

Michael W. Rich

Counsel

Mobile, AL

(251) 345-8216

mrich@burr.com



"I enjoy every opportunity to make a difference for my clients. It's important that I earn their trust and confidence and that they know I'm committed to representing them and finding creative solutions."

As Counsel in the firm's Construction and Project Development and Appellate Practice Groups, Mike helps clients avoid and resolve breaches of contracts, prime and subcontractor disputes, employment disputes, and other conflicts, particularly those relating to government entities and contractors. His extensive understanding of the government contracting process benefits clients not only in formal litigation, but also in finding creative pre-litigation solutions.

Mike has won bid protests and Contract Disputes Act claims against the federal government along with private employment and contract disputes in front of multiple state and federal trial and appellate courts and boards, including the General Accountability Office, Alabama Supreme Court, Northern District of Alabama, Court of Federal Claims, Eleventh Circuit, and Federal Circuit. He has successfully litigated claims against several government agencies, including the Department of Commerce, the Department of Defense, the Department of Energy, and the Department of Homeland Security. In addition, he has represented clients in proceedings involving alleged violations of the Americans with Disabilities Act, the Fair Labor Standards Act, and the Defense Contractors Whistleblower Protection Act.

Among his accomplishments, Mike successfully appealed a Court of Federal Claims decision erroneously holding his client had waived its protest through delay, winning reversal at the Federal Circuit in a published opinion. Mike is a member of the Mobile Bar Association and the Court of Federal Claims Bar Association. Mike is also one of Burr & Forman's attorneys named to J.D. Supra's 2022

PARALEGAL/ASSISTANT

Legal Practice Assistant

Sarah S. Johnson

(251) 345-8237

sjohnson@burr.com

CAPABILITIES

Construction & Project Development

Appellate Litigation

EDUCATION

J.D., *summa cum laude*, University of Alabama School of Law (2012)

B.A., Economics, University of Oklahoma (1997)

LICENSED IN

Alabama

ADMITTED IN

U.S. District Court - Northern District of Alabama

U.S. District Court - Middle District of Alabama

U.S. District Court - Southern District of Alabama

U.S. District Court - Middle District of Tennessee

U.S. District Court - Western District

Michael W. Rich

Readers' Choice Award for top authors and has been named a SuperLawyers "Rising Star" from 2017–2022.

When away from work and clients, Mike enjoys cooking, exercising, and spending time with his family. He is an adjunct professor teaching procurement law at the University of Alabama School of Law.

Mike earned his J.D. from the University of Alabama School of Law and his B.A. in Economics from the University of Oklahoma.

Experience

- Defense of injury litigation arising from the construction and industrial setting.
- Bid protest of the United States Customs and Border Protection's amended solicitation for IT services that allowed offerors to only amend certain portions of their submitted proposals. On appeal to the Federal Circuit, won reversal of the Court of Federal Claims holding that the pre-award protest grounds had been waived under application of the *Blue & Gold* waiver rule.
- Bid protest at the Government Accountability Office on USDA contract award for development, operation, and maintenance of tracking software for agricultural imports. Sustained on multiple grounds including irrational past performance evaluation, irrational technical evaluation, and irrational best-value tradeoff decision.
- Contract Disputes Act claim seeking equitable adjustment for attorney's fees incurred in successful defense of False Claims Act suit and appeal. United States Court of Federal Claims granted summary judgment to plaintiff, awarding full claimed amount.
- Bid protest of the Department of the Army's decision to cancel small business set-aside award under General Services Administration schedule for firefighting services and issue as full and open under indefinite-delivery/indefinite-quantity vehicle protestor did not hold for failure to comply with the Rule of Two. Court of Federal Claims sustained, holding that protest did not fall under Federal Acquisition Streamlining Act's jurisdictional bar and that agency failed to conduct proper market analysis.
- Contract Disputes Act claim against the Department of Energy based on agency's failure to provide proper notice that it would

of Tennessee

11th Circuit Court of Appeals

Court of Federal Claims

6th Circuit Court of Appeals

Federal Circuit Court of Appeals

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disallow costs in construction of plutonium processing plant. Court of Federal Claims granted summary judgment to plaintiff and remanded to agency for determination of amount owed.

