



## David J. Canupp

Shareholder

Bar admissions: Alabama, 2006

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### Practice Areas

- Employment and labor law
- Discrimination law
- Municipal, county, and public employee litigation
- Civil rights
- General civil litigation
- Appellate practice

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### Profile

Mr. Canupp is a shareholder in the firm and an adjunct professor of employment law at the University of Alabama in Huntsville. Mr. Canupp's practice focuses on complex civil litigation, with an emphasis on litigation in federal court, both at the trial and appellate levels. Among other areas of practice, Mr. Canupp frequently is engaged on issues of constitutional law; voting rights, civil rights, and police liability claims; and employment litigation. A former federal law clerk, he has been recognized repeatedly by the Best Lawyers in America, SuperLawyers.com, Martindale-Hubbell, and the International Municipal Lawyers Association for his accomplishments in the foregoing fields.

Mr. Canupp's clientele is broad. He is panel counsel for numerous large insurance carriers. He has repeatedly represented Fortune 500 companies in disputes ranging from counterfeiting litigation to land-use litigation. He serves as outside counsel for a number of cities, counties, and other government entities and elected officials across the State of Alabama. He also represents government contractors, small businesses, and individuals. Each client captures Mr. Canupp's attention, and each case presents a new opportunity for him to demonstrate his commitment and passion for vindicating the client's position in a court of law.

Mr. Canupp is equally comfortable trying cases before a jury and arguing cases on appeal. At the trial level, Mr. Canupp has recently tried two federal law enforcement liability cases before a jury, and won defense verdicts for law enforcement officers in both. He has likewise successfully obtained temporary and preliminary injunctive relief for clients on emergency issues in multiple cases. On the appellate level, he has repeatedly argued cases before the U.S. Eleventh Circuit Court of Appeals and the Alabama Supreme Court, and has been tapped to serve on an appellate "rapid response team" for certain critical cases designated by a major insurance carrier. As just one example, Mr. Canupp was retained by an insurance carrier to serve as appellate counsel after an insured had sustained an adverse judgment of nearly \$5,000,000 in the trial court; Mr. Canupp presented oral argument to the Alabama Supreme Court and prevailed, wiping out the entire judgment.

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## Profile (continued)

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Mr. Canupp recognizes that out-of-court solutions are often in the client's best interest as well. Within the past several years, he secured a major settlement of an insurance dispute in favor of his client, a public entity. Acting on behalf of a high-level government employee who was terminated, he recently secured a settlement of an employment dispute that may be one of the largest in Alabama history.

Outside of the litigation context, Mr. Canupp provides guidance to governments in compliance with the First Amendment and collecting unpaid taxes. He assists employers in sexual harassment investigations, developing compliant employee handbooks, analyzing the proper classification of employees under the Fair Labor Standards Act. Finally, Mr. Canupp is frequently retained by both businesses and government agencies to provide guidance in complying with the accessibility requirements of the Americans With Disabilities Act (ADA).

Mr. Canupp also frequently contributes to Lanier Ford's Third-Shift Employment Law Blog ([www.ThirdShiftBlog.com](http://www.ThirdShiftBlog.com)).

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## Honors and Awards

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- Recognized by *The Best Lawyers in America* since 2019, Mr. Canupp is listed in the areas of employment law (representing management) and appellate practice.
- SuperLawyers.com selected him as a Rising Star for 2018, 2019, and 2020 in the areas of employment litigation, constitutional law, civil rights, and state, local, and municipal law.
- Rated AV by the Martindale-Hubbell Legal Directory. An AV rating indicates that a lawyer's peers rank him or her at the highest level of professional excellence.
- One of the top-40-under-40 litigation lawyers in Alabama for 2014, as selected by the American Society of Legal Advocates (ASLA).
- One of the top-40-under-40 litigation lawyers in Alabama for 2015, as selected by the ASLA.
- Amicus Service Award from the International Municipal Lawyers Association, 2012. The award is given those attorneys who do exemplary work to protect and advance local government interests.

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## Representative Cases

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- *Sanchez v. Management Enterprise Development & Services, Inc.*, No. 2:19-CV-277 (M.D. Ala. March 31, 2022).
- *Junkins v. De Jong*, 2022 WL 757951 (N.D. Ala. March 11, 2022).
- *Baker v. City of Madison*, 2020 WL 390896 (N.D. Ala. February 8, 2022).
- *Lacy v. City of Huntsville*, 2022 WL 303385 (11th Cir. Feb. 2, 2022)
- *City of Cullman v. Cullman Electric Cooperative*, 2022 WL 36885 (N.D. Ala. Jan 4, 2022).
- *Boyette v. Adams*, 2021 WL 6754285 (N.D. Ala. Dec. 28, 2021).
- *Cullman Electric Cooperative v. City of Cullman*, 2021 WL 5989091 (N.D. Ala. Dec. 12, 2021).
- *Carthen v. City of Huntsville*, No. 5:20-CV-1812 (N.D. Ala. Dec. 17, 2021).

