



William L. Esser IV

Partner

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t 704.335.9507



Will Esser focuses his practice primarily on commercial litigation, bankruptcy and creditors' rights, foreclosures, loan workouts, and loan sales. He has successfully represented lenders, loan servicers, landlords, municipal governments, creditors' committees, receivers, and investment companies in federal and state court lawsuits, bankruptcies, arbitrations, and restructurings. He has a particular emphasis on matters involving real estate, including mortgage servicing litigation, title insurance claims, lease and development disputes, and appraisal issues, among others.

Will is certified by the North Carolina Dispute Resolution Commission (NCDRC) as a Superior Court mediator. He also serves as a co-chair of Parker Poe's financial services litigation team and head of Parker Poe's North Carolina foreclosure practice.

Will is admitted to the United States Supreme Court, the United States Courts of Appeals for the Fourth, Tenth, and Eleventh Circuits, as well as the federal district and bankruptcy courts for the Eastern, Middle, and Western Districts of North Carolina.

Prior to joining Parker Poe, he served as a law clerk for the Honorable Paul J. Kelly on the United States Court of Appeals for the Tenth Circuit.

Will is a passionate believer in pro bono work and served as chair of Parker Poe's Pro Bono Committee from 2013 to early 2017. During that time, Will and Parker Poe were recognized through the following awards:

- 2014 N.C. Bar Association Large Law Firm of the Year Pro Bono Award
- 2014 Mecklenburg County Bar's Outstanding Collaborative Project Pro Bono Award (in conjunction with Duke Energy and Legal Aid)
- 2016 Outstanding Individual Pro Bono Service Award (Legal Aid of North Carolina)
- 2017 N.C. Bar Association William Thorp Award (individual award for attorney who has presented exemplary pro bono legal services to low-income North Carolinians)



CHARLOTTE OFFICE



PRACTICE AREAS

Litigation
 Financial Restructuring & Insolvency
 Commercial Foreclosure & Receivership
 Real Estate Litigation
 Fintech



EDUCATION

University of Notre Dame
 JD, *magna cum laude*, 1999
 Belmont Abbey College
 BA, *summa cum laude*, 1995



ADMISSIONS

North Carolina, 2000
 Florida, 1999



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REPRESENTATIVE EXPERIENCE

Commercial Litigation

- Litigated breach of contract claims arising from asset purchase agreements, franchise and distributor agreements, real property leases, and all forms of commercial contracts.
- Defended financial institutions from lender liability claims, including borrower/guarantor claims for misrepresentation, fraud, tortious interference with business, negligence, unfair trade practices, and related tort actions.
- Litigated cases involving complex financial instruments (such as interest rate swaps and letters of credit) and infrastructure bonds in federal court and the North Carolina Business Court.
- Organized and led multi-firm joint defense team to defend more than 100 corporate clients in mass fraudulent transfer/alleged Ponzi scheme litigation.

Mortgage Servicer Litigation

- Defended mortgage servicers from all varieties of claims, including wrongful foreclosure, FCRA, FDCPA, RESPA, and TILA.
- Prosecuted contested foreclosures before clerk of court and on appeal.
- Defended bankruptcy adversary proceedings and assisted with relief from stay/contested plan confirmation fights.
- Analyzed and resolved challenging title issues related to encroachments, access, zoning, and lien priority.

Bankruptcy

- Represented creditors in all areas of bankruptcy practice in Chapter 7, 11, 12, or 13, such as cash collateral motions, motions for adequate protection/relief from stay, and contested confirmation hearings.
- Represented unsecured creditor committees from committee formation through final distribution under confirmed plans.
- Assisted purchasers in Section 363 asset sales.
- Defended vendors, surety companies, and other defendants in preference and avoidance actions.



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Collections / Loan Workouts / Loan Sales

- Managed the workout of large loan portfolios for lenders involving hundreds of real property foreclosures/note collection lawsuits.
- Obtained the appointment of real property receivers over all collateral types (office, multifamily, retail, and industrial).
- Negotiated and litigated title insurance claims and other real property related litigation.
- Assisted with all stages of loan workouts, including forbearance agreements, loan modifications, deeds in lieu, short sales, and collection actions.
- Represented buyers and sellers in loan sale transactions, including due diligence and contract negotiation.

Selected Cases

- *In re M.A.W.*, 804 S.E.2d 513 (N.C. 2017). Pro bono case in which the North Carolina Supreme Court reversed the Court of Appeals and clarified the standard applicable to termination of a previously incarcerated father's parental rights.
- *Rose Oil Company, Inc. v. PNC Bank, N.A.*, 2016 WL 373961 (E.D.N.C. 2016). Granted dismissal of lender liability claims against bank regarding loans and interest rate swap, including enforcement of contested release in loan modification agreement.
- *ACC Construction, Inc. v. Suntrust Mortgage, Inc.*, 769 S.E.2d 200 (N.C. Ct. App. 2015). Affirmed dismissal of unjust enrichment and constructive trust claims against lender arising from contested foreclosure, as well as awarding sanctions against plaintiff and plaintiff's counsel.
- *The Caper Corporation v. Wells Fargo Bank, N.A.*, 578 Fed. Appx. 276 (4th Cir. 2014). Affirmed dismissal of multiple contract and tort claims against bank related to interest rate swap used to hedge floating rate LIBOR loan.
- *Campbell v. Hanover Insurance Company*, 709 F.3d 388 (4th Cir.), cert. denied, 134 S. Ct. 221(2013). Affirmed the grant of summary judgment to surety company on trustee's preference claims arising from surety's draw on a letter of credit provided by bonded contractor.



