

## LYLE D. WASHOWICH

### BIOGRAPHY

Lyle D. Washowich is Burns White's Chief Operating Officer (Western Region) and Co-Chair of the firm's Banking and Financial Services, Complex and Commercial Litigation, and Cybersecurity practice groups. Mr. Washowich focuses his practice in the areas of civil, commercial, and complex litigation for a diverse clientele from the financial services, business, insurance, transportation/logistics and manufacturing sectors.

In financial services litigation, Mr. Washowich has represented national banks, federal and state savings associations, state-chartered banks, community banks, and other affiliated entities, as well as investment services firms and investment advisors, in federal/state court litigation and in private venues. He has handled alleged breaches of contract, disputes among partnerships and other business interests, alleged breaches of fiduciary duty, claims brought pursuant to the Uniform Commercial Code (UCC), and other types of statutory and common law claims. These include single plaintiff and putative class action cases, along with initiating and defending emergency motions for injunctions and temporary restraining orders.

Mr. Washowich's commercial and civil litigation practice includes representation of large, midsized, and small business clients. These cases often involve contract disputes, controversies arising out of strained business relationships, and allegations resulting from business torts and accident and bodily injury. These cases have included claims for professional malpractice, breaches of agreement, business ventures gone awry and many others, including numerous putative class action cases. Mr. Washowich also performs analyses of indemnity, defense, coverage and related obligations for a series of insurance clients. Additionally, he handles litigation and advises clients in the cybersecurity area.

As a result of Mr. Washowich's experience handling litigation claims, he was selected as one of 30 Pennsylvania "Lawyers on the Fast Track" by *The Legal Intelligencer* and *Pennsylvania Law Weekly* publications in 2010. He was selected as an Allegheny County Bar Foundation Fellow in 2016. In 2019, he was selected to participate in Burns White's Leadership Program. In 2021, he was recognized as one of the 20 People to Know in Law, by the *Pittsburgh Business Times*. Mr. Washowich was selected by his peers for inclusion in *Best Lawyers in America*® for Commercial Litigation in the 2022 edition.

### CREDENTIALS

#### Areas of Law

- Financial Institution Litigation
- Class Action Litigation
- Commercial Litigation
- Cybersecurity Liability
- Professional Liability Litigation
- Business and Insurance Law

#### Education

- Northwestern University (J.D., 1999, associate articles editor of the Law Review)
- Allegheny College (B.A., *summa cum laude*, Phi Beta Kappa, 1996)



412-995-3004

[ldwashowich@burnswhite.com](mailto:ldwashowich@burnswhite.com)

Burns White Center  
48 26th Street  
Pittsburgh, PA 15222

## Bar and Court Admissions

- Commonwealth of Pennsylvania
- United States Supreme Court
- United States Court of Appeals for the Third Circuit
- United States District Court for the Eastern District of Pennsylvania
- United States District Court for the Middle District of Pennsylvania
- United States District Court for the Western District of Pennsylvania
- United States District Court for the Eastern District of Michigan

## Memberships

- Pennsylvania Association of Community Bankers
- Pennsylvania Bankers Association
- Allegheny County Bar Association
- Pennsylvania Bar Association

## **PRESENTATIONS**

- Understanding Cybersecurity Law, Client Presentation, November 2021
- Considerations in Responding to a Subpoena, Client Presentation, September 2020
- Pennsylvania's Evolving Cybersecurity Law: What You Need to Know, Pennsylvania Association of Community Bankers Annual Convention, September 2019
- Alternative Fee Arrangements: The Demise of the Billable Hour, In-house client presentation, July 2018
- Cybersecurity for Business and Industry: A Necessary Framework for Action, The Legal Intelligencer's In-House Counsel Seminar, Sept. 2015
- Cybersecurity in Financial Institutions: A Necessary Framework for Action, Pennsylvania Association of Community Bankers Annual Convention, Sept. 2014
- Suspicious Activity Reports: Deciding When a Good Faith Suspicion is Good Enough, Pennsylvania Association of Community Bankers Annual Convention, Sept. 2013

