D. Kyle Deak

Partner

Charlotte

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Kyle is a trial attorney with experience at both the trial and appellate levels in state and federal courts throughout the U.S., helping his clients achieve efficient and practical resolution of disputes.

OVERVIEW

Kyle has extensive experience both serving as the first chair in jury trials and handling appeals in state and federal courts throughout the U.S. His practice primarily involves the representation of financial institutions, loan servicers and mortgage investors, in lender liability actions, real property financing disputes, foreclosures, and other commercial disputes.

In addition, he has represented individuals and businesses in various foreclosure matters, real property matters and bankruptcy cases, as well as with respect to various claims involving breach of contract, business torts, breach of fiduciary duty, professional liability, legal and professional malpractice, product liability, and construction issues. Kyle has also represented local governments and law enforcement officers against complaints involving civil rights and use of force.

Kyle has appeared and argued extensively in trial and appellate courts in North Carolina, West Virginia, Alabama, California, Illinois, Georgia, Virginia, Oklahoma, and the District of Columbia. He is a member of the Virginia, North Carolina, District of Columbia, and West Virginia bars.

Kyle is a graduate of the Raleigh Chamber of Commerce Leadership Raleigh Program (2012-2013 class), which pairs leaders in the community for a yearlong series of sessions to engage in and discuss community issues and community development. Further, Kyle is a graduate of Class XXI of Leadership North Carolina (2013-2014 class), a program similar to Leadership Raleigh, albeit with a statewide scope.

Kyle also volunteers as a coach for his sons' youth lacrosse teams and his community swim team.

REPRESENTATIVE MATTERS

Financial Services Litigation

- Defended a national mortgage loan servicer in a multimillion-dollar lawsuit filed in Riverside, CA state court alleging claims for improper credit reporting. Obtained a unanimous jury verdict in favor of the client on all counts following a three-week jury trial.

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- Defended a national mortgage loan servicer in a $75 million lawsuit filed in Oklahoma City, OK, state court alleging claims for mortgage fraud. Obtained a jury verdict in favor of the client on all counts following a one-week jury trial.
- Represented a national mortgage loan servicer in the defense of a federal case in the Eastern District of North Carolina alleging claims for misapplication of funds. Obtained a jury verdict following a three-day jury trial.
- Represented a national mortgage loan servicer in the defense of a case in Pitt County, NC alleging claims for improper loan servicing. Obtained favorable settlement after three days of trial.
- Obtained summary judgment in favor of a national mortgage loan servicer in defending an action by a bankruptcy trustee to invalidate a mortgage based on, in part, an attack on a loan assignment. All claims by the trustee were dismissed.
- Defended a national HUD lender in an action seeking, in part, an equitable lien on funds. Obtained dismissal of two of the three claims on a motion to dismiss, and dismissal of the remaining claim on summary judgment.

Local and State Government Litigation

- Defended multiple cases for a local municipality and a city police department and officer in wrongful death claims and obtained dismissal of all claims.

Other Litigation

- Defended a national retailer against breach of contract in the U.S. District Court for the Western District of North Carolina. Obtained settlement following the court's award of more than $40,000 in fees for a discovery violation by the opposing party.
- Represented an automobile aftermarket manufacturer in defense of a RICO action filed in the U.S. District Court for the Southern District of Indiana. Obtained dismissal of the claims; the dismissal was affirmed on appeal by the Seventh Circuit Court of Appeals.