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## Representative Cases (continued)

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- *New South Media Group, L.L.C., v. City of Huntsville*, 2021 WL 5822133 (N.D. Ala. Oct. 1, 2021).
- *Garcia v. Madison County Sheriff's Office*, No. 20-13673 (11th Cir. July 30, 2021).
- *Henderson v. McMurray and City of Huntsville*, 987 F.3d 997 (11th Cir. 2021).
- *Patel v. City of Madison*, 959 F.3d 1330 (11th Cir. 2020).
- *Matthews v. Huntsville City Police Dept.*, 2020 WL 4593782 (N.D. Ala. Aug. 11, 2020).
- *Smith v. Morgan*, 473 F.Supp. 3d 1266 (N.D. Ala. July 21, 2020).
- *Ingram v. Kubik*, 2020 WL 1235478 (N.D. Ala. Mar. 12, 2020).
- *Henderson v. McMurray and City of Huntsville*, 2020 WL 554230 (Feb. 4, 2020).
- *Welch v. City of Hartselle*, 423 F.Supp. 3d 1277 (N.D. Ala. 2019).
- *Zimmerman v. DealNews*, 295 So.3d 604 (Ala. 2019).
- *Alabama State Conference of the NAACP v. City of Pleasant Grove*, 372 F.Supp.3d 1333 (N.D. Ala. 2019).
- *Doe v. Stoneridge Homes, Inc.*, 2019 WL 1620363 (N.D. Ala. April 16, 2019).
- *Roney v. City of Huntsville*, 2108 WL 6326483 (N.D. Ala. Dec. 4, 2018).
- *Nelson v. Lott*, 330 F.Supp. 3d 314 (N.D. Ala. 2018).
- *Ex Parte Gilland*, 2018 WL 4657335 (N.D. Ala. Sept. 28, 2018).
- *Prescott v. Wolff*, 2019 WL 3068453 (S.D. Ala. July 12, 2019).
- *Anaya v. City of Fort Payne*, 2018 WL 4510500 (N.D. Ala. Sept. 9, 2018).
- *Davis v. Madison County*, 2018 WL 3631707 (N.D. Ala. July 31, 2018).
- *Bey ex. rel. Jackson v. City of Madison*, 2018 WL 1509357 (N. D. Ala. Mar. 27, 2018).
- *Ex Parte City of Muscle Shoals*, 2018 WL 1025039 (Ala. Feb. 23, 2018).
- *Littleton v. Miller*, 2017 WL 6041942 (N.D. Ala. Dec. 6, 2017).
- *Wall v. City of Oneonta*, 2017 WL 4469334 (N.D. Ala. Oct. 6, 2017).
- *Parton v. Dorning*, 698 Fed.Appx. 580 (11th Cir. 2017).
- *Ransom v. Sherman*, 697 Fed.Appx. 638 (11th Cir. Sept. 6, 2017).
- *Littleton v. Miller*, 2017 WL 2172063 (N.D. Ala. May 17, 2017).
- *Patel v. City of Madison*, 2017 WL 432465 (N.D. Ala. Feb. 1, 2017).
- *Bagwell v. Morgan County Commission*, 676 Fed.Appx. 863 (11th Cir. 2017).
- *Fuqua v. Hess*, 2017 WL 192760 (N.D. Ala. Jan. 18, 2017).
- *Holden v. City of Sheffield*, 2017 WL 34848 (N.D. Ala. Jan. 4, 2017).
- *McClure v. Oasis Outsourcing II, Inc.*, 2016 WL 7473780 (11th Cir. Dec. 29, 2016).
- *M&N Materials, Inc., v. Town of Gurley*, No. 5:14-CV-00184 (N.D. Ala. Nov. 13, 2015).
- *McBay v. City of Decatur*, 2014 WL 1513344 (N.D. Ala. 2014 April 11, 2014).
- *Morris v. Town of Lexington, Alabama*, 748 F.3d 1316 (11th Cir. 2014).
- *Cook v. The Orthopaedic Center, P.C.*, 2014 WL 12819568 (N.D. Ala. Nov. 14, 2014).
- *Town of Gurley v. M & N Materials, Inc.*, 143 So. 3d 1 (Ala. 2013).
- *Franklin v. Curry*, 738 F.3d 1246 (11th Cir. 2013).
- *Noles v. City of Guntersville*, 551 Fed. Appx. 497 (11th Cir. 2013).
- *Benefield v. City of Albertville*, 2013 WL 28051 (N.D. Ala. 2013).
- *Wood v. City of Albertville*, 2013 WL 6839598 (N.D. Ala. 2013).
- *Pell v. Tidwell*, 139 So.3d 165 (Ala. Civ. App. 2013).
- *Mason v. City of Huntsville*, 2012 WL 4815518 (N.D. Ala. 2012).
- *Blackwood v. Arc of Madison County, Inc.*, 2012 WL 5932451 (N.D. Ala. 2012).

