finance laws as well as the myriad state requirements impacting consumer and small business finance companies, including:

"Marci has been critical to our success in navigating very complex issues."

— Chambers USA 2024

Industry

Financial Services & Capital Markets

Services

Artificial Intelligence
Banking & Finance
Consumer Financial Services
Credit Unions
Crypto, Digital Assets, & Blockchain
Data Privacy & Cybersecurity
Fintech

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- Fair Credit Reporting Act (FCRA) and Regulation V
- Equal Credit Opportunity Act (ECOA) and Regulation B
- Gramm-Leach-Bliley Act (GLBA) and Regulation P
- Truth in Lending Act (TILA) and Regulation Z
- Fair Debt Collections Practices Act (FDCPA)
- Telephone Consumer Protection Act (TCPA)
- Unfair, Deceptive, Abusive Acts and Practices (UDAAP) statutes
- Electronic Signatures in Global and National Commerce Act (E-SIGN)
- Uniform Electronic Transactions Act (UETA)
- Articles 3 and 9 of the Uniform Commercial Code (UCC)
- State consumer loan laws, including but not limited to those in California, Missouri, New York, and Wisconsin
- State privacy laws, including the California Consumer Privacy Act

Marci's passion for her practice stems from her love of solving complex problems: she thrives on studying the minute details of consumer finance legislation and has a gift for marrying that detail to the bigger picture of a client's business needs. A dedication to detail and complexity makes sense for a native Wisconsin attorney—Marci first cut her teeth as a young lawyer on the Wisconsin Consumer Act, often considered the most complicated state-level consumer credit code in the country. Her early and sustained experience with a highly sophisticated code has always made it straightforward for Marci to quickly adapt to other state laws across the country.

In addition to her in-depth understanding of state laws, clients value Marci's extensive knowledge of their industry, often remarking that she stands out among outside counsel for her understanding of the business implications of finer points of law in each jurisdiction. They also appreciate her business-minded nature: Marci's goal is to help consumer financial services providers establish practices that meet and exceed regulations while still allowing their operations to prosper. With Marci on board, clients can focus on their business, confident that she's on top of any legal updates and has their best interests in mind.

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Case Study

SpenDebt Accepted to Northwestern Mutual Black Founder's Accelerator With Pro Bono Legal Assistance From HB Communities for Change

HB Communities for Change helped SpenDebt prepare its application for the prestigious accelerator that granted the startup a $100,000 investment.

Featured Case Studies

WISCONSIN SUPREME COURT LIMITS CREDITORS' LIABILITY UNDER WCA

Our creditor client sued for default on loan payment and the defendant borrower brought a counterclaim, alleging that our client failed to send a proper notice, thus violating the notice of right to cure requirement of the Wisconsin Consumer Act (WCA). In this complex case, Marci and the Husch Blackwell team prevailed before the Wisconsin Supreme Court in *Security Finance v. Brian Kirsch* (2019 WI 42), which concluded that filing suit without proper notice of cure is merely grounds to dismiss the suit without prejudice. The court further held that such a procedural "miscue" does not give rise to liability by the creditor under the WCA's debt collection statute. Because of the research, due diligence and strategic arguments of Marci and other Husch Blackwell attorneys, the court found that our creditor client was entitled to enforce its contractual rights to collect the loan obligation, and that filing suit without proper notice of cure is not harassing collection conduct.

Read more

ONEIDA NATION OBTAINS DISMISSAL OF CLASS ACTION

A class action alleged that establishments owned by the Oneida Nation violated the Fair and Accurate Credit Transactions Act. Marci was on our team, asserting that the plaintiff had no basis to sue based on the doctrine of Indian tribal immunity. The case was dismissed, upheld on appeal and denied certiorari by the U.S. Supreme Court.

Read more

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COURT GRANTS SUMMARY JUDGMENT IN FAVOR OF LENDER ON FCRA CLAIM

Marci and the Husch Blackwell team defended our client against alleged violations of the Fair Credit Reporting Act (FCRA) in the Eastern District of Wisconsin. The plaintiff claimed that credit information furnished on a credit report was incorrect based on her completion of a Wisconsin Chapter 128 wage-earner plan and our client failed to conduct a reasonable investigation after receiving notice of this dispute regarding the reporting in violation of 15 U.S.C. § 1681s-2(b). Drawing on their knowledge of and experience with both FCRA and Chapter 128, Marci and the Husch Blackwell team developed strategic and innovative arguments to defeat plaintiff's motion for summary judgment on her claim against our client. Based on our arguments, the court not only denied plaintiff's motion for summary judgment but outright dismissed the case, determining that plaintiff failed to establish a "factual inaccuracy" that could have been discovered through investigation.

