

## Nowell D. Berreth

Partner

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Nowell Berreth leads Alston & Bird's Agribusiness Team and focuses on representing agribusinesses in litigation and general counseling involving the Packers & Stockyards Act, Perishable Agricultural Commodities Act, Capper-Volstead Act, Immigration and Nationality Act and other statutes in the agriculture arena. He works with producers and distributors of many agricultural products, including eggs, poultry, peanuts, beef, pork, fresh produce, Vidalia onions, corn and soybeans. He also works on immigration issues related to agribusinesses.

Nowell also has an active appellate practice, including arguing before the U.S. Supreme Court in *Dart Cherokee Basin Operating Company v. Owens*, No. 13-719 ([decided](#) December 15, 2014). The Supreme Court case prompted *Law360* to name him to its list of "Legal Lions" for the week of December 15, 2014.

He is the past chair of the State Bar of Georgia's Agriculture Law Section and has served on the advisory board of the National Agricultural Law Center at the University of Arkansas Law School. Nowell is a frequent speaker across the country on agricultural law issues. Before joining Alston & Bird, he served two years as a federal court law clerk to the Honorable Willis B. Hunt, Jr., U.S. District Court for the Northern District of Georgia.

### **Representative Experience**

- Successfully petitioned the U.S. Supreme Court in *Dart Cherokee Basin Operating Co., LLC v. Owens*, No. 13-719, and then argued the case and convinced the Court to rule in clients' favor on the merits. The Court clarified that a defendant seeking removal to federal court need not include evidence of federal jurisdiction in its notice of removal; allegations of federal jurisdiction suffice. The Court also rejected the so-called "presumption" against removing cases to federal court under the Class Action Fairness Act.
- Representing a major agricultural lender in peanut-related litigation in a Georgia superior court.
- Counsel to a group of Vidalia onion producers in appellate litigation in the Georgia Court of Appeals.
- Defending a leading egg producer in proceedings before the Executive Office of Immigration Review of the United States Department of Justice.
- Lead trial counsel for one of the largest integrated poultry companies in the United States in the successful defense of claims brought under the Packers & Stockyards Act and the Agricultural Fair Practices Act.
- Won summary judgment for a large integrated poultry company in breach of contract litigation in a Georgia superior court that was affirmed by the Georgia Court of Appeals.
- Representing a large peanut marketing company in litigation involving long-term peanut supply contracts.
- Trial counsel for a large integrated poultry company in a week-long jury trial in the Superior Court of Walton County, Georgia. The jury awarded the company more than \$630,000 in damages on its breach of contract claims and awarded the defendant nothing on its counterclaim.

- Counsel for a large integrated poultry company in the successful defense of claims arising out of a delayed freight train. The arbitration panel found for the company on all claims and awarded the plaintiff nothing.
- Counsel to numerous produce companies in successful efforts to obtain injunctive and monetary relief in Perishable Agricultural Commodities Act cases in federal and state courts.
- Representing group of tomato producers in litigation before the United States Department of Agriculture.
- Representing an interstate natural gas pipeline company in connection with expansion of its capacity.
- Representing one of the largest natural gas joint action agencies in the United States in litigation in Tennessee federal court.
- Lead trial counsel for co-trustees and co-executors in the successful defense against multimillion-dollar claims for breach of fiduciary duty and other torts. The trial court granted summary judgment in our clients' favor, and there was no appeal.
- Counsel for a charitable foundation's trustees in a successful appeal to the Georgia Supreme Court in a case involving the disposition of a multimillion-dollar estate.
- Obtained a judgment for more than \$5 million as trial counsel in a breach of fiduciary duties case in the Superior Court of Gwinnett County, Georgia.
- Lead trial counsel for a worldwide transportation and logistics company in two arbitrations seeking hundreds of thousands of dollars for shipments of computers that had been lost or damaged by trucking firms. Both arbitration panels awarded the company all the damages it sought.
- Counsel for a Fortune 25 company in the successful defense of the constitutionality of the North Carolina punitive damages cap in a case involving a jury verdict of \$20,000 in compensatory damages but \$23 million in punitive damages.

## ***Publications & Presentations***

### ***Publications***

- "EPA, Army Corps Continue Drive to Increase Leverage and Power Over Landowners," *Growing Georgia*, March 17, 2016.

### ***Professional & Community Engagement***

- International Food and Agribusiness Management Association, Atlanta Chapter, chair
- American Agricultural Law Association
- Georgia Agribusiness Council
- Georgia Agritourism Association
- State Bar of Georgia, Agriculture Law Section

### ***Education***

- Georgia State University (J.D., 1998)
- University of Georgia (B.A., 1991)

### ***Admitted to Practice***

- Georgia

## *Related Services*

Litigation | Agricultural Legislative & Public Policy | Food, Beverage & Agribusiness | Commercial | Wealth Planning | Oil & Gas