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Michael B. Brough founded the Brough Law Firm (now The Brough Law Firm, PLLC) in 1988 in Chapel Hill, North Carolina. Today, the firm has eight attorneys, including G. Nicholas (Nick) N. Herman, Robert E. (Bob) Hornik, Jr., and T.C. Morphis, Jr., Albert M. Benshoff, S. Ellis Hankins, Kevin R. Hornik, Brady N. Herman, and Lydia E. Lavelle. With offices in Chapel Hill, Concord, and Raleigh, the firm has a statewide practice primarily devoted to local government and land use work.

The firm regularly assists developers in obtaining zoning and other land use entitlements, and we also represent individuals, citizen groups, businesses, and other corporations in a broad range of capacities relating to planning, zoning and land-use related matters. We regularly assist clients with rezonings, variances, special and conditional use permits, annexations, condemnations, vested rights, subdivision development, historic district designations, and regulations under the N.C. Coastal Area Management Act, as well as other State and federal land use and environmental laws.

The firm also has a robust local government law practice. We serve as general counsel to Person County and to twenty-four North Carolina municipalities, including Aberdeen, Boiling Spring Lakes, Carrboro, Carthage, Clemmons, Creedmoor, Foxfire Village, Gibson, Godwin, Hamlet, Hillsborough, Hoffman, Mocksville, Oakboro, Pinebluff, Robbins, Roxboro, Sedalia, Southport, Stanfield, Stem, Summerfield, Vass, and Whispering Pines. The firm also provides special litigation services for the Town of Cary, City of Concord, Currituck County, Rockingham County, Cabarrus County, Robeson County, and Brunswick County. We regularly assist numerous other cities and counties throughout the State in matters ranging from ordinance drafting to litigation, and we regularly handle matters as outside counsel that are considered too delicate for an in-house attorney to handle alone.

The members of the firm have extensive expertise in litigation and appellate matters, and they have argued over 135 cases in the North Carolina Supreme Court, North Carolina Court of Appeals, and the United States Court of Appeals for the Fourth Circuit. In addition, members of the firm have taught on the adjunct faculties at the University of North Carolina School of Law, North Carolina Central University School of Law, Duke University School of Law, Campbell University School of Law, North Carolina State University, Elon University, National Institute for Trial Advocacy, and at the School of Government in Chapel Hill. Collectively, the members of the firm have published 13 books and monographs, and over 100 articles (including Continuing Legal Education papers) on various areas of law in which the firm practices.



## G. NICHOLAS (NICK) HERMAN

Nick Herman received his Bachelor of Arts degree from the University of North Carolina at Chapel Hill as a Morehead-Cain Scholar and his law degree from Duke University School of Law. He has extensive litigation experience in state and federal court in a wide variety of areas of law, including municipal and county defense, zoning issues, constitutional law, civil rights, eminent domain, and employment law. He has also argued over 40 cases

in the North Carolina Supreme Court, North Carolina Court of Appeals, and the United States Court of Appeals for the Fourth Circuit.

Mr. Herman is also an Adjunct Professor at Campbell Law School and North Carolina Central University School of Law, and he has taught on the adjunct faculties at Duke Law School, UNC-CH Law School, and Elon University. He teaches courses in trial practice, the law of evidence, legal counseling and negotiating, arbitration, appellate advocacy, civil procedure, alternative dispute resolution, and pretrial litigation, among other courses. He has also taught on the faculty of the National Institute of Trial Advocacy in trial practice, negotiation and mediation, and deposition-taking skills. He is the author of: *North Carolina Civil Trial Practice* (Juris Publishing, Inc., 2nd ed. 2021); *Advocacy in Negotiation and Mediation* (Carolina Academic Press 2021); *Navigating the First Year of Law School* (Carolina Academic Press 2016); *Practical Evidence: The Law, Foundations, and Trial Techniques* (West Group, 2nd ed. 1999); *Plea Bargaining* (Juris Publishing, 5th ed. Inc. 2020); *Legal Counseling, Negotiating & Mediating: A Practical Approach* (Carolina Academic Press, 2nd ed. 2009); and *Client Interviewing, Counseling, and Decision-Making: A Practical Approach* (Carolina Academic Press, 2nd ed. 2021). He has also written over 60 articles on various subjects of law, litigation, and appeals.

Mr. Herman has been a lecturer at numerous Continuing Legal Education programs on topics such as land-use regulation powers, civil litigation and trial advocacy, eminent domain, the law of damages, witness preparation, disability law, and ethical considerations in civil litigation and appellate practice. He now serves as general counsel to the Town of Carrboro and the City of Roxboro. He has served as special litigation counsel for Cabarrus County, Rockingham County, Brunswick County, Chatham County, Currituck County, Robeson County, the City of Concord, the City of Wilmington, the Town of Unionville, and the Town of Garner. His practice is otherwise primarily devoted to general representation and complex litigation and appeals involving areas such as county and municipal law, zoning issues, land use regulation, condemnation cases, nuisance abatement, constitutional law, employment law, and business litigation.

## ROBERT E. (BOB) HORNIK, JR.

Bob Hornik received his Bachelor of Arts degree, with honors, in Political Science from LeMoyne College in Syracuse, New York, and his law degree from The Washington & Lee University School of Law in Lexington, Virginia. Before becoming a principal in the Brough Law Firm, he engaged in the private practice of law in Syracuse, New York, representing local governments and real estate developers.



Mr. Hornik's practice emphasizes municipal law, zoning and land use law, litigation, and ordinance drafting. He serves as general counsel to the Towns of Hillsborough, Hoffman, Stem, and Summerfield, the City of Boiling Spring Lakes, and Foxfire Village. In addition, Mr. Hornik supports others in the firm in their capacities as counsel for the Firm's other municipal clients. He has represented and advised municipalities in New York and North Carolina on issues including local finance, employment, annexation, zoning, planning and environmental law, and private developers in administrative and judicial proceedings at the State and Federal levels.

