



Whitney M. Smith

Partner

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About

Consumer-facing companies and other businesses rely on Whitney Smith's formidable advocacy skills, extensive trial experience, and ability to forge connections with judges, juries, and regulators to protect their interests in consumer class actions and complex commercial litigation.

Particularly well-versed and adept at defending clients facing claims under the Telephone Consumer Protection Act (TCPA), Whitney has worked on high-profile disputes with billions of dollars at stake. She guides her clients through litigation with clear communication and actionable advice, values and encourages close collaboration, and develops creative solutions aligned with her clients' business priorities.

Whitney's practice extends to all disputes that implicate consumer protection laws or concerns. In addition to her TCPA work, she is actively involved in defending claims relating to data privacy and security, the use of biometric information, and other rapidly evolving areas of consumer law.

Her class action experience allows her to quickly identify and exploit weaknesses in a plaintiff's case, whether through early motion practice or effective discovery. Whitney's ability to craft persuasive arguments often results in the denial of class certification, thus neutralizing the threat of significant exposure and facilitating early, expeditious resolutions.

Whitney also regularly litigates contract, tort, and state common law claims in state and federal courts and has significant experience representing clients in arbitration as well as in investigations before governmental and regulatory bodies. In addition to being an effective litigator, Whitney also offers trusted counsel on risk mitigation and compliance issues and strategy.

With in-house experience as an attorney at American Express, Whitney appreciates the importance of giving her clients prompt answers, working seamlessly with their business and legal teams, and distilling complicated issues into concise, understandable guidance.

Experience

TCPA

Defending numerous clients in putative class actions alleging claims under the TCPA, including:

- Successfully defeated class certification on behalf of a financial institution regarding alleged violations of the fax provisions of the TCPA. In an unprecedented decision, the Court applied a ruling by the Federal Communications Commission to first conclude that putative class members who received a fax on an online fax service do not have a claim under the TCPA, which rendered the claims unsuitable for class treatment.
- Defeated class certification in a TCPA action against an ice cream manufacturer where plaintiff sought to certify a class of more than half-million persons.
- Defended national testing laboratory in a TCPA fax case that resulted in plaintiff withdrawing motion for class certification and class allegations.
- Part of the team that successfully defended award of summary judgment in a multi-district TCPA class action on appeal to the Fourth Circuit, which addressed the substantive law regarding TCPA third-party liability claims.
- Defend various entities in the dining and entertainment industries in TCPA claims related to use of text messages.

Commercial Litigation

Secured dismissal of claims under state statutory and common law interference claims for website security solutions provider.

Won dismissal of fraud claims asserted against publicly-traded biopharmaceutical company.

Won dismissal of common law claims against real estate company arising from CMBS auction of mortgaged property.

Defend major fashion designer and retailers in Central District of California arising out of copyright and Lanham Act claims, as well as common law trademark and unfair competition claims.

Defended major credit rating agency in a series of litigations arising out of ratings on structured finance securities against various claims asserted by private litigants as well as state attorneys general.

Defended holding company against thousands of individual suits asserting mass tort and vicarious liability claims.

Honors

Whitney was selected in 2023-2027 for inclusion in the Commercial Litigation area as one of *The Best Lawyers in America*® (Woodward/White, Inc.). A description of the selection methodology can be found [here](#).

She was recognized as a leading practitioner by *US Legal 500*, a Legalease Publication, for her work in the area of Product Liability, Mass Tort and Class Action: Consumer Products, 2023-2024. A description of the selection methodology can be found [here](#).

Whitney was recipient of the "Burton Award" for legal writing in 2014. A description of the selection methodology can be found [here](#).

No aspect of these advertisements have been approved by the Supreme Court of New Jersey.

Related Services

Commercial Litigation
Consumer Class Action Defense
Litigation
Telephone Consumer Protection Act (TCPA) Defense
Privacy and Information Security
Advertising and Marketing
Artificial Intelligence
Healthcare Privacy and Data Innovation

Education

Seton Hall University School of Law, J.D.

- magna cum laude
- Order of the Coif; Seton Hall Law Review, articles editor

William & Mary, B.A.

- English

Admissions

New Jersey
New York

Courts

U.S. Supreme Court
U.S. Court of Appeals–Second Circuit
U.S. Court of Appeals–Second Circuit
U.S. Court of Appeals–Fourth Circuit
U.S. Court of Appeals–Eighth Circuit
U.S. District Court–Southern District of New York
U.S. District Court–Western District of New York
U.S. District Court–Eastern District of New York
U.S. District Court–District of New Jersey
U.S. District Court–District of Colorado
U.S. District Court–Western District of Michigan