# C. Allen Garrett Jr.

## Partner

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### Services

Antitrust & Trade Regulation

Antitrust Litigation

Appellate Litigation

Class Action Defense

Complex Commercial Litigation

Government & Regulatory

Litigation

Product Liability

Trade Secrets

Allen Garrett has significant experience in complex commercial litigation, arbitration, and appellate matters. Substantive areas of experience include antitrust and trade regulation, commercial contract disputes, consumer class actions (including "no injury" class actions), commercial insurance coverage disputes, construction disputes, data breach class actions, enforcement of restrictive covenants, products liability, toxic torts, and trade secret litigation. His trial level experiences include state and federal court actions in numerous jurisdictions, actions consolidated for pretrial proceedings by the Judicial Panel on Multidistrict Litigation, and domestic and international construction arbitrations involving hydroelectric, nuclear, and solar power plants. In recent years, Allen has litigated a number of cutting-edge issues in connection with state consumer fraud statutes, federal jurisdictional disputes, and the intersection of arbitration and litigation.

Allen has litigated matters involving consumer protection statutes of numerous states, including several multidistrict cases, and has specific expertise regarding California's consumer protection laws. In addition to consumer fraud class action, he has defended numerous putative class actions and other multi-claimant actions brought by businesses, including efforts by franchisees to assert claims on a multi-claimant basis. He has also counseled clients regarding the drafting and enforcement of arbitration agreements, class-action waivers, and other provisions that increase the likelihood of defeating class certification.

Allen has extensive appellate litigation experience. In addition to briefing appeals to the United States Supreme Court and numerous state and federal appellate courts, he has argued a number of appeals and provided advice in connection with countless others. Allen frequently has lectured on appellate briefing issues and recently was a member of the Eleventh Circuit Appellate Practice Institute panel on the topic of "Writing the Winning Brief." His appellate brief-writing skills have been praised by professional appellate consultants.

Allen also has participated in significant *pro bono* matters at both the trial and appellate level, including in recent proceedings before the United States Supreme Court and the Georgia Supreme Court. As a result of his continuing commitment to *pro bono* matters he received the firm's Managing Partners' *Pro Bono* Award in 2007 and 2011, the firm's Justice Award in 2017, and the H. Sol Clark Award from the Georgia State Bar in 2018. He currently serves as the Vice Chair of the Board of Directors for the Southern Center for Human Rights.

Allen was recognized by *The Best Lawyers in America*® in 2023 and the six years immediately preceding for Appellate Law and again in 2027 and the three years immediately preceding for Appellate Law, Commercial Litigation, and Technology Law. He was also named "Atlanta Lawyer of the Year" in 2023 for Appellate Law and "Atlanta Lawyer of the Year" in 2027 for Technology Law by *The Best Lawyers in America*®. In 2012, Allen was recognized by *Legal 500 US* in the area of Trade Secrets Litigation. He has been recognized as one of *Georgia Trend*'s 2012 "Legal Elite" for Appellate Law. Allen received a Lexology Client Choice Award USA & Canada 2013, as the exclusive winner in the litigation category for Georgia.

**Experience**

Represented a global chemical manufacturer in "settlement fraud" cases alleging federal RICO, fraud and related claims arising out of our client's alleged fraudulent inducement of hundreds of settlements of product liability claims in the early 1990s. Between 1996 and 2000, numerous plaintiffs asserted "settlement fraud" claims against our client in federal district courts in Hawaii, Florida and Georgia and in Hawaii and Florida state courts. The cases resulted in appeals to the Eleventh and Ninth Circuit Courts of Appeals, as well as appeals on certified questions of state law before the Delaware, Florida, and Hawaii Supreme Courts. The cases resulted in the creation of new law under state common law fraud principles, with respect to the enforcement of settlement agreements, and under the Federal RICO statute. The Eleventh Circuit cases were ultimately dismissed and the Ninth Circuit cases were ultimately settled on terms favorable to our client.

The firm served as lead counsel for Equifax, one of the United States' largest credit reporting agencies, in a putative class action challenging compliance with the reinvestigation reporting requirement of the Fair Credit Reporting Act. The district court denied the client's motion to dismiss but certified the issue for interlocutory appeal. The Eleventh Circuit unanimously reversed and ordered the claims dismissed with prejudice. *Nunnally v. Equifax Info. Servs., LLC*, 451 F.3d 768 (11th Cir. 2006).

The firm served as lead counsel for United Community Banks, Inc., one of the largest bank holding companies located in Georgia, in a million dollar commercial contract dispute against an overdraft management services provider, prevailing at summary judgment before the district court (the Southern District of Texas) and on appeal before the Fifth Circuit. *MJCM, LLC v. United Cmty. Banks, Inc.,* 212 Fed. Appx. 323 (5th Cir. 2007).

Defended an international chemical manufacturer in a "settlement fraud" case, where federal RICO, fraud, and other state-law claims had been made in connection with the company's alleged fraudulent inducement of hundreds of settlements of product liability claims in the early 1990's. Between 1997 and 2000, over 200 plaintiffs asserted "settlement fraud" claims against the company in the United States District Court for the Southern District of Florida or in Florida state court, and the company asserted claims in federal court for breach of the settlement agreement. Ultimately, all of the federal cases were consolidated. The company prevailed in the district court on motions to dismiss the "settlement fraud" claims based on provisions in the settlement agreements. When those rulings were superseded by a ruling of the Delaware Supreme Court, the company

filed motions for judgment on the pleadings in a "lead case," which the District Court granted and which the Eleventh Circuit affirmed. The company then filed summary judgment motions to have the rulings in the lead case applied to the other claimants' cases. The District Court granted those motions in 2004. During the pendency of appeals, the overwhelming majority of the Florida claimants settled. On November 27, 2006, the Eleventh Circuit affirmed the District Court's summary judgment rulings as to the thirty-three remaining Florida claimants.

