

PRACTICE AREAS

- Class Actions & Multi-District Litigation
- Commercial Litigation & Alternative Dispute Resolution
- Litigation
- Product Liability and Tort Litigation
- Securities, Corporate Governance & Sarbanes-Oxley
- Trust, Estate & Fiduciary
- Unfair Trade & Antitrust

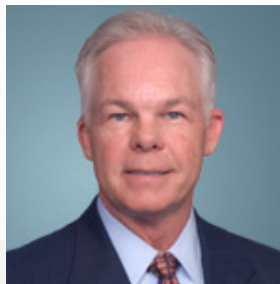
EDUCATION

- B.S.B.A., University of North Carolina at Chapel Hill, 1978
- J.D., University of North Carolina at Chapel Hill, 1983

BAR & COURT ADMISSIONS

- North Carolina, 1984
- All Federal District Courts in North Carolina
- U.S. Court of Appeals for the Fourth Circuit
- U.S. Court of Federal Claims
- U.S. Supreme Court
- U.S. Tax Court

THOMAS (TOM) D. MYRICK



MEMBER

100 North Tryon Street
Suite 4700
Charlotte, NC 28202-4003

CHARLOTTE

TEL: (704) 331-1126
FAX: (704) 378-1926

tommyrick@mvalaw.com

Tom Myrick has a wide range of civil trial experience, including frequent appearances in both state and federal trial and appellate courts, with particular experience in business related litigation.

He has been first chair trial counsel through verdict in dozens of civil jury trials, including trials that lasted up to four months. His practice has recently been focused on handling significant commercial cases involving sophisticated damage theories.

Mr. Myrick also counsels clients engaged in complex business combinations on methods to minimize their exposure to litigation. He speaks regularly to groups of trial attorneys around the country about ongoing developments in the law. He has spoken to audiences as far away as Japan where he addressed managing product liability issues on behalf of a firm client whose product is distributed internationally.

Mr. Myrick handles cases involving:

- Business torts
- Contract disputes
- Corporate governance issues
- Franchise class action claims
- Product Safety Claims
- RICO claims
- Securities fraud
- Shareholder derivative claims

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- Unfair business practices

Representative First Chair Cases

Tommy Knox; et al. v. First Southern Cash Advance; et al. New Hanover Co., North Carolina case no. 05-CVS-445 (2010) and ***Community State Bank; et al. v. Tommy Knox; et al.*** U.S. District Court, Middle District of North Carolina case no. 1:05CV226 (2010). Currently representing pay-day lender in putative state court class action and related federal court action under section 27 of the Federal Deposit Insurance Act.

Avista Turbine Power, Inc. v Rathdrum Power, LLC (2009)

Obtained multi-million dollar arbitration award for the owner of a combined cycle electricity generation facility and successfully defended against claims for breach of a natural gas tolling agreement. The evidence included thousands of documents created over an eleven year period together with testimony from a dozen witnesses with expert testimony ranging from thermodynamics and fuel heat content to gas and electrical engineering and metering.

Yamauchi (USA) Corp. v. Cox

Mecklenburg Co., North Carolina case no. 09-CVS-3976 (2009). Represented US subsidiary of a Japanese corporation in obtaining restraining order, injunction, attachment, and expedited discovery against employee for embezzlement of over a million dollars from the company.

Baskin-Robbins Franchises Shops, LLC; Dunkin Donuts Franchises, LLC; et al. v. Bullwinkle Donuts, LLC; et al.,

U.S. District Court, South Carolina case no. 07-CV-02903 (2008). Defended claims of breach of franchise agreement including intellectual property rights and cannibalization issues.

John Price, et al. v. American Partners Federal Credit Union; Dorinda M. Simpson; and Ann Boone

Guilford Co., North Carolina case no. 05-CVS -3401-3412 (2008). Defended officers of credit union against claims of securities fraud in thirteen separate actions brought by members of the credit union.

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American Roller Company, LLC v. Foster-Adams Leasing, LLP; et al., U.S. District Court, Northern District of Illinois case no. 05 C 3014 (2007). Successfully defended sellers of a manufacturing company against claims of fraud and breach of representations and warranties involving over fifty thousand documents and twenty two depositions in five states.

