



### David Whitaker

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David Whitaker advises traditional and emerging financial services companies, and commercial enterprises, in transactional, legal and regulatory matters, particularly those related to electronic commerce and digital financial services.

- Intellectual Property and Technology

He has extensive experience with the practical application of laws governing electronic banking, letters of credit, payment systems, records management and commercial and consumer financing. He provides valuable insights to his clients based on decades of in-house experience and deep practical knowledge of the structures, implementation platforms and processes used to contract for and deliver financial and other services online and via mobile devices. David also has extensive experience with various laws and regulations related to residential mortgage lending, including the Real Estate Settlement Procedures Act (RESPA), the Fair Credit Reporting Act and the Equal Credit Opportunity Act, as well as the laws related to privacy and data security.

David is a member of the American Law Institute, the American Bar Association's Business Law Section, and the Business Law Section's Committee on the Law of Commerce in Cyberspace. He has co-chaired the Cyberspace Committee's Task Force on Federated Identity Management. David was the Co-Reporter for the Standards and Procedures for electronic Records and Signatures (SPeRS). He served as Reporter for the Mortgage Bankers Association white paper "Security Interests in Transferable Records." He was an active participant in the drafting of Revised Articles 5 and 9 of the UCC. He also participated in the drafting of the Uniform Electronic Transactions Act, where he chaired the Task Force on Scope and served as reporter for the Task Force. David also advised industry participants on the creation and drafting of the federal Electronic Signatures in Global and National Commerce Act.

David has written extensively on both law and practice related to digital financial services, electronic commerce and digital transformation. In particular, he is co-author of Thomson Reuter's The Law of Electronic Signatures (now in its eighth edition). He has also appeared as a featured speaker at more than 250 conferences, seminars and webinars on financial services law.

## Admissions

- District of Columbia
- Illinois
- Iowa

- Oklahoma

## Recognitions

- *Mortgage Banking Magazine*, Mortgage Banking Technology All-Star (2009)
- Electronic Records and Signatures Association, e-SignLive e-Sign Ambassador Award (2014)
- Electronic Records and Signatures Association, Cornerstone Award (2014)
- Electronic Records and Signatures Association, Cornerstone Award (2015)
- *Chambers FinTech*, Legal: Data Protection & Cyber Security – USA (2019-2021)
- Acritas Star Award (2019)
- *The Legal 500 United States* (2019)

## Education

- J.D., University of Illinois College of Law  
*cum laude*
- B.A., James Madison College at Michigan State University  
*with High Honor*

## Memberships

- American Law Institute
- American Bar Association Business Law Section
- American Bar Association Business Law Section Cyberspace Law Committee

## INSIGHTS

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### Publications

#### eSignature and ePayment News and Trends

7 December 2021

eSignature and ePayment News and Trends

Crypto broker rules become law; federal agencies release “policy sprint” on crypto-assets

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#### NACHA updates its rules regarding consumer ACH debits: key points

1 November 2021

The new standing authorization essentially bridges the gap between authorizing single and recurring debit entries.

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#### eSignature and ePayment News and Trends

1 November 2021

eSignature and ePayment News and Trends

NACHA creates a new type of consumer ACH debit authorization.

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## **eSignature and ePayment News and Trends**

7 September 2021

eSignature and ePayment News and Trends

CFPB to study electronic disclosures on mobile devices.

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### **Electronic disclosures on mobile devices: CFPB to study**

30 August 2021

As mobile devices have become the platform of choice for many consumers, the effective delivery of disclosures on those devices has become a key consideration for financial service providers.

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### **[UPDATED] Coronavirus: Federal and state governments work quickly to enable remote online notarization to meet global crisis**

25 August 2021

Federal and state governments are moving quickly to enable fully electronic processes to keep businesses operating.

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### **Remote notarization is here to stay**

4 August 2021

Key developments.

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## **eSignature and ePayment News and Trends**

4 August 2021

eSignature and ePayment News and Trends

Remote notarization is here to stay.