Mr. Hornik has extensive litigation experience in municipal, land use, and annexation matters in trial and appellate courts, including the North Carolina Supreme Court and the United States Supreme Court. He has also counseled clients in various commercial real estate transactions, including site acquisition, leasing and financing of multi-million-dollar commercial, retail and office ventures, and large scale residential subdivisions. Mr. Hornik's practice has included representation of several regional and national wireless telecommunication providers in the site acquisition and permitting processes for wireless telecommunications facilities, including State and Federal court actions brought under the Telecommunications Act.

Mr. Hornik is admitted to practice not only in North Carolina and New York, but also in the federal courts in the Northern and Western Districts of New York, in the Eastern, Middle and Western Districts of North Carolina, in the United States Circuit Court for the Fourth Circuit, and in the United States Supreme Court. He is a member of the North Carolina, New York and American Bar Associations. Mr. Hornik is active in the North Carolina Bar Association's Zoning, Planning, and Land Use Section, having served as a member of the Section's first Section Council. He served two terms as Chairman of the Section's Continuing Legal Education Committee, and has presented continuing legal education programs for municipal attorneys and newly admitted attorneys on numerous occasions.



## T.C. MORPHIS, JR.

T.C. Morphis grew up in Hickory, North Carolina. He received a Bachelor of Arts in Philosophy and History from UNC-Chapel Hill and his Law Degree and a Master's Degree in City and Regional Planning from UNC-Chapel Hill.

Mr. Morphis' primary practice areas include municipal, zoning, land use, employment, code enforcement, environmental, and coastal area management law. He provides general legal counsel for the City of Hamlet; the Towns of Aberdeen and Robbins; and the Village of Whispering Pines. He also serves as outside counsel to the Chatham County Board of Adjustment, and regularly represents citizen groups and other private clients in land-use litigation throughout North Carolina. Mr. Morphis has experience at all stages of litigation, from quasi-judicial hearings before local boards to trial court work and appellate advocacy before the North Carolina Court of Appeals and North Carolina Supreme Court. Mr. Morphis also regularly advises local government clients on code enforcement and board governance issues.

Early in his career, Mr. Morphis served as a clerk with the Charlotte City Attorney's Office and as an extern for the Honorable Judge Linda McGee of the North Carolina Court of Appeals. Mr. Morphis' Masters-Degree Project compared land trusts and resource conservation efforts in North Carolina with forest conservation in India, and he was a recipient of a U.S. Department of Education Foreign Language Area Studies scholarship for the study of Hindi and Urdu. Mr. Morphis also received, at UNC-CH Law School, the Gressman-Pollitt Award for Oral Advocacy, the Best Overall award in the UNC Environmental Negotiation Competition, and recognition as a finalist in the Merhige National Environmental Negotiation Competition.

Mr. Morphis is admitted to practice in the State courts in North Carolina and in the United States District Court, Middle District of North Carolina. He currently serves on the Board of the North Carolina Association of Municipal Attorneys and has previously served as the Chair of the North Carolina Bar Association's Zoning, Planning and Land Use Section Council and as the Co-Editor of the North Carolina Bar Association's Land Use Law Quarterly. He also previously served on the Triangle Land Conservancy's Land Protection Committee and as the Chairman of the Advisory Committee to the City of Durham's Community and Family Life Center at Lyon Park.

## ALBERT M. BENSHOFF

Al Benshoff graduated from the University of Michigan with a Bachelor of Science in Natural Resources. He briefly worked as a contractor for the U.S. Department of the Interior, Bureau of Outdoor Recreation (now the National Park Service) before working in environmental compliance for National Steel Corp. He later received a Master's Degree in Regional Planning from the University of Michigan.



For many years, he worked as a planner, first for the Beaufort County, S.C. Planning Commission, and then for the City of Cary, N.C. where he oversaw the adoption of the first Unified Development Ordinance, the construction of the first five miles of greenway, and several comprehensive plans. While working in Cary, he attended the evening law program at N.C. Central University School of Law, in Durham, NC.

After receiving his law degree, Mr. Benshoff became the City Attorney for Lumberton, N.C. and then served as the City Attorney for Concord, N.C. Some of his accomplishments in Concord include litigating a major zoning challenge to the new Cabarrus County jail, re-writing the Concord Development Ordinance, obtaining and defending Inter-Basin Transfer Permits from the Yadkin and Catawba Rivers to Concord and Kannapolis, assisting with the redevelopment of "Brownfield" sites, and organizing community development and the construction of the joint Albemarle-Concord- Kannapolis water pipeline.

Mr. Benshoff provides general legal counsel to the Village of Clemmons and the Towns of Gibson, Mocksville, Oakboro, Sedalia, and Stanfield. He has worked with other local government clients, including the Towns of Aberdeen, Carthage, Carrboro, Creedmoor, Selma, Holly Springs, Pinebluff, Robbins, the Lumberton Convention and Visitors Bureau, the Cities of Kannapolis and Roxboro, and the Village of Pinehurst. He practices in the areas of real estate development, code enforcement, contracts, economic development, annexation, land use and zoning, eminent domain, housing authorities, personnel, and community development, including U.S. Housing and Urban Development programs.

Mr. Benshoff is licensed in the North Carolina state courts and U.S. District Courts of the Eastern, Middle and Western Districts of North Carolina, as well as the U.S. Fourth Circuit Court of Appeals. He is an active member of the North Carolina Bar Association, where he has served on the Section Councils of both the Government & Public Sector Section and the Zoning, Planning and Land Use Law Section. Mr. Benshoff recently received the Grainger Barrett Award for Excellence from the Government & Public Sector Section. Also, from 2017 to 2019 Mr. Benshoff served on the Board of Directors of the NC Association of Municipal Attorneys. In the community, he serves as a director of a nonprofit corporation providing housing to low income seniors in Cabarrus County, the Methodist Episcopal Senior Housing, Inc.



## S. ELLIS HANKINS

Ellis Hankins earned his Bachelor of Arts, Master of Regional Planning, and Law degrees from UNC-Chapel Hill. As an attorney with the firm based in Raleigh, his practice focuses primarily on local government representation.

Mr. Hankins provides general legal counsel to Person County and the Town of Godwin. He has also taught as a visiting professor in graduate public policy and management programs at UNC-Chapel Hill, NC State, and Duke University, in the areas of state and local government, tax policy and public finance, public law and ethics, and intergovernmental relations. He also has assisted cities, counties, public risk pools, state municipal leagues, and county associations with executive searches and other management needs, as a member of a nationwide public sector consulting firm.