## **PUBLICATIONS**

- Co-Author, "Cybersecurity Incident Reporting For CIRCIA 2022 Establishes New Requirements For Critical Infrastructure Companies," *Burns White Insights*, March 2022
- "Federal Court Finds No Interception of Online Shoppers' Data by Third-Party Advertising Company," *Burns White Insights*, July 2021
- "Pennsylvania Federal District Court Rules That Putative Class Members May Be Interviewed By Defendant," *Burns White Insights*, April 2021
- "Pennsylvania Federal Court Allows Claims to Proceed in Putative Class Action Data Breach Lawsuit," *Burns White Insights*, January 2021
- "Scrutinizing Cy Pres Class Action Settlements—Recent Court Trends," *Burns White Insights*, Co-Authors Lyle Washowich and Gerard Hornby, January 2020
- "Pennsylvania's New Cyber Security Landscape," *Hometown Banker*, July 2019
- "Pennsylvania's New Cyber Security Landscape," *Burns White Insights*, Co-Authors Lyle Washowich and Taylor Wantz, April 2019
- "Upcoming Amendments to Federal Rule of Civil Procedure 23," *Burns White Insights*, November 2018
- "Suspicious Activity Reports: Deciding When A Good Faith Suspicion Is Good Enough," *Transactions*, July 2013
- "Suspicious Activity Reports: Deciding When a Good Faith Suspicion Is Good Enough," *paBanker*, November-December 2012
- "Identifying Opportunities for Community Banks through Syndicated Loans and Loan Participations," *Transactions*, December 2012
- "Women in the Law Division establishes Professional Development Committee, creates roundtable series," *ACBA Lawyers Journal*, January 1, 2010
- "U.S. Supreme Court preserves jurisdictional parity between national banks and state-chartered institutions," *Client Bulletin*, January 20, 2006
- "National banks beware: Your branches may carry greater risk than you realize," *The Banking Law Journal*, July/August 2005

**Burns White**

ATTORNEYS AT LAW

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## ACCOLADES & INVOLVEMENT

### Honors/Awards

- Selected by his peers for inclusion in *Best Lawyers of America*® for Commercial Litigation, 2022
- Recognized as one of the “20 People to Know in Law” by the *Pittsburgh Business Times*, 2021
- Selected as one of 30 “Lawyers on the Fast Track” in 2010 by *The Legal Intelligencer* and *Pennsylvania Law Weekly* publications
- Selected for inclusion on the 2006 *Pennsylvania Super Lawyers*® “Rising Stars” list

### Involvement

- Appointed to Allegheny County Bar Association’s Ad Hoc Gender Equality Survey Committee, 2021-2022
- Selected to participate in and completed Burns White’s Leadership Engagement and Development (LEAD) program, 2019-2020
- Inducted as Allegheny County Bar Foundation Fellow, Class of 2016
- Participated in Allegheny County Bar Association’s Women in Law Division, 2002-2012

## REPRESENTATIVE MATTERS

- Successfully defended and secured a summary judgment for a national bank on claims of alleged aiding and abetting a breach of fiduciary duty, civil conspiracy, breach of implied covenant of good faith and fair dealing, and fraud in the inducement for a commercial real estate and partnership dispute on notes in excess of \$20 million
- Successfully settled claims for global retailer against vendor for failure to pay for goods provided
- Successfully defended state savings bank against claims for alleged improper transmission of electronic funds
- Successfully brought a preliminary injunction and temporary restraining order for a community bank against investment advisor
- Obtained case dismissals and favorably settled claims for a national bank on several matters under the Uniform Commercial Code (UCC) regarding alleged conversion of instruments
- Successfully obtained a dismissal for a national bank on claims of improper repossession of property
- Successfully defended, prosecuted and settled claims for and against a manufacturing business concerning alleged breaches of supply agreement with a Fortune 100 company
- Successfully defended a preliminary injunction motion and temporary restraining order in a putative class action brought against software company
- Successfully defended and received favorable settlement for an internet services provider facing defamation claims
- Successfully defended a national bank in response to third-party subpoena seeking deposition of corporate designee and related documents
- Negotiated a favorable settlement for a real estate services firm regarding an alleged breach of an employee’s non-compete and non-solicitation agreement



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- Obtained a favorable settlement for a diving manufacturer against alleged wrongful death and other tort-related claims
- Obtained dismissal or favorable settlements for several law firms and attorneys regarding claims of legal malpractice, breach of contract and breach of fiduciary duty obligations
- Reviewed, analyzed and provided assessments for indemnity and defense-related coverage for a series of insurance and oil/gas clients
- Successfully represented a franchisee in negotiations with a franchisor regarding alleged violations of franchise agreements
- Obtained a favorable settlement for a medical device supplier in a dispute with competitor
- Successfully negotiated a favorable settlement for a community bank on an alleged claim of forgery on collateral instruments
- Successfully settled a threatened litigation claim for a financial institution on alleged wrongful conversion of property
- Successfully defended ERISA claims against an accounting firm for purported failure to properly supervise a client's account
- Negotiated a successful settlement after prosecuting a claim for a manufacturing client where a customer failed to pay for products provided
- Secured a successful settlement for an association management firm on contract and tort claims with a homeowners association
- Secured a successful settlement for a financial institution on claims of alleged noncompliance with certain aspects of the Americans with Disabilities Act
- Successfully settled a putative class action lawsuit filed against a medical services provider on claims of alleged noncompliance with certain aspects of the Americans with Disabilities Act
- Successfully settled claims of fraudulent endorsement, unauthorized signature and alleged misuse of a customer's property for a national bank client
- Successfully settled claims of alleged breaches of agreement with a supplier/vendor for an engineering and manufacturing client
- Successfully settled claims against a national bank for alleged malicious prosecution, false arrest, vicarious liability, negligence and intentional infliction of emotional distress
- Successfully settled claims for a national bank of unfair and deceptive trade practices made on a customer's account
- Successfully secured dismissal for a former corporate officer on alleged claims of breach of fiduciary duty arising prior to and allegedly after insolvency of parent company
- Successfully settled claims of alleged malpractice in preparation and advisement for sale of a business and the preparation of related tax returns for an accounting firm
- Successfully secured a dismissal for a national bank facing claims of alleged improper termination of a customer's private line of credit



