STARNES DAVIS FLORIE LLP

Richard E. Davis

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Areas of Practice

- Complex Litigation
- Energy, Natural Resources & Land Use
- Commercial Disputes
- Energy & Environmental
- Environmental Regulation
- Environmental Litigation
- False Claims Act / Qui Tam
- Healthcare Audits and False Claims Act Investigations
- Healthcare Fraud
- Toxic Torts
- White Collar Criminal Defense
- White Collar, Compliance & Investigations

ABOUT RICHARD

Richard represents clients in litigation, trials, appeals, investigations, regulatory enforcement actions, and administrative proceedings:

- **Environmental** — Torts, chemical products liability, natural resources, agriculture, land use, eminent domain and inverse condemnation, and enforcement actions
- **Commercial** — False Claims Act, business torts, breach of contract, and Racketeer Influenced and Corrupt Organizations ("RICO") Act
- **White collar criminal defense** — Alleged environmental, healthcare, and business/financial crime

Richard's practice requires his frequent engagement with scientific and technical evidence, the presentation of such evidence in a concise and understandable manner, and the litigation of constitutional issues (federal and state) regarding separation of powers, governmental authority, and individual rights.

EDUCATION

J.D., cum laude, Cumberland School of Law of Samford University (1989)
M.A., The University of Alabama at Birmingham (1986)
B.A., Auburn University (1983)

BAR ADMISSIONS

Alabama

COURTS

Supreme Court of the United States
U.S. Court of Appeals, 11th Circuit
U.S. Court of Appeals, District of Columbia Circuit
U.S. Court of Appeals, Federal Circuit
U.S. District Court, Northern District of Alabama
U.S. District Court, Middle District of Alabama
U.S. District Court, Southern District of Alabama

ACCOLADES

LCA Litigation Counsel of America Fellow

AV Preeminent Peer Rated for Highest Level of Professional Excellence 2026

Chambers Top Ranked USA 2026 Starnes Davis Florie LLP

Richard E. Davis Best Lawyers Lawyer of the Year 2021 Natural Resources Law Birmingham, Alabama

Richard E. Davis Best Lawyers Lawyer of the Year 2024 Natural Resources Law Birmingham, Alabama

U.S. Court of International Trade
U.S. Court of Federal Claims
U. S. Tax Court

PROFESSIONAL RECOGNITION

AV-Rated, Martindale-Hubbell

Senior Fellow, Litigation Counsel of America Trial Lawyer Honorary

Chambers USA -- Environmental Law

Best Lawyers in America®—Litigation-Environmental, Commercial Litigation, Environmental Law, and Natural Resources. In addition, Best Lawyers in America® has named Richard Davis the “Birmingham Natural Resources Law Lawyer of the Year” for 2017, 2019, 2021, and 2024.

Mid-South Super Lawyers

Chair, Birmingham Bar Association Federal Practice Section (2015-2016)

Samford University Cumberland School of Law "Celebrate Pro Bono 2015" Alumni Honoree

Chair, Alabama State Bar Environmental Law Section (2010-2011)

Editor-in-Chief, Cumberland Law Review (1988-1989)

EXPERIENCE HIGHLIGHTS

Environmental/chemical products liability litigation: Representing commercial solvent distributor and corporate affiliates in two state court lawsuits by two local water utilities for alleged pollution of ground water source by PFAS; currently transferred to the *In re Aqueous Film-Forming Foams Product Liability Litigation*, MDL No. 2:18-mn-2873, RMG in Charleston, South Carolina.

Eminent domain: Representing landowner in case of potential condemnation (“taking”) by public utility company of as-yet undetermined acreage through the central part of over a thousand acres of valuable land that will have a dramatic adverse effect on the value and use of client’s property.

Healthcare fraud investigation: Representing chiropractor and practice entity (franchisee) in parallel criminal and civil investigation of issues regarding franchisor company, its franchisees, an accounts receivable recovery company, billing, and treatment of patients under the Federal Employees’ Compensation Act (FECA) by the USDOJ, DoL OIG, USPS, and FBI.

