

# Professional Liability Defense

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Wiley has extensive experience defending lawyers, accountants, and other professionals against malpractice, breach of fiduciary duty, and other claims, in state and federal courts nationwide. Our experienced lawyers act as both lead trial counsel and appellate counsel in handling these complex claims. We also provide legal ethics advice and counseling to lawyers and law firms and represent lawyers in connection with disciplinary matters. We recognize the unique and often personal nature of these claims, and we employ a tailored, thoughtful approach in handling these matters to obtain the best possible result for our clients.

Recent representative matters include the following:

- Obtained a decision by the Maryland Court of Appeals (on certified question) holding that a law firm representing Homeowners Associations in connection with negotiating and documenting repayment plans with homeowners with delinquent dues is not subject to the Maryland Consumer Loan Law. The decision resolves an important issue of first impression that affects all businesses and professionals extending credit in Maryland as “an ancillary function” of their operations. *Nagle & Zaller, P.C. v. Delegall*, 480 Md. 274 (2022). [Read more here.](#)
- Obtained summary judgment in the trial court and a decision by the Maryland Court of Special Appeals affirming the judgment, holding that a former client suing his attorneys for malpractice must prove that the attorneys proximately caused the alleged loss via the trial within the trial, even if the attorneys engaged in so-called bright line malpractice or allegedly guaranteed recovery of a sum certain. *Saunders v. Markey*, No. 24-C-19-003511 (Md. Ct. Spec. App. Nov. 3, 2021). Rick’s oral argument in the Court of Special Appeals can be heard here (October 4, 2021).
- Obtained a decision by the Connecticut Supreme Court (on certified question from the Second Circuit) that the statute of repose barred a claim against an insurance adjuster. The decision is an important precedent for professionals and other defendants regarding the continuing course of conduct and related wrongful act doctrines. *Essex Ins. Co. v. William Kramer & Assocs., LLC*, 205 A.3d 534 (Conn. 2019). Rick’s oral argument can be heard here (October 16, 2018).
- Acted as lead counsel for Professor Alan Dershowitz in a highly-publicized defamation case in state court in Florida, which was resolved in April 2016 with the parties issuing a Joint Statement in which the opposing parties withdrew the allegations against Professor Dershowitz.
- As appellate counsel, obtained affirmance by the Ninth Circuit of a summary judgment in favor of a Washington State law firm in a claim alleging millions of dollars in damages arising from the handling

of an underlying lawsuit relating to an international ship charter arrangement (2017). Richard A. Simpson's oral argument can be heard here (May 19, 2017).

- Prevailed on motion to dismiss a claim asserted against a New York law firm alleging millions of dollars of damages arising from an underlying securities transaction, with the court holding that the claims were barred both by the doctrine of *in pari delicto* and judicial estoppel (2017).
- Prevailed on a motion to dismiss claims seeking damages in excess of \$10 million asserted against a lawyer in his capacity as a chapter 7 bankruptcy trustee (2017).
- As counsel retained for proceedings in the North Carolina Supreme Court in a case important to the accounting profession, obtained a grant of discretionary review and then reversal of an intermediate appellate court decision holding that an auditor may owe a fiduciary duty to the audit client as a matter of law. *CommScope Credit Union v. Butler & Burke, LLP*, 790 S.E.2d 657 (N.C. Sept. 23, 2016).
- Acted as trial counsel for a District of Columbia lawyer in a closely watched legal malpractice case brought by a Nobel Prize laureate, obtaining a defense jury verdict following a nine-day trial (2011).