Mr. Hankins served as Executive Director of the North Carolina League of Municipalities, the statewide municipal association, and previously as the League's General Counsel and chief state legislative lobbyist. He has represented municipalities and other public and private sector entities and associations in state and federal trial and appellate courts and before congressional committees, as a member of the League staff and in private law practice. He is licensed to practice law in North Carolina and is admitted to practice before the US District Court for the Eastern District of North Carolina and the US Court of Appeals for the Fourth Circuit.

He is a former member of the National League of Cities Board of Directors; the NLC Mutual Insurance Company Board of Directors and Executive Committee (reinsurance company); the NCLM Risk Management Services Board of Trustees; the UNC School of Government Foundation Board of Directors; and the Wake County Parks and Recreation Commission. He assisted with the transition of North Carolina Governor-Elect Roy Cooper, leading the assessment team that evaluated the Governor's Office, Department of Administration and Office of State Human Resources. Mr. Hankins serves as the Chair of the Raleigh-Durham Airport Authority Board, as an appointee of the Wake County Board of Commissioners.

Mr. Hankins is a lifetime honorary member of the NC Municipal Attorneys Association, the NC City-County Management Association, and the NC League of Municipalities, and he received the Grainger Barrett Award for Excellence from the NC Bar Association Government and Public Sector Section. He is a member of the Order of the Long Leaf Pine, bestowed by Governor Pat McCrory for exemplary service to the State of North Carolina.

## KEVIN R. HORNIK

Kevin Hornik received his Bachelor of Arts degree, with honors, in History from Queens University of Charlotte in Charlotte, North Carolina in 2013. He received his law degree in 2016, and was admitted to practice in all courts of this State in 2017.

While in law school, Mr. Hornik worked as a legal writing consultant and instructor, assisting and advising students on their legal writing assignments. He also worked as an intern at the school's Community and Economic Development Clinic, providing pro bono legal services to non-profit and community and economic development organizations in the Charlotte area and in the surrounding communities. He also was a member of the World Affairs Council of Charlotte, participating in and attending a lecture series in the greater Charlotte area through both the law school and The Magellan Society.

Mr. Hornik currently serves as the City Attorney for Creedmoor and the Town Attorney for Pinebluff. He also regularly provides outside counsel to the Town of Chapel Hill Historic District Commission, the Town of Cary Board of Adjustment, and the City of Sanford Board of Adjustment and Historic Preservation Commission. His experience includes local government and municipal land use matters, as well as non-profit and community economic development work. Mr. Hornik practices with the firm by counseling the firm's numerous local government clients in land-use, regulatory, and employment matters, including all operational and transactional aspects of those local governments. In addition, he provides integral legal research, and litigation representation and support for cases litigated by the firm on behalf of local governments. This includes counsel and representation in administrative matters, quasi-judicial proceedings, trial proceedings, and appellate cases brought on behalf of the local governments represented by the firm in the NC Court of Appeals, NC Supreme Court, the federal district courts of North Carolina, and the US Court of Appeals for the Fourth Circuit.







## BRADY N. HERMAN

Brady Herman received his B.A. degree from Elon University and his J.D. degree from Campbell University School of Law. While in law school, he concentrated his studies in litigation. He was also a named contributor to *Navigating the First Year of Law School*, a nationally-distributed book published by Carolina Academic Press.

Mr. Herman currently serves as the Town Attorney for Carthage and Vass and the City Attorney for Southport. He also provides outside counsel to the City of Sanford Planning Board. His practice is devoted to assisting private clients obtain zoning and land use entitlements and advising local government clients in a wide range of areas, including zoning and planning matters, code enforcement, quasi-judicial functions, ordinance drafting and interpretation, police and fire functions, storm water and other public-utility matters, employment matters, and contract and other transactional matters for local governments. Mr. Herman also provides legal research and litigation representation and support for cases litigated by the firm. This includes counsel and representation in negotiation and mediation, administrative matters, quasi-judicial proceedings, trial proceedings, and appellate cases brought on behalf of the local governments represented by the firm in the North Carolina and federal courts.

Brady is a contributing author to the regular updates for *North Carolina Civil Trial Practice—With Application of the N.C. Rules of Evidence*—which is North Carolina’s leading trial-practice treatise published by Juris Publishing Company. He is admitted to practice in all North Carolina courts.

## LYDIA E. LAVELLE

Lydia E. Lavelle graduated with a B.A. from St. Andrews College and received a master's degree in Recreation Resources from North Carolina State University. She received her law degree from North Carolina Central University (NCCU) School of Law, after which she served as a law clerk for the Honorable Clifton E. Johnson on the North Carolina Court of Appeals.



In 2009, Ms. Lavelle joined the full-time faculty at NCCU Law School where she obtained the status of full professor. She regularly taught State and Local Governmental Law, among other subjects. She has published numerous articles and has co-authored two books. She has also served as a lecturer or panelist in over sixty workshops, events, and Continuing Legal Education programs on topics such as local government authority, legislative issues, and leadership.

Ms. Lavelle has served in public office and as a member or chair of numerous organizations, including the Executive Committee of the N.C. Metropolitan Mayors Coalition, the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization, the Orange County Solid Waste Advisory Group, the Board of Directors of the Orange County Visitor's Bureau, and the Board of Directors of the Chapel Hill-Carrboro Chamber of Commerce. Her memberships in legal organizations include the 18th Judicial District Bar, the North Carolina Bar Association, the American Bar Association, and the North Carolina Association of Women Attorneys (where she served as past President).

Ms. Lavelle's practice concentration is in state and local government law, including representation of local government councils and boards.

