



Michael R. Pennington

Partner

Main Bio

At the age of 19, Mike Pennington had already completed college. He then graduated *magna cum laude* from Harvard Law School the same month he turned 23. Since then, he has established himself as a thought leader on the cutting edge of class action defense, and a go-to lawyer for complex litigation.

Since Alabama's "tort hell" days in the late 1980s and 1990's, Mike has litigated in some of the country's toughest venues. His hard work has earned him a broad national reputation defending class actions and mass actions of every type from California and Nevada to Florida and New York, and dozens of states in between. He also regularly defends high stakes bad faith and sales and servicing practices litigation against insurers, environmental class actions, products liability class actions, the panoply of class actions often faced by financial institutions.

Mike is the founder and still one of the co-leaders of Bradley's Class Action and Complex Litigation team, and has consistently been listed in *The Best Lawyers in America*[®] for his work in defending class actions, mass torts, and bet-the-company litigation. He has also been recognized in the *Chambers USA*, *Benchmark Litigation*, and *Super Lawyers* listings of top U.S. lawyers. The reason is simple. He regularly finds unique, creative, and cost-effective solutions to complex litigation.

Mike's past and present clients know this about him. Those clients have included Tyson Foods, Monsanto, Nissan, Smile Direct Club, Ditech, Ocwen, Iron Mountain, Ally, GMAC, Fannie Mae, Freddie Mac, Torchmark, Liberty National Life, Globe Life And Accident, Infinity Property & Casualty, Kemper, Rite-Aid, CVS, Bank of America, Great American Insurance Group, United Investors, MAPCO, CheckSmart, 21st Century Mortgage, GO Financial, GFC Lending, Deutsche Bank, and KB Homes, among many others. Mike also served as counsel to Alabama's former Gov. Bob Riley, and has been retained by two of Alabama's recent attorneys general to advise the state of Alabama and the Attorney General's Office in important civil matters.

Mike's peers also know this about him. Mike has spoken on class action litigation and other litigation topics at numerous seminars across the country. He currently



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Practices

Litigation

Insurance

Class Action and Complex Litigation

Policyholder Insurance Coverage

Regulatory/Corporate/Government Relations

Life, Health and Disability Litigation

Banking and Financial Services

Cybersecurity and Privacy

Financial Services Litigation

Broker-Dealer and Investment Adviser

Managed Care Litigation

Payments

Education

Harvard Law School, 1984, *magna cum laude*, J.D.

University of Alabama at Birmingham, 1981, B.A.

Licensed In

Alabama

Admitted In

Supreme Court of the United States

United States Court of Appeals, 11th Circuit

United States District Court, Northern

chairs both DRI's Class Action Task Force, dedicated to class action reform, and DRI's Class Action Specialized Litigation Group, dedicated to honing the skills of class action defense practitioners across the country. On behalf of DRI, Mike frequently authors amicus briefs on important class action issues in the U.S. Supreme Court, recently spearheaded the drafting of DRI's comprehensive written comment to the Advisory Committee on Civil Rules on the recent Rule 23 amendments, and also provided testimony to the Committee regarding the amendments. He also served as a principal drafter of the DRI's letter to the House Judiciary Committee supporting five major class action reform efforts contained in proposed legislation known as H.R. 985, the Fairness in Class Action Litigation Act of 2017.

Mike's other present and past professional memberships include being an attorney-member of the American Council of Life Insurers (ACLI), a member of the Association of Life Insurance Counsel (ALIC), a member of the Claims and Litigation Management Alliance (CLM), and a longtime member of both the ABA and DRI.

One more thing. Mike serves as Editor-in-Chief of Bradley's class and complex litigation blog, "Declassified: News from the Class and Complex Litigation Battlefield." He frequently posts his thoughts on important class action cases and circuit splits there. We invite you to subscribe to that blog. It's free.

