



December 27, 2012

Burr & Forman Wishes You a Happy Holiday Season and a Prosperous New Year!



Georgia Foreclosure Law in the Wake of Recent Decisions on Residential Mortgage Loans



Thousands of wrongful foreclosure lawsuits are filed each year in Georgia against banks, lenders, servicers, foreclosure firms, and other entities involved in the non-judicial foreclosure process for residential mortgage loans. There has been recent upheaval in Georgia foreclosure law resulting from several key cases decided in 2012. We do not summarize the cases here, but rather seek to analyze their decisions' impact on Georgia's non-judicial foreclosure process while we await the Georgia Supreme Court's response.

Click [here](#) to read the full alert. For more information, please contact [Ashby Kent Fox](#) at (404) 685-4294 or afox@burr.com, [Shea Sullivan](#) at (404) 685-4268 or ssullivan@burr.com and [Amanda E. Wilson](#) at (404) 685-4273 or awilson@burr.com.

FINRA Updates Guidance on its Suitability Rule

In its Regulatory Notice 12-55, the Financial Industry Regulatory Authority ("FINRA") has updated its guidance on FINRA Rule 2111 concerning suitability.

Headlines

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- [End of TAG Program Has Community Banks Concerned](#)
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- [Obama Signs Bills Involving ATM Fee Notices, CFPB Information](#)
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News Briefs

Accounting Rule Would Force Banks to Take Loan Write-Downs

An accounting rule that would often force banks to take loan write-downs well before loans actually go bad was preliminarily proposed by the Financial Accounting Standards Board, which sets American accounting rules. The proposal appears likely to lead to greater write-downs -- and thus earlier losses -- than one being considered by international rule makers.

(Source: The New York Times, 2012-12-20)

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End of TAG Program Has Community Banks Concerned

A Senate vote all but doomed government insurance on certain bank deposits to expire on Dec. 31, which would seriously hurt community banks that depend on those funds, say industry experts. The Transaction Account Guarantee (TAG) program insures deposits in non-interest accounts above \$250,000, which is the ceiling for conventional Federal Deposit Insurance Corp. coverage.

(Source: Trib Live, 2012-12-14)

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New Mortgage Rules Protect Banks from Homeowner Lawsuits

As regulators complete new mortgage rules, banks are about to get a significant advantage: protection against homeowner lawsuits. The rules are meant to help bolster the housing market.

(Source: The New York Times, 2012-12-17)

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Obama Signs Bills Involving ATM Fee Notices, CFPB Information

President Obama signed two bills that will protect information banks provide to the Consumer Financial Protection Bureau and eliminate a requirement on ATM fee notices. Banks have been facing a spate of nuisance lawsuits over the ATM fee disclosure issue, and have warned that information passed along to the CFPB could be used against them in a future lawsuit if the provision wasn't remedied.

(Source: American Banker, 2012-12-20)

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Survey Finds Community Banks Expected to Continue Getting Bigger

Your friendly, neighborhood community bank may not stay that way much longer, given reduced loan margins and investment income and heightened regulatory costs. The KPMG LLP 2012 Community Banking Outlook Survey, which includes input from more than 100 top execs within the community banking industry, found that more than half -- 57 percent -- expect their organizations to be involved in a merger or acquisition (M&A) transaction within the next two years.



Click [here](#) to read the full alert. For more information, please contact [Ben B. Coulter](#) at (205) 458-5420 or bcoulter@burr.com.

Is "Materially Less" The Same As "Grossly Inadequate"?



Tennessee was one of many states jumping on the debtor-protection bandwagon following disclosures of lender misconduct in the wake of the 2007 real estate market collapse. The legislative solution crafted into Tenn. Code Ann. 35-5-118 created a rebuttable presumption that the amount bid at a foreclosure sale equaled the fair market value of the property. Debtors could overcome this presumption by showing that the bid was "materially less" than fair market value. The statute became effective September 1, 2010. Prior to that time, the standard for setting aside foreclosures was whether the bid amount was "grossly inadequate."

Click [here](#) to read the full alert. For more information, contact [Darlene T. Marsh](#) at (615) 724-3214 or dmarsh@burr.com.

FIRM NEWS



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Burr & Forman Adds Immigration Partner in Atlanta



Burr & Forman LLP is pleased to announce that [Anton F. Mertens](#) has joined the firm as a partner in the [Labor & Employment](#) service group with a focus on immigration law. Anton's concentration consists of business immigration matters for investors, managers, executives and technical personnel. Click [here](#) to read more about Anton's experience.