## APPELLATE CASES BY FIRM MEMBERS

*Adoption of P.E.P.*, 100 N.C. App. 191, 395 S.E.2d 133 (1990), rev'd, 329 N.C. 692, 407 S.E.2d 505 (1991)

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*Gates Four Homeowners v. City of Fayetteville*, 170 N.C. App. 688, 613 S.E.2d 55 (2005)

*Good Neighbors of Oregon Hill Protecting Property Rights v. County of Rockingham*, 242 N.C. App. 280, 121, 774 S.E.2d 902 (2015)

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*Myers v. Town of Plymouth*, 352 N.C. 670, 535 S.E.2d. 355 (1999) *Nello L. Teer Co. v. Orange County*, 810 F. Supp. 679 (4th Cir. 1993) *Nolan v. Village of Marvin*, 360 N.C. 256, 624 S.E.2d 305 (2006)

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*Orange Water and Sewer Authority v. Town of Carrboro*, 58 N.C. App. 676, 294 S.E.2d 757 (1982)

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*Parkwood Ass'n, Inc. v. City of Durham*, 124 N.C. App. 603, 478 S.E.2d 204 (1996)

## APPELLATE CASES BY FIRM MEMBERS (CON'T)

*Patmore v. Town of Chapel Hill, North Carolina*, 233 N.C. App. 133, 757 S.E.2d 302 (April 1, 2014)

*PBK Holdings, LLC v. County of Rockingham*, 233 N.C. App. 353, 756 S.E.2d 821 (2014)

*Phelps v. Duke Power Co.*, 76 N.C. App. 222, 332 S.E.2d 715 (1985), appeal after remand, 86 N.C. App. 455, 358 S.E.2d 89 (1987), rev'd and remanded, 324 N.C. 72, 376 S.E.2d 238 (1989)

*Piland v. Hertford County Bd. of Com'rs*, 141 N.C. App. 293, 539 S.E.2d 669 (2000)

*Pinewild Project P'ship v. Village of Pinehurst*, 198 N.C. App. 347, 679 S.E.2d 424 (2009)

*Quality Built Advantage, Inc. v. Pam Graham*, COA18-1230 (August 6, 2019) (unpublished)

*Rakestraw v. Town of Knightdale*, 188 N.C. App. 129, 652 S.E.2d 825 (2008)

*River Birch Associates v. City of Raleigh*, 326 N.C. 100, 388 S.E.2d 538 (1990)

*Roberts v. Schweiker*, 667 F.2d 1143 (4th Cir. 1981)

*Robinette v. Barriger*, 116 N.C. App. 197, 447 S.E.2d 498 (1994)

*Russell v. Guilford County*, 100 N.C. App. 541, 397 S.E.2d 335 (1990)

*Sandhills Association of Realtors, Inc. v. Village of Pinehurst*, No. 1:98-CV-00303 (M.D.N.C. 1999)

*Schaefer v. Town of Hillsborough*, 213 N.C. App. 212, 712 S.E.2d 727 (2011)

*Sidden v. Mailman*, 150 N.C. App. 373, 563 S.E.2d 55 (2002)

*Smith v. Forsyth Cty. Bd. of Adjust.*, 186 N.C. App. 651, 652 S.E.2d 355 (2007)

*Snow v. County of Dare*, 177 N.C. App. 564, 629 S.E.2d 620 (2006)

*Sofran Corp. v. City of Greensboro*, 327 N.C. 125, 393 S.E.2d 767 (1990)

*Starlites Tech Corp. v. Rockingham County*, 270 N.C. App. 71, 840 S.E.2d 231 (2020).

*State v. Turner*, 98 N.C. App. 442, 391 S.E.2d 524 (1990)

*State ex rel. Pollino v. Shkut*, 843 S.E.2d 716 (2020).

*Stealth Properties v. Pinebluff Bd. of Adjustment*, 183 N.C. App. 461, 645 S.E.2d 144 (2007)

*Summey Outdoor Advertising, Inc. v. County of Henderson*, 96 N.C. App. 533, 386 S.E.2d 439 (1989)

*Swan Beach Corolla, LLC v. County of Currituck*, 805 S.E.2d 743 (N.C. App. 2017)

*Templeton Properties, L.P. v. Town of Boone*, 219 N.C. App. 266, 724 S.E.2d 604, (2012)

*Templeton Properties, L.P. v. Town of Boone*, 368 N.C. 82, 772 S.E.2d 239 (2015)

*Terrell v. Chatham Cty*, 177 N.C. App. 567, 629 S.E.2d 620 (2006)

*Thrush v. Jones*, 227 N.C. App. 228, 741 S.E.2d 927 (2013) (unpublished)

*Tonter Investments, Inc. v. Pasquotank County*, 199 N.C. App. 579, 681 S.E.2d 536 (2009)

*Town of Ayden v. Town of Winterville*, 143 N.C. App. 136, 544 S.E.2d 821 (2001)

*Town of Cameron v. Woodell*, 150 N.C. App. 174, 563 S.E.2d 198 (2002)

## APPELLATE CASES BY FIRM MEMBERS (CON'T)

*Town of Carrboro v. Slack*, 820 S.E.2d 527 (N.C. App. 2018)

*Town of Hillsborough v. Crabtree*, 143 N.C. App. 707, 547 S.E.2d 139 (2001)

*Town of Pinebluff v. Marts*, 195 N.C. App. 659, 673 S.E.2d 740 (2009)

*United States v. Baker*, 985 F.2d 1248 (4th Cir. 1993)

*United States v. Blackwell*, 946 F. 2d 1049 (4th Cir. 1991)

*United States v. Blackwell*, 900 F.2d 742 (4th Cir. 1990)

*United States v. Clarke*, 7 F.3d 227 (4th Cir. 1993)

*United States v. Town of Garner*, 720 F. Supp.2d 721 (E.D.N.C. 2010)

*United States v. Giunta*, 925 F.2d 758 (4th Cir. 1991)

*United States v. Gomez*, 838 F.2d 468 (4th Cir. 1987)

*United States v. Hargas*, 908 F.2d 968 (4th Cir. 1990)

*United States v. \$10,694.00 U.S. Currency*, 828 F.2d 233 (4th Cir. 1987)

*University of North Carolina, In the Matter of Appeal*, 300 N.C. 563, 268 S.E.2d 472 (1980)

*U.S. Cold Storage, Inc. v. City of Lumberton*, 156 N.C. App. 327, 576 S.E.2d 415 (2003)

*U.S. Cold Storage, Inc. v. City of Lumberton*, 170 N.C. App. 411, 612 S.E.2d 415 (2005)