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## Representative Cases (continued)

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- *Thompson v. City of Muscle Shoals*, 2012 WL 4815466 (N.D. Ala. 2012).
- *Vaughn v. Nacco Materials Handling Group, Inc.*, 440 Fed.Appx. 821 (11th Cir. 2011).

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## Professional Associations

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American Bar Association

Alabama Bar Association

Huntsville-Madison County Bar Association

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## Education

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J.D., *summa cum laude*, 2006, Syracuse University College of Law, Syracuse, NY

Order of the Coif

Lead Articles Editor, *Syracuse Law Review*

Moot Court Honor Society

Justinian Honor Society

Best Brief, Mackenzie-Lewis Appellate Advocacy Competition

B.A., *cum laude*, 2003, University of Alabama, Tuscaloosa, AL

University of Alabama "Million Dollar" Band

Phi Alpha Delta

Sigma Tau Delta

Pi Sigma Alpha

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## Court Admissions

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U.S. Supreme Court

U.S. Court of Appeals for the Eleventh Circuit

U.S. District Courts

Northern District of Alabama

Middle District of Alabama

Southern District of Alabama

All Alabama State Courts

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## Publications

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- "The First Amendment's Free Exercise Clause: Changes in Focus from the Collective to the Individual," *11th Circuit Historical News*, Winter 2021.
- "Individual Capacity Liability for Government Officials Following *Barnhart v. Ingalls*, 275 So.3d 1112 (Ala. 2018)," *Alabama Defense Lawyers Association Journal*, Fall 2021, with George W. Royer.

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## Publications (continued)

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- “Signs, Signs, Everywhere a Sign: U.S. Supreme Court to Re-Examine the Limits of Governmental Authority to Regulate Billboards and Other Advertisements,” *Alabama Defense Lawyers Association Journal*, Fall 2021, with Allison B. Chandler.
- “Meet the Trustees,” *11th Circuit Historical News*, Summer 2021.
- “The Working Families Flexibility Act of 2017: Will Congress Bring Comp Time to the Private Sector?,” *Alabama Defense Lawyers Association Journal*, Fall 2017, with J. Bradley Emmons.
- “Could the Door Be Closing on the Notorious ‘Beyond Authority’ Exception to *Cranman* Immunity in Alabama?,” *Alabama Defense Lawyers Association Journal*, Spring 2017 (with George W. Royer).
- “Coping With New Overtime Rules,” published in the online edition of *Business Alabama* (October 2016).
- “Regulatory Takings: Claims under the Alabama Constitution Following *Town of Gurley v. M&N Materials, Inc.*,” *Alabama Lawyer*, January 2015 (with George W. Royer, Jr.).
- “Immigration and the Law: Will the New Alabama Immigration Law Result in a Loss of Federal Funding to Alabama Schools?” *Alabama School Boards* (fall 2011), published by the Alabama Association of School Boards.
- “U.S. Supreme Court to Consider Whether Plaintiffs’ Lawyers Are Entitled to ‘Just a Little Bit More’ for Exception Performance in Fee-Shifting Cases,” *Government Liability* (May 20, 2009), with George W. Royer, Jr., published by the Defense Research Institute.
- “College Student Voting: A New Prescription for an Old Ailment,” *Syracuse Law Review* (2005), cited in *Dupree v. Hiraga*, 121 Haw. 297, 318; 219 P.3d 1084, 1105 (2009).

