



## Alexander M. "Zan" Gormley

### Partner

Raleigh, NC

Tysons, VA

P: 919.981.4056

F: 919.981.4300

[agormley@williamsmullen.com](mailto:agormley@williamsmullen.com)



Alexander "Zan" Gormley is an accomplished litigator with extensive experience in several different practice areas and jurisdictions. After clerking for a judge in Maryland out of law school, he practiced in Maryland and the District of Columbia for many years before relocating to North Carolina. Zan is currently licensed in DC, Maryland and North Carolina, and handles matters in all three jurisdictions, traveling from his base in Raleigh to the firm's DC-area office as his cases dictate.

Zan believes his diverse litigation experience enables him to better serve his clients. He began his career at a highly regarded defense firm, where he handled everything from employment law to personal injury, professional liability, construction law, products liability, and commercial litigation. Later, he expanded his practice to include ERISA litigation, handling cases in federal courts throughout the country. He then joined Williams Mullen, which has been a natural fit that allows him to combine his broad range of experience with the firm's wide geographic reach to serve clients in North Carolina, Maryland, DC and beyond.

While Zan handles many kinds of litigation, his primary areas of practice are in commercial litigation, ERISA, and professional liability. He does not work with one specific type of client or industry. Instead, the common thread in his work is resolving complex disputes for businesses and hardworking individuals to allow them to concentrate on what they do best. As a middle-child, Zan is a born problem solver and at his best when presented with complicated issues and difficult adversaries.

The types of commercial litigation that Zan has handled include contract disputes, business "divorces," shareholder disputes, and defending claims against directors and officers, among other types of matters.

In his ERISA practice, Zan has represented employee benefit plans and their fiduciaries in claims for denial of benefits, breach of fiduciary duty and prohibited transactions. He has also assisted ERISA-covered plans in complying with audits by the United States Department of Labor, and in resolving coverage and subrogation disputes. Zan also has significant experience with multi-employer plans and has litigated many issues that are unique to them, including claims for withdrawal liability, delinquent contributions, and overpayments.

In his professional liability practice, Zan has represented law firms, accounting firms, architects, insurance brokers, and real estate agents, with a significant focus on defending accountants and lawyers against malpractice claims. This has included handling several high-dollar malpractice claims for large national law and accounting firms, as well as many other matters for regional and local firms.

In addition to these matters, Zan has handled EEOC discrimination claims and other employment disputes, product liability claims, construction and design defect claims, and even some land use and zoning litigation. He has also represented numerous clients as creditors in bankruptcy actions throughout the country.

In short, Zan is a well-rounded litigator with a diverse set of skills that make him well suited to handle many kinds of litigation in several different states. No matter the size of the client or the matter, Zan strives to provide consistently excellent service and cost-effective results.

Zan earned his Juris Doctor degree, *summa cum laude*, from the University of Maryland School of Law. He earned his Bachelor's degree, *summa cum laude*, from the University of Pennsylvania, majoring in International Relations and earning a Certification in Hispanic Studies. He is a member of the Board of Directors for the United Arts Council of Raleigh and Wake County.

## Practice Areas

- Litigation
- Labor, Employment & Immigration
- ERISA - Employee Benefits Litigation

## Experience

**THE CASES LISTED BELOW ARE ILLUSTRATIVE OF THE MATTERS HANDLED BY THE FIRM. CASE RESULTS DEPEND UPON A VARIETY OF FACTORS UNIQUE TO EACH CASE. NOT ALL CASE RESULTS ARE PROVIDED. CASE RESULTS DO NOT GUARANTEE OR PREDICT A SIMILAR RESULT IN ANY FUTURE CASE UNDERTAKEN BY THE LAWYER.**

### PROFESSIONAL LIABILITY & COMMERCIAL LITIGATION

? Defended welfare plans in lawsuit filed by international shipping company in the District Court of Maryland, bringing claims for equitable restitution under federal common law and seeking over \$2

million in claimed excess payments to the plans. Drafted motion to dismiss which prompted company to amend claims, and drafted motion to dismiss amended complaint, which court granted in full.

? Represented national healthcare plan in pre-suit dispute with the plan's pharmacy benefits manager (PBM) involving the PBM's negligent misrepresentation and breach of contract that resulted in substantial loss to the Plan. Conducted internal investigation and drafted demand letter to PBM setting forth the factual and legal basis for claims, which resulted in favorable pre-suit resolution.

? Defended national accounting firm in lawsuit filed in the Delaware Court of Chancery by the Delaware Insurance Commissioner as the receiver of a defunct insurance company, claiming negligence, breach of fiduciary duty and aiding and abetting breach of fiduciary duty. Drafted motion to dismiss, which court granted as to all but one claim. Drafted appellees' brief, which resulted in the Supreme Court of Delaware affirming the trial court's decision.

? Defended manufacturer of industrial engines in lawsuit filed in the District Court of Maryland by the subrogee of a custom yacht owner, claiming negligence and breaches of warranties under the UCC and maritime law. Drafted motion to dismiss, which court granted as to all claims.

? Defended auditor in lawsuit filed in the District Court of Maryland by a community bank, claiming negligence arising from preparation of audits. Drafted brief in support of motion to dismiss, which was granted. Drafted motion to dismiss in the subsequent suit filed in the District Court of the Eastern District of Virginia, which prompted the bank to dismiss the suit.