*Varner v. Bryan v. County of Henderson*, 113 N.C. App. 697, 440 S.E.2d 295 (1994)

*Village Creek Property Owners Association v. Town of Edenton*, 135 N.C. App. 482, 520 S.E.2d 793 (1999)

*Wake County Hospital System, Inc. v. National Casualty Co.*, 804 F. Supp. 768 (E.D.N.C.), aff'd, 996 F.2d 1213 (4th Cir. 1993)

*Wallace v. Town of Chapel Hill*, 93 N.C. App. 422, 378 S.E.2d 225 (1989)

*Wally v. The City of Kannapolis*, 365 N.C. 449, 722 S.E.2d 481 (2012)

*Wally v. The City of Kannapolis*, COA13-1425, 768 S.E.2d 200 (2014) (unpublished), pet. for disc. rev. denied, 776 S.E.2d 193 (2015)

*Walton North Carolina, LLC v. City of Concord*, 809 S.E.2d 164 (N.C. App. 2017)

*Watauga County Bd. of Educ. v. Town of Boone*, 106 N.C. App. 270, 416 S.E.2d 411 (1992)

*Weeks v. Town of Nags Head*, 177 N.C. App. 464, 628 S.E.2d 867 (2006)

*Wenco Management Co. v. Town of Carrboro*, 53 N.C. App. 480, 281 S.E.2d 74 (1981)

*WFGCC v. Town of Wake Forest*, 212 N.C. App. 632, 711 S.E.2d 816 (2011)

*White Oak Properties, Inc. v. Town of Carrboro*, 71 N.C. App. 360, 322 S.E.2d 400 (1984), rev'd, 313 N.C. 306, 327 S.E.2d 882 (1985), on remand, 74 N.C. App. 605, 328 S.E.2d 907 (1985)

*Wiles v. Concord Zoning Bd. of Adjust.*, 195 N.C. App. 598, 673 S.E.2d 799 (2009)

*Winding Ridge Homeowners Association v. Joffe*, 362 N.C. 225, 657 S.E.2d 356 (2008)

*Young v. City of Durham*, 2023-NCCOA-19, 882 S.E.2d 152 (2023) (unpublished)

# PUBLICATIONS BY FIRM MEMBERS

## Books & Monographs

- North Carolina Civil Trial Practice (Juris Publishing, 2nd ed. 2021).
- Advocacy in Negotiation and Mediation (Carolina Academic Press 2021).
- Client Interviewing, Counseling, and Decision-Making: A Practical Approach (Carolina Academic Press, 2nd ed. 2021).
- Plea Bargaining (Juris Publishing, Inc., 5th ed. 2020).
- Navigating The First Year of Law School (Carolina Academic Press 2016).
- Legal Counseling, Negotiating & Mediating: A Practical Approach (Carolina Academic Press, 2nd ed. 2009).
- The Nonconforming Use in North Carolina Zoning Law: Text and Model Ordinance (Institute of Government 1976).
- North Carolina Volunteer Fire Department Journal (1995 to present).
- The Order of The Golden Fleece at Chapel Hill, 1904-2004: America's First Honor Society For University Leaders (The University of North Carolina at Chapel Hill Library 2005).
- A Practical Approach to Client Interviewing, Counseling, and Decision-Making: For Clinical Programs and Practical-skills Courses (Carolina Academic Press 2009).
- Practical Evidence: The Law, Foundations, and Trial Techniques (West Group, 2nd ed. 1999).
- Preparing Ordinances Regulating Mobile Homes and Mobile Home Parks in North Carolina: A Guidebook (Institute of Government 1976).
- Selected Major Issues in North Carolina Zoning and Land Use Law (1986).
- A Unified Development Ordinance (American Planning Association 1985).
- The Zoning Board of Adjustment in North Carolina (Institute of Government, 2d. ed. 1984).

## Articles

- "Pitfalls to Avoid in Written Decisions on Quasi-Judicial Matters," NC Association of Municipal Attorneys' Summer Conference (August 4-6, 2022)
- "The Future of Impact Fees in Light of *Quality Built Homes, Inc. v. Town of Carthage*," N.C. Bar Association, 2017 Zoning Planning & Land Use Section Annual Meeting (April 6, 2017).
- Op-ed article: Gorsuch on the Supreme Court Will Not Cause the Sky to Fall, *The Herald Sun* (February 10, 2017).
- "Illegal Fees and Attorneys' Fees, N.C. Bar Association, 2016 Zoning, Planning & Land Use Section Annual Meeting (March 18, 2016).
- Op-ed article: When Politics Becomes a Team Sport, We All Lose, *The News & Observer*, (February 2, 2016).
- "Arguing For a Broad Construction of the Zoning Power," N.C. Association of County Attorneys Winter Conference (UNC School of Government, February 6, 2015).