- Bid protest of Department of Commerce's award of federal supply schedule task order for development, operation, and management of database analysis tools for United States Census. Court of Federal Claims sustained, holding that agency's cost-realism analysis was irrational and failed to consider important facts.
- Fair Labor Standards Act suit in which Unmanned Aerial System maintenance personnel alleged failure to pay overtime. Defeated motion for class certification and settled sole remaining plaintiff's claim for less than 5% of estimated exposure.
- Defense Contractors Whistleblower Protection Act suit alleging that defendant terminated plaintiff in retaliation for complaints about agency exercising direct supervision over contractor personnel. Northern District of Alabama granted summary judgment, holding that shouting match between plaintiff and government employee was nonpretextual and legitimate reason for termination.
- Americans with Disabilities Act suit alleging defendant retaliated against plaintiff by discharging him after request for accommodation. Eastern District of Virginia granted summary judgment on retaliation claim, holding that government's refusal to accept plaintiff for further postings was a legitimate, nonpretextual reason for termination.
- Alabama Prompt Pay Act suit alleging that defendant municipal airport authority had failed to pay flooring contractor for work performed. Circuit Court of Madison County, Alabama granted summary judgment, awarding plaintiff full amount of claim and attorney's fees.
- Breach of contract suit alleging that prime contractor solicited subcontractor's employees and failed to sponsor subcontractor for a facility clearance contrary to subcontract's terms. After bench trial, Northern District of Alabama held that prime contractor did not solicit subcontractor's employees but did breach contract by not sponsoring subcontractor for facility clearance. The Northern District of Alabama then reduced damage award by almost 90% because plaintiff failed to mitigate damages. On appeal, Eleventh Circuit affirmed reduction in damages. Post-mandate, Northern District of Alabama denied plaintiff's motion for attorney's fees.
- Successful defense against an appeal of grant of summary judgment by Southern District of Georgia in subcontractor's suit against prime contractor over termination of subcontract and calculation of vehicle storage fees on Department of Defense transportation contract. Eleventh Circuit affirmed district court's grant of summary judgment.

Honors & Recognition

- *Mid-South Super Lawyers*, "Rising Star," Government Contracts (2017-2022)

News

- Burr & Forman Attorneys Named Top Authors on JD Supra's 2022 Readers' Choice Awards
Firm News, 04.04.2022
- What Federal Contractors Need to Know about the Vaccine Mandate Status, Business Alabama
Firm News, 02.11.2022

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- Michael Rich Discusses Major Bid Protest Ruling with Law360 Firm News, 12.09.2021
- Burr & Forman Grows Mobile Office with Addition of Mike Rich Firm News, 07.01.2021

Speaking Engagements

- Webinar: New COVID-19 Vaccination and Testing Rules Speaking Engagement, Webinar, 11.09.2021

Articles

- Labor & Employment E-Note November 2021 Labor & Employment, 11.17.2021
- Health Care E-Note November 2021 Articles / Publications, 11.16.2021
- Safer Federal Workforce Task Force Updates Guidance for Federal Contractors Vaccine Updates/Return to Work, 11.12.2021
- Safer Federal Workforce Task Force Issues Additional Guidance on COVID-19 Safety Protocols for Federal Contractors Articles / Publications, 11.03.2021
- Corporate E-Note October 2021 Articles / Publications, 10.28.2021

Civic Activities

- Family Services Center, Inc., Board of Directors (2016–2018, 2021)

Professional Activities

- Huntsville-Madison County Bar Association
- Young Lawyers' Section Board of Directors (2018–2019)
- Huntsville Federal Bar Association
- Court of Federal Claims Bar Association