



Appellate Litigation

Burr & Forman has one of the most experienced appellate practices in the Southeast region. Our attorneys are skilled in arguing the right issue, in the right way, with a deep knowledge of how appellate courts operate. Our team understands that no appeal is ever routine and there is never a time when results matter more than on final appeal. Whether as an appellant, appellee, or friend of the court, a decision on appeal not only settles the case but becomes the law of the land.

Our team handles appeals at all levels of the state and federal system, involving nearly every legal subject as well as challenges to excessive damage awards.

Burr's appellate capabilities include:

- Appeals of class action certification rulings and related orders
- Appellate briefs
- Appellate mediation
- Amicus curiae briefs
- Emergency appeals
- Evaluations of appeal worthiness
- Oral argument
- Petitions for writ of mandamus
- Petitions for writ of certiorari
- Post-judgment discovery and enforcement
- Post-judgment evidentiary hearings
- Rehearing applications
- Stays of judgment
- Strategic counseling during trial

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Appellate Litigation

- Supersedeas bonds

In addition, many amicus curiae organizations select Burr to file their briefs, such as the Business Council of Alabama, the Defense Research Institute (DRI), the American Council of Life Insurers (ACLI), the Product Liability Advisory Council (PLAC), the National Association of Mutual Insurance Companies (NAMIC), and the Alabama Defense Lawyers Association. Burr's appellate attorneys also hold key leadership roles such as the Alabama Supreme Courts standing committee on appellate rules.

Representative Appellate Cases

- *Mahanoy Area School District v. B.L. ex rel. Levy*, 141 S. Ct. 2038 (2021) (representing twelve Alabama school districts as amici curiae)
- *United States Forest Service v. Cowpasture River Preservation Association*, 140 S. Ct. 1837 (2020) (representing 62 members of Congress as amici curiae)
- *Y. State Rifle & Pistol Association v. City of New York*, 140 S. Ct. 1525 (2020) (representing 120 members of Congress as amici curiae)
- *S. ex rel. O'Bier v. Tidal Health Nanticoke, Inc.*, No. 21-2123, 2022 WL 264554 (3d Cir. Jan. 28, 2022) (affirming dismissal of False Claims Act litigation premised on allegations of violations of the Stark Act, the federal Anti-Kickback statute, Medicare's "freedom of choice" rule; and Medicare's prohibition on billing for unnecessary services)
- *Maxon v. Fuller Theological Seminary*, No. 20-56156, 2021 WL 5882035 (9th Cir. Dec. 13, 2021) (representing group of theologians as amici curiae)
- *Ridgewood Health Care Center, Inc. v. National Labor Relations Board*, 8 F.4th 1263 (11th Cir. 2021) (reversing NLRB's determination that employer had engaged in anti-union hiring practices to avoid being a successor and NLRB's order that employer recognize and bargain with the union)
- *In re McIntyre Building Co.*, 835 F. App'x 1006 (11th Cir. 2021) (holding that bankruptcy adversary proceeding was a core proceeding and affirming bankruptcy and district court determinations that a collateral swap agreement was unenforceable)

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RELATED AREAS

Commercial Litigation
Health Care Litigation
Insurance Litigation & Coverage
Labor & Employment
Securities

