

## David Black

**MEMBER, BUSINESS &  
COMMERCIAL LITIGATION  
PRACTICE GROUP LEADER**

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### Practices

Eminent Domain and Condemnation  
Privacy & Data Security  
Class Actions  
Business & Commercial Disputes  
Litigation  
Lender Liability  
Government Contracts  
Electronic Discovery & Information Management

### Industries

Credit Unions  
Energy

### Education

- University of South Carolina, J.D., 2000
- University of South Carolina, B.A., 1995

### Admissions

- South Carolina

David Black is a member in Nexsen Pruet's Columbia office and serves as the Litigation Practice Group leader. David is an accomplished litigator with first chair trial experience known for winning complex cases. His vast experience in high-stakes business litigation ranges from investigations, temporary restraining orders and injunctive proceedings through discovery, trial and appeal.

David practices in the areas of complex civil litigation, business disputes, commercial litigation, class action defense, and intellectual property litigation. He frequently represents energy and electric utility industry clients in corporate governance issues, capital credit practices, electric service rights, eminent domain, and territorial assignment.

David represents clients before the Public Service Commission as a regular part of his practice.

In addition to serving as the Practice Group Leader of the Litigation Group, David serves as the Managing Member and advisor for Nexsen Pruet's electronic discovery and information management division, Nextra Solutions. David oversees the Nextra team working closely with the Director of Nextra Solutions on strategic initiatives and opportunities.

Prior to joining Nexsen Pruet, David served as a law clerk to the Honorable Kenneth G. Goode of the Sixth Judicial Circuit.

- District of Columbia
- U.S. District Court, District of South Carolina
- U.S. Court of Appeals, Fourth Circuit
- U.S. Supreme Court

## Experience

### James Brown Litigation

- Represented the James Brown Trust and Estate (Bauknight) before the South Carolina Supreme Court concerning an order removing former fiduciaries and a compromise settlement agreement. The South Carolina Supreme Court affirmed the Circuit Court's removal of the former fiduciaries and reversed the compromise settlement agreement. The matter is currently pending on remand before the Circuit Court, May 2013
- Represented the James Brown Trust and Estate (Bauknight) in two separate appeals involving former trustees attempting to return to a position of authority over the trust and estate. Both appeals have been successfully resolved other than an award of attorneys' fees that may be asserted against Cannon for contempt of court proceedings, October 2010
- Represented the James Brown Trust and Estate (Bauknight) in a declaratory judgment, accounting, and copyright action filed in the United States District Court for the Central District of California. In this matter, Ms. Hollander argued that she was entitled to over half of James Brown's royalties and intellectual property pursuant to an alleged oral agreement. Mr. Black filed a motion to dismiss on the basis of improper personal and subject matter jurisdiction. The District Court granted the motion ruling that personal and subject matter did not exist in the California federal court., July 2010

### Corporate and Business Litigation

- Represented a South Carolina municipality in a Federal Court action filed by a large water and sewer provider seeking injunctive relief. The action was successfully dismissed upon summary judgment in favor of the municipality., January 2017
- Represented a shareholder in a minority squeeze out lawsuit. The action was resolved during the early stages off litigation in favor of the minority shareholder., October 2015
- Represented a South Carolina manufacturer in a contract dispute with a local municipality. Shortly after filing the lawsuit, the action was resolved in favor of the manufacturer., December 2014
- Represented a multinational global 500 company in a products liability and accounting action challenging the design of drywall fasteners. Prior to engaging in lengthy discovery and mediation, he assisted the client

in negotiating a favorable settlement dismissing both actions., October 2009

- Represented a database developer in a contractual dispute concerning contract terms, payment, and the absence of a termination clause related to development of the database. After a weeklong trial in Federal District Court, the Court held that the contract did not run into perpetuity and that termination was proper on a prospective basis., July 2009

## Electric Cooperative Litigation

- Represented Tri-County Electric Cooperative in a purported derivative class action challenging the Cooperative's compliance with the enabling statute and other corporate governance issues., June 2018
- Represented Santee Electric Cooperative in a purported current member derivative class action challenging the Cooperative's compliance with statute, bylaws, and other corporate governance issues., August 2013
- Represented seventeen South Carolina electric cooperatives in a purported former member class action challenging the cooperatives' compliance with statute, bylaws, and capital credit retirement policies. The former members seek early retirement of over *250 million* dollars in capital credits., August 2013
- Represented and won a directed verdict in favor of client, Aiken Electric Cooperative, Inc., in Edgefield County Circuit Court. The case involved a challenge to a substation expansion and multi-million dollar distribution line easement along a US. Highway., May 2008
- Filed an Amicus Brief for the Electric Cooperatives of South Carolina, Inc., portions of which the South Carolina Court of Appeals heavily relied on in its opinion in *City of Newberry v. Newberry Elec. Coop., Inc.*, 2008-UP-200 (S. C. Ct. App. March 24, 2008).
- Represented a South Carolina electric cooperative in a federal lawsuit concerning annexation, territorial service rights, and a \$16 million dollar infrastructure investment. Through mediation, he assisted the client in negotiating a favorable settlement that will preserve the electric cooperative's post annexation territorial service rights., August 2007

## Intellectual Property Litigation

- Successfully obtained a service mark license enabling his client to continue using an energy efficiency USPTO service mark., July 2016
- Successfully obtained several USPTO service marks for a low country real estate developer., October 2012
- Represented a nationally recognized award winning home plan designer in a copyright and trademark action involving the illegal publication of house plan renderings. Without the aid of a mediator, he assisted the client in negotiating a favorable settlement ending years of litigation., November 2008
- Represented a United Kingdom software developer in a copyright action involving point of sale computer source code. Without the aid of a mediator, they assisted the client in negotiating a favorable settlement that will provide international protection for the software code., December 2003