Environmental, natural resources, and land use litigation: Representing plaintiff agricultural business entities and residential landowners in lawsuit to enjoin construction and operation of proposed quarry in Chambers County, Alabama that will adversely impact and interfere with the landowners’ water rights, use and enjoyment of their homes and farmlands, cattle and horses, commercial cow-calf and beef production operations, equestrian boarding and sporting facilities, equine breeding business, and individual health and safety.

Healthcare fraud investigation: Representing publicly traded holding company and its practice management subsidiaries in False Claims Act investigation regarding over $10,000,000 in alleged improper billing of federal programs for administration of IV lidocaine by managed regenerative medicine centers.

False Claims Act/Anti-Kickback investigation: Representing orthopedic surgeon in investigation by USDOJ for alleged illegal remuneration from medical device companies in conjunction with use of bone-filled allograft product.

False Claims Act/retaliatory discharge litigation: Defending asphalt and construction companies against allegations of fraud and whistleblower retaliation pertaining to paving of a highway and an airfield; obtained four individual defendants and all fraud claims. The case is currently stayed in the trial court pending the Eleventh Circuit's decision in *U.S. ex rel. Zafirov v. Florida Medical Associates, LLC* regarding the constitutionality of the qui tam provision of the False Claims Act with the retaliatory discharge claim potentially remaining for trial.

Environmental investigation and litigation: Defending two privately held companies in enforcement actions–both as potentially responsible parties in an Environmental Protection Agency (EPA) cost recovery investigation arising from the release of allegedly hazardous substances as the result of vandals shooting holes in an aboveground storage tank at an abandoned recycling facility on the Chattahoochee River *and* one as a defendant in an Alabama Department of Environmental Management (ADEM) enforcement lawsuit for improper storage of allegedly hazardous waste.

False Claims Act/Anti-Kickback litigation: Negotiated settlement and dismissal of claims against individual client in case brought by the USDOJ against multiple defendants in relation to an alleged commission-based health care referral scheme targeting federal healthcare programs, including TRICARE, and in which judgment of $31,039,134.82 was entered against the last remaining defendant.

Environmental, natural resources, and land use litigation: Represented Lee County Commission as plaintiff in filing anticipatory nuisance lawsuit and negotiated settlement providing (1) additional environmental protections beyond the limited protections provided by state regulations for Halawakee Creek, a free-flowing stream of "outstandingly remarkable" natural and cultural value (National Rivers Inventory), its watershed, and ecological habitat as well as the local water supply; (2) reimbursement of the County's legal fees in bringing the lawsuit; and (3) limitations on further quarry development by defendants in Lee County–all without waiving any claims for *future* harms that might be caused by the quarry.

Environmental/chemical products liability litigation: Defended a city waterworks and sewer board and individual board members in a putative class action and then in a series of mass tort and individual claims alleging personal injury and property damage from the distribution of water from the Tennessee River contaminated with PFAS and related chemicals from upstream manufacturers; the claims were dismissed with prejudice in *In re Aqueous Film-Forming Foams Product Liability Litigation*, MDL No. 2:18-mn-2873, RMG in Charleston, South Carolina.

Environmental litigation: Defended waterworks and sewer board in state enforcement case and Clean Water Act (CWA) citizen suit regarding sanitary sewer overflows ("SSOs") and permit non-compliance and negotiated consent decree for remediation to resolve both cases.

False Claims Act/qui tam: Defended hospice company in investigation and qui tam case for submission of claims to Medicare for patients who allegedly did not meet eligibility requirements for benefits with treble damages claimed of $7,462,515.90.

Commercial litigation: Defended corporation, CEO, and CFO in federal lawsuit by rail transportation company alleging breach of contract, fraud, and RICO violations and damages of $370,836,753 and negotiated settlement of all claims.

White collar (Environmental crime): Represented trucking company in investigation of alleged illegal dumping of hazardous waste (no charges).

False Claims Act/Anti-Kickback litigation: Defended a nursing home regarding referrals to mental health facilities and obtained affirmance of dismissal of qui tam relator's claims with prejudice at the Eleventh Circuit.