AWARDS

- Wake Forest University School of Law Carswell Scholarship Recipient
- Wake Forest Moot Court
  - Winner, 2001 Wake Forest University Stanley Moot Court Competition
  - Finalist, 2002 University of North Carolina Craven Moot Court Competition
  - Regional quarterfinalist, 2002 National Moot Court Competition
  - Recipient, Best Brief award, 2002 National Moot Court Competition
  - Recipient, 2003 Wake Forest University Moot Court Board Award
- ABA Section of Urban, State and Local Government Law Award (2003)
- CALI Excellence for the Future Award
  - Land Use Regulation and Planning (2002)
  - Legal Research and Writing (2001)
  - European Community Law (2001)
- *Benchmark Litigation:* 40 & Under Hot List (2018-2019)

TOP AREAS OF FOCUS

- Appellate + Supreme Court
- Banking Litigation
- Class Action

- Financial Services Litigation

ALL AREAS OF FOCUS

- Appellate + Supreme Court
- Banking Litigation
- Bankruptcy + Restructuring
- Business Litigation
- Class Action
- Consumer Financial Protection Bureau (CFPB)
- Consumer Financial Services
- Consumer Law Compliance
- Consumer Reporting Agencies + Background Screening
- Debtor + Committee Representations
- Distressed Mergers + Acquisitions
- Fair Credit Reporting Act (FCRA)
- Fair Debt Collection Practices Act (FDCPA)
- Financial Services
- Financial Services Litigation
- Insolvency Litigation
- Litigation + Trial
- Mortgage Lending + Servicing
- Oil + Gas
- Secured Lender Representation
- Telephone Consumer Protection Act (TCPA)
- Trade Creditors Representation

PROFESSIONAL/COMMUNITY INVOLVEMENT

- Bar Candidate Interview Committee, North Carolina State Bar (2007-2013)
- Young Lawyers Division National Moot Court Committee co-chair (2005-2007), Virginia Bar Association (2003-2007)
- Wake County Bar Association

EDUCATION AND CERTIFICATIONS

EDUCATION

- Wake Forest University School of Law, J.D., 2003, *Wake Forest Law Review,* symposium editor, 2002-2003, editorial staff member, 2001-2002; Order of the Barristers
- Colgate University, B.A., *magna cum laude*, 2000

BAR ADMISSIONS

- North Carolina

- District of Columbia
- Virginia
- West Virginia

COURT ADMISSIONS

- U.S. Court of Appeals, Fourth Circuit
- U.S. Court of Appeals, Seventh Circuit
- U.S. Court of Appeals, Ninth Circuit
- U.S. Court of Appeals, District of Columbia Circuit
- U.S. District Court, District of Columbia
- U.S. District Court, Eastern District of North Carolina
- U.S. District Court, Middle District of North Carolina
- U.S. District Court, Western District of North Carolina
- U.S. Bankruptcy Court, Eastern District of North Carolina
- U.S. Bankruptcy Court, Middle District of North Carolina
- U.S. Bankruptcy Court, Western District of North Carolina
- U.S. District Court, Eastern District of Virginia
- U.S. District Court, Western District of Virginia
- U.S. Bankruptcy Court, Eastern District of Virginia
- U.S. Bankruptcy Court, Western District of Virginia
- U.S. District Court, Southern District of West Virginia
- North Carolina State Courts
- Virginia State Courts
- West Virginia State Courts
- Supreme Court of Appeals of West Virginia

SPEAKING ENGAGEMENTS

- "Procedural Problems in Civil Litigation," Wake Forest University School of Law CLE, 2008.

PUBLICATIONS

- Co-author, "Troutman Pepper Publishes *2023 Consumer Financial Services Year in Review and A Look Ahead* ," *Troutman Pepper*, February 1, 2024.
- Co-author, "2019 Consumer Financial Services Year in Review & A Look Ahead," *Troutman Sanders*, February 24, 2020.
- "CFPB Releases Results of Study on Reverse Mortgage Advertisements," *Consumer Financial Services Law Monitor*, June 4, 2015.
- "*Beware of Affirmative Defenses: A Trap for the Unwary*," Defense Research Institute's (DRI) *The Voice* and *The Resource* of the North Carolina Association of Defense Attorneys, 2013.
- "Arbitration: Have You Thought About the Consequences? Statutes of Limitation and Arbitration: The Antagonistic Interplay," *The Resource* of the North Carolina Association of Defense Attorneys, 2012.