Cybersecurity and Privacy

As Assistant Practice Group Leader of Bradley's Litigation team and co-chair of the Class Action and Complex Litigation Practice team, Mike Pennington's primary areas of practice include complex litigation, class action defense, financial services, insurance and general commercial litigation. For more than 10 years, Mike Pennington has been listed in *The Best Lawyers in America*[®], where he is specifically recognized for his skills in defending commercial, mass tort, and bet-the-company litigation. He also is included in both the *Chambers USA* and national *Super Lawyers* listings of top U.S. lawyers.

Mike has defended multiple data breach class actions, including several against a retail gas and convenience store chain and a national cable internet service provider, as well as numerous class actions against national mortgage servicers, a national retail pharmacy chain, and a global chemical manufacturer. He has defended class actions brought under the Electronic Communications Privacy Act (ECPA), Computer Fraud and Abuse Act (CFAA), Fair Credit Reporting Act (FCRA), and Telephone Consumer Protection Act (TCPA), among other federal statutes and parallel state law theories.

Mike has also defended clients in MDLs, and has successfully argued for and against MDL transfer in various cases. His experience includes the defense of class and mass actions in state and federal courts in numerous venues across the country.

District of Alabama
United States District Court, Middle
District of Alabama
United States District Court, Southern
District of Alabama

Clerkships

United States District Court, Northern
District of Alabama, Honorable
Seybourn H. Lynne, 1984-1985

Experience

Featured Cases



Persistence Pays Off for Bradley Attorneys and Client in a Fair Debt Collection Practices Case
LITIGATION

GENERAL EXPERIENCE

MSPA Claims 1, LLC v. Infinity Property & Casualty Corp., Case No.: 2:17-CV-513-KOB, U.S. Dist. Ct. for the Northern District of Alabama

Represented Infinity Property & Casualty Corporation in a class action complaint filed by plaintiff claim recovery companies on behalf of numerous Medicare Advantage Organizations. The allegations in the complaint were similar to other class actions that these same plaintiffs have filed against dozens of insurers and medical providers across the country arising under the Medicare Secondary Payer Act. The complaint alleged that Infinity failed to fulfill its statutorily mandated duty under the Medicare Secondary Payer Act to reimburse these Medicare Advantage Organizations for medical expenses paid to Medicare beneficiaries arising out of automobile accidents. The plaintiffs alleged that they hold the rights of these Medicare Advantage Organizations through various assignments allowing them to bring these claims and that these organizations provided Medicare benefits to eligible beneficiaries who were simultaneously covered by insurance policies issued by Infinity. By allegedly failing to reimburse these organizations for medical bills and services that Infinity was responsible for paying under their no-fault insurance policies, the plaintiff claim recovery companies argued that Infinity violated provisions of the Medicare Secondary Payer Act. After conducting jurisdictional discovery, Bradley assisted Infinity in filing for summary judgment and challenged whether the plaintiff organizations have standing. Infinity's motion argued, *inter alia*, that the plaintiffs' alleged standing is based on a chain of assignments that are invalid or ineffective, and that these assignments do not link to any actual claim that Infinity should have paid but failed to do so. On March 18, 2019, Judge Karen Bowdre granted Infinity's motion for summary judgment and dismissed all of the plaintiffs' claims with prejudice. The court agreed with Infinity that the plaintiffs lacked Article III standing and found that "MSPA's purported web of assignments and secondary payer rights suffers from several defects, each of which is fatal to MSPA's standing to bring its claims..."

Nationwide class action alleging FDCPA and KCPA violations

Served as lead counsel for Ocwen in this case filed in the Western District of Kentucky, which sought to certify a nationwide class against Ocwen for communicating with borrowers it knew to be represented by counsel in violation of the Fair Debt Collection Practices Act (FDCPA), and a Kentucky-only class action against Ocwen for assessing excessive late charges in excess of limits imposed by the Kentucky Consumer Protection Act (KCPA). If successful, the plaintiffs' theory would have required significant changes to the company's business practices. The borrowers' KCPA claim was dismissed in September 2016, and class certification of the borrowers' FDCPA claim was denied in June 2017.

