



Barbara Fernandez

Partner in Charge of Miami Office

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Barbara Fernandez focuses her litigation practice on consumer and class action litigation. She has extensive experience in defense of individual and class action claims involving the Fair Debt Collection Practices Act (FDCPA), Florida Consumer Collection Practices Act, Telephone Consumer Protection Act (TCPA), Fair Credit Reporting Act (FCRA), and the Florida Deceptive and Unfair Trade Practices Act, and practices regularly in Florida state and federal courts. Her clients include lending institutions, debt collection agencies, debt buyers, and lawyers. Barbara designs and conducts training workshops for clients in the consumer lending industry regarding compliance with the FDCPA, FCRA, and TCPA.

In the consumer and class action litigation arena, Barbara has successfully handled complex claims against her clients. For example, she resolved a potential multi-million dollar class action against a Fortune 500 client on very favorable terms.

Barbara also has experience in handling Magnusson-Moss warranty claims, Florida Lemon Law matters, actions involving vicarious liability of rental and leasing companies, and defending claims involving catastrophic personal injuries, motor vehicle accidents, construction site accidents, defamation, and civil theft.

Barbara is the partner-in-charge of the firm's Miami office and a former member of the firm's Executive Committee. She is also a member of the firm's Diversity Committee and serves as the Miami office's Office Mentor Coordinator (OMC). The OMC is responsible for administering the mentor program in her office and serving as an advisor for young attorneys in challenging situations. Barbara is a former Co-Chair of Hinshaw's Hispanic/Latino Attorney Network, and was also a member of the Evaluation Committee for Hinshaw's Attorney Life Committee.

In 2016, she served as a supervising attorney at Florida International University College of Law's Medical-Legal Partnership Clinic, where she taught consumer protection law and supervised student lawyers handling consumer claims. Barbara served as an adjunct professor at Florida International University College of Law, where she taught Legal Skills and Values III.

During law school, Barbara served a judicial internship with the Third District Court of Appeal. In addition to her other law school accomplishments, Barbara served as Vice President of the Hispanic Law Student Association and was a member of the *Miami Entertainment and Sports Law Review*.

Practices

Commercial Litigation
Consumer and Class Action Defense
Consumer Financial Services
Latin America
Mortgage Servicing and Lender Litigation
Regulatory and Compliance Counseling
The Telephone Consumer Protection Act

Education

J.D., University of Miami School of Law, 2001
B.S., *cum laude*, Florida International University, 1997

Admissions

Florida
U.S. Supreme Court
U.S. Court of Appeals for the Eleventh Circuit
U.S. District Court for the Middle, Northern, and Southern Districts of Florida

Languages

Spanish



Professional Affiliations

- American Bar Association
- American Collector's Association, Members Attorney Program
- Cuban American Bar Association
- Dade County Defense Bar Association
 - Board Trustee
 - Past President (three terms)
- The Florida Bar
- Hispanic National Bar Association
- National Association of Women Lawyers (NAWL)
 - Next Level Affinity Group, Co-Chair
 - Annual Meeting Planning Committee

Honors & Awards

- Selected as one of Florida Legal Elite's 2023 Most Notable Women in Law by *Florida Trend Magazine*
- Recognized as the 2021 Businesswomen of the Year (Corporate Leader) by the Coral Gables Chamber of Commerce
- Recognized as an "Influential Business Woman" by *South Florida Business Journal*, 2021
- "40 Under 40 Outstanding Lawyers of South Florida Award," Cystic Fibrosis Foundation, August 2014
- Named as one of *Diversity MBA Magazine's* Top 100 Under 50 Diverse Executive & Emerging Leaders, 2013
- Selected as one of the *Daily Business Review's* "Rising Stars," 2013
- Selected as one of *South Florida Business Journal's* "40 Under 40," 2012

