

# OUR PRACTICE

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## Real Estate Litigation

**Real estate disputes can arise in even the most carefully managed portfolios. Our team has the experience and business understanding to develop and implement litigation strategies that are consistent with our clients' business and legal goals. Whether you are an investor, owner, developer, tenant or other stakeholder, our attorneys can navigate you through the complexities of real estate disputes.**

Our real estate litigators collaborate closely with their transactional and litigation colleagues from related practices and industries, including environmental, construction, financial services, health care, hospitality, tax, telecommunications, and oil and gas, among others. This multidisciplinary and team-based approach allows us to deliver comprehensive, nuanced advice on virtually any type of real estate matter.

We strive to resolve disputes in an effective and efficient manner both in and out of court. When a real estate dispute cannot be resolved out of court, our team is uniquely qualified to help. Our real estate litigators have extensive bench and jury trial experience in state and federal courts and have defended claims involving retail and hospitality properties, office buildings, housing developments, investor-owned utilities, and other commercial properties.

Our specific real estate litigation experience includes:

- C-suite and boards of directors in the management of real estate portfolios
- Commercial lease disputes
- Contract and title disputes, including mineral lease disputes
- Easements and zoning disputes
- Takeover attempts by local governments and public utilities (Eminent Domain)
- Land use/zoning issues
- Mechanics' and materialmen's liens
- Purchase contract disputes
- Title insurance/defects



## Case Studies

- [Trial Victory for LIHTC Investors - Litigation](#)



## Representative Matters

### C-Suite and Boards of Directors

- Multiple engagements for clients advising C-Suite level executives and Boards of Directors regarding managing long term lease liability for portfolios of leases, strategies to improve net income in under performing locations, and leveraging market conditions for early termination or renegotiation of long term liabilities.

### Commercial Lease Disputes

- Defended a client in a three-day jury trial in a breach of contract action arising out of a lease dispute. Obtained a unanimous jury verdict in favor of the client which resulted in a global settlement of nine related cases and a settlement amount of more than \$1 million for the client.

### **Contract and Title Disputes**

- Defended the former owner of an historic rail yard in a breach of contract action on environmental indemnity by a developer. Obtained a favorable settlement following a four-day federal bench trial.
- Represented an industry trade association as amicus curiae in a lawsuit involving the interpretation of mineral lessee's rights pursuant to the Louisiana Mineral Code.
- Successfully settled a case in mediation on behalf of an energy corporation arising out of the defendant's alleged breach of a mineral lease and a dispute over whether the lease offer was revoked prior to the plaintiffs' acceptance, resulting in the plaintiffs settling for approximately one-fifth of the total per acre exposure and agreeing to sign the mineral lease going forward.

### **Easements and Zoning Disputes**

- Represented a group home provider in litigation involving zoning and compliance with city ordinances.
- Represented telecommunications industry clients in zoning matters and litigation involving cell towers and pole attachment issues.

### **Eminent Domain**

- Settled an eminent domain matter on behalf of a fast food restaurant corporation involving a corner interstate site in Clayton County in metro Atlanta. The Department of Transportation condemned the principal access to the site, thus decreasing the value of the property. The DOT paid \$2.3 million pursuant to the consent judgment to conclude the settlement, which represented a 200 percent increase over the original sum offered by the DOT.
- Represented a hotel developer in a year-long effort to counter the city of Knoxville's attempted takeover in conjunction with the construction of a new convention center. The city abandoned the condemnation effort, and our client's property, a \$30-million hotel facility situated in the center of the city, is positioned to be the official convention center hotel.
- Represented a gas distribution company in a threatened takeover attempt of a gas distribution system in Morristown, Tennessee. Successfully negotiated with the city to abandon its condemnation effort and to award the company a new 20-year franchise. Also negotiated five new franchise agreements across the state on behalf of the distribution company.

### **Land Use/Zoning**

- Represented real estate developers in the appeal of an adverse zoning case from a decision denying the use of real property.

### **Mechanics' and Materialmen's Liens**

- Represent project owners in the defense of mechanics' and materialmen's liens.

### **Purchase Contract Disputes**

- Successfully obtained summary judgments for a timeshare company and its employees in two cases involving owners wishing to terminate their timeshare contracts based on alleged fraudulent statements made by sales representatives during sales presentations. Also obtained a judgment in client's favor on breach of contract counterclaim arising from owners' default on purchase agreements.
- Defended an oil and gas company in a breach of contract case regarding a purchase and sale agreement for oil and gas leases and wells located in North Dakota for a purchase price of approximately \$35 million.

### **Title Insurance/Defects**

- Represented several title insurance companies in both litigation and non-litigation matters involving a variety of real estate issues, including boundary disputes, mortgages and security deeds, creation of easements, adverse possession, corrective measures, and bad faith failure to pay claims and lis pendens, among other matters.
- Managed title insurance claims for lenders, handling coverage issues, planning strategy, and managing the work of title counsel.