Michael R. McDonald

Partner

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One Gateway Center
Newark, NJ 07102

Industries

Manufacturing

Consumable Goods

Practice Areas

Business & Commercial Litigation

Bar Memberships

New Jersey

Pennsylvania

Mike leads the firm's Consumer Class Action Defense Team, which the *New Jersey Law Journal* selected for the "Class Action Litigation Department of the Year" designation in 2017. He is also a member of the firm's Partner Compensation Committee.

He represents businesses spanning various industries in a broad range of class actions asserting claims under consumer protection statutes in New Jersey, New York, California, Massachusetts, Illinois, Florida, Pennsylvania, and many other jurisdictions. He has significant experience defending class actions involving (i) data breaches and security incidents; (ii) privacy-related claims asserted under federal and state statutes, including the federal Wiretap Act, California Invasion of Privacy Act (CIPA), California Consumer Records Act (CRA), California Consumer Privacy Act (CCPA), Video Privacy Protection Act (VPPA), Fair and Accurate Credit Transaction Act of 2003 (FACTA), and Telephone Consumer Protection Act (TCPA); and (iii) breaches of privacy relating to customers' Payment Card Industry (PCI) data and personally identifiable information (PII). He has defended class claims relating to the business practices and services that may be impacted by the Americans with Disabilities Act (ADA), Magnuson-Moss Warranty Act (MMWA), Racketeer Influenced and Corrupt Organizations (RICO) Act, municipal ordinances, state or federal labor and Prevailing Wage Act laws, and various construction-related matters.

He is also a strong appellate advocate having argued numerous appeals in the Third Circuit Court of Appeals, New Jersey Appellate Division and New Jersey Supreme Court. Michael has repeatedly been included in the *Chambers USA Guide to America's Leading Lawyers for Business*, *Best Lawyers*®, and *New Jersey Super*

Other Info About Michael

Experience

Recent Representative Matters:

- Defense of distributor of ink jet printers in purported nationwide New Jersey Consumer Fraud Act (NJCFA) class action and decision from Third Circuit impeding future nationwide class actions under NJCFA
- Counseling on arbitration agreements in commercial and consumer contexts, including class action waivers
- Defense of manufacturer of digital camera in nationwide consumer fraud class action
- Defense of wholesale drug distributor in nationwide class action arising out of distribution of counterfeit pharmaceutical drug
- Defense of seller of vehicle service contract in nationwide consumer fraud class action
- Defense of medical device manufacturer in nationwide consumer fraud class action
- Defense of distributor of cosmetics in nationwide consumer fraud class action involving allegations of lead in lipstick
- Defense of healthcare insurer in class action involving alleged improper denial of claims for eating disorders
- Defense of nationwide class actions involving claims that transmission of pre-recorded telephone calls violated the Telephone Consumer Protection Act (TCPA)
- Defense of nationwide class actions involving claims that transmission of unsolicited facsimile advertisements violated the TCPA
- Defense of internet seller of gift certificates in class action involving Truth in Consumer Contract Warranty and Notice Act (TCCWNA), NJCFA, and Gift Card Act (GCA)

- Defense of rent-to-own company in class action under NJCFA and TCCWNA
- Defense of accounting firm in securities class action
- Defense of business sued in nationwide class action for receipt violations under Fair and Accurate Credit Transactions Act (FACTA)
- Defense of manufacturer of printing press control system in commercial dispute seeking remedies under the Uniform Commercial Code
- Oral arguments in Third Circuit Court of Appeals and New Jersey Supreme Court
- Mediation/arbitration

Representative Cases:

Ferrari v. Vitamin Shoppe Indus. LLC, 70 F.4th 64 (1st Cir. June 9, 2023)

Ferrari, et al. v. Vitamin Shoppe, Inc., No. 17-10475-GAO, 2022 WL 974048 (D. Mass. March 31, 2022)

Kiley v. Tumino's Towing, Inc. and John Tumino, Superior Court of New Jersey, Union County, Law Division, Docket No. UNN-L-000399-18

Eisenband v. PineBelt Automotive, Inc. d/b/a Pine Belt Nissan, No. 17-8549-FLW-LHG, 2020 WL 1486045 (D.N.J. Mar. 27, 2020)

Markos v. Russell Brands, LLC ("Spalding"), United States District Court, Southern District of New York , No. 16-04362 (CS) (September 19, 2019)

Duke v. All American Ford, Inc., No. A-0795-15T3, 2018 WL 3596274 (N.J. Super. Ct. App. Div. July 27, 2018)

Stern v. Maibec Inc., No. 11-CV-3951(PGS)(TJB), 2018 WL 1586323 (D.N.J. Apr. 2, 2018)

Segovia v. Vitamin Shoppe Inc., United States District Court, Southern District of New York , No. 14-CV-7061 (NSR) (December 12, 2017)

Luppino v. Mercedes Benz USA, 2017 U.S. App. LEXIS 24511 (3d Cir. N.J. Dec. 5, 2017)

