



John W. Ormand
III
PARTNER

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An accomplished trial lawyer and problem solver, John Ormand handles an array of litigation matters affecting businesses, professionals, and other individuals in state and federal courts and before arbitration panels, administrative tribunals and state agencies.

COMPLEX BUSINESS LITIGATION

John has litigated business disputes involving all sorts of contract, tort, equitable, and statutory claims or defenses throughout his more than three decades with Brooks Pierce. He also routinely advises clients about how to avoid or limit problems and disputes.

Recent examples of John's work include obtaining the dismissal of various claims against a professional client, which was affirmed by the Fourth Circuit in its first published opinion recognizing the Barton Doctrine. Subsequently, the same clients obtained a sanctions award of over \$300,000 against the individuals and lawyer who filed the underlying lawsuit against them. In another case, John obtained a seven-figure arbitration award for negligent misrepresentation against a professional advisor and other fund managers. John's clients have also prevailed in a series of proceedings involving improper actions by a majority member of an LLC.

"I seek to optimize case outcomes in collaboration with our clients, considering their risk tolerance, the available resources, and the risk/reward aspects of the case. I'm ready, willing and able to try cases whenever advisable or necessary."

PERSONAL INJURY LITIGATION

John has successfully tried numerous personal injury or wrongful claims to a verdict, on behalf of both plaintiffs and defendants. He has handled jury trials involving such claims in each of the six largest cities in North Carolina, among other locations.

John has also successfully arbitrated personal injury matters, and successfully litigated workers compensation claims for both injured employees and self-insured employers. John's experience with OSHA regulations, and his regular handling of employment and construction litigation, complements and informs his personal injury practice.

The personal injury or wrongful death claims John has tried or otherwise litigated have involved many different common-law and statutory causes of action – including, for example, the Federal Employers Act (FEELA) and the Safety Appliance Act (SAA) – and have involved accidents or incidents occurring in many different contexts, including construction defects, defective products, automobile and train collisions, and various industrial or other workplace accidents.

John frequently advises clients about their rights and obligations under various types of insurance policies. John also litigates, where advisable, coverage disputes. He has handled such disputes or issues arising under numerous kinds of policies including general liability, commercial property, homeowners, automobile, professional liability, employment practices liability (EPL), as well as certain specialty policies.

John's involvement in insurance coverage litigation began as an outgrowth of his personal injury and business litigation practices. By virtue of the knowledge and experience gained from these related practice areas, he is able to litigate the underlying lawsuit as well as, when appropriate, any resulting or subsequent action involving insurance coverage for that underlying case.

John also has successfully handled a number of disputes between businesses and their workers compensation insurers, particularly involving "retroactive premiums" and issues concerning whether the insurer properly handled the underlying compensation claim.

EMPLOYMENT LITIGATION

John has successfully tried cases on behalf of employers involving contentions of wrongful termination, discrimination, retaliation (including alleged REDA violations), as well as various other employment torts such as tortious interference with contract. He has also successfully litigated federal claims involving purported violations under the Age Discrimination in Employment Act (ADEA), Americans with Disabilities Act (ADA), Title VII and section 1981, among others.

John also routinely handles litigation involving, and advises clients about, non-competition and non-solicitation agreements, and trade secrets. He has both obtained injunctions enforcing such agreements, and has successfully opposed claims for such relief.

ADMINISTRATIVE & REGULATORY LITIGATION

John regularly handles matters affecting businesses before various regulatory and administrative agencies. In particular, beginning as an outgrowth of his personal injury practice, John now has more than 30 years of experience in representing clients in proceedings before both the North Carolina Industrial Commission, and the North Carolina Occupational Safety and Health Review Commission, as well as federal authorities, involving alleged OSHA violations, both under the General Industry and the Construction Standards.

Examples of John's OSHA work include his successfully obtaining the determination that a client had not willfully violated "trenching" standards because the client had never previously done trenching work until the unusual situation at issue occurred, and obtaining significant reductions in proposed fines leveled under the Process Safety Management (PSM) standard. Currently, John is defending a number of matters where the Commissioner of Labor contends that a general, or high level, contractor had or should have had constructive knowledge of purported OSHA violations by various lower tier contractors.

John's workers compensation work encompasses both prosecuting select cases on behalf of injured employees, as well as defending workers compensation claims made against self-insured employers. It also includes handling cases in which the claimants contend that they were an employee of a client, rather than an independent contractor not entitled to workers compensation benefits. In that latter context, John also has successfully resolved numerous matters in which the North Carolina Industrial Commission issued steep fines against a company, alleging it was an employer under the Workers Compensation Act and failed to obtain workers compensation insurance.

