

Troy A. Gunderman

COUNSEL



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Practice Groups

Business & Commercial Litigation

Financial Services

Consumer Finance

Overview

Troy Gunderman is a versatile litigator in the firm's Consumer Finance group. He guides companies through all phases of litigation, from pre-suit resolution and early case assessment through trial and appeal.

Troy brings extensive experience defending claims under the Fair Debt Collection Practices Act (FDCPA), the Telephone Consumer Protection Act (TCPA), the Fair Credit Reporting Act (FCRA), and the California Invasion of Privacy Act (CIPA), as well as a wide range of other federal and state consumer protection statutes and regulations.

Troy has orchestrated nationwide defense efforts, developing and executing strategy, managing internal legal teams, and directing local counsel. Drawing on two decades of in-house experience overseeing both high-stakes and high-volume litigation, he aligns risk management, litigation strategy, and business objectives. With a proven record of success across consumer, collections, bankruptcy, and employment matters, he leads the defense of matters ranging from individual claims to class actions and coordinates defense strategies that drive favorable results regardless of the forum or phase through dispositive motion practice, mediation and settlement, trial, or appeal.

His appellate work across multiple federal circuits has helped shape key issues involving the FDCPA's fiduciary exception, preemption, no private right of action, bankruptcy court jurisdiction, and standards governing the discharge of federal student loans.

Education & Admissions

Education

- William Mitchell College of Law, J.D.
 - Dean's List
 - CALI Award Recipient
- University of St. Thomas, B.A.

Bar Admissions

- U.S. Supreme Court

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- U.S. Court of Appeals, First Circuit
- U.S. Court of Appeals, Second Circuit
- U.S. Court of Appeals, Third Circuit
- U.S. Court of Appeals, Fourth Circuit
- U.S. Court of Appeals, Fifth Circuit
- U.S. Court of Appeals, Sixth Circuit
- U.S. Court of Appeals, Eighth Circuit
- U.S. Court of Appeals, Ninth Circuit
- U.S. Court of Appeals, Tenth Circuit
- U.S. Court of Appeals, Eleventh Circuit
- U.S. District Court, District of Minnesota
- U.S. District Court, Southern District of Indiana
- U.S. District Court, Eastern District of Michigan
- U.S. District Court, Eastern District of Texas
- Minnesota

Experience

Representative Cases

- The U.S. Court of Appeals for the Ninth Circuit granted an interlocutory appeal and vacated class certification, holding the district court abused its discretion. *Reyes v. Educ. Credit Mgmt. Corp.*, No. 17-56930, 773 F. App'x 989 (9th Cir. July 23, 2019). (Strategic direction; brief review and editing).
- Raised the standing argument that was decisive in securing the dismissal of a class action, affirmed by the U.S. Court of Appeals for the Ninth Circuit. *Mahboob v. Educ. Credit Mgmt. Corp.*, No. 21-56038, 2022 WL 15523097 (9th Cir. Oct. 27, 2022). (Strategic direction; brief review and editing).
- Presented oral argument to the U.S. Court of Appeals for the Ninth Circuit, which affirmed summary judgment, holding the defendant fell within the FDCPA's fiduciary-obligation exception. *Lima v. U.S. Dep't of Educ.*, 944 F.3d 1172 (9th Cir. 2019). (Strategic direction; brief review and editing).
- Presented oral argument in *Moss v. Premiere Credit of N. Am., LLC*; the U.S. Court of Appeals for the Eleventh Circuit affirmed summary judgment in both *Moss* and its companion case, *Bennett v. Premiere Credit of N. Am., LLC*, confirming no private right of action for alleged HEA violations, the FDCPA's fiduciary-obligation exception, and preemption of state collection laws. *Moss*

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v. Premiere Credit of N. Am., LLC, 559 F. App'x 855 (11th Cir. 2014); *Bennett v. Premiere Credit of N. Am., LLC*, 504 F. App'x 872 (11th Cir. 2013).

(Strategic direction; brief review and editing; no oral argument held in *Bennett*).