[Eight Burr Attorneys Named to](#)

(Source: Business Finance, 2012-12-06)

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FDIC Finds Community Banks Boosting Commercial Real Estate Loans

A wide-ranging study by the Federal Deposit Insurance Corp. found that the share of community banks' assets devoted to commercial real estate loans has skyrocketed in the last 20 years. Commercial real estate loans made up about 26.7 percent of all assets at community banks in 2011, up from 19.6 percent in 2000 and from 14.5 percent in 1990.

(Source: Business First of Columbus, 2012-12-18)

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Bank Deposits Exceeded Loans by Record \$2 Trillion in 2012

Deposits at U.S. banks exceed loans by an unprecedented \$2 trillion as the threat of a slowing economy tempers borrower demand and lenders preserve tightened standards. Cash deposited at firms from JPMorgan Chase & Co. to Bank of America expanded 8.7 percent this year to a record \$9.17 trillion through Dec. 5, Federal Reserve data show.

(Source: Bloomberg Businessweek, 2012-12-18)

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CFPB Unveils Findings on Consumer Credit Reports

More than half of the information in consumer credit reports comes from a small number of banks and related companies, the government's financial watchdog said. The Consumer Financial Protection Bureau reported that 57 percent of the data in Experian, Equifax and TransUnion credit reports are furnished by 10 major financial players.

(Source: Fox Business, 2012-12-17)

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Banks Warned of New Wave of Possible Cyberattacks

An alert from the U.S. Office of the Comptroller of the Currency warned about a new wave of so-called distributed denial-of-service attacks on some of the nation's major financial institutions. The alert said banks should share information with each other and law enforcement when attacks occur, and to give "timely and accurate" advisories to customers on website problems and precautions they can take.

(Source: Atlanta Business Chronicle, 2012-12-21)

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BURR & FORMAN BLOGS SUCCEEDING IN SUCCESSION



If you are the owner of a closely-held or family-owned business, it is never too soon to start planning for your company's future. From the infancy of your company, it is important to have the appropriate business and tax strategies in place in order to avoid difficulties, such as disputes over transfer of ownership and leadership, upon your retirement. To address these items, our [Business & Succession Planning](#) attorneys launched this blog to provide business owners with information regarding developments in business and succession planning law, weekly updates on industry trends impacting businesses

and individuals, and tools and tips to successfully prepare for the future of their businesses. We hope you find our blog informative and entertaining and that you make it a regular part of your business reading. [Click HERE to read the blog.](#)

ENVIRONMENTAL LAW MATTERS

The complex system of environmental laws and regulations impact our clients' businesses in a variety of contexts, including legal issues arising in business strategy, regulatory compliance, permitting, transactions

Georgia Trend's Legal Elite 2012

Burr & Forman LLP is pleased to announce that eight Atlanta-based attorneys have been selected for inclusion in *Georgia Trend's* 2012 Legal Elite. The list, in its 10th edition, ranks Georgia's top attorneys as selected by their peers. To compile its Legal Elite, Georgia Trend polled several thousand members of the State Bar of Georgia asking them to nominate the most effective attorneys in 20 different practice areas. The complete list is available [here](#).

The Burr & Forman attorneys named among *Georgia Trend's* 2012 Legal Elite are: [Edward H. Brown](#): Business Law; [Erich N. Durlacher](#): Bankruptcy/Creditors' Rights; [Richard A. Fishman](#): Real Estate Law; [Scott E. Hitch](#): Environmental Law; [Michael Lasky](#): Intellectual Property; [Anton F. Mertens](#): Immigration Law; [Graham H. Stieglitz](#): Bankruptcy/Creditors' Rights and [Shea Sullivan](#): General Practice/Trial Law

David Broemel Elected to Tennessee Chamber of Commerce & Industry Board of Directors



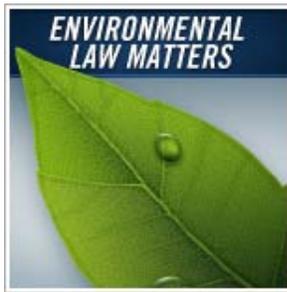
Nashville partner [David Broemel](#) has been elected to the 2013 board of directors for the [Tennessee Chamber of Commerce & Industry](#). David's term succeeds that of Burr & Forman partner [Darlene Marsh](#), who served on the board for eight years. David was inducted into office on December 11, 2012 at the organization's annual meeting.

