OUR PRACTICE

Automotive Finance

Baker Donelson's Automotive Finance Team members have specific and extensive experience working with and for the auto finance industry. Our team-based approach allows us to provide prompt, high quality, cost-effective legal services and industry insight for regulatory, transactional and litigation matters.

Our clients include all sizes of financial services companies and national and state chartered banks providing commercial and consumer financing (both prime and sub-prime) in connection with every facet of the automotive industry, including automobile retailers, automotive auction houses, and vendors providing goods and services to the industry.

Our lawyers focus on the following key automobile finance industry market segments:

Corporate Services, Transactions, Regulation and Compliance

- Advising clients on titling, licensing, registration and other regulatory and statutory requirements unique to the auto finance industry
- Addressing dealings between the finance companies and the automobile dealers they service
- Negotiating loan sales and servicing agreements
- Handling regulatory concerns with the Consumer Financial Protection Bureau (CFPB) and the new regulations relative to the automotive finance industry

Commercial Finance Transactions

- Commercial transactions for lenders and finance lessors of automobiles, including tax driven structures like TRAC and Split-TRAC leases, as well as pure equipment financing
- Dealer floorplan transactions
- Structured warehousing facilities
- See also Asset Based Finance and Equipment Leasing and Finance

Litigation, Restructuring and Bankruptcy

- Filing and prosecuting replevins in state and federal courts to recover the vehicle and deficiency balance on consumer accounts
- Dealer floor plan loan enforcement, including filing and prosecuting replevins in state courts against automobile dealerships to recover floor-planned inventory and commercial bankruptcy proceedings in which the debtor is an automobile dealership
- Filing and prosecuting state and federal court breach of contract actions, in which the vehicle has been recovered or abandoned by the creditor
- Defending actions or counterclaims for breach of the peace, intentional infliction of emotional distress in state courts, and wrongful repossession
- Defending Fair Debt Collection Practices Act (FDCPA) claims, claims of fraud and state consumer protection action claims
- Defending Truth in Lending Act (TILA) claims asserted from the origination and/or financing standpoint
- Defending Fair Credit Reporting Act (FCRA) claims arising from reporting of the auto line
- Actions to compel cases to arbitration based on contractual agreements
- AAA arbitration on the basis of a deficiency balance that resulted post-repossession

- Consumer bankruptcy proceedings, including ones in which collection attempts were made on loans that have been discharged in bankruptcy, resulting in state court claims
- Post-judgment collections and enforcement actions, often involving multiple secured creditors and/or lien priority disputes
- Administrative proceedings and state court actions relative to the forfeiture or seizure of vehicles
- Assisting with and facilitating the exercise of self-help in accordance with applicable state and federal laws
- Negotiations with towing firms and garage keepers for the retrieval of vehicles abandoned by customers or law enforcement agencies

Representative Matters

- Successfully argued that our client, a company providing lease financing for autos, equipment and machinery, is not a "sales finance company" as defined by the Georgia Motor Vehicle Sales Act. In doing so, we overcame the objection of a debtor who filed Chapter 13 bankruptcy that our client had failed to comply with the Act, which would have barred the deficiency claim. The court's ruling resulted in securing allowance of our client's deficiency claim in the bankruptcy case, the largest unsecured claim in the case.
- Numerous trials of consumer credit issues before U.S. Bankruptcy Court for major mortgage companies and automotive creditors.
- Assisted lenders on revolving loans to dealerships and affiliated finance companies secured by receivables, inventory, and other assets.
- Long-term representation of a large local credit union in replevin actions, vehicle forfeiture proceedings, foreclosures, bankruptcy proceedings and state court collections actions.
- Successfully defended automobile finance companies in consumer-related actions arising out of credit and installment agreements and other finance issues.
- Provided long-term representation of a major automotive creditor in state court trials involving breach of contract actions and actions to recover personal property.
- Assisted floorplan lender in automotive industry with updates to floorplan loan documents, dealer workouts, dealer litigation, and sale of loan.
- Advised a vehicle finance company to ensure their leasing products and documents complied with state and federal laws and regulations.
- Represented captive lender in receiverships, bankruptcy cases, deficiency collection proceedings, and lender liability lawsuits by or against automobile dealerships and related parties.