Environmental litigation: Defended public water authority in two mass tort cases and one putative class action alleging personal injuries and property damage from exposure to PFAS and related chemicals through authority's distribution of water released by upstream manufacturers into the Tennessee River, the authority's source water, and obtained two dismissals and negotiated one nominal settlement of $5,000.

Environmental, natural resources, and land use: Represented City of Opelika, Storybook Farm, and Retirement Systems of Alabama in successful rejection of proposed granite quarry that threatened the Saugahatchee watershed, the city water supply, a charitable equine and canine therapy farm for at-risk children, and the Robert Trent Jones – Grand National golf course and facilities and negotiated settlement of threatened inverse condemnation ("takings") action by property owner.

White collar (Environmental crime): Represented recycling and transport service companies in federal criminal investigation of hazardous waste disposal practices (no charges).

Environmental litigation: Defended Clean Water Act citizen suit against landowner for alleged unpermitted discharges of pollutant into Black Warrior River from reclaimed mine site; settled by consent decree with site currently under remediation.

Commercial litigation: Obtained dismissal of plaintiffs' False Claims Act and Sarbanes-Oxley claims in case removed to federal court, and then obtained summary judgment on state law fraud, bid-rigging, defamation, tortious interference, and deceptive trade practices claims remanded to state court.

Healthcare fraud/commercial litigation (corporate plaintiff): Advised large physician practice in conjunction with fraud investigations and overpayment recoupment action–obtaining on administrative appeal revision of alleged $2,700,000.00 overpayment to $2,100.00 through the presentation of statistical, independent audit, and medical necessity evidence–and then obtaining on behalf of client as plaintiff injunction of government for wrongful garnishment of funds from client.

White collar (Business crime)/securities regulation: Represented corporate officer/lawyer in parallel securities and accounting fraud investigations of publicly traded defense contractor and various C-suite individuals by the Department of Justice (USAO SDNY) and the Securities and Exchange Commission (New York) and in conjunction with SEC administrative proceeding that resulted in corporate penalties and restatement of earnings but no liability for client.

Commercial litigation: Defended recycling and transport services companies in litigation brought by a recycling and disposal site owner, obtained dismissal of claims against clients, and obtained a counterclaim judgment in favor of clients in the amount of $929,478.

Commercial litigation: Defended wastewater operations and management company against fraud and breach of contract claims totaling over $2,100,000 related to installation of a decentralized cluster wastewater management system and negotiated settlement amounting to one-seventh of the sum sought by plaintiff.

White collar (Environmental crime): Represented corporate client in conjunction with negotiated plea agreement for single-count misdemeanor Clean Water Act violation and obtained reinstatement to federal program participation for compliant client after term of mandatory debarment.

Criminal defense/post-conviction relief: In a case *The American Lawyer* named "Most Inspiring Pro Bono Win of 2015" [*United States v. Rivera*] Richard and co-counsel obtained the release from federal prison of an individual incarcerated for 30 years for non-violent drug crimes.

Commercial litigation (for corporate plaintiff): Sued insurer in federal court on pollution policy for bad faith claims denial and negotiated settlement valued in excess of $2,500,000 for plaintiff policyholder.

Commercial litigation (for individual and charitable foundation plaintiffs): Prosecuted claims for bad faith violation of federal Electronic Funds Transfer Act (EFTA), for failure to maintain commercially reasonable security procedures and for other related torts on behalf of victims of identity theft/account hacking and obtained full recovery of clients' funds (almost $200,000) along with attorneys' fees.

Environmental litigation: *Woods Knoll, LLC v. City of Lincoln*: Obtained defense judgment for City of Lincoln in federal trial of Clean Water Act and inverse condemnation claims brought by adjacent property owner complaining of $1,840,000 in damage to 239-acre property, including wetlands, allegedly caused by discharges of storm water from 160-acre city property being developed as an industrial park; presented oral argument and obtained affirmance of defense judgment before 11th Circuit Court of Appeals.

White collar (Environmental crime): Defended corporate client charged with criminal violations of Clean Water Act and related charges of mail fraud, wire fraud, and conspiracy in federal jury trial.