John also has more than two decades of experience in handling matters pending before the North Carolina Alcoholic Beverage Control (ABC) Commission. Those matters involve not only handling the myriad types of fines which the ABC Commission issues against alcohol permittees (i.e., convenience stores, restaurants, and various other types of entities), but also advising clients as to the various options that may exist for a particular location, under the sometimes Byzantine laws and regulations of our State as well as its Counties and Cities, to be able to sell at least certain types of alcohol, and working with the same authorities in appropriate instances on maximizing the controlled areas within which alcohol can be served. John also has experience in representing vendors of alcoholic beverages, such as wineries, in disputes pending before the ABC Commission with their wholesalers and distributors.

SERVICES

Regulatory & Administrative

Appellate

Complex Business Litigation

Construction & Development

Construction Litigation

Employment Litigation

Federal Litigation

Insurance & Professional Services

Labor & Employment

Litigation

Manufacturing

Mediation & Arbitration

North Carolina Business Court

Professional Liability Litigation

Technology

Transportation

Financial Services and Banking

CREDENTIALS

Honors & Recognitions

Selected by his peers for inclusion in *The Best Lawyers in America*® in Commercial Litigation, Litigation – Construction, Litigation – Labor & Employment (2021-2022) and Personal Injury Litigation – Defendants (2022)

Recognized as a "Litigation Star" by *Benchmark Litigation* for General Commercial (2019); Personal Injury (2015-2017); and Labor and Employment (2015-2021)

Recognized in *North Carolina Super Lawyers* (Thomson Reuters) in Business Litigation (2013-2021)

Recognized in *Super Lawyers Business Edition* for Business Litigation (2015)

Rated AV Preeminent by Martindale-Hubbell

Education

University of North Carolina School of Law, J.D., 1987, with honors; Member, Holderness Moot Court Board, 1986-87

Wake Forest University, B.A., 1984, *magna cum laude*

Admissions

North Carolina

U.S. Court of Appeals for the 4th Circuit

U.S. District Court for the Western, Middle, and Eastern District of North Carolina

PROFESSIONAL & CIVIC

Member, American Bar Association (1987-present)

Member, North Carolina Bar Association (1987-present)

Member, Wake County Bar Association (1999-present)

Member, National Association of Railroad Trial Counsel

Member, Litigation, Employment and Construction Sections, American & North Carolina Bar Associations

Youth Soccer Coach (CASL) (2003-2012)

ABOUT ME

Although I handle cases and problems involving what are now considered to be a number of different “practice areas,” in my experience, a thorough understanding of the commonalities of the litigation-process—the rules of procedure and evidence for the relevant court or tribunal, and the nature of the relevant jurist(s) and the fact-finder — is at least as important to a successful result as mastery of the underlying subject area. This is particularly so when one practices with a law firm such as Brooks Pierce, where, if I haven’t previously dealt with a more arcane or unusual topic, I almost certainly have a partner who has that specific experience and is happy to share his or her knowledge, and assist as needed.

Indeed, I often discover that having several different perspectives on a particular claim or defense that comes from knowing the different ways a particular doctrine is typically dealt with within the confines of a specific litigation area is very helpful, especially when the problem at hand requires a more novel or unorthodox solution.

I enjoy doing a variety of activities “outdoors” in my spare time—getting outside to do things is made easier by the fact that I live in a relatively rural section of eastern Wake County. In addition to fishing, hiking and photographing nature, my principal recreational pursuits are bicycle riding, both solo and with various local groups, and scuba diving. I particularly enjoy diving the many wrecks and ledges that lie offshore of our state’s coast. If you are a scuba diver who hasn’t explored the diving North Carolina has to offer, please call

me to discuss: talking about it is almost as rewarding as actually going diving.

NEWSROOM

News

72 Brooks Pierce Attorneys Recognized in *The Best Lawyers in America*® 2022 Guide
The Best Lawyers in America®, 08.19.2021

Thirty Brooks Pierce Attorneys Recognized by 2021 North Carolina Super Lawyers
North Carolina Super Lawyers, 01.14.2021

Brooks Pierce Receives Top Ranking in 2021 Edition of Benchmark Litigation
Benchmark Litigation, 11.09.2020

73 Brooks Pierce Attorneys Recognized in *The Best Lawyers in America*® 2021 Guide
The Best Lawyers in America®, 08.20.2020

Thirty-Four Brooks Pierce Attorneys Recognized in 2020 North Carolina Super Lawyers
North Carolina Super Lawyers, 01.22.2020

Publications

Potential Insurance Coverage for COVID-19 Losses
COVID-19 Response Resource Center: Timely Counsel for your Business, 03.26.2020

Fourth Circuit Decision Opens the Door to Joint Employer Liability for Contractors - Could Your Company Be At Risk?
02.14.2017