

Thomas K. Potter, III

Partner

Nashville, TN
(615) 724-3231
tpotter@burr.com



Tom Potter is a Partner in the firm's Nashville office and has over 35 years of experience representing business interests in securities, corporate and intellectual property disputes.

Tom represents broker-dealers and investment bankers in disputes from multi-district mutual-fund class actions to state-court jury trials on derivatives contracts, government enforcement actions, and constitutional challenges to municipal securities rules to customer arbitrations. He represents labels and artists in music copyright litigation over several multi-platinum rock and hip-hop albums, and manufacturers in product-configuration trademark and software interface infringement litigation.

In addition to disputed matters, Tom advises broker-dealers, municipal and investment advisors on regulatory and compliance matters, including FinTech, distributed ledger and other emerging technologies. He assists companies with internal investigations, regulatory and compliance matters. Tom has extensive experience in alternative dispute resolution (ADR), having tried scores of arbitrations, and sits as an arbitrator and Panel Chair for the Financial Institution Regulatory Authority (FINRA). Tom is also a member of the firm's Blockchain, Cryptocurrency and Electronic Transactions Group.

As the pandemic and ancillary fallout continues, Tom is applying 30+ years of internal investigation, compliance and regulatory enforcement experience to these COVID-specific government actions and the false-statement, false-claims and related risks they pose.

Tom is an author and speaker on a number of legal matters. He is also a frequent contributor to Burr's Securities Litigation **Blog**. To view Tom's full list of publications and presentations, please click **here**.

PARALEGAL/ASSISTANT

Legal Practice Assistant

Kyra M. Moore
(615) 734-3225
kmoore@burr.com

CAPABILITIES

Broker-Dealer Disputes
Sports & Entertainment
Commercial Litigation
Financial Institutions
Consumer Finance Litigation & Compliance
Manufacturing
Intellectual Property
Securities
Securities Litigation
Government Investigations
Non-Compete & Trade Secrets
White Collar Crime
Blockchain, Cryptocurrency & Electronic Transactions
PPP and CARES Act Audit, Investigations, & Defense
Cybersecurity & Data Privacy
Financial Institution Disputes

EDUCATION

J.D., *magna cum laude*, Cumberland School of Law at Samford University (1985)

B.A., American Government,

Thomas K. Potter, III

Experience

- Dismissal of trustees' breach and reformation claims in \$30M life-insurance conversion case. *Johnson v. Prudential Ins. Co. of America*, No. 3:11-cv-866 (USDC M.D. TN Mar. 29, 2013).

Securities Litigation, Regulation & Enforcement

- Dismissal of a securities-fraud mass action, in which an issuer alleged over 100 broker-dealers and financial institutions engaged in a short-sale market-manipulation scheme in connection with the "death spiral" convertible debenture financing of JAGNotes.com.
- Dismissal of '33 Act §11 putative class action against lead underwriters in offering by offshore service company.
- Defending a brokerage firm and its officer against fraud and fraudulent-conveyance claims about a reverse repurchase transaction to provide bridge financing for the LBO acquisition of a company subsequently looted by its purchasers.

Entertainment

- Summary judgment dismissing music copyright-infringement suit over reggaeton hit, *Gasolina*.
- Dismissal of claims against record labels and national distribution company in multimillion-dollar music infringement case involving the band, Puddle of Mudd.
- Defense jury verdict dismissing all claims in \$39M music copyright-infringement action against record label and international distribution company over rap song, *Back That Ass Up*.
- Dismissal of mass action against placement agent and others (issuers, rating agencies, collateral managers) in bank's action, seeking \$135M plus fees and costs arising from purchases of PreTSL and TruPS CDOs.
- Walk-away in East Tennessee jury case by disfigured child and trustee over dissipation of structured settlement funds, seeking \$3.9M before punitives.
- Award dismissing bank's action against brokerage firm, seeking \$7M plus treble damages from purchase of bottom-tranche CDOs.
- Award dismissing trade-secrets, breach and raiding claim seeking \$2.4M, plus punitives, fees and costs.