Joseph C. Messineo v. Ocwen Loan Servicing, 5:15-cv-02076, U.S. Dist. Ct. for the Northern District of California

Plaintiff brought a putative class action lawsuit alleging claims for damages and injunctive relief against Ocwen for failing to properly and timely credit the payments of home mortgage loan borrowers, accusing Ocwen of placing certain funds initially into suspense accounts and only later applying the balance of the suspense accounts to interest and principal. Plaintiff alleged violations of the Truth in Lending Act, the Real Estate Settlement Procedures Act and breach of contract. Negotiated a nationwide class settlement as to the TILA claims after a comprehensive mediation in San Francisco. Though a much larger class was pleaded in the complaint, only approximately 7,000 loans nationwide were subject to this class settlement. Plaintiff's RESPA claims were settled individually. Work included extensive analysis of potential indemnity claims against third-party providers of software and services implicated in this case, as well as extensive analysis of several highly technical software and accounting issues relevant to the litigation and the settlement.

Shelithe Hallums and Samuel Castillo v. Infinity Insurance Company and Infinity Auto Insurance Company, Case No.: 16-24507-CIV-Moreno, U.S. Dist. Ct. for the Southern District of Florida

Successfully obtained summary judgment for Infinity Insurance Company and Infinity Auto Insurance Company in putative class action lawsuit alleging that Infinity's Lessor Liability Endorsement was illusory and did not provide any valuable coverage. Plaintiffs argued that the Graves Amendment, 49 U.S.C. § 30106, foreclosed any possibility of lessor liability. Plaintiffs pleaded claims for declaratory judgment, unjust enrichment, fraudulent concealment, and negligent omission. The case involved allegations that, under the Lessor Liability Endorsement, the damages that a lessor becomes legally obligated to pay can only stem from an injury for which the insured is also legally liable. Plaintiffs argued that this liability fell within the definition of "vicarious liability" that was disallowed by the Graves Amendment. At various stages of the litigation, Infinity challenged whether plaintiffs had Article III standing and argued that the endorsement was not illusory because it provided coverage for lessors in many different situations. Infinity also maintained that plaintiffs' interpretation of the endorsement was contrary to various rules governing the interpretation of insurance policies under Florida law, as well as that, regardless of plaintiffs'

interpretation, Infinity still had an obligation to defend the lessors, even against claims barred by the Graves Amendment. After extensive briefing and a hearing on summary judgment and class certification issues, the court granted Infinity's motion for summary judgment and entered a final judgment in favor of Infinity and against the plaintiffs. The court held that the endorsement was not illusory because plaintiffs' interpretation would render the Graves Amendment's savings clause a nullity, and, regardless, Infinity still owes a duty to defend the lessor and raise the Graves Amendment as an affirmative defense. Bradley's work on the matter included collaboration with local counsel Raoul Cantero and Ramon Abadin. The case involved extensive analysis of insurance policy interpretation and standing issues, as well as extensive analysis of different comparative fault statutes nationwide.

Michel Keck v. Alibaba.com, Inc., Case No. 17-cv-5672-BLF, U.S. District Court for the Northern District of California

Representing plaintiff on behalf of a class of visual copyright holders (e.g., artists) against Alibaba companies for contributory and vicarious copyright infringement. Alibaba is a Chinese company that operates a number of e-commerce web platforms similar to Amazon. The Alibaba IPO was the largest in history, and it is one of the top 10 most valuable companies in the world. Hundreds of thousands of counterfeit products, including artwork, are sold over the Alibaba platforms. The case involves counterfeit goods originating in China, which touches on significant U.S. trade issues and addresses whether companies like Alibaba can hide behind the Digital Millennium Copyright Act's safe harbor while knowingly providing platforms for and facilitating the sale of counterfeit goods. The case addresses the use of class action litigation to enforce copyrights, and class-wide damages claims could total hundreds of millions, if not billions, of dollars.