Appellate Litigation

- *Rivera v. Exeter Finance Corp.*, 829 F. App'x 887 (10th Cir. 2020) (affirming denial of class certification in Telephone Consumer Protection Act case because the putative class representative had not sufficiently defined the proposed class)
- *Collier v. Harland Clarke Corp.*, 820 F. App'x 874 (11th Cir. 2020) (affirming summary judgment for employer where employee alleged ADA and ADEA discrimination)
- *Minnifield v. City of Birmingham Department of Police*, 791 F. App'x 86 (11th Cir. 2019) (reversing denial of qualified immunity for police sergeant where former police officer alleged claims of disparate treatment, retaliation, and hostile work environment)
- *Cawthorn v. Auto-Owners Insurance Co.*, 791 F. App'x 60 (11th Cir. 2019) (affirming dismissal of bad faith claims involving entry into collusive consent judgment without insurer's participation)
- *Dear v. Q Club Hotel, LLC*, 933 F.3d 1286 (11th Cir. 2019) (affirming judgment for a condominium-hotel company in dispute against condominium owners regarding "shared costs" assessments)
- *Jones v. Professional Background Screening Association*, 610 S.W.3d 640 (Ark. 2020) (holding, as a matter of first impression, that a request for criminal court records for a specific person is not a request for compiled information under the administrative order governing record access)
- *Jostens, Inc. v. Herff Jones, LLC*, 308 So. 3d 10 (Ala. 2020) (affirming multimillion dollar award in trade secrets case)
- *Ex parte Hayslip*, 297 So. 3d 381 (Ala. 2019) (obtaining a writ of mandamus ordering the trial court to dismiss all claims because they were compulsory counterclaims in a previous interpleader action)
- *Stoneridge Investment Partners, v. Scientific-Atlanta, Inc.*, 552 U.S. 148, 128 S. Ct. 761 (2008) (defense of securities fraud litigation)
- *R. Huff Asset Management Co., v. Kohlberg, Kravis, Roberts*, 566 F.3d 979 (11th Cir. 2009) (preemption of state law by SLUSA)
- *Cottrell v. NCAA*, 975 So. 2d 306 (Ala. 2007), cert. denied, 128 S.Ct. 1334 (2008) (defense of NCAA in defamation claim)
- *Mack Trucks, Inc. v. Witherspoon*, 867 So. 2d 307 (Ala. 2004) (defense of product manufacturer)
- *Guyoungtech USA, Inc. v. Dees*, 156 So.3d 374 (Ala. June 2014) (reversal of \$4 million retaliatory discharge verdict against auto parts manufacturer)
- *BB&T v. Nichols*, 184 So. 3d 337 (Ala. 2015) (defense of bank in reversal of \$12 million fraud claim)
- *U.S. Bank v. Shepherd, No. 1140376, 2015 (Ala. Nov. 20, 2015)* (defense of bank in reversal of multi-million wrongful foreclosure)
- *Freedom from Religion Foundation, Inc. v. Orange County School Board*, 30 F. Supp. 3d 1358 (M.D. Fla. 2014), affd, 610 F. Appx 844 (11th Cir. 2015) (defense of school board on public school free speech issue)
- *Howington v. Smurfit-Stone Container Corp.*, 564 F. Appx 537 (11th Cir. 2014) (defense of paper manufacturer on ERISA disability retirement claim)
- Successful Defense of False Claims Act Lawsuit
03.15.2022

Appellate Litigation

- Reversal of NLRB Decision
08.25.2021

News

- Kristy Waldron Joins Burr's Appellate Litigation Team
Firm News, 01.04.2024
- Burr & Forman Welcomes Commercial Litigation Attorney Lauren Rota
Firm News, 12.15.2023
- Burr & Forman Earns National and Metro Rankings in 2024 Best Law Firms List
Firm News, 11.02.2023
- Burr's Forrest Latta Reappointed to the Alabama Supreme Court's Standing Committee for the Alabama Rules of Evidence
Firm News, 09.29.2023
- Burr & Forman Files Amicus Brief with United States Supreme Court
Firm News, 07.26.2022

Events

- The Association of Corporate Counsel (ACC) South Carolina Chapter Annual Meeting
Speaking Engagement, Central Energy - Columbia, SC, 09.14.2023

Publications

- Eleventh Circuit Affirms Convictions Against Florida Physician, Pharmacist for Violating Anti-Kickback Statute
Articles / Publications, 06.20.2022
- *Appellate Issues*: "Personal Perspectives on Personal Jurisdiction"
Articles / Publications, 02.20.2020
- Larry Litow Mentioned in *Law360*: 11th Circ. Mulls Whether Class Invited Trial Court 'Error'
Articles / Publications, 06.17.2019
- *Appellate Issues*: "Reply Briefs: Making the Last Word Count"
Articles / Publications, 02.05.2019