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- *Harris v. SunTrust Mortgage et. al.*, 2013 WL 1120846 (M.D.N.C. March 18, 2013). Granted lender's motion to dismiss claims asserted by borrower, including wrongful foreclosure and violations of TILA, RESPA, HOEPA, FCRA, slander of title, and others.
- *LFM Real Estate Ventures, LLC v. SunTrust Bank*, 2012 WL 6114242 (W.D.N.C. December 7, 2012). Awarded lender judgment against borrower and guarantors, and dismissing lender liability claims for alleged fraud, predatory lending, breach of contract, breach of fiduciary duty, and unfair and deceptive trade practices.
- *In re Versant Properties*, 2011 WL 1131057 (W.D.N.C. 2011). Held that lender, not lien claimants, was entitled to return of excess letter of credit funds drawn by municipal government for subdivision infrastructure.
- *Speedway Motorsports International Limited v. Bronwen Energy Trading, Ltd.*, 706 S.E.2d. 262 (N.C. Ct. App. 2011). Affirmed denial of French bank's request to change venue to Switzerland based on forum selection clause contained in demand guarantee to collateralize international purchase of petroleum products.

CLIENT ALERTS

- "Well Thank Goodness: Collateral Estoppel Does Apply to N.C. Foreclosures," March 2019
- "Faulty Foreclosure Service Results in Lienholder Having to Pay Property Owner," September 2017
- "The Debt Buying Industry Breathes a Sigh of Relief: Supreme Court Rules for Debt Buyer on FDCPA Claim," June 2017
- "Lenders Welcome Cinco de Mayo Ruling From NC Supreme Court on Deficiency Judgments," May 2017
- "Foreclosures in North Carolina – Say Goodbye to Discovery and Res Judicata," January 2017
- "Supreme Court Issues Opinions Favorable to Financial Services Companies," May 2016



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- "Of ECOA and the FDCPA – A Tie in the Supreme Court and A Fourth Circuit Win for Debt Collection," March 2016
- "No Déjà Vu – Lender Liability Claims Barred by Res Judicata Effect of Bankruptcy Sale Order," March 2016
- "North Carolina Supreme Court Confirms That Lenders Do Not Owe Fiduciary Duties To Borrowers," December 2015
- "Tough News for Lenders - Major NC Supreme Court Decision on Collection of Post-Foreclosure Deficiencies," September 2015
- "It Just Got Harder to Get a Deficiency Judgment in North Carolina ," July 2015
- "A Duty to Negotiate in Good Faith - A New Lender Liability Claim in North Carolina?", June 2015
- "The "Two Dismissal" Rule and NC Foreclosures - Another Victory for Lenders," June 2015
- "NC Foreclosure Statute of Limitations – A Tale of “Zombie” Deeds of Trust?", April 2015
- "A Cautionary Tale (or Two) – The Need for Robust Internal Oversight in Financings," April 2015
- "An "Applicant" By Any Other Name – The U.S. Supreme Court Jumps in on ECOA and Guarantors," March 2015
- "A Cautionary Tale – The Need for Bank Oversight on Collateral Releases," January 2015
- "NC Appeals Court Gives Big Win to Financial Institutions," January 2015
- "Parker Poe Guide to North Carolina Power of Sale Commercial Foreclosures," November 2014

HONORS

- *The Best Lawyers in America* in Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law, 2016-2020; Bankruptcy Litigation, 2018-2020



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- *North Carolina Super Lawyers*, 2017-2019; Rising Star, 2009
- North Carolina Pro Bono Honor Society, 2018
- North Carolina Bar Association's William Thorp Pro Bono Attorney Award, 2017
- Legal Aid of North Carolina's Outstanding Individual Pro Bono Service Award, 2016
- *Chambers USA: America's Leading Lawyers* in Bankruptcy/Restructuring, 2012-2013
- *Business North Carolina* magazine's "Legal Elite" in Business Law, 2012
- Mecklenburg County Bar Volunteer Lawyer Program Pro Bono Awards, Outstanding Individual Attorney, 2011
- Belmont Abbey College Alumni Sports Hall of Fame Inductee, Tennis, 2011
- Recipient of the Belmont Abbey College Brother Gregory Corcoran Distinguished Alumnus of the Year Award, 2010
- *Charlotte Business Journal's* 40 Under 40, 2009
- *North Carolina Super Lawyers* Rising Star in Business Litigation, 2009
- Martindale-Hubbell AV® Distinguished™ in Commercial Litigation; Real Estate Foreclosure; Franchise Litigation; Receiverships; Bankruptcy; Civil Fraud; Unfair Competition

MEMBERSHIPS

- Belmont Abbey College, Board of Trustees, 2017-present
- Mecklenburg County Bar, Fee Disputes Committee, 2013; Bar Leadership Institute, 2011
- Room at the Inn, (n/k/a MiraVia), President, 2008-2009
- St. Thomas More Society, Inc., Co-founder and President, 2004-2006
- United States Bankruptcy Court, Chair, Chapter 11 Subcommittee, Western District of North Carolina Local Rules Committee, 2007



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- Parker Poe Adams & Bernstein LLP, Pro Bono Committee Chair, 2013-2017