Hewitt v. 21st Mortgage Corp., No. 2:16-cv-05719 (D.N.J. Aug. 15, 2017)

Successfully obtained dismissal of a state-wide class action contending that the defendant mortgage lender and servicer had violated the FDCPA by failing to include the total amount of the plaintiffs' debt in the first communication after obtaining servicing rights. In motion to dismiss, contended that despite contrary Third Circuit precedent the FDCPA should not apply to our client because our client was not a "debt collector;" argued that client was creditor because it had acquired plaintiffs' note and was collecting on the note on its own behalf. Plaintiffs, relying on several Third Circuit decisions, contended that the defendant was nevertheless a "debt collector" under the FDCPA because at the time the defendant acquired plaintiffs' debt, the debt was in default. While the motion to dismiss was pending, the Supreme Court decided *Henson v. Santander Consumer USA Inc.*, 137 S. Ct. 1718 (2017), which validated the interpretation of the term "debt collector," and rejected the notion that the default status of the debt at the time of acquisition is relevant to determining whether a debt purchaser is a "debt collector." As the court explained, the only relevant question is whether the debt is being collected "for another," rather than for the entity itself (137 S. Ct. at 1724-25). Based on the Supreme Court's clear holding

in *Henson*, the District of New Jersey dismissed the complaint with prejudice.

Carr v. Ocwen Loan Servicing, LLC, 16-cv-04036 (N.D. Ga. June 27, 2017)

Successfully obtained dismissal of putative nationwide class action challenging whether mortgage servicers may file Form 1099-As with the IRS documenting the foreclosure of mortgaged property in their own names, or whether such forms must be filed in the name of the lender. In dismissing the complaint, the court agreed that the filing of a Form 1099-A with the IRS was not “debt collection” under the FDCPA (or its Georgia state analog). The court also agreed that even if the Form 1099-A should have been filed in the lender’s name, not the servicer’s, the plaintiff could not demonstrate any injury caused by the allegedly improper filing. Instead, plaintiff’s purported injury—an alleged increase in tax burden—was fairly traced to her underlying foreclosure and the subsequent forgiveness of her outstanding indebtedness, not to the filing of the Form 1099-A.

Yeager v. Ocwen Loan Servicing, LLC, 2017 WL 701387 (M.D. Ala. Feb. 22, 2017)

Obtained judgment in client’s favor in case involving an allegedly delayed Fair Debt Collection Practices Act notice. The plaintiff claimed injury from the delay, and Bradley’s team spent three years in litigation persistently pointing out the lack of actual injury before winning the case.

Tusculumbia City School System v. Pharmacia Corporation

After four years of litigation, secured summary judgment and denial of class certification in a nationwide class action alleging negligent and wanton sale of PCB-containing dielectric fluids to lighting manufacturers for use in fluorescent light ballasts.

Mortgage serving class actions

Defense of mortgage servicers in class actions brought under TILA, TCPA, FDCPA, FCRA, ECOA, RESPA and a host of other state and federal statutes governing the mortgage industry. Currently defending a call recording class action in Nevada; FDCPA class actions in Florida, Kentucky, Alabama, and New Jersey; an improper foreclosure class action in Maryland; a second mortgage usury class action in Missouri; a bankruptcy discharge violation class action in Ohio; and a tax reporting class action in Georgia. Recently concluded three class actions in California alleging improper payment applications; FDCPA class actions in New Jersey, New York, Ohio, Kentucky, Georgia, Florida, and Alabama; and another bankruptcy discharge violation class action in Ohio.

Illusory auto insurance class action

Defending a class action in Florida alleging that an insurer’s lessor liability endorsement offered to insureds leasing vehicles is illusory in light of the Graves Amendment (49 U.S. Code § 30106).

Body shop antitrust litigation

Defended three different insurers in mass actions brought in Tennessee and Florida by numerous body shops against a number of automobile insurers. Claims alleged steering, price-fixing, boycott, and various state law causes of action regarding each insurer's alleged practice of entering into "preferred body shop" agreements with certain body shops. Opposed MDL consolidation of these cases.

