

## Michael D. Leffel

### Partner

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Michael Leffel focuses his practice on complex commercial litigation matters and arbitrations. Michael is the chair of the firm's Consumer Law, Finance & Class Action Practice. He is also a member of the firm's Appellate, Antitrust & Competition, and Business Litigation & Dispute Resolution Practices. He is an adjunct professor at the University of Wisconsin Law School and has also been adjunct at the University of Michigan Law School, teaching courses on complex litigation and class actions.

Michael has represented clients, including many Fortune 100 companies, in more than 300 class actions. The cases involved various state consumer protection statutes, federal and state antitrust claims, breach of warranty, the Telephone Consumer Protection Act, the Racketeering Influenced and Corrupt Organizations Act, the Truth-In-Lending Act, the Fair Credit Reporting Act, the Real Estate Settlement Practices Act, and product liability claims, among other issues. Michael also has extensive experience in representing some of the leading prescription benefit managers in arbitration hearings, litigation, and appeals.

Michael has served as counsel for clients in 16 cases before the United States Supreme Court and has represented parties in numerous cases before courts of appeals at both the state and federal level. He also has represented clients before various regulatory agencies and in congressional investigations.

Prior to joining Foley & Lardner, Michael worked for Wilmer, Cutler & Pickering in Washington, D.C., where his practice focused on commercial litigation and where he was awarded the John H. Pickering award for his commitment to pro bono representation.

### Representative Experience

- Represented two different Fortune 100 companies in lengthy arbitration hearings, the most recent of which resulted in a judicial confirmation of a final award in excess of US\$285m for our client.
- *Flynn v. FCA, et al.*, 39 F.4th 946 (6th 2022). Led a team at the district court level and successfully argued on appeal a novel claim based on allegations of cyber hacking of vehicles, ultimately defeating

- a nationwide class action of automobile purchasers.
- *Bledsoe v. FCA US LLC and Cummins Inc.*, Case No. 4:16-cv-14024 (E.D. Mich.). Defeated a proposed nationwide class action alleging use of emission testing defeat devices in diesel engine.
  - *In re: Pharmacy Benefit Managers Antitrust Litigation*, (E.D. Pa.). Defeated nationwide antitrust claims against Fortune 50 prescription benefit manager.
  - *In re: ARC Inflators Product Liability Litigation*, MDL No. 3051 (N.D. Ga.). Defending air bag inflator manufacturer in MDL against various claims for breach of warranty, unjust enrichment, and deceptive advertising.
  - *Kleen Products LLC v. Int'l Paper*, (N.D. Ill.) Defended paper company in antitrust class action alleging conspiracy to fix prices in violation of Section 1 of the Sherman Act.
  - *BPP v. CarmarkPCS Health, LLC*, 2022 WL 16955461 (8th 2022). Obtained summary judgment and prevailed on appeal in defeating proposed nationwide class action based on alleged violation of the Telephone Consumer Protection Act.
  - *American Needle, Inc. v. National Football League, et al.*, 560 U.S. 183 (2010). Represented group of economists as amici curiae in support of respondents in antitrust action.
  - *Associates Against Outlier Fraud v. Huron Consulting Group, Inc.*, (2d Cir. 2014) and 817 F.3d 433, 436 (2d Cir. 2016). Defeated False Claims Act claims pursued by a relator against a fiscal intermediary relating to Medicare reimbursements.
  - *Crawford Pro. Drugs, Inc. v. CVS Caremark Corp.*, 748 F.3d 249, 256 (5th Cir. 2014). Defeated class action alleging trade secret misappropriation and intentional interference with business relations and violations state any willing provider laws.
  - *Paduano v. Express Scripts, Inc., et al.*, (E.D.N.Y.). Defended Fortune 50 prescription benefit manager against claims of antitrust violations relating to competition in the pharmacy industry.

## Presentations and Publications

- “New Circuit Decisions Highlight When Individualized Damages Issues May Preclude Class Certification,” Nov. 9, 2023, Co-Author
- “New Guidance on Attorneys’ Fees in Class Action Settlements,” Oct. 11, 2023, Co-Author
- *The Attorney’s Guide to the Seventh Circuit Court of Appeals (Seventh Edition, 2022)*, State Bar of Wisconsin CLE Books, Co-Author
- “Class Victory Vacated as Seventh Circuit Adds to Current Split Over Standing and Intangible Injuries,” May 31, 2022, Co-Author
- “Eight Circuit Keeps Two Product Liability Class Actions Off the Road,” Sept. 7, 2021, Co-Author
- “Supreme Court Rules Injury at Law Insufficiently Concrete to Establish Injury in Fact,” June 28, 2021, Co-Author
- “Supreme Court Narrows TCPA Ban on Autodialers,” April 1, 2021, Co-Author
- “Blackmailer Beware: Seventh Circuit Disgorges Class Objectors’ Inequitable Settlement Proceeds,” August 2020, Co-Author
- “Supreme Court TCPA News: Government Debt Collectors Beware and Autodialers Under Review,” July 2020, Co-Author