## PUBLICATIONS BY FIRM MEMBERS (CON'T)

- "The Current Scope of Local Government Land-Use Regulation Powers: Have We Turned Back to the 1870s?," 18 *The North Carolina State Bar Journal*, No. 4 at 8-12 (Winter 2013).
- "Legal Talking Points for Interpreting Lanvale Contextually," N.C. Municipal Attorneys Winter Conference (UNC School of Government, March 14-15, 2013).
- "Major Overhaul of Annexation Statutes: What Does It Mean for Land Use Practitioners?," *Land Use Law Quarterly* (NC Bar Association January, 2012)
- "New Statute Makes Important Changes to the Statute of Limitations Applicable to Challenges to Zoning Ordinances," *Land Use Law Quarterly* (NC Bar Association October, 2011).
- "An Introduction to Form-Based Zoning," *Land Use Law Quarterly* (NC Bar Association April, 2010).
- "Land Use Options for Protecting Downtown as a Retail Destination," *Land Use Law Quarterly* (NC Bar Association, December, 2009).
- "Effective Advocacy in Mediation," 11 *The North Carolina State Bar Journal*, No. 2 at 16 (Summer 2006); reprinted in *Civil Trial From Start to Finish* at 54-58 (National Business Institute, Eau Claire, Wisconsin, July 2006); reprinted in *General Practice Plus* at 3 (Virginia State Bar, General Practice Section, Spring 2007).
- "How to Value a Case for Negotiation and Settlement," 10 *The North Carolina State Bar Journal*, No. 2 at 32 (Summer 2005); reprinted in 31 *The Montana Lawyer*, No. 3 (November, 2005).
- "10 Tools for Mediation Caucuses," 41 *TRIAL*, No. 5 at 66 (May, 2005).
- "Getting the Most Out of Your Appraiser (Updated)," CLE International Eminent Domain Conference (August 14-15 2003).
- "Local Regulation of Intensive Livestock Operations After *Craig v. County of Chatham*," North Carolina Bar Association CLE Program (October 4, 2002).
- "The Law of Depositions in North Carolina," North Carolina Academy of Trial Lawyers CLE Program (January 11, 2002).
- "Fighting Crime Through Nuisance Abatement," 19 *Campbell Law Observer* No. 19, at 1 (January 1998).
- "Appendices: Practice Pointers for Brief Writing, and Practice Pointers for Oral Argument," in Duncan & Solari, *North Carolina Appellate Advocacy*, (The Harrison Co., 1995 Supplement).
- "What's New About Punitive Damages," 43 *The North Carolina State Bar Quarterly*, No. 2, at 6 (Spring, 1996).
- "Enter Opening Statement: Staging the Case," 31 *Trial* No. 7, at 57 (July, 1995); reprinted for the Women Lawyers Assoc. of Los Angeles 2nd Annual Women Litigators Forum, Nov. 11, 1995, and the Philadelphia Bar Association Annual Education Conference on "Effective Trial Advocacy," December 4, 1996.
- "How to Master Direct Examination: Practical Perspectives," 31 *Trial* No. 4, at 70 (April, 1995); reprinted in 41 *The Trial Lawyers Guide*, No. 2 (Summer 1997); reprinted by the Pennsylvania Bar Institute, Continuing Legal Education (1997).

## PUBLICATIONS BY FIRM MEMBERS (CON'T)

- "Chapter 15: Local Government Administrative Issues," *The North Carolina Administrative Law Guide* (1996).
- "Oral Deposition Taking," Chapter 6 in *Civil Discovery Practice in North Carolina* (Law Practice Handbooks, Inc. 1995).
- "Out of Focus: The Fuzzy Line Between Regulatory 'Takings' and Valid Zoning-Related 'Exactions' in North Carolina and Federal Jurisprudence," 16 *Campbell L. Rev.* 3 (1994).
- "Taking a Deposition Under North Carolina Law," 21 *N.C. Central Univ. Law Journal* No. 2, at 215 (1995).
- "A Practical System for Legal Research," 21 *N.C. Central Univ. Law Journal*, No. 1, at 85 (1994).
- "The New Amendments to the Federal Rules of Civil Procedure," 41 *The North Carolina State Bar Quarterly*, No. 2, at 26 (Spring, 1994).
- "Preserving the Record for Appeal Under North Carolina Law," 40 *The North Carolina State Bar Quarterly*, No. 4, at 32 (Fall 1993).
- "Preserving the Trial Record for Appeal," 29 *Trial*, No. 10, at 45 (1993).
- "Effective Appellate Oral Argument," 16 *The Champion*, No. 10, at 43 (December, 1992).
- "The Case for Submitting Written Instructions to the Jury," 39 *The North Carolina State Bar Quarterly*, No. 4, at 14 (Fall, 1992).
- "Practice Pointers for Appellate Oral Argument," 28 *Trial*, No. 10, at 64 (October, 1992); reprinted in Brinkos, Janet L., *Course Book on: "The Woman Advocate '94"* (Seminars sponsored by Prentice Hall Law & Business and the Section of Litigation of the American Bar Association, April 14-15, 1994 in New York City; May 5-6, 1994 in Chicago; and May 19-20, 1994 in San Francisco); reprinted for the *King Hall Civil Rights Clinic Student Manual*, University of California School of Law at Davis (1996); reprinted for the Federal Public Defender, District of New Mexico seminar on "How to Do a Federal Criminal Appeal," February 27, 1998 in Las Cruces, New Mexico; reprinted for St. John's University School of Law (summer course, 1999); reprinted for the Honorable Rhonda Reid Winston, Superior Court of the District of Columbia, presentation at the Charlotte E. Ray Inn of Court meeting, October 23, 2003.
- "How to Do a Federal Criminal Appeal," February 27, 1998 in Las Cruces, New Mexico.
- "Practice Pointers for Appellate Brief Writing," 28 *Trial*, No. 9, at 122 (September, 1992); reprinted for the Federal Public Defender, District of New Mexico seminar on "Effective Appellate Brief Writing," 16 *The Champion*, No. 7, at 35 (August, 1992).
- "Appellate Oral Argument in Epitome," 39 *The North Carolina State Bar Quarterly*, No. 3, at 8 (Summer, 1992).
- "Appellate Brief Writing in Epitome," 39 *The North Carolina State Bar Quarterly*, No. 2, at 6 (Spring, 1992).
- "The North Carolina Supreme Court's New Frivolous Appeal Rule," 36 *The North Carolina State Bar Quarterly*, No. 3, at 16 (Summer, 1989).