Represented Amerisave Mortgage Corporation in a dispute with a former employee, who sued the company for violations of Georgia RICO, defamation, and intentional infliction of emotional distress arising from his termination by Amerisave. Amerisave prevailed on a motion to dismiss all claims at the trial court level, and the dismissal was affirmed by the Georgia Court of Appeals. The Georgia Supreme Court ultimately affirmed the dismissal of the Georgia RICO and emotional distress claims but reinstated the defamation claim, which was ultimately settled on terms favorable to Amerisave.

Jointly represented DuPont in the “Teflon” multi-district consumer fraud litigation. The multi-district litigation consolidated over 24 separately-filed class action lawsuits in which the putative classes of consumer plaintiffs sought the recovery of approximately $5 billion based on DuPont's alleged failure to disclose purported defects in “Teflon” non-stick cookware. Our firm undertook a detailed legal analysis of the claims asserted in each of the class action complaints and guided the legal strategy in connection with the class certification and merits issues. In December 2008, the United States District Court for the Southern District of Iowa ruled that none of the putative classes would be certified. The plaintiffs sought to appeal the decision to the Eighth Circuit Court of Appeals under the Class Action Fairness Act but the Eighth Circuit denied permission to appeal. *In re: Teflon Products Liability Litigation*, No. 4:06-md-01733-REL-CFB (S.D. Iowa filed Mar. 3, 2006).

Represented E. I. du Pont de Nemours and Company before the U.S. Supreme Court, resulting in a victory. The court held that a plan administrator of a qualified retirement plan was entitled to rely on the plan's beneficiary designation forms, rather than having to honor attempted beneficiary designations made through a divorce decree.

The firm served as lead counsel for EyeWonder, Inc. in the Southern District of New York to enforce restrictive covenants when its former head of Western regional sales left to join the Los Angeles office of EyeWonder's arch-competitor, New York-based EyeBlaster, Inc. EyeWonder also initiated an arbitration proceeding in Atlanta. The Southern District of New York granted EyeWonder a preliminary injunction in aid of arbitration, preventing the former employee from soliciting EyeWonder's customers. After nearly a year of contentious proceedings, the arbitrator ruled in EyeWonder’s favor, not only enjoining the former employee from breaching the restrictive covenants in his agreement, but also ordering him to pay all of EyeWonder’s attorneys’ fees and costs incurred in the arbitration. *Eyewonder, Inc. v. Abraham*, Case No. 08-03579 (S.D.N.Y. Sept. 3, 2010).

The firm served as lead counsel and secured the denial of class certification in a class action filed against Cingular Wireless in Georgia state court alleging “spam-fax” claims under the federal Telephone Consumer Protection Act (TCPA) and seeking class-wide damages of $750 million. The trial court’s denial of class certification was affirmed on appeal by the Georgia Court of Appeals. This victory was significant because

Georgia had been a leading jurisdiction favoring the certification of class actions under the TCPA. *McGarry v. Cingular Wireless LLC*, 267 Ga. App. 23, 599 S.E.2d 34 (2004).

Served as counsel to Equifax. The plaintiff, a mortgage broker, alleged that a subsidiary of Equifax Inc. misappropriated trade secrets belonging to it and other mortgage brokers around the country. The plaintiff sought certification of a nationwide class. The court granted Equifax's motion to dismiss on preemption grounds, and the decision was affirmed by Second Circuit Court of Appeals. *Premium Mortgage Corp. v. Equifax Info. Sys., et al.,* No. 07-6349 (W.D.N.Y.).

The firm served as lead counsel and scored a major victory for BellSouth Advertising & Publishing Corporation in a class action filed against the company by South Florida advertisers, seeking refunds for the time period in which delivery of the 2005-2006 directories had been allegedly delayed when Hurricane Wilma struck South Florida. The case was originally filed in federal district court in Miami but was transferred to Atlanta on our motion to enforce the mandatory forum selection clause in the terms and conditions of the advertisers' contracts. On October 28, 2008, the Eleventh Circuit Court of Appeals affirmed the Northern District of Georgia's decision denying class certification and granting summary judgment to the company. This victory was significant because similar state-wide class actions against AT&T in California had been certified.

The firm served as lead counsel for BellSouth in a highly-publicized dispute involving Sprint's hiring of the second highest-ranking corporate officer at BellSouth to serve as Sprint's then-CEO. The case involved claims for breach of non-competition and nondisclosure agreements and "inevitable misuse" of trade secrets. We obtained an injunction in arbitration prohibiting the executive's disclosure of confidential information to Sprint and limiting his executive activities at Sprint to prevent the misuse of BellSouth's trade secrets. *BellSouth Corp. v. Forsee*, 265 Ga. App. 589, 595 S.E.2d 99 (2004).

### Education

University of Virginia School of Law J.D. (1994)

Birmingham-Southern College B.A. (1991) English, Rushton Scholar, *magna cum laude*

### Admissions

Georgia (1998)

### Professional & Community Activities

Southern Center for Human Rights, Board of Directors, Chair

### Insights

News Releases

Kilpatrick Attorneys Once Again Earn Outstanding Recognitions in 2027 Edition of The Best Lawyers in America®

August 20, 2026

Alert

Georgia Passes Tort Reform

April 29, 2025

News Releases

Kilpatrick Breaks Record for Number of Attorneys Recognized in 2025 Edition of The Best Lawyers in America®

August 16, 2024

Publication

Allen Garrett Quoted in ALM Article

July 10, 2024

News

Kilpatrick Townsend Named Law360 Powerhouse

August 23, 2023