- “Seventh Circuit Holds Alleged Violation of Illinois Biometric Information Privacy Act Confers Article III Standing,” May 2020, Co-Author
- “Top Eight Action Items for Educational Institutions to Avoid, Prepare for, and Resolve COVID-19 Class Actions,” May 2020, Co-Author
- “D.C. Circuit Sidesteps Bristol-Myers Personal Jurisdiction Defense in Class Action, but Seventh Circuit Rejects It,” March 2020, Co-Author
- “Real Estate Industry Facing Threat of New TCPA Class Actions,” August 2019, Co-Author
- “Recent Decision from District of Oregon Denying Enhanced Damages Underscores Vast Liability Exposure Under the TCPA,” June 2019, Co-Author
- “En Banc Ninth Circuit Clarifies That Settlement Classes Are Not Held to Same Standard as Litigated Classes,” June 2019, Co-Author
- Author, “Don’t Delay Rule 23(f),” Consumer Class Defense Counsel, February 2019
- Author, “RESPA Class Action Case Cannot Survive Scrutiny under Spokeo or Menominee,” Consumer Class Defense Counsel, January 2019
- Author, “A Primer: Wisconsin’s New Class Action Statute,” Wisconsin Lawyer Volume 91, Number 4, April 2018
- Author, “The D.C. Circuit Significantly Limits the Reach of the TCPA Statute, but Issues Still Remain,” Consumer Class Defense Counsel, March 2018
- Co-authored a chapter, The Attorney’s Guide to the Seventh Circuit Court of Appeals (Sixth Edition, 2015), State Bar of Wisconsin CLE Books
- Author, “Jurisdiction Issues Dog Multistate Class Actions,” Consumer Class Defense Counsel, March 2018
- Author, “4 Tips for Applying Arbitration Agreements to TCPA Claims,” Consumer Class Defense Counsel, February 2018
- “Class action waivers in arbitration agreements enforceable: High court,” Business Insurance, June 20, 2013
- Quoted, “Attorneys React to High Court’s Arbitration Ruling,” Law360, June 20, 2013
- “Developments in Class Actions,” Litigation, Dispute Resolution, & Appellate Practice Institute 2013, May 2013
- Quoted, “Small Pharmacies Seek Class Cert. In Caremark Antitrust Row,” Law360, November 2012
- “Mooting Plaintiff’s Case Might Not End Class Action,” Law360, October 2012
- “Debunking Class Certification Myths,” Law360, January 2012
- “Trends in ‘All Natural’ Class Actions,” Law360, November 2011
- “Using Offers Of Judgment in Class Actions,” Law360, September 2011
- “Concepcion Steers Potential Class Actions Toward Arbitration,” Wisconsin State Bar News, July 2011
- “Foreclosure Actions Could Result in FDICPA Violations,” LexisNexis® Research Solutions, July 2010
- “New Rulings from the Fourth and Eleventh Circuit Shed New Light on RESPA Liability and the Filed Rate Doctrine,” LexisNexis® Emerging Issues Analysis, July 2009
- “Current Developments in Lender Liability Law – Consumer Context Part II,” Foley & Lardner LLP Web conference, April 2009

- The Importance of Administrative Procedures Act Compliance in RESPA Reform, RESPRO® Magazine, Second Quarter 2008, Co-Authored
- Overcoming Patent Infringement Allegations: Key Insights Into Patent Licensing & Effective Strategies For Dealing With Alleged Breaches & Extortion, Aspatore Books, 2004, by Paul Hunter (editor)
- Michigan Law Review, Volumes 94-95, 1995-1997 (Managing Editor)
- Note, A More Sensible Approach to Regulating Independent Expenditures: Defending the Constitutionality of the FEC's New Express Advocacy Standard, 95 Mich. L. Rev. 868 (1996)

## Sectors

- [Manufacturing](#)

## Practice Areas

- [Antitrust & Competition](#)
- [Appellate](#)
- [Business Litigation & Dispute Resolution](#)
- [Consumer Law, Finance & Class Action Group](#)
- [Financial Institutions](#)
- [Litigation](#)

## Education

- University of Michigan Law School (J.D., cum laude, 1997)
  - Managing Editor, *Michigan Law Review*
  - Authored "A More Sensible Approach to Regulating Independent Expenditures: Defending the Constitutionality of the FEC's New Express Advocacy Standard," for Michigan Law Review
  - After graduation, served as a law clerk for the Honorable Karen Nelson Moore, United States Court of Appeals for the Sixth Circuit

## Admissions

- Wisconsin
- Michigan
- District of Columbia
- U.S. Supreme Court
- U.S. Courts of Appeals for the First Circuit
- U.S. Courts of Appeals for the Second Circuit
- U.S. Courts of Appeals for the Third Circuit
- U.S. Courts of Appeals for the Fourth Circuit
- U.S. Courts of Appeals for the Fifth Circuit
- U.S. Courts of Appeals for the Sixth Circuit
- U.S. Courts of Appeals for the Seventh Circuit
- U.S. Courts of Appeals for the Eighth Circuit



FOLEY & LARDNER LLP

- U.S. Courts of Appeals for the Ninth Circuit
- U.S. Courts of Appeals for the Tenth Circuit
- U.S. Courts of Appeals for the Eleventh Circuit
- U.S. Courts of Appeals for the District of Columbia Circuit
- U.S. Court of Appeals for Veterans Claims
- U.S. District Courts for the Eastern and Western Districts of Wisconsin
- U.S. District Courts for the District of Columbia
- U.S. District Courts for the Northern District of Ohio
- U.S. District Courts for the Eastern District of Michigan
- U.S. District Courts for the Northern and Southern Districts of Illinois.