- Presented oral argument to the U.S. Court of Appeals for the Fourth Circuit; obtained reversal after the court held the bankruptcy court lacked subject-matter jurisdiction to adjudicate post-petition interest and collection costs arising independently of the bankruptcy. *In re Kirkland*, 600 F.3d 310 (4th Cir. 2010).
- Presented oral argument to the U.S. Court of Appeals for the Fourth Circuit. Obtained denial of an undue hardship discharge under 11 U.S.C. § 523(a)(8) where the debtor failed Brunner's "additional circumstances" and good-faith prongs. Established significant precedent for cases involving age and underemployment. *In re Spence*, 541 F.3d 538 (4th Cir. 2008).
- Obtained affirmance under the application of the Administrative Procedure Act from the U.S. Court of Appeals for the Sixth Circuit. *Castagnola v. Educ. Credit Mgmt. Corp.*, No. 14-3061, 2014 WL 12819298 (6th Cir. Sept. 2, 2014). (Strategic direction; brief drafting and editing; no oral argument held).
- Obtained reversal of the lower court's opinion from the U.S. Court of Appeals for the Fourth Circuit, where a partial discharge had been granted, but the plaintiff had not met the undue hardship standard. *In re Steiger*, 221 F. App'x 279 (4th Cir. 2007). (Strategic direction; brief drafting and editing; no oral argument held).
- Obtained affirmance from the U.S. Court of Appeals for the Fifth Circuit that the plaintiff failed the second prong of Brunner, as the plaintiff failed to establish that his issues would prevent repayment in the future. *In re Ostrom*, 283 F. App'x 283, 2008 WL 2570779 (5th Cir. June 26, 2008). (Strategic direction; brief drafting and editing; no oral argument held).
- Obtained affirmance from the U.S. Court of Appeals for the Second Circuit, which considered the plaintiff's alleged medical condition in relation to his ability to maintain employment. *In re Traversa*, 444 F. App'x 472, 2011 WL 5110214 (2d Cir. Oct. 28, 2011). (Strategic direction; brief drafting and editing; no oral argument held).
- Presented oral argument to the Tenth Circuit Bankruptcy Appellate Panel and directed strategy and briefing to the U.S. Court of Appeals for the Tenth Circuit, securing an important decision regarding alternative repayment plans and partial discharge. *In re Alderete*, 308 B.R. 495 (10th Cir. BAP 2004); *In re Alderete*, 412 F.3d 1200 (10th Cir. 2005). (Strategic direction; brief drafting and editing).

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- Obtained reversal of the bankruptcy court from the Bankruptcy Appellate Panel for the First Circuit, establishing valuable precedent regarding reasonably necessary living expenses within an undue hardship analysis. *In re Savage*, 311 B.R. 835 (1st Cir. BAP 2004). (Strategic direction; brief drafting and editing).
- Presented oral argument in an appeal of an adversary proceeding seeking an undue-hardship discharge of Parent PLUS loans under 11 U.S.C. § 523(a)(8). Obtained affirmance from the U.S. District Court for the Eastern District of Michigan and developed favorable precedent on many of the common issues raised in undue hardship matters. *In re Hart*, 438 B.R. 406 (E.D. Mich. 2010).
- Presented oral argument to the First Circuit Bankruptcy Appellate Panel. Obtained reversal of the lower court and established critical precedent under 11 U.S.C. § 523(a)(8) where the bankruptcy court erred in projecting income and improperly imputed speculative expenses. *In re Smith*, 328 B.R. 605 (1st Cir. BAP 2005).
- Presented oral argument on appeal to the U.S. District Court for the Eastern District of Texas. Obtained reversal and established favorable precedent in the application of Brunner's "additional circumstances" prong. *In re Blake*, 377 B.R. 502 (E.D. Tex. 2007).
- Presented oral argument to the U.S. District Court for the District of Massachusetts; obtained clarification on the consideration of alternative repayment plans within an undue hardship test. *In re Bronsdon*, 421 B.R. 27 (D. Mass. 2009).
- Obtained affirmance of the bankruptcy court from the U.S. District Court for the Western District of Texas, upholding that the debtor failed to prove additional circumstances and good faith efforts at repayment while addressing critical issues including age, degree, family size, employment opportunities within the field of study, geographical limitations, payment history, and repayment plans. *Jones v. Bank One Tex.*, 376 B.R. 130 (W.D. Tex. 2007). (Strategic direction; brief drafting and editing).
- Obtained reversal of the bankruptcy court from the U.S. District Court for the Eastern District of Texas, establishing valuable precedent pertaining to the analysis under Brunner's third prong and a court's equitable powers. *Educ. Credit Mgmt. Corp. v. Young*, 376 B.R. 795 (E.D. Tex. 2007). (Strategic direction; brief drafting and editing).