Representative Matters

- Summary judgment was appealed to the Eleventh Circuit and won appeal. Previously, secured summary judgment in the U.S. District Court for the Southern District of Florida in favor of a student loan servicer in a Telephone Consumer Protection Act (TCPA) lawsuit. The case was one of a series of federal court decisions that have followed the Second Circuit's lead in refusing to recognize efforts to revoke consent for automated calls when consent is given as "bargained-for consideration in a bilateral contract" under the holding in *Reyes v. Lincoln Automotive Fin. Servs.*
- Obtained summary judgment in defense of debt buyer. The court found that debt buyer reasonably relied on the electronic records provided by the creditor and conducted a reasonable investigation of debtor's dispute based upon the information provided by the debtor. Therefore, it did not violate the Fair Credit Reporting Act (FCRA), 15 U.S.C. §1681. (Lead counsel, M.D.Fla. 2015).
- *Jordan v. ER Solutions, Inc.*, 10-62409-CIV, 2012 WL 5245384 (S.D. Fla. Oct. 18, 2012), obtained summary judgment in defense of debt collector where court found consumer gave express consent to automated collection calls from debt collector as term and condition of her purchase from an underlying creditor. Therefore, calls did not violate the Telephone Consumer Protection Act (TCPA), 47 U.S.C.A. § 227(b)(1)(A).
- Obtained summary judgment in defense of debt collector and imposition of sanctions against debtor's counsel for unreasonably continuing to pursue meritless claims warranting a finding of bad faith in Fair Debt Collection Practices Act (FDCPA) action. (Co-counsel, Southern District of Florida).
- *Bolanos v. First Investors Servicing Corp.*, 2010 WL 4457347 (S.D. Fla. Oct. 29, 2010), where the court dismissed the plaintiff's case and compelled arbitration, finding that claims under the Fair Debt Collection Practices Act (FDCPA) are not exempted from arbitration.
- *Valencia v. Affiliated Group, Inc.*, 2009 WL 4893113 (S.D. Fla. September 21, 2009), where the court made an across-the-board reduction of 60 percent to the plaintiff's attorney's fees and costs under the Fair Debt Collection Practices Act (FDCPA) because the plaintiff's attorney wasted time and energy attempting to obtain additional equitable relief.



Unmistakably precluded by case law only to recover one dollar less than the defendant had offered in an Offer of Judgment ten months earlier.

- *Keston v. Firstcollect, Inc.*, 2007 WL 4225593 (S.D. Fla. October 31, 2007), where a debt collection agency did not have sufficient minimum contacts with Florida to permit Florida district court to exercise personal jurisdiction over it under the Fair Debt Collection Practices Act (FDCPA) (even though the agency had a license in Florida), and given that agency had not directed any collection efforts to Florida in connection with the debtor.
- *Conner v. BCC Financial Management Services, Inc.*, 489 F.Supp.2d 1358 (S.D. Fla. 2007), where the court held that, under Florida law, a consumer does not have a private cause of action against a debt collection agency for its alleged failure to maintain a registration with the state of Florida.

Presentations

- "Defending FDCPA Claims Based on Collection Letters," Lorman Education Services, webinar, October 26, 2017
- "Top FDCPA Violations all Collectors Must be Aware Of," Lorman Education Services, webinar, March 23, 2017
- "Top 10 TCPA Violations: Prevention and Defenses," Lorman Education Services, webinar, June 2016
- Ethical Governance Day 2014, speaker, Commission on Ethics & Public Trust, Miami-Dade County, October 2014
- "Defending FDCPA Claims Based On Collection Letters," Lorman Education Services, live seminar, August 2014
- "Defending FDCPA Claims Arising From Collection Letters," Lorman Education Services, live audio conference, August 2013
- "An Introduction to Consumer Protection Laws," Choice Legal Group, P.A., Ft. Lauderdale, Florida, May 2013
- "Defending FDCPA Claims Arising From Collection Letters," Lorman Education Services, live audio conference, February 2013
- "Protecting the Integrity and Security of Neuropsychological Examinations," Dade County Defense Bar Association, Miami, Florida, November 2007
- "Vicarious Liability in Florida Regarding the Use of Motor Vehicles," Sedgwick Claims Management, Troy, Michigan, July 2004

Publications

Barbara is a co-editor of Hinshaw's consumer financial services blog, *Consumer Crossroads*.

Personal

Barbara is a native of Miami, Florida. She currently lives in Coral Gables, Florida, with her husband, their two sons, and a goldendoodle named Chase.

Community/Civic Activities

- Coral Gables Preparatory Academy, Silent Auction Committee, Member 2016 – 2017
- Florida Bar YLD Law Student Division Mentoring Program, Volunteer
- Lawyers for Children America, Volunteer