? Defended Midwestern law firm in lawsuit filed in Maryland state court by medical experts retained by the firm, claiming breach of contract, legal malpractice and fraud. Drafted motion to dismiss, which court granted based on lack of personal jurisdiction. Drafted brief in support of motion to dismiss in subsequent suit filed in District Court of D.C., which court granted as to all claims.

? Defended regional accounting firm in lawsuit filed in D.C. state court by a medical practice, claiming over \$6 million in damages arising from alleged negligence in failing to detect insider theft. Deposed several party witnesses as well as third-party accountants, coordinated review and production of ESI, and compiled analysis of multiple years of financial records to aid forensic analysis by accounting experts. Participated in mediating matter to a favorable resolution.

? Defended law firm in putative class-action filed in the District Court of Maryland by foreclosed homeowners, claiming violations of RICO and FDCPA arising from home foreclosure proceedings. Drafted brief in support of motion to dismiss, which court granted. Drafted portion of joint appellees' brief that set forth the legal argument that the U.S. Fourth Circuit adopted in affirming dismissal.

? Defended accounting firm in lawsuit filed in Maryland state court by a construction company, alleging malpractice and conspiracy to defame. Handled all aspects of case-management and discovery, including deposing plaintiff's accounting experts. Drafted and argued motion for summary judgment, which was granted on the record after a two-hour oral argument.

? Defended regional accounting firm in lawsuit filed in Maryland state court by a hedge fund, claiming

over \$150 million in damages arising from breach of fiduciary duty, negligence and fraud. Took or defended over 25 depositions, including depositions of accounting and financial-industry experts. Drafted brief in support of summary judgment, and 10 pre-trial motions in limine. Prepared direct and cross-examination outlines for 15 trial witnesses, and coordinated selection and integration of over 200 trial exhibits with testimony outlines. Participated in negotiating matter to a favorable resolution before trial.

? Defended national accounting firm in lawsuit filed in District Court of Maryland by former client claiming over \$1 million in damages stemming from dispute over eligibility for income tax credits. Prepared analysis of financial records as applied to relevant provisions of tax code and IRS guidance, which was used as basis for negotiating matter to successful resolution.

#### ERISA LITIGATION

? Defended trustees of short-term disability insurance plan in lawsuit filed by U.S. Department of Labor in the District Court of the Northern District of Ohio, bringing claims for breach of fiduciary duties and prohibited transactions under ERISA Sections 406 and 408, and seeking in excess of \$10 million in damages. Handled all aspects of discovery, including deposing multiple party witnesses. Drafted opposition to DOL's motion for summary judgment, which led to negotiation of favorable resolution before trial.

? Represented trustees of pension plan in their appeal to the Second Circuit Court of Appeals of decision overturning denial of participant's claim for retirement benefits under ERISA Section 502(a)(1)(B). Drafted appellant's briefs and presented oral argument.

? Represented plaintiff-pension plan in multi-million dollar claim for controlled-group liability under ERISA Section 4001(b)(1) against real estate holding company in the District Court of Maryland. Handled all aspects of discovery, including deposing all witnesses. Drafted summary judgment brief, which resulted in court adopting novel theory of controlled-group liability under the applicable Treasury Regulations and denying defendant's motion for summary judgment.

? Represented retirement and health plans as creditors in Chapter 11 proceeding filed by an international shipping company in the Bankruptcy Court for the Southern District of New York. Drafted briefs in support of opposition to debtors' motions for payment of pre-petition claims that excluded pre-petition debts owed to the Plans, which resulted in the debtor's payment of pre-petition debts owed to the Plans.

? Represented plaintiff-pension plan in a \$120 million ERISA withdrawal liability claim against the City of New York Department of Education (DOE) filed in the District Court of the Southern District of New York. Drafted brief in opposition to DOE's request for \$2.9 million in attorneys' fees under ERISA Section 502(g)(1), which resulted in court's denial of DOE's request.

? Represented plaintiff-retirement plan and participants in a claim against the trustees of a global telecommunications company filed in the District Court of New Jersey, alleging breach of fiduciary duty and prohibited transactions under ERISA Sections 406 and 408, based on the diversion of \$1.2 billion in

excess assets from a retirement plan for workers to a retirement plan for company management.

? Defended pension plan in an ERISA withdrawal liability matter filed by a contributing employer in the District Court of the Southern District of Mississippi. Drafted motion to dismiss, which court granted as to all claims.

? On behalf of health plan, negotiated a pre-suit settlement with a contributing employer going through a structured liquidation in lieu of bankruptcy, which resulted in the employer paying the plan's claims for delinquent contributions in full.

## Education

- University of Maryland School of Law (J.D.), 2009  
*summa cum laude*
- University of Pennsylvania (B.A.), 2004  
*summa cum laude*

## Professional Affiliations

- American Bar Association
- North Carolina Bar Association
- Wake County Bar Association
- Litigation Counsel of America, Associate Fellow
- Trial Law Institute and Diversity Law Institute, Member

## Awards

- *Super Lawyers*, Rising Star - Washington D.C. (2014-2019)