## PUBLICATIONS BY FIRM MEMBERS (CON'T)

- "A Comparative Summary of Current State Drug-Testing Legislation," 3 *Employee Testing & the Law*, No. 6, at 1 (June 1988).
- "Limiting Litigation Over Land Use Decisions," *Public Risk*, (Public Risk Management Association, Sept./Oct. 1988).
- "Is North Carolina's Frivolous Appeal Rule Frivolous?," 9 *Campbell Law Observer*, Nos. 3 and 4 (April & May, 1988). (Effective July 1, 1989 the N.C. Supreme Court adopted a new Appellate Rule 34 as proposed in this article).
- "Negligence in Employee Drug Testing," 92 *Case & Comment*, No. 4, at 3 (July-Aug. 1987); reprinted in 1 *Employee Testing & the Law*, No. 4, at 1 (Dec. 1986), and 19 *Trial Briefs*, No. 3, at 27 (1987).
- "Intentional Infliction of Emotional Distress in Employee Drug Testing," 2 *Employee Testing & the Law*, No. 3, at 1 (1987).
- "Double Criminality and Complex Crimes," Chapter 12 in Nanda & Bassiouni, *International Criminal Law—A Guide to U.S. Practice and Procedure*, (Practicing Law Institute, 1987), at 365; reprinted for the National Association of Criminal Defense Lawyers Seminar, Feb. 12-16, 1986, Acapulco, Mexico.
- "The Fourth Circuit Construes the Inscrutable Comprehensive Forfeiture Act of 1984 in *United States v. Harvey*," 4 *Inside Drug Law*, No. 4, at 1 (May/June 1987).
- "International Extradition in Drug Cases," 10 *N.C. Journal of International Law & Commercial Regulation*, No. 2, at 353 (Spring, 1985); reprinted in the Advanced Criminal Practitioners Seminars, National Association of Criminal Defense Lawyers, Fourth Annual Hawaii Seminar, Maui, May 10-17, 1985.
- "Fending off Forfeiture," 21 *Trial*, No. 12, at 70 (Dec. 1985).
- "International Extradition in CCE and RICO Cases," 9 *Inside Drug Law*, No. 2, at 5 (Nov., 1985).
- "Protecting Innocent Owners from Drug-Related Forfeiture," 2 *Inside Drug Law*, No. 2, at 1 (March, 1985).
- "Problems of Double Criminality," 21 *Trial*, No. 1, at 58 (January 1985).
- "Legal Implications of Human In Vitro Fertilization for the Practicing Physician in North Carolina," 6 *Campbell Law Review*, at 5 (Spring, 1984).
- "Saving Your Client's Ox: Some Fundamental Considerations and Defenses to Forfeiture Under 21 U.S.C. 881," 8 *The Champion*, No. 1, at 11 (Jan./Feb., 1984; reprinted in 15 *Trial Briefs*, No. 1 (1984).
- "Flexibility Without Arbitrariness in the Zoning System: Observations on North Carolina Special Exception and Zoning Amendment Cases," 53 *N.C. Law Review* 925-958 (1975).

## PRESENTATIONS BY FIRM MEMBERS

- Faculty Presenter, “Navigating Local Land Use Hearings – Staying in the Channels and off the Rocks,” NC Association of Municipal Attorneys’ Summer Conference, August 4-6, 2022
- Faculty Presenter, “Zoning and Land Use Law Basics,” Real Property Section (NC Bar Association, October 7, 2021)
- Faculty Presenter, “The 2019 Zoning, Planning and Land Use Debate,” Zoning, Planning & Land Use Law Section Annual Meeting (NC Bar Association, April 5, 2019)
- “Amotion, Off the Rails and Then Some,” NC Carolina Municipal Attorney’s Association Winter Conference (UNC-School of Government, March 22, 2019)
- Faculty Presenter, “Local Government Compliance With the “Reasonable Accommodation” Requirement of the FHA, ADA, and RA,” NC Municipal Attorney’s Association Summer Conference, August 2-4, 2018
- “Quasi-Judicial Procedure: Evidence and Building a Record,” City of Creedmoor Board of Adjustment (July 12, 2018)
- “Code Enforcement,” N.C. Municipal Attorney’s Association Winter Conference (UNC-School of Government, March 23, 2018)
- “Wireless Telecommunication Zoning after H.B. 310,” NC Association of Zoning Officials (February 19, 2018)
- “Wireless Telecommunications Workshop,” sponsored by the Town of Carthage and The Brough Law Firm, PLLC (NC Chapter of the American Planning Association, December 12, 2017)
- “Reexamining Checks and Balances: Legislative Changes to State and Local Government,” Government and Public Sector Section (NC Bar Association, November 17, 2017)
- Telecommunication and Public Rights-of-Way Ordinances, Town of Carthage Board of Commissioners and Planning Board (August 23, 2017)
- “The Future of Water and Sewer Impact Fees,” Zoning, Planning & Land Use Law Section Annual Meeting (NC Bar Association, April 6, 2017)
- “Local Government Overview,” City of Creedmoor Board of Commissioners (May 17, 2016)
- “Illegal Fees and Attorneys’ Fees,” Zoning, Planning & Land Use Section Annual Meeting (NC Bar Association, March 18, 2016)
- “Trial Advocacy Tips,” Campbell Law School Trial Advocacy Program (Campbell Law School, March 25, 2015)
- “Professionalism Issues for Local Government Counsel,” Professionalism for New Attorneys Program (NC Bar Association, October 14, 2015)
- “Protecting Endangered Properties - Prevention of Demolition by Neglect and Other Preservation Tools,” Preservation North Carolina Annual Conference. (Salisbury, NC, September 17, 2015)

## PRESENTATIONS BY FIRM MEMBERS (CON'T)

- "A Reluctant Acceptance of Public Private Partnerships in North Carolina," Zoning Planning and Land Use Law Section Annual Meeting (NC Bar Association, March 27, 2015)
- "A Discussion of *Lanvale Properties v. County of Cabarrus*," NC Association of County Attorneys Winter Conference (U.N.C.-School of Government, February 6, 2015)
- "Quasi-Judicial Procedures," Town of Aberdeen Planning Board and Historic Preservation Commission (January 15, 2015)
- "Fair Housing and Local Government Land-use Regulations Affecting Persons with Disabilities," Town of Cary Board of Adjustment (October 6, 2014)
- "Fair Housing and Reasonable Accommodations by Local Governments," 2014 North Carolina Planning Conference (October 2, 2014)
- "Managing the Attorney-client Relationship and Organization of a Legal Department," Professionalism for New Admittees Program (NC Bar Association, May 15, 2014)
- "The State of Local Government Powers after *Lanvale Properties, LLC v. Cabarrus County* and into the Future," Joint Zoning, Planning & Land Use Section and Government/Public Sector Section C.L.E. Program (NC Bar Association, March 28, 2014)
- "The Aberdeen Board of Commissioners," Town of Aberdeen Board of Commissioners (February 27, 2014)
- "The Aberdeen Planning Board: An Introduction," Town of Aberdeen Planning Board (October 17, 2013)
- "Quasi-Judicial Procedure," City of Concord Board of Adjustment (August 28, 2012)
- "*Lanvale Properties, LLC v. Cabarrus County* and the City of Locust and Its Implications," N.C. Municipal Attorney's Association Winter Conference (UNC-School of Government, March 14-15, 2013)
- "Quasi-Judicial Procedure," Town of Cary Board of Adjustment (March 22, 2011)
- "Town of Aberdeen Historic Preservation Commission," Town of Aberdeen Historic Preservation Commission (March 21, 2011)
- Lecture on "Litigation in Real Estate Development Process" course at Kenan-Flagler School of Business (UNC-Chapel Hill, January 27, 2011)
- Testimony on behalf of the National League of Cities, National Association of Counties, National Sheriffs Association, National School Boards Association, International City-County Management Association, International Public Management Association for Human Resources, et. al. in Opposition to H.R. 413, Public Safety Employer-Employee Cooperation Act of 2009, before the U.S. House of Representatives Subcommittee on Health, Employment, Labor and Pensions, 111th Congress (March 10, 2010)
- "With a Little Help From My Friends—Negotiation Techniques," NC Bar Association CLE, "We Can Work It Out—15th Dispute Resolution Section Annual Meeting," (April 11, 2008)
- Leadership Lecture (Elon University Center for Leadership, March 12, 2008)
- "Constitution Day," Lecture to Elon University, College of Arts & Sciences: "Exploring Some Common Constitutional Myths" (September 19, 2007)