Ed Bowron Inducted into the American Board of Trial Advocates



Burr & Forman LLP is pleased to announce that Mobile partner [Ed G. Bowron](#) was inducted into membership of the American Board of Trial Advocates (ABOTA) at the organization's annual meeting held on November 15, 2012.

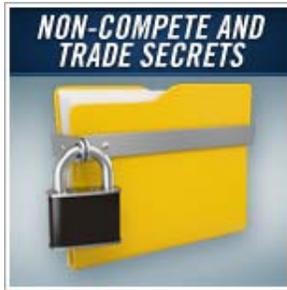
Bowron joins Burr & Forman's [W. Michael Atchison](#), who is an ABOTA advocate, and [Edward L. Hardin](#), a diplomat and president of the organization's Alabama Chapter and Southeastern region treasurer. Membership



and dispute resolution. Our [Environmental Law](#) attorneys launched this blog to provide an avenue for our clients and other interested companies and individuals to keep up with news, statutory changes, and legal opinions, and to provide practical tips involving all areas of environmental law — particularly avoiding litigation and the environmental pitfalls that affect corporate and real estate transactions.

We hope you enjoy our blog and find it to be a useful resource. [Click HERE to read the blog.](#)

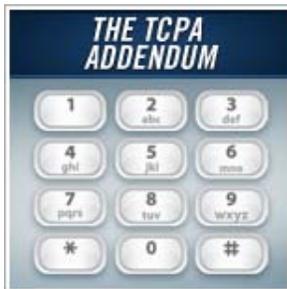
NON-COMPETE & TRADE SECRETS



Continual changes in non-compete and trade secrets law, as well as technological advances providing increasing avenues for unfair competition, make it imperative that businesses in all fields stay abreast of the latest developments in this area. For those reasons, our [Non-Compete and Trade Secrets](#) attorneys launched this blog to help employers, executives and attorneys keep up with news, statutory changes, legal opinions and practical tips involving all areas of unfair competition law, including non-competes, trade secrets, customer non-solicitation, non-recruitment, non-disclosure, confidentiality agreements,

tortious interference with business relations, employee piracy, computer theft, breach of fiduciary duties, employee loyalty, and intellectual property rights. We hope you find value in our blog. [Click HERE to read the blog.](#)

TCPA ADDENDUM



The Telephone Consumer Protection Act has received a lot of attention and has undergone significant judicial interpretation and change in the last few years. This Act has been applied to render multi-million dollar verdicts and settlements against both big and small companies across the country. For these reasons, our [Financial Services Litigation](#) attorneys launched this blog to keep clients, companies and individuals apprised of the continuous evolution of the Act. We hope you find our blog to be an educational resource for information, cases, and insights regarding the TCPA. [Click HERE to read the blog.](#)

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WOMEN PRESIDENTS' ORGANIZATION
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FINANCIAL EXECUTIVES INTERNATIONAL ASSOCIATION
ATLANTA CHAPTER

into ABOTA is by invitation-only and through a rigorous nomination and voting process. Only 85 attorneys in Alabama and 8,000 in the U.S. are members of ABOTA. Click [here](#) for more information about ABOTA.

James Haltom Receives Nashville Bar Association's President's Award



Burr & Forman LLP is pleased to announce that Nashville associate [James A. Haltom](#) has received the Nashville Bar Association's 2012 President's Award. Haltom was recognized at the organization's Annual

Meeting on December 6, 2012 for his efforts in launching the Nashville Bar Association's Veteran's Committee, which provides opportunities for members to serve veterans in the local community, as well as to honor and learn from attorneys in the Nashville-area who have served our country.

Burr & Forman Recognized Among Healthiest Employers in Four Markets



Burr & Forman LLP is proud to announce that the firm has been honored by the *Atlanta Business Chronicle*, the *Birmingham Business Journal*, the *Nashville Business Journal* and the *Orlando Business Journal* on the publications' annual lists of healthiest employers for 2012. Since the first wellness initiative was implemented at Burr & Forman in 2008, the firm has continued its commitment to healthy living through a variety of programs aimed at physical fitness, nutrition and reducing stress. Click [here](#) to read the full story.

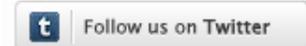
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WIT'S WOMEN OF THE YEAR IN TECHNOLOGY 2012 AWARDS

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HEALTH LAW PARTNERSHIP

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Burr & Forman LLP is a century old, full-service law firm with a forward-thinking approach to providing legal solutions. We have nearly 300 attorneys and offices in Alabama, Florida, Georgia, Mississippi and Tennessee. Burr & Forman offers a wide range of business and litigation services to diverse clients with local, national, and international interests.

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