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- Successfully achieved dismissal of claims brought under the Unfair Trade Practices and Consumer Protection Law seeking assignee liability from a national bank in its alleged role in persuading a consumer to purchase a new vehicle
- Successfully settled claim for a national bank client alleging several common law tort-based claims for the improper taking of client funds
- Obtained dismissal on motion to dismiss for a national bank on claims of an alleged breach of contract under a Totten Trust instrument
- Defended a national bank in response to third-party subpoena to attend and testify
- Successfully defended and achieved dismissal of federal court putative class action matter alleging claims of toxic water exposure against school district
- Successfully obtained dismissal for an accounting firm and its accountant against claims of alleged breach of fiduciary duty and fraud
- Successfully prosecuted and settled a claim for a technology client for a breach of contract as a vendor
- Defended a national bank in pre-complaint discovery seeking documents in aid of preparation of a complaint
- Successfully settled claims for a national bank against an insurer and a broker regarding payments due under BOLI policies
- Successfully obtained dismissal for a community bank against purported claims of fraudulent endorsement on various national and international allegedly fraudulent checks
- Successfully obtained dismissal for an insurance client against putative class action claims alleging failure to make primary payments under Medicare Secondary Payer Act
- Successfully obtained dismissal for a national bank on claims alleging statutory fraudulent transfer of funds
- Successfully defended a manufacturing client on claims of breach of contract and fraud regarding disputed property with landowner
- Successfully settled purported claims arising under Equal Credit Opportunity Act, UTPCPL, FCEUA, and for declaratory judgment
- Successfully defended and settled claims for a bank client and its corporate parent against various UCC, state common law and state-based consumer protection law statutory causes of action for alleged improper notices of repossession, notices of deficiency and related consumer class action claims
- Successfully defended and settled claims for a medical records request provider in putative class action alleging excessive fee claims
- Handled research and analysis for bank client regarding policy/procedure for UCC presentment and related warranty items
- Successfully represented a community bank in conversion of credit card operations to new credit card provider



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- Successfully defended national bank served with third-party subpoena for testimony at arbitration hearing
- Successfully defended and settled lawsuit against national bank averring claims for purported inaccurate credit reporting to credit reporting agencies
- Assisted special master and arbitrator in resolving complex financial and alleged class action cases
- Successfully defended national bank on claims concerning distribution of proceeds under applicable trust instruments
- Successfully prosecuted claims for global manufacturer arising under contract with service provider
- Successfully performed evaluation for bank client regarding litigation hold policy and procedure
- Successfully defended a bank client against allegations of improper contact with customer and purported unauthorized practice of law
- Successfully defended national bank against allegations of breach of contract, negligence, and Electronic Fund Transfer Act claims purportedly due to unauthorized use of customer account
- Successfully defended accounting firm against allegations of professional malpractice for alleged failure to timely process amended returns
- Successfully defended accounting firm from allegations of purported miscalculated taxes and wages owed to employees and independent contractors
- Performing cybersecurity and related indemnity analysis and evaluation for banking client to mitigate risk of loss
- Defending insurer against putative class action claims asserting alleged retroactively increased policy premiums for alleged backdated policy changes without payment for related claims during backdated time period
- Defending insurer against putative class action lawsuits alleging claims for stacked inter-policy uninsured and/or underinsured motorist coverage
- Defending insurer against putative class action lawsuits alleging claims for stacked intra-policy uninsured and/or underinsured motorist coverage
- Handling class action claims process for client in nationwide class action settlement involving payment card interchange fee transactions
- Defending client in putative class action matter arising under Pennsylvania's statutory and common law for purported failure to compensate employees for certain activities
- Defending state medical association in putative class action matter alleging failure to fulfill contractual terms



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- Defending financial institution in third-party data breach incident allegedly affecting customers of institution
- Defending and/or representing various financial institution clients in data breach incident responses and related cyber matters
- Defending insurer against False Claims Act allegations for purported monies owed as “primary payer”
- Defending insurance client against putative class action claims for purported failure to make “primary” payments under Medicare Secondary Payer Act
- Representing financial institution client in multi-state evaluation of certain obligations for line of business
- Defending insurers in various putative class action matters alleging monies owed under terms of policies and pursuant to Pennsylvania Law



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