

## James F. McCabe

Counsel

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Jim McCabe is a seasoned business litigator with decades of experience defending companies in class actions and other complex civil litigation involving consumer reports, consumer financial products, employment discrimination, insurance coverage, and various commercial disputes. Throughout his career, Jim has advised on more than 100 different class actions and defended cases in 29 different states.

For more than a decade, Jim has represented various LexisNexis entities in more than 40 individual actions and 12 putative consumer class actions asserting claims under the Fair Credit Reporting Act (FCRA). Jim defeated a putative class action brought against LinkedIn that attempted to characterize the company as a consumer reporting agency.

Jim also won summary judgment in a putative nationwide class action that challenged the issuance of multiple credit cards to subprime customers. As national coordinating counsel for the Mortgage Bankers Association, he assisted lender defendants in defeating class certification in more than 60 cases asserting claims under RESPA that, if viable as class claims, exposed the defendants to crippling liabilities.

Jim has represented emerging financial technology companies when they become targets of consumer-facing litigation.

Jim has served as a trial skills instructor for the National Institute for Trial Advocacy and the Stanford University Advocacy Workshop. He has been recognized as a leading practitioner by *Legal 500 US* and *Super Lawyers*.

### **Representative Experience**

- Settled putative class actions alleging that profiles developed from public social media posts to identify passive employment candidates were “consumer reports” under the FCRA. *Halvorson v. TalentBin Inc.* (N.D. Cal.); *Douglas v. Dice.com* (Santa Clara County Superior Court).
- Settled as an individual case a putative class action alleging FCRA violations in procuring credit reports. *Sion v. Sunrun Inc.* (N.D. Cal.).
- Settled a putative class action alleging violations of the FCRA in obtaining consumer reports. *Heaton v. Social Finance Inc.* (N.D. Cal.).
- Won a motion for summary judgment for a consumer reporting agency defendant in a putative class action alleging that driving histories prepared by state departments of motor vehicles are “consumer reports” under the FCRA. *Feinstein v. LexisNexis Risk Solutions* (S.D. Cal.).
- Won a motion to dismiss in a putative class action alleging that a reference search function is a “consumer report” under the FCRA. *Sweet v. LinkedIn Corporation* (N.D. Cal.).
- Settled suits by the attorneys general of Hawaii, Mississippi, and New Mexico involving the marketing of debt cancellation agreements for credit cards. *King v. Capital One Bank (USA) N.A.* (D.N.M.) and others.

- Settled a class action involving procedures used in preparing criminal background screening reports. *Giddiens v. LexisNexis Risk Solutions* (E.D. Pa.).
- Won summary judgment for a defendant in an action alleging that a consumer reporting agency supplied a consumer report to a fraudulent debt collector. *Karrigan v. DataX* (N.D. Cal.).
- Settled a class action alleging misrepresentations in the marketing of mortgages. *Yarger v. ING Direct* (D. Del.).
- Settled a class action with a 100 million+ person class involving the characterization of reports sold by the defendant as nonconsumer reports as “consumer reports” under the FCRA. *Berry v. LexisNexis Risk & Information Analytics Group* (E.D. Va.).
- Settled an FCRA class action involving alleged errors in criminal background screening reports. *Teagle v. LexisNexis Screening Solutions Inc.* (N.D. Ga.).
- Won summary judgment in a case alleging that a person locator report was a “consumer report” under the FCRA. *Liberi v. Taitz* (C.D. Cal.).
- Settled on an individual basis a putative class action involving adverse action notices under the FCRA. *Cazier v. HD Supply Inc.* (S.D. Cal.).
- Represented the plaintiff in a suit against a wine merchant regarding counterfeit bottles of old, rare wines.
- Settled a Deceptive Trade Practices Act case against a credit card issuer challenging multiple credit card practices. *State of West Virginia v. Capital One Bank* (Mason County, W. Va.).
- Following a vigorous motion practice, settled on an individual basis a putative FCRA class action whose class definition embraced tens of millions of consumers. *Adams v. LexisNexis Risk & Information Analytics Group Inc.* (D.N.J.).
- Settled an employment class action alleging gender-based discrimination by a national laboratory. *Singleton v. Regents of the University of California* (Alameda County Superior Court).
- Won summary judgment for a defendant in a consumer class action challenging an array of business practices involving subprime credit cards. *Van Slyke v. Capital One Bank* (N.D. Cal.).
- Settled a class action seeking statutory penalties for delays in providing reconveyances of paid-off deeds of trust. *Alejandro v. Bank of America* (Sacramento County Superior Court).
- Negotiated the settlement of a class action by recipients of a data breach notification letter alleging claims arising under the FCRA and numerous state-law claims. *Syran v. LexisNexis; Witriol v. LexisNexis* (S.D. Cal.).
- Settled an employment class action alleging gender-based discrimination by a grocery chain. *Herring v. Fry’s Foods* (N.D. Cal.).
- Defended insurers in multiple cases seeking coverage of environmental cleanup costs.
- Arbitrated claims to establish the fair market value of fuel supplied to a co-generation plant.
- Represented the plaintiff in a settlement of a claim against a public utility for breach of a standard offer power purchase agreement. *GWF Power Systems Inc. v. PG&E.* (San Francisco Superior Court).
- Won a directed verdict in a bench trial alleging wrongful closure of a consumer checking account. *Abascal v. Bank of America* (Alameda County Superior Court).

## Education

- University of California, Berkeley (J.D., 1982)

- Princeton University (B.A., 1977)

***Admitted to Practice***

- California

***Related Services***

Litigation | Class Action & Multidistrict Litigation | Financial Services Litigation | Consumer Financial Services