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Additional Consumer Protection Defense Representative Cases

- *Manchanda v. Educ. Credit Mgmt. Corp.*, No. 22-142-cv, 2023 WL 4725734 (2d Cir. Apr. 3, 2023). (Strategic direction; brief review and editing).
- *United States v. Gorski*, No. 12-56584, 585 F. App'x 929 (9th Cir. Sept. 30, 2014). (Strategic direction; brief review and editing).
- *Gallick v. Educ. Credit Mgmt. Co.*, No. 21AP0054, 2023-Ohio-278, 207 N.E.3d 868 (Ohio Ct. App. 9th Dist. Jan. 31, 2023). (Strategic direction; brief review and editing).
- *Estes v. ECMC Grp., Inc.*, No. 19-cv-822-LM, 565 F. Supp. 3d 244 (D.N.H. July 26, 2021). (Strategic direction; brief review and editing).
- *Cadiz v. Educ. Credit Mgmt. Corp.*, No. 17-cv-06362, 2019 WL 4254484 (N.D. Ill. Feb. 21, 2019). (Strategic direction; brief review and editing).
- *Rainey v. Educ. Credit Mgmt. Corp.*, No. 14-cv-14210, 2016 WL 1594378 (E.D. Mich. Apr. 21, 2016). (Strategic direction; brief review and editing).
- *Adigun v. Internal Revenue Serv.*, No. 20 Civ. 3676 (AT), 2021 WL 4219664 (S.D.N.Y. Sept. 16, 2021). (Strategic direction; brief review and editing).
- *Freeman v. Great Lakes Educ. Loan Servs.*, No. 3:12-cv-331/MCR/CJK, 2013 WL 2355541 (N.D. Fla. May 28, 2013). (Strategic direction; brief review and editing).
- *Hamilton v. Educ. Credit Mgmt. Corp.*, No. 20-cv-10006, 2021 WL 5631219 (E.D. Mich. Dec. 1, 2021). (Strategic direction; brief review and editing).
- *Peete-Bey v. Educ. Credit Mgmt. Corp.*, No. CCB-15-272, 2017 WL 3722841 (D. Md. Aug. 29, 2017). (Strategic direction; brief review and editing).
- *Patenaude v. ECMC*, No. 3:22-cv-00279-DMS-AGS, 2022 WL 3030945 (S.D. Cal. Aug. 1, 2022). (Strategic direction; brief review and editing).
- *Lasserre v. Educ. Credit Mgmt. Corp.*, No. 3:12-091, 2012 WL 2191628 (M.D. La. June 14, 2012). (Strategic direction; brief review and editing).

Additional Bankruptcy-Related Issues Representative Cases

- *Slavinsky v. Educ. Credit Mgmt. Corp.*, 362 B.R. 677 (D. Md. 2007). (Strategic direction; brief review and editing).
- *Gizzi v. Educ. Credit Mgmt. Corp.*, 364 B.R. 250 (N.D.W. Va. 2007). (Strategic direction; brief drafting and editing).
- *Hooker v. Educ. Credit Mgmt. Corp.*, 368 B.R. 502 (W.D. Va. 2007). (Strategic direction; brief drafting and editing).
- *Vasilyeva v. Educ. Res. Inst., Inc.*, No. 09-709 (FLW), 2009 WL 3415283 (D.N.J. Oct. 22, 2009). (Strategic direction; brief drafting and editing).

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- *In re Alfes*, No. 10-14610, 2011 WL 3651319 (E.D. Mich. Aug. 19, 2011). (Strategic direction; brief drafting and editing).
- *Educ. Credit Mgmt. Corp. v. Pratt*, 375 B.R. 753 (S.D. Tex. 2007). (Strategic direction; brief drafting and editing).

Professional & Civic

Bar Associations

- Federal Bar Association
- Minnesota State Bar Association
 - Consumer Law Section
- Hennepin County Bar Association

Professional Associations

- ACA International, Inc.
- The National Creditors Bar Association
- Receivables Management Association International

Accolades

Honors & Awards

- In-House Counsel Award, *Minnesota Lawyer*, 2019
 - *Selected among distinguished Minnesota lawyers as part of the inaugural In-House Attorney of the Year class*
- Up and Coming Attorney, *Minnesota Lawyer*, 2009
 - *Recognized for substantial legal accomplishments within the first decade of practice*