University of Virginia (1981)

LICENSED IN

Louisiana
Tennessee
Texas

ADMITTED IN

U.S. Supreme Court
U.S. Court of Appeals for the Fourth Circuit
U.S. Court of Appeals for the Fifth Circuit
U.S. Court of Appeals for the Sixth Circuit
U.S. Court of Appeals for the Ninth Circuit
U.S. District Court - Western District of Louisiana
U.S. District Court - Eastern District of Louisiana
U.S. District Court - Middle District of Louisiana
U.S. District Court - Middle District of Tennessee
U.S. District Court - Eastern District of Tennessee
U.S. District Court - Western District of Tennessee
U.S. District Court - Southern District of Texas
U.S. District Court - Western District of Texas
U.S. District Court - District of Colorado
U.S. District Court - District of Maryland
U.S. Bankruptcy Court - Middle District of Louisiana

Thomas K. Potter, III

- Defended broker-dealer against regulators' charges they had engaged in 21 prohibited municipal securities transactions totaling \$1.1B. Termed by The Bond Buyer "the largest involving G-37 ever brought."
- Summary judgment dismissing fraud and unsuitability action against annuity issuers and brokers by multiple purchasers of variable annuities.
- Dismissal of \$1.3M (plus punitive damages and fees) action for unsuitability, misrepresentation, negligence, fraud in New York Stock Exchange arbitration against broker-dealer brought by widow and her charitable remainder trust.
- Dismissal of civil claims against broker-dealer in investor securities and shareholder-derivative class actions in multi-district litigation over mutual-fund timing and late-trading. Resolved SEC's regulatory claims nominal fine and supervisory suspension.
- Denial of class certification in shareholder action over merger of server-virtualization software development company.

Honors & Recognition

- Named, *Chambers USA*, Litigation: General Commercial (2014-2022)
- Listed in *The Best Lawyers in America*®, Commercial Litigation since 2006, Litigation-Banking & Finance since 2011, Litigation-Intellectual Property since 2012, Litigation-Regulatory Enforcement (SEC, Telecom, Energy) since 2011, Litigation-Securities since 2011
- *Benchmark Litigation*, Distinguished Litigation Practitioners (2021)
- *Mid-South Super Lawyers*, Securities Litigation since 2018
- Martindale-Hubbell AV Preeminent® Peer Review Rating

News

- 65 Burr & Forman Attorneys Ranked in 2022 Chambers USA
Firm News, 06.03.2022
- Burr & Forman Launches Microsite and Enhances Cybersecurity & Data Privacy Team Across The Southeast
Firm News, 05.09.2022
- Burr & Forman Attorneys Named Top Authors on JD Supra's 2022 Readers' Choice Awards
Firm News, 04.04.2022
- Tom Potter Shares Insight on Reduced Trade Settlement Cycles for the Global Association of Risk Professionals
Firm News, 12.05.2021
- Tom Potter Featured in *Financial Advisor IQ* on the SEC's Conflict of Interest and Disclosure Rules
Firm News, 06.06.2018

Thomas K. Potter, III

Speaking Engagements

- National Society of Compliance Professionals 2018 National Conference
Speaking Engagement, Omni at CNN Center; Atlanta, GA, 10.29.2018
- Law and Business Tech CLE- Cybersecurity, Blockchain and Electronic Transactions
Speaking Engagement, University of Tennessee College of Law; Knoxville, TN, 09.21.2018
- National Society of Compliance Professionals Nashville Roundtable
Speaking Engagement, Burr & Forman; Nashville, TN, 08.09.2018
- Speaker: Financial Planning Association of Georgia's 2018 FPA Regional Symposium
Speaking Engagement, Cobb Galleria; Atlanta, GA, 05.09.2018
- Speaker, False Claims Act Seminar
Speaking Engagement, Frank M. Johnson U.S. Courthouse; Montgomery, AL, 03.07.2018

Articles

- Georgia Appellate Court Rejects Panel Manipulation Claims, Reverses Vacatur
Blog Articles, 09.08.2022
- SEC Proposes T+1 Settlement: Back to the Future
Securities Litigation, 02.15.2022
- Corporate E-Note October 2021
Articles / Publications, 10.28.2021
- US DOJ Files First Criminal Action for PPP Loan Fraud
Articles / Publications, 06.22.2020
- Insider Trading Trending
Articles / Publications, 02.27.2020

Blog Posts

- FINRA 2023 Exam Priorities
Securities Litigation, 01.12.2023
- FINRA Proposal Modernizes Supervision Rule to Recognize WFH
Securities Litigation, 08.01.2022
- FINRA Report Denies Arbitrator Selection Manipulation
Securities Litigation, 06.30.2022
- SCOTUS: Waiver of Arbitration Does Not Require Prejudice
Tennessee Business Litigation, 05.31.2022
- FINRA Warns Against Russian-Sponsored Cyber Attacks
Securities Litigation, 04.29.2022

Thomas K. Potter, III

Professional Activities

- Tennessee State Bar
- Louisiana State Bar
- Texas State Bar
- International Trademark Association
- American Bar Association, Business and Litigation
- RICO Law Reporter, Advisory Board
- Securities Industry and Financial Markets Association (SIFMA), Compliance & Legal Division
- National Society of Compliance Professionals (NSCP)
- Financial Institutions Regulatory Authority (FINRA), Arbitrator and Panel Chair
- Nashville Bar Foundation