Experience

COMPLIANCE AND REGULATION

- Assisted sales finance company in development of its compliance management system (CMS).
- Reviewed and revised credit facility documents for traditional consumer finance company to ensure obligations would not impede daily business operations.
- Advised various consumer finance companies on "gap" between Gramm-Leach-Bliley Act (GLBA) and California Consumer Privacy Act (CCPA).
- Counseled lender on compliance with Equal Credit Opportunity Act (ECOA) in community property states and tenancy by entirety of states.
- Advised bank on compliance with applicable 50-state laws in healthcare financing partnership with fintech provider.
- Counseled banks on contours of national and state bank preemption pertaining to online loan programs, including rate exportation.
- Reviewed and revised government-sponsored entity residential mortgage forms for compliance with Wisconsin statutes and regulations.

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Experience

- Reviewed and revised residential mortgage forms for Islamic financing entity to ensure compliance with Wisconsin statutes and regulations.
- Advised bank regarding compliance with adverse action notice requirements under ECOA and Fair Credit Reporting Act (FCRA).
- Represented online loan company facing license revocation, negotiating less stringent penalties, and allowing client to operate while implementing corrective action.
- Counseled lenders regarding precomputed statutes and regulations and advised on refunding unearned interest at time of prepayment or refinancing.
- Represented major credit union in successfully resolving several potentially significant claims asserted by state regulators. Successfully resolved all issues so it could continue to operate its indirect lending program.
- Represented credit union in dissolution proceedings before regulators. Communicated with credit union members to dissolve both in compliance with state law and to benefit members.
- Filed an amicus brief on behalf of the American Financial Services Association, the primary trade association for the consumer credit industry, in support of a Fifth Circuit petition to stop the Federal Trade Commission's Combating Auto Retail Scams (CARS) Rule from taking effect. The Fifth Circuit vacated the ruling.

OTHER LITIGATION

- Obtained dismissal for mortgage service provider alleged to have violated Fair Debt Collections Practices Act. Decision was upheld at appeal level. *Johnson v. Carrington Mortg. Servs.*, 638 Fed.Appx. 523 (7th Cir. 2016).
- Secured victory on appeal on behalf of a lender affirming a dismissal of a consumer's claims on summary judgment in a case challenging the lender's repossession and service of the required notices prior to repossession and appealing an award of sanctions in favor of our client against the opposing lawyer for pursuing a frivolous claim.

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Experience

- Filed an amicus brief on behalf of the Service Contract Industry Council, American Property Casualty Insurance Association, and Consumer Credit Industry Association in support of their challenge of the Federal Trade Commission's Negative Option Rule. The U.S. Court of Appeals for the Eighth Circuit vacated the rule, holding that the FTC failed to conduct a preliminary regulatory analysis in violation of Section 22 of the FTC Act.

Recognition

- *Chambers USA*, Financial Services Regulation: Consumer Finance (Compliance), Nationwide, 2024-2026
- *The Legal 500 United States*
    - Financial services regulation: Consumer finance, Recommended lawyer, 2024-2026
- *IFLR 1000 United States*
    - Banking (Wisconsin), Highly Regarded, 2022-2025
- *Benchmark Litigation*, 40 & Under Hot List, 2019-2022
- Wisconsin Super Lawyers, Rising Star, 2021
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- *In Business Madison*, Professional of the Week, 2018
- *Wisconsin Law Journal*, Up and Coming Lawyer, 2017

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Education

- J.D., University of Wisconsin Law School
  - *cum laude*
  - Order of the Coif
- B.A., University of Wisconsin-Madison
  - Political Science and Communication Arts
  - with distinction

Admissions

- Wisconsin
- U.S. District Court, Eastern District of Wisconsin
- U.S. District Court, Western District of Wisconsin
- U.S. Bankruptcy Court, Eastern District of Wisconsin
- U.S. Bankruptcy Court, Western District of Wisconsin
- U.S. Court of Appeals, Fourth Circuit
- U.S. Court of Appeals, Fifth Circuit
- U.S. Court of Appeals, Seventh Circuit
- U.S. Court of Appeals, Eighth Circuit
- U.S. Supreme Court

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