Data breach class actions

Defended numerous data breach class actions brought against a retail gasoline and convenience store chain by customers and by and on behalf of banks which issued the credit cards of allegedly affected customers. Opposed consolidation of these cases for MDL treatment by the judicial panel on multi-district litigation.

Coal dust class action

Defended a class action against a major coal producer alleging that coal dust and other airborne particulates were being wrongfully deposited on properties surrounding a coal processing plant.

SCRA class action

Obtained dismissal of a class action brought against a major national lender under the Servicemen's Civil Relief Act (SCRA).

Recording fee class actions

Defended a number of class actions alleging that mortgage lenders were unlawfully avoiding payment recording fees on mortgage assignments through participation in so-called "MERS" system.

Pharmacy records fee class actions

Defended a major national pharmacy in a class action alleging excessive charges for pharmacy records produced pursuant to subpoenas.

FDCPA and TILA class actions

Successfully fended off four separate statewide class actions brought against a mortgage servicer in Florida, Iowa, and Alabama under the Fair Debt Collection Practices Act (FDCPA) and Truth-in-Lending Act (TILA), each seeking a separate award of \$500,000 statutory damages under the FDCPA and TILA, by settling a fifth class action filed in Georgia on a nationwide basis. The nationwide settlement for a single class-wide settlement amount of \$500,000 was approved over the objections of class counsel in the state-by-state class actions. Defended another FDCPA and TILA class action involving a different set of borrowers, and previously defended numerous other TILA and FDCPA class actions.

***Huber, et al. v. GMAC Mortgage, LLC*, in the United States District Court for the Middle District of Florida, Case No. 8:10-cv-02458**

Secured dismissal on aggressive early motions in case where plaintiffs sought

compensatory and punitive damages in excess of \$5 million and claimed defendant engaged in a “fraudulent scheme” involving falsified affidavits, untimely assignments, and fraudulent notarizations. Plaintiffs asserted claims for § 1983 civil-rights violations, abuse of process, and deceptive trade practices, and sought a declaratory judgment regarding the unclean-hands defense and the voiding of affidavits.

GMAC Mortgage, LLC v. Christopher Contreras, Case No.: 2010 CA 2868 NC in the Circuit Court of Sarasota County, Florida (2012)

Obtained a dismissal of class action counterclaim alleging violations of Florida’s Unfair and Deceptive Trade Practices Act by a mortgage company in connection with foreclosure proceedings. The ruling was part of a growing body of authority evidencing that Florida’s—along with many other states’—deceptive trade practices act applies to commercially related conduct, and not litigation-related conduct or efforts to enforce security interests.

Christian County Clerk, et al. v. MERS, Inc., et al., Case No. 5:11-cv-72-JHM in the U.S. District Court for the Western District of Kentucky

Successfully defeated a class action alleging that the Mortgage Electronic Registration System (MERS) wrongfully deprived county clerks of fees for mortgage-related transfers between lenders.

In Re Hudson, 825 So. 2d 758 (Ala. 2002)

Successfully argued for the application of Alabama’s common law rule of repose to fraud and tort actions, which now serves as a dispositive defense against point-of-sale fraud claims based upon events occurring more than 20 years before suit, regardless of issues of notice.

Jimmy Curry, et al. v. Lexington Law Firm, Inc., et al., No. CV-05-20 (Ala.)

Successfully settled a national class action alleging violations of state credit repair organization act claims, and coordinated the defense of collateral litigation in Connecticut and Utah.

Joseph, et al. v. Liberty National Life Insurance Company, 08-22580-CIV and 08-20117-CIV (S.D. Fla. 2009)

Won summary judgment in a series of individual insurance discrimination claims brought by multiple former agents of a national insurer in federal court in Miami, Florida, and simultaneously obtained a favorable settlement of collateral class action litigation on behalf of foreign-born insureds alleging alienage discrimination.

