
DAVID M. PERNINI

WARGO, FRENCH & SINGER LLP
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ATLANTA, GEORGIA 30309
404.853.1510 *DIRECT DIAL NUMBER*

Practice Areas:

Mr. Pernini practices in the following areas:

Complex Commercial Litigation
Financial Services Litigation
Creditor's Rights and Bankruptcy
Intellectual Property and Trade Secrets
Alternative Dispute Resolution
Appellate Litigation
Defamation Litigation

Representative Matters:

- Represented four whistleblowers in a qui tam lawsuit alleging that a for-profit education company had defrauded the United States Government out of hundreds of millions of dollars in Title IV funds. Aggressively pursued the litigation over eight years, including appeals. Ultimately reached a settlement with the publicly-traded defendant resolving the matter for a payment of \$32 million.
- Represented private equity fund and shareholders of investment company in a two-week jury trial against international law firm, winning a \$4.7 million verdict. The case involved allegations that law firm had committed malpractice and breached fiduciary duties by giving the fund bad tax advice and then failing to disclose that error to the fund and the shareholders.
- Represented national radio broadcasting company in four week jury trial against radio personality for return of a million dollar unearned bonus. Obtained a multimillion dollar jury verdict in favor of client, including the imposition of punitive damages against the defendant.
- Successfully represented international insurance brokerage in three week jury trial over allegations that the client had tortiously interfered with a competitor by hiring several of its employees and inducing them to breach their employment contracts. The trial ended with the Court entering a full defense victory in our client's favor.

- Successfully represented national bank before the Georgia Supreme Court on question of first impression on whether borrowers have standing to challenge assignments of notes to which they were not a party.
- Represented publicly-traded corporation, in multiple venues, in defamation litigation against individuals and entities suspected of disseminating false and misleading information about the company to negatively impact its stock price. Successfully defeated motion to dismiss filed by publisher accused of working with those individuals and entities to spread false information, leading publisher to cease further action against the company and to settle company's claims. Also successfully utilized court procedures and international investigative efforts to identify bad actors in several different foreign countries and serve them with legal process under the Hague Convention, bringing those actors within the jurisdiction of U.S. federal courts.
- Successfully represented publicly traded pharmaceutical retailer in numerous actions across the United States to enforce the client's rights of first refusal in lease agreements, including successfully obtaining injunctive relief to prevent a multimillion dollar sale of property from proceeding in violation of such rights.
- Represented national restaurant chain (franchisor) in lease dispute with landlord, defending against landlord's allegations of radius restriction and other lease violations and demand for increased rent. In response to landlord's demand, filed preemptive federal court lawsuit for declaratory relief, leading to near-immediate settlement on favorable terms for client.
- Represented national restaurant chain and franchisee in condemnation action which affected access and ingress to high volume property.
- Defended lenders and national financial services organizations in numerous actions by borrowers asserting mortgage-related claims, including allegations of wrongful foreclosure, Real Estate Settlement Procedures Act ("RESPA") violations, slander to title, breach of contract, state mortgage statute violations, and violations of the Fair Debt Collections Practices Act.
- Represented national bank in numerous bankruptcy cases and adversary proceedings across the United States, including fraudulent conveyance and preference actions, alleged violations of the automatic stay, objections to claims, lien avoidance, alleged violations of consumer protection statutes, and claim treatment in reorganization proceedings.
- Successfully represented national radio broadcasting company in multi-state class action regarding allegedly deceptive radio contest.
- Represented a national telecommunications company in bankruptcy cases and adversary proceedings throughout the United States, including fraudulent conveyance and preference actions, alleged violations of the automatic stay, and compliance of internal procedures with bankruptcy laws.
- Defended a publicly traded technology company in contractual dispute involving an alleged denial of both physical and virtual access to certain software and computers. Plaintiff sought over \$10 million in damages. In federal jury trial in

Miami, Florida, limited plaintiff to recovery of nominal damages of one dollar. Further represented the defendant on appeal, where the judgment was reduced from one dollar to zero.

- Represented equipment supplier to tobacco industry in contractual dispute with part manufacturer. Successfully defended motion to dismiss all claims and obtained favorable settlement for client.
- Represented publicly traded manufacturer of video-on-demand products in arbitration against supplier of defective components.
- Represented international business class web hosting company in numerous litigation matters across the United States, including:
 - defending securities claims involving purchase of competing company in Kansas City, Missouri;
 - prosecuting dispute with competing web hosting company over alleged conversion of website;
 - enforcing arbitration provision in terms of service agreement with customers, including successful.
- Enforcement of arbitration clause entered into through “click wrap” arbitration agreement; and defending disputes with customers over transitions of websites from purchased competitor.
- Represented an international chemical manufacturer in multimillion dollar trade secret and FIFRA litigation concurrently pending in multiple jurisdictions. Acted as main counsel in Georgia federal litigation and assisted in coordination of actions in multiple jurisdictions.
- Represented manufacturer of phentermine in various matters pending in southeast. Acted as regional counsel for “fen-phen” litigation for manufacturer, including defending statewide class action pending in West Virginia. Simultaneously assisted national counsel with MDL proceedings.
- Obtained *ex parte* injunctive relief and appointment of receiver over assets of insurance agency in dispute regarding calculation of premiums with major insurance company.
- Obtained record-setting jury verdict in federal prisoner rights litigation for client of Alan Dershowitz in the United States District Court for the Southern District of Georgia, Augusta Division.
- Defended and prosecuted numerous litigation matters in federal bankruptcy courts, including prosecuting preference portfolio for nationwide restaurant chain in Chapter 7 bankruptcy.
- Represented manufacturer of surgical screws in various litigation pending throughout the southeast based on “off label” insertion of screws into the lower spine. Assisted national counsel in MDL matters and acted as local counsel for matters pending in Georgia. Assisted in obtaining summary judgment on issue of medial causation in action pending in Georgia following remand from MDL.

- Defended collection agency against claims of emotional distress based on actions of ex-employee. Obtained summary judgment on all claims in the United States District Court for the Southern District of Georgia.
- Achieved a multi-million dollar arbitration award in an action involving a purchase price adjustment in the acquisition of a nationwide service business. Following a weeklong arbitration hearing involving expert accounting testimony and grant of the arbitration award, our firm confirmed the award in the United States District Court for the District of New Jersey and began a successful campaign of contested collection efforts. These efforts included registering the judgment in other federal jurisdictions, locating and garnishing commercial contracts, and seizing assets through the U.S. Marshall's office, resulting in motions for turnover being granted by the District Court, and ultimately, complete satisfaction of the original judgment with interest.

Education:

Marshall-Wythe School of Law at the College of William and Mary, Williamsburg, Virginia, J.D., 1994

Honors:

Journal of Bill of Rights Law

Teaching Assistant for award winning Legal Skills Program

American Jurisprudence award for Civil Procedure

University of Virginia, Charlottesville, Virginia
B.A., 1990

Professional Activities:

- Member of the Litigation Section of the American Bar Association
- Member of the Litigation Section of the Atlanta Bar Association
- Adjunct Professor, Trial Practice, Georgia Institute of Technology
- Registered Mediator and Arbitrator – Georgia Commission on Dispute Resolution
- Recognized as one of Georgia's "Super Lawyers" for 2019, 2020, 2021, 2022, and 2023

Bar and Court Admissions:

- Member of the State Bars of Georgia and South Carolina
- Admitted to practice before the United States Supreme Court, the United States Court of Appeals for the Eleventh Circuit, the United States District Courts for the Northern and Middle Districts of Georgia, the Supreme Court of Georgia, and the Georgia Court of Appeals