## Recording Industry Association of America ("RIAA")

- Represent the Recording Industry Association of America (RIAA) in more than sixty federal actions filed throughout South Carolina involving copyright infringement and illegal peer-to-peer file sharing., January 2007

## South Carolina Pharmacy Benefit Manager Contract

- Convinced the Procurement Review Panel to reverse a Chief Procurement Officer order, awarding the firm's health care industry client a multi-million dollar state contract for pharmacy benefit management., September 2005
- Participated in a marathon 17-hour procurement protest hearing involving the award of the State Employee Pharmacy Benefit Manager Contract. A later settlement resulted in the contract being awarded to Nexsen Pruet's client., August 2004

## Reported Decisions:

*In Re: The Estate of James Brown, et al.*, 427 S.C. 138, 828 S.E.2nd 789 (May 22, 2019)

*Brown-Thomas v. Hynie, et al.*, 367 F.Suo.3d 452 (February 6, 2019)

*Brown v. Pope, et al.*, 610 Fed. Appx. 239 (July 21, 2015)

*Wilson v. Dallas, In re: The Estate of James Brown, et al.*, 403 S.C. 411, 743 S.E.2d 746 (S.C. 2013)

*Cannon v. Georgia Attorney General, In re: James Brown, et al.*, 725 S.E.2d 698 (S.C. 2012)

*Jacqueline Hollander v. The Irrevocable Trust Established by James Brown in August 1, 2000 et al.* 2:10-cv-03357-PSG –AJW (2010).

*In Re: Protest of Express Scripts, Inc.; Appeal of Medco Health Solutions, Inc., South Carolina Procurement Decisions*, SCPD Case No. 2005-8 (October 6, 2005).

*SCE&G v. Aiken Electric Cooperative, Inc., and the South Carolina Public Service Commission*, 2005 UP 292 (Ct. App. 2005)

*In Re: Protest of Palmetto Unilect, LLC; Diebold Election Systems; iPServices, LLC; Maximus, Inc.; and Election Systems & Software, Inc. Appeal of Palmetto Unilect; Diebold Election Systems; and Election Systems & Software, Inc.*, South Carolina Procurement Decisions, 2004 WL 2516305, SCPD Case No. 2004-6 (July 1, 2004).

*SCE&G v Palmetto Electric Cooperative, Inc.*, South Carolina Public Service Commission Decisions, Case No. 2002-0192-E (October 23, 2003).

*Carolina Trucks and Equipment, Inc., v. Volvo Trucks, N.A.*, 2003 WL 23873007 (4th Cir. Jan 21, 2003)(No. 02-2410).

*SCE&G vs. Aiken Electric Cooperative, Inc.*, South Carolina Public Service Commission Decisions, Case No. 2000-0242-E (April 23, 2002).

## Recognitions

- Martindale-Hubbell "AV" Preeminent Peer Review Rated
- Listed in Best Lawyers in America for Litigation, Trusts and Estates in 2021, 2022
- Listed in Best Lawyers in America for Mass Tort Litigation/Class Actions - Defendants, 2021
- In 2008, The State Newspaper, *Columbia Business Journal*, highlighted David as a "rising star" in the South Carolina Business and Legal community.
- University of South Carolina School of Law Justice Ness Academic Honors Scholarship

## Community & Professional

- Member, South Carolina Bar Resolution of Fee Disputes Board
- Member, South Carolina Public Service Commission Advisory Committee
- Member, Electric Cooperative Bar Association
- South Carolina Bar Association, Litigation Section
- American Bar Association, Litigation and Energy Sections
  
- Speaker, *E-Discovery Lunch & Learn*, Association of Corporate Counsel South Carolina, 2020
- Speaker, *19th Annual In-House Counsel Ethics Seminar*, 2020
- Speaker, *COVID-19 Litigation Part 1: Preparing for COVID-19 Litigation*, 2020
- Speaker, *COVID-19 Litigation Part 2: Tracking COVID-19 Litigation*, 2020
- Speaker, *COVID-19 Litigation Part 3: Flattening the Litigation Curve*, 2020
- Featured Speaker, *National Rural Electric Cooperative Association's Annual Meeting: Electric Cooperative Class Actions and Corporate Governance Litigation* in Orlando, Florida; Washington, D.C.; Vail, Colorado; and Monterey, California, 2012
- Speaker, *Procurement Laws Revamped: Changes impact how businesses do work with state and contract dispute process*, 2007
- Speaker, *South Carolina Tort Reform Act: A Primer on South Carolina Tort Reform, A look at the history and meaning of tort reform in South Carolina*, 2004

## News

08.04.2021 | News from Nexsen Pruet

Nexsen Pruet Represents James Brown Estate Case in Global Settlement

10.23.2019 | News from Nexsen Pruet

Nextra Solutions Grows, Welcomes New Director

## Speaking Engagements

10.06.2020

Webinar: COVID-19 Litigation Part 3 - Flattening the Litigation Curve

09.02.2020

WEBINAR: Tracking COVID-19 Litigation

05.22.2020

WEBINAR: Preparing For COVID-19 Litigation

## Insights

09.04.2020

WEBINAR: Tracking COVID-19 Litigation with Nextra Solutions

08.04.2020

VIDEO: David Black on Mitigating Litigation Risk Associated with COVID-19

07.31.2020

COVID-19 Litigation – The Latest

07.16.2020

Mitigating Litigation Risk During a Pandemic