Hoffman v. Nordic Naturals, Inc., No. 16-1172, 2017 U.S. LEXIS 4130 (U.S. June 26, 2017)

Stern, et al. v. Maibec Inc., Civil Action No. 11-03951 (PGS) (TJB), Opinion Denying Motion for Class Certification (D.N.J. March 27, 2017)

Hoffman v. Nordic Naturals, Inc., 837 F.3d 272 (3d Cir. N.J. 2016)

Luppino, et al. v. Mercedes-Benz USA, LLC, Civil Action No. 09-05582 (JLL) (JAD), Opinion Granting Defendant's Motion for Summary Judgment and Denying Plaintiffs' Partial Motion for Summary Judgment (D.N.J. August 10, 2016)

Dicuio v. Brother Int'l Corp., 2016 U.S. App. LEXIS 11869 (3d Cir. N.J. June 29, 2016)

Walters v. Dream Cars Nat'l, LLC, 2016 N.J. Super. Unpub. LEXIS 498 (Law Div. Mar. 7, 2016)

Luppino, et al. v. Mercedes-Benz USA, LLC, Civil Action No. 09-05582 (JLL) (JAD), Opinion Denying Motion for Class Certification (D.N.J. December 22, 2015)

Luppino, et al. v. Mercedes-Benz USA, LLC, Civil Action No. 09-05582 (JLL) (JAD), Opinion Denying in Part Motion to Exclude Experts (D.N.J. June 29, 2015)

Bohus v. Restaurant.com, Inc., 784 F.3d 918 (3d Cir. N.J. 2015)

Hoffman v. Nordic Naturals, Inc., 2015 U.S. Dist. LEXIS 4439 (D.N.J. Jan. 14, 2015)

Hoffman, et al v. Paradise Herbs & Essentials, Inc., et al., Superior Court of New Jersey, Essex County, Law Division, Docket No. BER-L-2538-14

Shelton v. Restaurant.com, 2014 U.S. Dist. LEXIS 93731 (D.N.J. July 10, 2014)

Hoffman v. Natural Factors Nutritional Products Inc., 2014 U.S. Dist. LEXIS 86798 (D.N.J. June 26, 2014)

Hoffman v. DSE Healthcare Solutions, 2014 U.S. Dist. LEXIS 69569 (D.N.J. May 21, 2014)

Hoffman v. Nordic Naturals, Inc., 2014 U.S. Dist. LEXIS 53125 (D.N.J. Apr. 17, 2014)

Hodges v. Vitamin Shoppe, Inc., 2014 U.S. Dist. LEXIS 5109 (D.N.J. Jan. 15, 2014)

Hoffman v. Lumina Health Products, Inc., 2013 U.S. Dist. LEXIS 176830 (D.N.J. Dec. 17, 2013)

Hoffman v. Cogent Solutions Group, LLC, 2013 U.S. Dist. LEXIS 176056 (D.N.J. Dec. 16, 2013)

Maniscalco v. Brother Int'l Corp., 709 F.3d 202 (3d Cir. N.J. 2013)

Feldman, et al., 2012 U.S. Dist. LEXIS 178924 (D.N.J. Dec. 18, 2012)

Prof'l Benefit Consultants, Inc. v. Claims & Benefit Mgmt., 2011 U.S. Dist. LEXIS 137978 (D.N.J. Dec. 1, 2011)

Dicuio v. Brother Int'l Corp., 2011 U.S. Dist. LEXIS 131553 (D.N.J. Nov. 15, 2011)

Suddreth, et al., 2011 U.S. Dist. LEXIS 126237(D.N.J. October 31, 2011)

United States ex rel. Pilecki-Simko v. Chubb Inst., 2011 U.S. App. LEXIS 18536 (3d Cir. N.J. Sept. 6, 2011)

Maniscalco v. Brother Int'l Corp., 2011 U.S. Dist. LEXIS 67772 (D.N.J. June 24, 2011)

Arcand v. Brother Int'l Corp., 2010 U.S. Dist. LEXIS 103942 (D.N.J. Sept. 29, 2010)

United States ex rel. Pilecki-Simko v. Chubb Institute, 2010 U.S. Dist. LEXIS 89326 (D.N.J. Aug. 27, 2010)

Shelton v. Restaurant.com Inc., 2010 U.S. Dist. LEXIS 59111 (D.N.J. June 15, 2010)

United States ex rel. Pilecki-Simko v. Chubb Inst., 2010 U.S. Dist. LEXIS 48345 (D.N.J. May 17, 2010)

Koronthaly v. L'Oreal USA, Inc., 374 Fed. Appx. 257 (3d Cir. N.J. March 26, 2010)

United States of America, ex rel. Pilecki-Simko and Giunta v. The Chubb Corporation, et al., 2010 U.S. Dist. LEXIS 27187 (D.N.J. March 22, 2010)

Maniscalco v. Brother Int'l Corp. (USA), 2010 U.S. Dist. LEXIS 20212 (D.N.J. Mar. 4, 2010)