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## CLE Seminars

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Mr. Canupp has presented the following continuing legal education (CLE) seminars:

- Employer Response to the COVID-19 Crisis, CLE Alabama and the University of Alabama School of Law, April 1, 2020.
- The Families First Coronavirus Response Act, Legal Services of Alabama, March 27, 2020.
- Federal Abstention Doctrines, Alabama Municipal Insurance Corporation, March 25, 2020.
- Employment Law Update, Legal Issues Facing City and County Governments Seminar, CLE Alabama and Culverhouse School of Law of the University of Alabama, May 11, 2019.
- Employment Law Update for City and County Governments, City and County Government Seminar, CLE Alabama, May 5, 2018.
- Public Employment Issues in Alabama Courts, Annual Meeting of Alabama Defense Lawyers Association, Orange Beach, Alabama, June 21-24, 2017.
- Employment Law Update for City and County Governments, City and County Government Seminar, CLE Alabama, May 6, 2017.
- Technology Traps During Discovery and at Trial for the Employment Litigator, 2014 Employment Law Update, co-sponsored by the Cumberland School of Law and the Labor and Employment Law Section of the Alabama State Bar, November 14, 2014.
- ADA Accessibility Issues in Government Buildings, City and County Government Seminar, CLE Alabama, April 26, 2014.

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## CLE Seminars (continued)

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- Municipal Control Over City Courts and Consequences of Privatization of Municipal Services, Alabama Municipal Insurance Corporation (AMIC) Defense Panel Roundtable CLE, October 2013.
- Immigration Law Compliance: Discrimination, E-Verify, I-9 Audits, and the Impact of the New Alabama Immigration Bill, Sterling Education Services, February 2012 and August 2013.
- Americans with Disabilities Act Update, Last-Chance Seminar, Huntsville-Madison County Bar Association, December 2008.

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## Presentations

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- OSHA COVID-19 Vaccination Mandate For Large Private-Sector Employers, Zoom conference sponsored by Huntsville-Madison County Chamber of Commerce, November 5, 2021.
- The First Amendment's Free Exercise Clause: Changes in Focus from the Collective to the Individual, Maple Hill Chapter, Daughters of the American Revolution, Huntsville, Alabama, September 12, 2021.
- Tales from an Employment Lawyer: Scary Employment Law Situations, North Alabama Chapter of the Society for Human Resource Management (NASHRM), October 29, 2020.
- Responding to the COVID-19 Pandemic: Guidance for Employers, Ask-the-Experts Zoom Seminar sponsored by the Huntsville-Madison County Chamber of Commerce, June 1, 2020.
- Contracts for Insurance Adjusters, Alabama Property and Casualty Adjusters Association, Madison, Alabama, July 10, 2019.
- New Overtime Rules, Lanier Ford Tax Developments 2016, July 2016 (continuing professional education for certified public accountants).
- Avoiding Wage and Hour Violations, Employment Law Seminar, National Business Institute, Huntsville, Alabama, November 17, 2015.
- The Payoff to Being a Great Place To Work, Huntsville-Madison County Chamber of Commerce, November 4, 2015.
- The Disability Blues, Alabama Municipal Insurance Corporation Roundtable, Birmingham, Alabama, October 28, 2015.
- Employment Law Update 2014, 19th Annual Human Resource Management Conference, Shoals Chapter Society of Human Resources Management (SHRM), Muscle Shoals, Alabama, June 12, 2014.
- ADA Accessibility Guidelines: Are You in Compliance?, Lanier Ford Lunch & Learn, December 2012.
- Immigration Law Compliance for Employers, Lanier Ford Tax Developments 2012, July 2012 (continuing professional education for certified public accountants).

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## Community Involvement

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- Member, Board of Directors, Mental Health Association of Madison County.
- Member, Board of Directors, Big Brothers Big Sisters of North Alabama, 2009.

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## Other Experience

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- Member, Board of Trustees, Eleventh Circuit Historical Society, 2021-present.
- Selected by the district judges of the U.S. District Court for the Northern District of Alabama to serve on the U.S. Magistrate Judge Selection Committee, 2020-21.
- Law Clerk for Judge Lynwood Smith, U.S. District Court for the Northern District of Alabama, 2006-2008.
- In 2014, appointed as a special assistant district attorney for Madison County to represent the county and state in tax appeals.
- City Attorney, Moulton, AL, 2017-2018.
- Special City Attorney, Sheffield, AL, 2018.
- Faculty Advisor, Alabama Property and Casualty Adjusters Association, 2019.
- Adjunct Professor of Employment Law, University of Alabama in Huntsville, 2019-2020.
- Moot Court Judge, Fingerprint Examiner Training Program, Terrorist Explosive Device Analytical Center (TEDAC), Federal Bureau of Investigation, Huntsville, AL, 2019.

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