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### **With Illinois's adoption of UETA, United States near full adoption**

2 July 2021

The US has reached near-complete state-by-state adoption of the Uniform Electronic Transactions Act.

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## **eSignature and ePayment News and Trends**

2 July 2021

eSignature and ePayment News and Trends

With Illinois's adoption of UETA, the US is near full adoption.

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### **Enforcing a disputed electronic signature – recent case highlights importance of authentication, audit trails, and record management**

4 June 2021

The decision reaffirms a long line of cases enforcing electronic signatures where a secure, reliable system, in compliance with the

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requirements of UETA and the federal E-SIGN Act, is used.

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### **eSignature and ePayment News and Trends**

4 June 2021

eSignature and ePayment News and Trends

A Texas Supreme Court decision reaffirms a long line of cases enforcing electronic signatures where a secure, reliable system, in compliance with UETA and the federal E-SIGN Act, is used.

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### **eSignature and ePayment News and Trends**

30 April 2021

eSignature and ePayment News and Trends

In a key ruling on the TCPA, the Supreme Court narrows the definition of ATDS.

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### **So you want to go digital...**

April 2021

This article assists businesses in identifying the core issues that must be addressed to ensure the legal sufficiency of transactions conducted on eSignature platforms.

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### **eSignature and ePayment News and Trends**

2 April 2021

eSignature and ePayment News and Trends

Continuing the digital transformation into 2021.

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### **Legislators and regulators continue to support digital transformation**

26 February 2021

Endorsing the movement towards digital transformation.

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### **eSignature and ePayment News and Trends**

26 February 2021

eSignature and ePayment News and Trends

How legislatures and regulators endorse the movement towards digital transformation.

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## CFPB Taskforce on Federal Consumer Financial Law proposes changes to ESIGN

5 February 2021

The CFPB looks at the consumer consent requirements triggered when information must be provided or made available to a consumer "in writing."

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### eSignature and ePayment News and Trends

5 February 2021

eSignature and ePayment News and Trends

The CFPB looks at "in writing" consumer consent requirements; plus reports on new federal and state laws and regulatory activities and fresh judicial precedent.

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### Consumer finance regulatory and litigation landscape for 2021

21 January 2021

In 2021, the sector may have to reckon with troubled assets while operating in a business environment that may never return to many pre-pandemic practices.

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### eSignature and ePayment News and Trends

30 December 2020

eSignature and ePayment News and Trends

CFPB finalizes additional requirements regarding debt collection – plus latest legal, regulatory and case law developments.

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### eSignature and ePayment News and Trends

3 December 2020

eSignature and ePayment News and Trends

CFPB finalizes debt collection rules, addressing use of electronic communications; court finds no private right of action under ESIGN; plus latest legal, regulatory and case law developments.

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### Electronic signature hygiene – taking steps to help ensure that your electronic signature process allows you to enforce a disputed signature

2 November 2020

Two recent cases show the importance of developing a clear, enforceable electronic signature process.

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### eSignature and ePayment News and Trends

2 November 2020

eSignature and ePayment News and Trends

Electronic signature hygiene – does your electronic signature process allow you to enforce a disputed signature? Plus latest legal, regulatory and case law developments.

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## **Regulator strategies for encouraging innovation may be more relevant as firms move to digital offerings**

30 September 2020

Seeking to promote innovation by giving financial firms more opportunities and compliance flexibility to try new technologies, practices and methods.

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## **eSignature and ePayment News and Trends**

30 September 2020

eSignature and ePayment News and Trends

CFPB seeks to promote innovation by giving financial firms more opportunities and compliance flexibility to try new technologies, practices and methods – plus latest legal, regulatory and case law developments.

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## **Want to receive 4506-T documents electronically? Ensure you are addressing recent changes**

2 September 2020

Two substantive changes to the way lenders can receive signed 4506-T documents.

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## **eSignature and ePayment News and Trends**

2 September 2020

eSignature and ePayment News and Trends

Want to receive 4506-T documents electronically? Ensure you are addressing recent changes - plus latest legal, regulatory and case law developments.