Moore v. Liberty National Life Insurance Co., 276 F.3d 1209 (11th Cir. 2001)

Successfully negotiated a no-opt-out class settlement to put an end to multiple individual actions alleging race discrimination through the use of race distinct mortality in the historical pricing of industrial insurance.

Richard Tucker, et al. v. Hun Es Tu Malade 16, LLC, et al., No.

CV-06-2131 (Ala.)

Successfully settled a class action against a property developer so as to allow commercial development of property previously restricted by an alleged common scheme of "residential use only" restrictive covenants.

Dealer arbitration (2008)

Successfully obtained a defense award on a multimillion-dollar dealer termination claim after more than a year of discovery and a week-long arbitration hearing in Atlanta, Georgia.

Opt-out litigation

Defended mass opt-out litigation involving hundreds of individual actions filed by class opt-outs in numerous jurisdictions around the country in the wake of natural class settlements handled by other firms.

Regulatory matters before state insurance departments

Regularly represent clients in regulatory matters before state insurance departments, including change in control hearings, approval of policies and policy changes, and other regulatory and compliance issues.

Atlanta Casualty Co. v. Russell, 798 So.2d 664 (Ala. 2001)

Successfully defended a fraud and breach of contract class action against two automobile insurers, challenging their application of a lienholder endorsement and associated deductible payable by the insured for otherwise covered losses on leased automobiles. The trial court certified the class, but Bradley successfully appealed, obtaining an opinion that reversed the trial court's class certification decision and effectively ended the case.

Robertson v. Liberty National Life Insurance Company, CV-92-021 (Cir. Ct. of Barbour County, Alabama), 676 So. 2d 1265 (Ala. 1995)

Successfully foreclosed nearly 2,000 individual fraud and punitive damage actions with a global 23(b)(2) no-opt-out settlement of all claims involving an alleged "cancer policy exchange program" whereby holders of cancer policies were allegedly induced to exchange their old policies for newer ones with different benefits. Successfully defended the settlement on appeal, *Adams v. Liberty National*, 676 So.2d 1265 (Ala. 1995), obtaining dismissal of certiorari by the U.S. Supreme Court, and successfully defended the settlement against numerous collateral attacks.

Electronic Communications Privacy Act and Computer Fraud and Abuse Act

Worked as co-counsel to successfully defend a class action against a major cable internet service provider involving alleged violations of the Electronic Communications Privacy Act and Computer Fraud and Abuse Act through the use of devices that allegedly developed targeted advertising through devices that monitor internet use by customers.

Electronic Fund Transfer Act (15 Usc 1693b(D)) and Regulation E

Defended numerous class actions seeking statutory damages and other relief against retail chains whose stores allegedly contain ATM machines without the notices required by federal law.

ERISA

Defended class and mass actions involving a variety of ERISA claims, including claims pleaded as ERISA claims and claims pleaded as state law claims but successfully removed under ERISA. In one pre-CAFA mass action, removed 100 individual fraud actions simultaneously filed in various state courts in Mississippi by a notorious plaintiffs' firm, ultimately resulting in a global settlement of those and several hundred other individual cases for a nominal per case amount. Defended an ERISA plan fiduciary against breach of fiduciary duty charges in an ESOP transaction, ultimately achieving a settlement in which the client obtained a release without being required to contribute any out-of-pocket funds to the settlement.

Ex parte Liberty National Life Ins. Co., 825 So.2d 758 (Ala. 2002)

Successfully defeated a putative class action by obtaining a first-of-its-kind opinion from the Alabama Supreme Court that the state's common law, 20-year period of repose applies not just to property claims, but also to tort claims.

Fair and Accurate Credit Transactions Act (FACTA)

Defended numerous class actions involving alleged violations of FACTA, including cases against theater chains, restaurant chains, and convenience store chains, among others.

Florida insurance discrimination litigation

Defended a life insurance company in two Florida class actions and five individual arbitrations in Florida, and helped to successfully defend an administrative action by the Florida Department of Insurance, all relating to alleged discrimination against Haitian-born applicants based upon alienage and foreign travel. One of the class actions was resolved by summary judgment against the named plaintiffs, the second class action and the arbitrations were resolved with favorable settlements, and the administrative action was litigated to a favorable conclusion.