Environmental (multiple CERCLA cases): Represented numerous clients, variously in investigations and litigation, as potentially responsible parties (PRPs) at the LWD Incinerator site (Calvert City, Kentucky), Anniston PCB and lead sites (Calhoun and Talladega Counties, Alabama), Alabama Plating (Vincent, Alabama), B&B Manufacturing (Mobile, Alabama), M & J Solvents (Fulton County, Georgia), and Interstate Lead (Leeds, Alabama) Superfund sites and the Reef Environmental (Sylacauga, Alabama), Shredders, Inc. (North Birmingham, Alabama), Alabama Wood Treating (Mobile, Alabama), and Allworth (Tarrant, Alabama) sites.

Multiple False Claims Act investigations: Represented numerous healthcare providers—including medical doctors, corporate physician practices, nursing homes, a psychiatrist, a pharmacy, and the supervisor of two compounded pharmaceutical sales groups—in investigations of alleged upcoding of physical therapy encounters; upcoding of surgical procedures; double-billing; medically unnecessary prescription and administration of anti-depressants, anti-psychotics, anti-anxiety medications, and Nuedexta; and prescription and administration of medically unnecessary diagnostic testing and hyaluronic acid injections.

Commercial litigation (corporate defendant-counterclaim plaintff): Defended vaccine developer in a fee collection action by a contract research organization (CRO) and counterclaimed on behalf of client for laboratory malpractice because CRO had, without a literature review, used infection-resistant C57BL/6 congenic ("knockout") mice in its vaccine trial. Negotiated settlement payment in excess of $1,000,000 for client–a multiple of more than 2.5 the amount of fees sought by the CRO on the collection claim.

Environmental, natural resources, and land use litigation: University of Montevallo, et al. v. Middle Tennessee Land Development Company, LLC: Obtained anticipatory injunction for plaintiffs, a university and its foundation, after a two-week trial consisting largely of hydrogeological and quantitative hydrogeological expert testimony, to protect the Ebenezer Swamp Ecological Preserve—the "scenic highlight" of the University of Montevallo—from proposed limestone quarrying activity. Ebenezer Swamp | University of Montevallo Ebenezer Swamp – Alabama Birding Trails

PRESENTATIONS AND PUBLICATIONS

What Accountants Should Know About White Collar Crime Legal Risk Management: Potential Legal Liabilities and Contingency Planning for Accountants and Their Clients 2015

Investigations–Internal and Governmental Legal Risk Management: Potential Legal Liabilities and Contingency Planning for Accountants and Their Clients 2015

Accountant Liability: Civil and Criminal Legal Risk Management: Potential Legal Liabilites and Contingency Planning for Accountants and Their Clients 2015

Strategic Legal Risk Management–Contingency Planning to Avoid or Mitigate Legal Crises Legal Risk Management: Potential Legal Liabilities and Contingency Planning for Accountants and Their Clients 2015

“Water Boundaries: What Are Your Client’s Rights, Responsibilities, and Potential Liabilities?” Boundary Disputes: Resolving Client Conflicts 2012

“Wading Through the Clean Water Act: How to Keep Corporations and Officers Out of the Deep End” 2011 Annual Meeting

“Update on Certain Major Environmental Laws” Environmental Law from A to Z 2009

“Writing Natural Resource Ordinances for Local Governments” Workshop 2007

“Enforcement and Liability” Watersheds, Nonpoint Source Pollution, and Stormwater Workshop 2006

“An Overview of Federal Criminal Liability for Corporations, Officers, and Directors” Making the Best of the Worst Case Scenario: Federal Criminal Liability for Corporations, Officers, and Directors 2001

COMMUNITY INVOLVEMENT

- Birmingham Bar Association Law Day Co-Chair 2025
- Federal Bar Association
- National Association of Criminal Defense Lawyers

DISCLAIMER: The following language is required by the Alabama Rules of Professional Conduct: No representation is made that the quality of legal services to be performed is greater than the quality of legal services performed by other lawyers.