Precision Converters, Inc. v. Polymer Group, Inc. Iredell Co., N.C. case no. 05-CVS-2863 (2007). Successfully defended publicly traded company against multi-million dollar breach of UCC contract claims.

INVISTA S.a'r.l. v. Ticono GmbH, et al. (2007). Successfully defended textile manufacturer against claims in excess of \$30 million for breach of utilities agreement during week long arbitration.

Merrill Lynch v. Harding; et al., Mecklenburg Co., N.C. case no. 04-CVS-16615 (2004). Represented securities brokers in defending against trade secret and non-compete claims brought by their former employer.

DuPont v. Unifi, Inc. (2003). Successfully defended world's largest manufacturer of textured polyester yarn in multi-week arbitration against claims in excess of \$300 million for breach of contract.

Indiana Chair Frame Company and Warvel Products, Inc. v. United States of America and Nightingale, Inc.,

U.S. Court of Federal Claims case no. 98-927C (1998). Prosecuted protest of government contract award before the U.S. General Accounting Office and related appeal.

Custom Expressions Royalty, Inc.; et al. v. American Greetings Corp., U.S. Dist. Court, Western Dist. of N.C. case no. 3:97-cv-356-H (1998). Successfully defended international greeting card company against claims in excess of \$200 million for breach of contract, unfair and deceptive trade practices, breach of fiduciary duties and negligent misrepresentation arising from its acquisition of the CreaCard intellectual property rights.

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Broussard v. Meineke Discount Muffler Shops, Inc., 155 F.3d 331 (Fourth Cir. 1998). Successfully defended franchiser of after market automotive services and its multi-billion dollar British parent corporation in a two month long class action jury trial and on appeal against claims for fraud, unfair and deceptive trade practices, and breach of franchise agreement.

Cara's Notions, Inc. v. Hallmark Cards, Inc., 140 F.3d 566 (Fourth Cir. 1998). Successfully defended international greeting card company in motion to dismiss and on appeal against claims for breach of franchise agreement, fraud, unfair and deceptive trade practices and negligent misrepresentation.

Harlow v. Voyager Communications, 127 N.C. App. 623, 492 S.E.2d 45 (1997), *rev'd, remanded*, 348 N.C. 568, 501 S.E.2d 72 (1998). Recovered compensatory and punitive damages for minority shareholder against FCC regulated corporation and its board of directors on direct and derivative claims for securities fraud under the North Carolina Securities Act (N.C. Gen. Stat. § 78A, *et. seq.*) and sustained recovery on appeal.

Aerial Devices, Inc. v. Parker-Hannifin Corp., Cleveland County, N.C. case no. 96-cvs-817 (1997). Successfully defended multi-billion dollar manufacturing company in a four month long jury trial against claims in excess of \$100 million for product liability, fraud, unfair and deceptive trade practices, breach of contract, breach of warranty, and negligent misrepresentation arising out of defective hydraulic equipment.

American Rehabilitation, Inc. v. Shipp, Mecklenburg Co. N.C. case no. 91-cvs-13075 (1995). Successfully defended corporation and its board of directors in multi-week jury trial against direct and derivative claims by minority shareholder for breach of fiduciary duties, fraud, unfair and deceptive trade practices, and breach of contract.

Eckerd Corp. v. Jenkins, U.S. Dist. Court, Western Dist. of N.C. case no. C-C-91-264-MU (1993). Recovered compensatory and treble damages, together with attorney's fees, for national retail drug store chain against pharmacist employees on RICO claims arising out of theft and resale of controlled substances.

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OF NOTE

- Certified Public Accountant for more than 20 years (currently inactive)
- Trustee since 1997 for several charitable remainder trusts with multi-million dollar portfolios
- AV peer rated in Martindale Hubbell legal directory
- Included in *Best Lawyers in America* for Commercial Litigation, 2011-2012 and in Real Estate Litigation, 2012.
- Selected for inclusion to the *North Carolina Super Lawyers* list in 2007. His primary area of practice is Business Litigation.
- Recognized in the 2010-2012 editions of *Benchmark Litigation* as a "Local Litigation Star" in the area of Business Litigation
- Member, Board of Directors, and Treasurer, Justice Initiatives, Inc.
www.justiceinitiatives.org

PROFESSIONAL AFFILIATIONS

- American Bar Association: Sections of Litigation and Business
- North Carolina Bar Association