

## SCOTT M. TYLER

*Member, Litigation*

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Scott Tyler has more than two decades of experience successfully representing some of the nation's largest financial services, manufacturing, real estate, and other companies in a range of complex disputes. He provides his clients with a practical approach to achieving a balance between business considerations and zealous advocacy.

Scott focuses his time—and his clients' resources—on a strategic path to success by creating a road map for each case, from pleadings to motions, to discovery, and onto trial. He is prepared to seek a prompt but favorable compromise or to fight aggressively for his clients' interests. He works thoughtfully with legal experts while considering a cost-benefit analysis for both tactical and strategic issues impacting each matter. Scott guides other attorneys using the same methodical, effective approach. Scott served as co-head of the Litigation group for nearly a decade and on the firm's Management Committee.

### **Real Estate/Construction Litigation**

Scott has substantial experience in real estate litigation, representing clients regarding buyer-seller agreements, commercial leases, easements, commission claims, and construction projects. Where significant commercial leases are involved, he has obtained favorable outcomes for not only landlords, but also for tenants, by seeking to ensure that lease terms are fully enforced consistent with party intent and applicable law.

Scott has also resolved multimillion-dollar commercial construction disputes before and after litigation has been filed. Representing owners, sureties, and contractors in cases involving storage and distribution facilities, corporate headquarters, manufacturing and industrial plants, hotels, and more, he has secured positive results in settlement, arbitration, on motions, and at trial.

### **Capabilities**

Financial Services Litigation

Real Estate & Construction Disputes

Business Court Litigation

Civil Litigation

Commercial Litigation

Commercial Real Estate

Litigation, Regulatory & White Collar

Transportation, Infrastructure & Logistics

### **Education**

J.D., Duke University, 1995; Editorial Board, Duke Law Journal

B.A., Hamilton College, 1992, magna cum laude; Phi Beta Kappa

### **Admissions**

New York, 1997

North Carolina, 1996

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Implementing his practical litigation experience, he also protects his clients' interests before issues arise by negotiating and drafting construction contracts with an eye to successful project completion including efficient resolution of claims.

South Carolina, 1996

### **Commercial Litigation**

Scott has successfully represented clients in numerous commercial contract disputes, including those regarding the sale of goods, supply contracts, transportation and logistics agreements, maintenance contracts, and other services agreements. He has the ability to separate superfluous issues from material ones, focusing instead on the most beneficial interpretation of the contract terms themselves. As a result, Scott has often prevailed in such cases through favorable settlements, dispositive motions, arbitration, and court and jury verdicts.

### **Financial Services Litigation**

Scott has represented some of the largest national banks as well as many regional and community financial services institutions in cases involving complex financial transactions that have gone awry. Working with special assets and workout groups and banking executives, he understands lenders' unique challenges and devises strategies to resolve their disputes effectively. He has also represented banking executives named individually in such actions. Scott seeks and has obtained early dismissals of individual defendants through motion practice and otherwise, freeing them from further exposure and expense.

### **Business Court Litigation**

Scott has extensive experience in the North Carolina Business Court, which was created to provide a forum for business-related disputes. Cases that may be designated "complex business cases" and assigned to the Business Court include disputes over trade secrets, information technology, corporate governance, securities, and significant commercial matters involving corporate entities. Drawing upon his knowledge of complex financial and business transactions, Scott is comfortable in this litigation environment.

### **Notable**

- *Best Lawyers in America*, Commercial Litigation, 2013-2022; Litigation - Construction, 2019-2022

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- *North Carolina Super Lawyers*, General Litigation, 2006-2021
- *North Carolina Super Lawyers*, Business Litigation, 2022
- *Benchmark Litigation*, "Future Star," 2010-2022
- *Business North Carolina Legal Elite*, 2004 - 2005, 2009; *Construction Law*, 2020, 2022 ; *Litigation*, 2013-2014, 2017, 2019
- North Carolina Pro Bono Honor Society, 2018-2020
- Author, "Liquidating: Stipulated Damages for Delay in Public Construction Contracts," 44 Duke L.J. 357, 1994
- Law Clerk to Honorable Thomas J. McAvoy, United States District Court, Northern District of New York, 1995-1996
- AV peer review rated, Martindale-Hubbell legal directory
- Chairman, Town of Matthews Transportation Board, 2003-2004
- Vice President and General Counsel, Charlotte Trolley, Inc., 2004-2008
- Board of Trustees, Charlotte Urban Ministry Center, 2015-present

### Affiliations

- North Carolina Bar Association

### Representative Experience

- *EarthKind, LLC v. The Lebermuth Company, Inc., et al.* (W.D.N.C. 2021). Following week-long jury trial, obtained substantial settlement for client on claims and counterclaims in commercial business dispute
- Represented claimant in \$270 million National Arbitration Forum proceeding regarding retail credit card fees and achieved a favorable settlement in advance of hearing
- Represented client in federal court action to recover damages from an industrial contractor who performed defective work on several significant projects. The parties reached a beneficial settlement of the dispute. Also led a group of plaintiffs pursuing similar claims, in negotiating and finalizing the settlement (*Mountaire Farms Inc. v. Industrial Construction Experts, Inc., et al.* (M.D.N.C. 2019))
- *Monsanto Company v. ARE-108 Alexander Road LLC*, 632 Fed. Appx. 733 (4th Cir. 2015). Obtained summary judgment and damages for tenant in commercial lease dispute over rent abatement
- *Taylor v. Bank of Granite*, 2014 N.C. App. LEXIS 645 (2014). Obtained dismissal of all claims asserted by commercial borrower in lender liability dispute
- *Bank of America v. AFH LLC et al.*, American Arbitration Association (2012). Obtained \$160 million damages award in favor of bank and finding of no liability on \$354 million in counterclaims following week-long arbitration hearing in dispute over commercial loans and valuation of real estate collateral
- *Piedmont Natural Gas Co., Inc. v. Cannon Sline Industrial, Inc.*, American Arbitration Association (2011). Obtained significant award for client in dispute over termination of industrial painting contract

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- *Geo Plastics v. Beacon Dev. Co.*, 434 Fed. Appx. 256 (4th Cir. 2011). Obtained summary judgment for real estate developer sued by potential purchaser of commercial property
- *Nucor Corporation v. J. Baker & Associates* (E.D. Ark. 2009). Obtained jury verdict of no liability on \$6 million counterclaim and third-party claim in commercial contract dispute
- *Brockland et al. v. Bank of Granite*, N.C. Superior Court (2007). Obtained judgment for bank and bank president in multi-million dollar lender liability action
- *Warner Electric, LLC v. Olds Properties Corp.* American Arbitration Association (2006). Obtained significant award for client in commercial lease dispute
- *Eric Riebling Co. v. Martin Woodworking Machines*, International Court of Arbitration (2004). Limited claimant to just six percent of damages sought in arbitration proceeding regarding agreement for distribution of machinery
- *Kismet Arrowood, LLC v. Reliance Insurance Company*, N.C. Superior Court (2004). Obtained summary judgment significantly limiting scope of surety's liability on performance bond
- *Nucor Steel Arkansas v. Belgian Scrap Terminal NV*, American Arbitration Association (2003). Obtained significant award in international arbitration proceeding regarding steel scrap supply contracts
- *Horack v. Southern Real Estate*, 563 S.E.2d 47 (2002). Obtained directed verdict wage & hour act and unfair trade practices claims and jury verdict on fraud claim in real estate brokerage dispute