



Richard M. Scherer, Jr. | Partner | Team Leader - Business & Commercial Litigation

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Mr. Scherer serves as the Practice Team Leader for the firm's Business and Commercial Litigation practice group, concentrating his practice primarily in state and federal business litigation where he advises a diverse client base covering a broad variety of industry sectors. His business litigation practice involves defending and prosecuting matters in New York State Court and in federal courts across the country. Mr. Scherer's broad business litigation experience includes matters involving earn-out disputes, shareholder oppression claims, shareholder derivative actions, and contractual indemnity claims. In addition to extensive experience prosecuting and defending claims in court and arbitration, Mr. Scherer offers pragmatic business advice to help clients navigate a broad array of business issues faced by his business clients.

As a member of the firm's Consumer Financial Services Litigation Practice Team, Mr. Scherer concentrates a significant portion of his practice defending creditors, loan services, and debt collectors subject to claims brought under the Fair Debt Collection Practices Act (FDCPA), the Telephone Consumer Protection Act (TCPA), the Truth in Lending Act (TILA) and the Fair Credit Reporting Act (FCRA). Mr. Scherer also has experience in representing clients in investigations commenced by the Consumer Financial Protection Bureau (CFPB) and state regulators.

REPRESENTATIVE MATTERS

- Represented member of limited liability company in derivative lawsuit alleging breaches of fiduciary duties in New York State Supreme Court
- Secured a dismissal of lawsuit seeking \$36 million of damages against real estate developer in United States District Court for the Northern District of Illinois
- Represented financial services company in lawsuit alleging breach of contract related to sale of business in New York State Supreme Court
- Successfully defeated motion for class certification in case brought against a financial services company related to alleged breaches of California law

CAPABILITIES

Litigation

- Business & Commercial Litigation
- Consumer Financial Services

Environmental Litigation
Cannabis
Sports, Entertainment & Hospitality

- Secured dismissal of breach of contract claim against manufacturing company related to indemnification provision under purchase agreement in United States District Court for the Central District of Illinois
- Successfully defended real estate developer in breach of contract action seeking to halt purchase of \$6 million hotel property in New York State Supreme Court
- Successfully represented client in petition to confirm arbitration award of more than \$2.6 million in United States District Court for the Southern District of New York
- Secured dismissal of lawsuit brought against property management company alleging violations of the False Claims Act in the United States District Court for the Southern District of Texas

EDUCATION

- University at Buffalo School of Law, J.D.
- Cornell University, B.S.

PROFESSIONAL ASSOCIATIONS

- ACA International, Attorney Member
 - Judicial Committee, 2021-2022

HONORS & AWARDS

- *Upstate New York SuperLawyers*®, Rising Star (2015-2022)

PRESENTATIONS

- “The FDCPA & CFPB: What Debt Collectors Must Know Now,” National Business Institute Live Webinar, November 20, 2020
- “FDCPA Changes You Can't Afford to Miss,” National Business Institute National Teleseminar, April 1, 2020
- “FDCPA and Collection Law, Ensure You Are Collecting Legally and Effectively,” National Business Institute Seminar, September 16, 2019
- “Shoring Up Compliance Management Systems,” ACA International 2018 Convention, July 24, 2018

COMMUNITY INVOLVEMENT

- [EforAll Buffalo Business Accelerator](#), Mentor
- [Neighborhood Legal Services, Inc.](#), Board of Directors, 2013 – 2019
- [Delaware Soccer Club](#), Board of Directors, 2017 – present

REPORTED DECISIONS

- *FCP Entertainment Partners, LLC v. Hal Luftig Company, Inc.*, 2022 WL 14928458 (S.D.N.Y. Oct. 26, 2022)
- *Brinkley v. Monterey Fin. Servs., LLC*, 2022 WL 411871 (S.D. Cal. Sept. 8,

2022)

- *Pittsfield Dev., LLC v. Lynd*, 2021 WL 3618275 (N.D. Ill. Aug. 16, 2021)
- *Ranker v. Monterey Fin. Servs., LLC*, 2021 WL 3617701 (N.D. Ala. Aug. 16, 2021)
- *United States of Am., ex rel., Karen Miniex v. Houston Hous. Auth., et al.*, 2021 WL 2253830 (S.D. Tex. May 27, 2021)
- *Romero v. Monterey Fin. Servs., LLC*, 2021 WL 268635 (S.D. Cal. Jan. 27, 2021)
- *Pittsfield Dev., LLC, et al. v. Lynd*, 2020 WL 6701104 (N.D. Ill. Nov. 13, 2020)
- *Lagrou v. Monterey Fin. Servs., LLC*, 2020 WL 6092000 (E.D. Wash. Oct. 15, 2020)
- *Reaser v. Monterey Fin. Servs., LLC*, 2020 WL 5879523 (D. Ariz. Oct. 2, 2020)
- *Yancey v. Equifax Info. Servs., LLC*, 2019 WL 4257201 (E.D. Va. June 12, 2019)
- *Anderson v. Monterey Fin. Servs., LLC*, 2018 WL 4961663 (N.D. Cal. Oct. 12, 2018)
- *Pavlovich v. Account Discovery Sys., LLC & DNF Assocs., LLC*, 2018 WL 1605174 (S.D. Cal. Apr. 3, 2018)
- *Harrow Industries LLC v. Nexus Corporation*, 2018 WL 1020114 (C.D. Ill. Feb. 22, 2018)
- *Evensen v. JTM Capital Management, LLC, et al.*, 2017 WL 2804937 (E.D.N.Y. June 27, 2017)
- *Mosley v. Monterey Fin. Servs., LLC*, No. 16-cv-3614 (N.D. Ga. June 23, 2017)
- *Stein v. Monterey Fin. Servs., Inc.*, 2017 WL 412874 (N.D. Ala. Jan. 31, 2017)
- *Mihelis v. Network Commercial Servs., Inc.*, 2014 WL 4829062, at *1 (E.D.N.Y. Sept. 29, 2014)
- *Cott Corp. v. Decas Botanical Synergies, LLC*, 2012 WL 4120375 (W.D.N.Y. Sept. 19, 2012)

ADMITTED TO PRACTICE

- New York
- U.S. Bankruptcy Court, Western District of New York
- U.S. Court of Appeals for the Eleventh Circuit
- U.S. Court of Appeals for the Ninth Circuit
- U.S. District Court, Central District of Illinois
- U.S. District Court, District of Colorado
- U.S. District Court, Eastern District of New York
- U.S. District Court, Eastern District of Texas
- U.S. District Court, Northern District of Illinois
- U.S. District Court, Northern District of New York
- U.S. District Court, Southern District of New York
- U.S. District Court, Western District of New York

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