Landsman & Funk, P.C. v. Skinder-Strauss Assocs., 2009 U.S. Dist. LEXIS 77470 (D.N.J. Aug. 28, 2009)

Landsman & Funk, P.C. v. Skinder-Strauss Associates, United States District Court, District of New Jersey, No. 08-3610 (June 30, 2009)

Koronthaly v. L'Oreal USA, Inc., et al., 2008 U.S. Dist. LEXIS 86419 (D.N.J. Oct. 23, 2008)

Koronthaly v. L'Oreal USA, Inc., 71 Fed. R. Serv. 3d 260, 2008 U.S. Dist. LEXIS 59024 (D.N.J. July 25, 2008)

Maniscalco v. Brother Int'l Corp. (USA), 2008 U.S. Dist. LEXIS 50122 (D.N.J. June 26, 2008)

Cooper Hosiery Mills, Inc. v. Honeywell Int'l, Inc., 2008 U.S. Dist. LEXIS 32033 (D.N.J. Apr. 16, 2008)

Parker v. Howmedica Osteonics Corp., 2008 U.S. Dist. LEXIS 2570 (D.N.J. Jan. 14, 2008)

Cooper Hosiery Mills, Inc. v. Honeywell Int'l, Inc., 2007 U.S. Dist. LEXIS 80933 (D.N.J. Nov. 1, 2007)

Jones v. Chubb Inst., 2007 U.S. Dist. LEXIS 72606 (D.N.J. Sept. 28, 2007)

Jones, et al. v. The Chubb Institute, et al., United States District Court, District of New Jersey, Civil Action No. 06-4937 (upholding validity of the class action waiver and compelling arbitration)

Americare Pharmacy v. H.D. Smith Wholesale Drug Company, United States District Court for the District of New Jersey, November 17, 2006

Bruno v. Mark Magrann Associates, Inc., et al., 388 N.J. Super. 539 (App. Div. 2006)

Steiner, et al. v. MedQuist Inc., United States District Court, District of New Jersey, 2006 U.S. Dist. LEXIS 71952 (September 29, 2006)

Jorge v. Toyota Motor Insurance Services, Inc., 2006 WL 2129026 (App. Div. August 1, 2006)

Raineer v. Aaron Rents, Inc., United States District Court, District of New Jersey, July 14, 2006. See related case below: *Perez v. Rent-A-Center, Inc.*, 188 N.J. 215 (2006)

Dimich v. Med-Pro, et al., Supreme Court of the State of New York, County of New York, November 21, 2005, Index No. 113528/03

Arons v. Rite Aid Corporation, et al., 2005 WL 975462 (March 23, 2005), Superior Court of New Jersey, Law Division, Bergen County

Fink v. Ricoh Corporation, 365 N.J. Super. 520 (Law Div. 2003)

As Amicus Curiae:

Greenberg, et al. v. Mahwah Sales and Service, Inc., Docket Nos. BER-L-6105-15 (Represented New Jersey Coalition of Automotive Retailers (NJCAR)), supporting Motion to Dismiss which was granted by the Court on January 8, 2016

Barbarino v. Paramus Ford, Inc., BER-L-2856-15 and *Duke v. All American Ford, Inc.*, Docket Nos. BER-L-3010-15 (Represented New Jersey Coalition of Automotive Retailers (NJCAR)), supporting Motion to Dismiss which was granted by the Court on September 11, 2015

Bosland v. Warnock Dodge, Inc., 197 N.J. 543 (2009) (Represented New Jersey Lawsuit Reform Alliance)

Perez v. Rent-A-Center, Inc., 188 N.J. 215 (2006) (Represented the Association of Progressive Rental Organizations (APRO), as Amicus Curiae, arguing for prospective application only of the Supreme Court's March 15, 2006 decision in *Perez v. Rent-A-Center, Inc.*, 186 N.J. 188 (2006), which held that rent-to-own contracts are subject to the New Jersey Retail Installment Sales Act, N.J.S.A. 17:16C-1, *et*

seq. ("RISA") and the limitations of New Jersey's criminal usury statute, N.J.S.A. 2C:21-19

Education

Seton Hall University School of Law, J.D., cum laude

Georgetown University, B.A.

Clerkships

Law Clerk to the Honorable Herman D. Michels, Presiding Judge for Administration of the Superior Court of New Jersey, Appellate Division, 1987-1988.

Courts

United States District Court for the District of New Jersey

United States District for the Eastern District of Pennsylvania

United States Court of Appeals for the First Circuit

United States Court of Appeals for the Second Circuit

United States Court of Appeals for the Third Circuit

United States Court of Appeals for the Ninth Circuit

Supreme Court of the United States

Recognition

Chambers USA, Litigation: General Commercial, 2026

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Included on the *New Jersey Super Lawyers* list, Class Action/Mass Torts

Professional Affiliations

New Jersey State Bar Association

American Bar Association
Litigation Section
Tort and Insurance Practice Section

Pennsylvania Bar Association

DRI
Commercial Litigation Committee
Drug & Medical Device Committee

Richard J. Hughes American Inn of Court
Graduate

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