## PRESENTATIONS BY FIRM MEMBERS (CON'T)

- "The Legal Responsibilities of the Landlord Under NC Law," Housing Workshop (City of Roxboro, N.C., July 23, 2007)
- "Professionalism in Your Practice" (Orange County Bar Association CLE Second Celebration of Professionalism, January 26, 2006)
- "Law Students and Lawyers in Professionalism" (Orange County Bar Association CLE on Professionalism, February 12, 2004)
- "Update on the City of Hickory Unified Development Ordinance" (Catawba County Bar Association meeting, June 12, 2009)
- "Development Agreements and Conditional Zoning in North Carolina" (Moore County Planning Retreat, August 15, 2008)
- "Origin, History, And Status Of Bill Dealing With Quasi-Judicial Land Use Decisions" (Law Seminars International Two-Day Conference, July 24-25, 2008)
- "Senate Bill 212: Land-Use Permit Appeals" (N.C. Bar Foundation, May 3, 2007)
- "Governmental Immunity" (UNC-School of Government, October 27, 2005)
- "Judicial Review of Quasi-Judicial Zoning Decisions" (NC Bar Foundation, May 7-8, 2004)
- "Getting the Most Out of Your Appraiser (Updated)" (CLE International Eminent Domain Conference, August 14-15, 2003)
- "Local Regulation of Intensive Livestock Operations After *Craig v. County of Chatham*" (NC Bar Association CLE Program October 4, 2002)
- "Getting the Most Out of Your Appraiser" (CLE International Eminent Domain Conference, June 27-28, 2002)
- "Neither Fish Nor Fowl: Conditional Use Zoning" (NC Bar Foundation, 2002)
- "The Law of Depositions in North Carolina" (N.C. Academy of Trial Lawyers CLE Program January 11, 2002)
- "A Proposed Statute Dealing With Appeals of Quasi-Judicial Land Use Decisions" (NC Bar Foundation, 2001)
- "How Land Use Regulations Can Affect Property Values" (NC Bar Foundation, 1999)
- "Appealing to and From the Board of Adjustment" (NC Bar Foundation, 1997)
- "Update in Telecommunications Law with an Emphasis on Cell Tower Permitting," NC Municipal Attorneys' Conference (August, 1997)
- "Punitive Damages," Seventh Annual Festival of Legal Learning (UNC-School of Law CLE, 1997)
- "Enforceability of Manager Employment Agreements," NC City-County Management Association Winter Conference (Chapel Hill, February 9, 1996)
- "Overview of the Telecommunications Act of 1996," NC Association of Municipal Attorneys Summer Conference (Pinehurst, August 3, 1996)
- "Ethics of Witness Preparation" (UNC-School of Law CLE, 1996)

## PRESENTATIONS BY FIRM MEMBERS (CON'T)

- "Rate Regulation and Other Issues Affecting NC Municipalities in the Cable Television Consumer Protection and Competition Act of 1992 and FCC Regulations and Rulings," NC League of Municipalities Annual Convention (Asheville, October 18, 1994)
- "*Dolan vs. Tigard*: The Supreme Court Advances Taking Law" (NC Bar Foundation 1994)
- "Legal Issues in Obtaining Development Permission for Your Client Under Local Zoning and Subdivision Ordinances" (Wake Forest CLE, 1992)
- "Liability of Local Governments for Damages for Unlawful Land Use Decisions" (NC Bar Foundation, 1991)
- "Recent Developments in N.C. Land Use Law" (National Business Institute, Inc., 1990)
- "Legal Issues in Obtaining Development Permission for Your Client Under Local Zoning and Subdivision Ordinances" (Wake Forest CLE, 1990)
- "Local Watershed Protection Programs, Water Rights Resources and Quality," NC Bar Foundation and Environmental & Natural Resources Law Section, NC Bar Association (1990)
- "Ethical Considerations in Civil Litigation & Appellate Practice" (NCCU School of Law CLE, 1990)
- "Land Use Litigation Procedural Issues, Land Use Regulation and Planning," NC Bar Foundation and Real Estate Section, NC Bar Association (1988)
- "Vested Rights," Land Use Litigation Seminar (NC Academy of Trial Lawyers, 1987)

## ORGANIZATIONAL AFFILIATIONS OF FIRM MEMBERS

- North Carolina Bar Association, Zoning, Planning, and Land Use Law Section
- North Carolina Bar Association, Government and Public Sector Section
- North Carolina Association of Municipal Attorneys
- North Carolina Council of School Attorneys
- Scribes – The American Society of Writers on Legal Subjects
- North Carolina Council of School Attorneys

## BAR MEMBERSHIPS FOR FIRM MEMBERS

- North Carolina State Bar
- US District Court, Eastern District, N.C.
- US District Court, Middle District, N.C.
- US District Court, Western District, N.C.
- US Court of Appeals for the Fourth Circuit
- United States Supreme Court



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