In Re: Liberty National Insurance Cases, 2:02-cv-02741-UWC (N.D. Ala)

Defended numerous class and individual actions in multiple states against a life insurer challenging the historical use of race-distinct mortality in the pricing of life insurance issued prior to the mid-1960s. Many of these actions were transferred to and consolidated in the Northern District of Alabama. With global summary judgment motions filed, negotiated a global settlement of these claims, obtained court approval, and then enforced the settlement against competing actions.

Insurance industry class and opt-out litigation

Defended class and opt-out litigation against life, health and disability insurers as well as property and casualty insurers. Experience includes a wide variety of sales practice, contract, and tort litigation involving life, disability, automobile, cancer, burial, and pre-need funeral insurance, as well as variable annuities.

Real Estate Settlement Procedures Act (RESPA)

Successfully defended a major national realtor in a class action alleging violations of RESPA.

Unfair and Deceptive Trade Practices Act class actions

Defended numerous putative class actions asserting claims under state deceptive trade practice statutes brought in federal court, and defended deceptive trade practice class actions in state court in states that permit such claims, such as Florida and New Jersey.

Dismissal of FCRA class action

Represented client in FCRA (Fair Credit Reporting Act) class action claiming a pattern and practice of failing to provide a timely adverse action notice for terminating an applicant based on an adverse credit report. Bradley's Class Action team recommended that the client file a 12(b)(1) motion to dismiss for lack of subject matter jurisdiction, or in the alternative, for summary judgment under Rule 56. Client submitted an affidavit averring that the employee was not terminated based on his credit report but because of his failure to report for training. The accompanying motion argued that there was no need for discovery—if plaintiff claimed he had attended the training or was not told that his failure to attend was the reason for termination, he could sign and file an affidavit under oath saying so, and the company would then concede that its motion should be denied. Plaintiff voluntarily dismissed the case rather than swear under penalty of perjury to the allegations in his complaint.

Illusory auto insurance class action

Defending a class action in Florida alleging that an insurer's lessor liability endorsement offered to insureds leasing vehicles is illusory in light of the Graves Amendment (49 U.S. Code § 30106).

Accolades

- Listed in *Chambers USA*, Litigation: General Commercial, 2009-2020
- Listed in *Benchmark Litigation*
 - "Local Litigation Star," Alabama, 2012-2021
 - "Future Star," 2011
- Listed in *The Best Lawyers in America®*
 - Bet-the-Company Litigation, 2010-2021
 - Business Litigation, 2003-2006
 - Commercial Litigation, 2006-2021
 - Litigation – Banking & Finance, 2011-2021

- Litigation – Securities, 2011-2021
- Litigation – Insurance, 2018-2021
- Insurance Law, 2019-2021
- Mass Tort Litigation/Class Actions – Defendants, 2007-2021
- "Lawyer of the Year," Birmingham, Litigation-Banking & Finance, 2013
- Listed in *Mid-South Super Lawyers*, Business Litigation, 2016-2020
- Listed in *Alabama Super Lawyers*, Business Litigation, 2012-2015
- JD Supra Readers' Choice Top Author 2019, Recognized as a Top 10 author for Class Action
- Listed in *B-Metro*, "Top Lawyers," 2019-2020

Professional & Community Activities

Defense Research Institute - The Voice of the Defense Bar™

DRI's Class Action Task Force, Chair, 2015-present

DRI Class Action Specialized Litigation Group, Chair, 2017

Steering Committee for DRI's Annual Class Actions Seminar, 2010-present

Association of Life Insurance Counsel

ALFA International, Insurance Steering Committee

Steering Committee for ALFA's biannual Insurance Roundtable

Claims & Litigation Management Alliance (CLM)

Alabama State Bar Association

Birmingham Bar Association

Alabama Defense Lawyers Association