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## **eSignature and ePayment News and Trends**

30 July 2020

eSignature and ePayment News and Trends

OCC says national banks may provide cryptocurrency custody services – plus latest legal, regulatory and case law developments

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## **eSignature and ePayment News and Trends**

2 July 2020

eSignature and ePayment News and Trends

Honoring National ESIGN Day – plus latest legal, regulatory and case law developments

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## **CFPB provides COVID-19 temporary supervisory and enforcement flexibility for ESIGN compliance for certain credit card transactions**

5 June 2020

However, the CFPB statement limits this flexibility to certain circumstances.

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## **COVID-19 spurs digital transformation and electronic use and acceptance**

3 June 2020

Steps to help to ensure enforceability and meet compliance obligations.

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### **eSignature and ePayment News and Trends**

3 June 2020

eSignature and ePayment News and Trends

COVID-19 spurs digital transformation and electronic use and acceptance, plus latest legal, regulatory and case law developments.

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### **Coronavirus: the federal government is working quickly to fund the efforts of small business to recover from the global crisis: electronic signatures are permitted**

13 May 2020

Electronic signatures are permitted as part of the Paycheck Protection Program and Main Street Lending Program.

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### **eNotes use surges – insights for lenders looking to close mortgage loans electronically**

30 April 2020

Some key considerations for lenders looking to close loans electronically, either in person or remotely.

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### **eSignature and ePayment News and Trends**

30 April 2020

eSignature and ePayment News and Trends

Some key considerations for lenders looking to close loans electronically, either in person or remotely, plus latest regulatory, legal and case law developments around eSignatures and ePayments.

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### **eSignature and ePayment News and Trends**

March/April 2020

eSignature and ePayment News and Trends

COVID-19 special edition

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### **eSignature and ePayment News and Trends**

28 February 2020

eSignature and ePayment News and Trends

What does it mean to design ethical algorithms that are transparent and fair? Testimony from the latest House Task Force on AI hearing; plus latest legal, regulatory and case law developments.

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### **eSignature and ePayment News and Trends**

30 January 2020

eSignature and ePayment News and Trends

The impact of the newly effective California Consumer Privacy Act on commercial websites and mobile applications, plus latest legal, regulatory and case law developments.

