
DAVID M. PERNINI

WARGO & FRENCH LLP
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Practice Areas:

Mr. Pernini practices in the following areas:

Complex Commercial Litigation
Creditor's Rights and Bankruptcy
Technology Law
Products Liability Litigation
Trade Secrets and Unfair Competition
Alternative Dispute Resolution
Appellate 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.
- 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.
- 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.
- 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 the largest pure-play radio broadcaster in United States in numerous litigation across the country involving trademark, intellectual property and contractual disputes.
- 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.

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

Publications:

- Editor, Newsletter for the Corporate and Securities Litigation Subsection of the Atlanta Bar Association, 2006-2010
- Presenter, Admissibility of Evidence and Expert Testimony in Georgia, National Business Institute, December 4, 2004
- Co-Author of Eroding Bankruptcy Protection for Shopping Center Owners: In Re O’Neil Theatres, Inc., Shopping Center Legal Update (Vol. 21, Issue 2, Summer 2001)

Published Decisions:

- *Patel v. J.P. Morgan Chase Bank, N.A.*, 327 Ga. App. 321, 321, 757 S.E.2d 460, 462 (2014), reconsideration denied (May 19, 2014), cert. denied (Nov. 17, 2014)
- *U.S., ex rel. Powell v. American InterContinental Univ., Inc., et al.*, 756 F. Supp. 2d 1374 (N.D. Ga. 2010)
- *Bizrocket.com, Inc. v. Interland, Inc.*, 224 Fed. Appx. 776 (11th Cir. 2008)
- *Garfield v. Suntrust Bank*, 477 F. Supp. 2d 1177 (S.D. Fla. 2006)
- *Cameron & Barkley Co. v. Fabreeka International, Inc.* 144 F. Supp. 2d 1382 (M.D. Ga. 2001)
- *Cahill v. Cobb Place Associates*, 271 Ga. 322, 519 S.E.2d 449 (1999)

Professional Activities:

- Member of the Litigation Section of the American Bar Association
- Member of the Litigation Section of the Atlanta Bar Association
- Adjunction Professor, Trial Practice, Georgia Institute of Technology
- Registered Mediator and Arbitrator – Georgia Commission on Dispute Resolution

Bar and Court Admissions:

- State Bars of Georgia and South Carolina
- Admitted to practice in 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