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- "Remote Online Notarization is Here to Stay," *American Bar Association*, July 23, 2019
- "The Effectiveness of Clickwrap for Legally Enforceable Agreements," *DocuSign*, March 21, 2019
- "eSignature and ePayment News and Trends," May 2, 2018
- *The Law of Electronic Signatures*, 2018 Edition, Thomson Reuters
- "Electronic Retail Installment Sales Contracts in California," *The Review of Banking & Financial Services*, Vol. 33, No.12, December 2017
- "Enabled by Lenders, Embraced by Borrowers, Enforced by the Courts: What You Need to Know About eNotes," MERSCORP Holdings, Inc., September 8, 2017
- "Special Considerations For Perfection Opinions Covering Electronic Chattel Paper As Collateral," *Journal of Equipment Lease Financing*, Spring 2015
- "Consumer Financial Services Answer Book 2016," Practising Law Institute, October 1, 2014
- "A Brief Guide to Using Electronic Signatures in Securities Transactions," July 1, 2013
- "Planning for Accessibility when Developing Financial Services Websites and Mobile Apps," *American Bar Association Consumer Financial Services*, June 20, 2013
- "Federal Regulators Issue Guidance on Social Media and Mobile Privacy," *Law Journal Newsletters*, April 2013
- "Is Regulatory Uncertainty an Impediment to Mobile Payments?," *Payments Journal*, January 23, 2013
- "Security Interests in Transferable Records Evidencing Residential Mortgage Lending Transactions and the Rights of Warehouse Lenders: An Analysis and Proposal," October 24, 2007
- "Admission into Evidence of Paper Records Converted to Electronic Form," *Consumer Finance Law Quarterly Report*, Vol. 60, No. 2, 2006
- "An Overview of Some Rules and Principles for Delivering Consumer Disclosures Electronically," *North Carolina Banking Institute Journal*, Vol. 7, April 2003
- "SPeRS - Standards and Procedures for electronic Records and Signatures," Electronic Financial Services Council, 2003
- "Emulating Documentary Tokens in an Electronic Environment: Practical Models for Control and Priority of Interests in Transferable Records and Electronic Chattel Paper," *The Business Lawyer*, Vol. 59, No. 1, 2003 (Contributing author)
- "Rules Under the Uniform Electronic Transactions Act for an Electronic Equivalent to a Negotiable Promissory Note," *The Business Lawyer*, Vol. 55, No. 1, November 1999
- "Proposed Rules Under the UETA for an Electronic Promissory Note," *Banking Policy Report*, Vol. 18, No. 8, April 19, 1999
- "Model Positive Pay Services Agreement and Commentary," American Bar Association, 1999 (Contributing author)
- "Electronic Commerce: Avoiding State Law Pitfalls," *Electronic Banking Law and Commerce Report*, Vol. 3, No. 9, 1999
- "A Lawyer's Take on the Electronic Purse: An Analysis of Commercial Law Issues Associated with Stored-Value Cards and Electronic Money," *The Business Lawyer*, Vol. 57, No. 2, 1997 (Contributing author)
- "Electronic Cash -- How It Works and Questions About the Rules of the Game," *Consumer Finance Law Quarterly Report*, Vol. 50, No. 3, 1996
- "Key Issues and Considerations in Drafting Deposit Agreements and Funds Transfer Services Agreements for Financial Institutions," *Consumer Finance Law Quarterly Report*, Vol. 50, No. 1, 1996
- "Letters of Credit and Electronic Commerce," *Idaho Law Review*, Vol. 31, No. 3, 1995
- "Model Funds Transfer Services Agreement and Commentary," American Bar Association, 1994 (Contributing author)
- "Special Considerations Related to Joint Deposit Accounts," *Consumer Finance Law Quarterly Report*, Vol. 47, No. 2, 1993
- "Signed, Sealed and Delivered: EDI and Letters of Credit," EDI FORUM: *The Journal of Electronic Data Interchange*, Special Edition



on EDI Legal and Audit Issues, 1992

- "Electronic Documentary Credits," *The Business Lawyer*, Vol. 46, 1991
- Oklahoma Comments to Uniform Commercial Code Revised Article 3, Revised Article 4, Article 4A, Revised Article 5 and Revised Article 6 Oklahoma Statutes Annotated, West Publishing, various years

## Events

- Speaker, "Comprehending the Tech in Fintech Boot Camp: A Complete Guide for Lawyers and Compliance Professionals on the Technologies Underlying Fintech Payment Systems" at the ACI Fintech and Emerging Payments Conference, May 2, 2018
- Speaker, "E-Signatures and Electronic Loan Documentation in Real Estate Finance: E-SIGN and UETA, Interplay With UCC," Strafford Publications Webinar, February 20, 2018
- Speaker, "Building a Foundation of Knowledge: Communicating the Viability of eNotes to Your Legal Team," MERS User Conference, June 20, 2018
- Speaker, "eSignatures, Blockchain and Smart Contracts, Oh My! The New Landscape for Digital Transactions," Clear Law Institute Webinar, May 31, 2018
- Speaker, "Legal and Regulatory Update," Electronic Signatures and Records Association Spring Member's Meeting, May 9, 2018
- Speaker, "An Analysis of Today's Evolving FinTech Landscape: Industry Insights on How the Latest Innovations Are Changing and Disrupting the Financial Services, Alternative Lending and Payments Industries," ACI Emerging Payments Conference, April 30, 2018

## NEWS

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### DLA Piper lawyers ranked in Chambers FinTech 2022

13 December 2021

DLA Piper is pleased to announce that the firm received 19 firm rankings and 14 individual lawyer rankings in the *Chambers FinTech* 2022 guide.

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Margo Tank and David Whitaker's recent article on the law governing digital mortgage notes is cited in the Treasury Department's new report, *A Financial System That Creates Economic Opportunities • Nonbank Financials, Fintech, and Innovation* (July 2018).