

Big Law Firms Are Facing Off Over Confederate Statue Removal

By Thomas Spigolon

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What You Need to Know

- A tussle over a century-old statue in central North Carolina has two Big Law firms facing off in a case tied to removal of memorials to divisive historical figures and movements.
- Wilmer Cutler Pickering Hale & Dorr and Womble Bond Dickinson are on opposing sides of the case.
- Some legal industry observers see the firms' representation of clients as business decisions rather than moral ones.

A tussle over a century-old statue in central North Carolina has two large law firms facing off in a case tied to the nationwide effort by some groups to remove long-standing memorials of some divisive historical figures and movements.

The law firms' positions in the case have caught the attention of legal industry observers.

Wilmer Cutler Pickering Hale & Dorr is representing the North Carolina Conference of the NAACP, which is seeking to remove a 109-year-old Confederate memorial statue from in front of the county courthouse in Graham, North Carolina. The Wilmer client appealed a lower court's decision on the matter.

Meanwhile, Womble Bond Dickinson is representing Alamance County, North Carolina, which wants to keep the statue in place. In a lawsuit up for review by the state's Court of Appeals, Alamance County is pointing to a 2015 state law that bans the removal of Confederate monuments and other publicly owned "objects of remembrance," except under limited circumstances.

The Alamance County lawsuit, case 23-262, is scheduled for oral arguments before the Court of Appeals on Nov. 14 in Raleigh.

The NAACP and others, represented by Wilmer and two smaller North Carolina firms, said the statue was inten-



The Confederate monument outside the Alamance County Courthouse in Graham, Alamance County, North Carolina.

(Credit: Warren LeMay via Wikimedia Commons)

tionally placed in its current location in 1914 "because it conveyed to Black residents that the court system was white-controlled" and because it was near a main entrance to the county courthouse the structure "deprives residents of a judicial system that appears impartial," according to court documents.

Lawyers for the county, meanwhile, argue the county shouldn't be subject to the "prevailing political whims of a few litigious citizens," according to the appellate court documents.

They said allowing the removal would set a "troublesome precedent" where "unelected citizens who are 'offended' can limit government speech depending on the social trends of the time."

"Just as a law protecting a monument honoring Vietnam War veterans and endorsed by the government might be offensive to those opposed to American involvement in the Vietnam War, neither should a government's decision to honor Confederate soldiers be subjected to the prevailing political whims of a few litigious citizens," the county's lawyers wrote.

Lawyers representing the county include Christopher Geis of Womble's Winston-Salem office, as well as Natalia

Isenberg of Teague, Campbell, Dennis & Gorham, a 32-lawyer firm in Raleigh, according to court documents and the firms' websites.

The lawyers for the NAACP are Ronald Machen Jr., Karin Dryhurst, Natalie Bilbrough and Mark Fleming, all of Wilmer's New York and Boston offices; Stuart Paynter, Gagan Gupta and Sara Willingham of The Paynter Law Firm in Hillsborough, North Carolina; and Abraham Rubert-Schewel of Tin, Fulton, Walker & Owen in Charlotte, according to court documents.

A Womble representative said the firm had no comment about its representation of the county and its defense of keeping the statue in place. Geis, the Womble lawyer on the case, declined to comment. Meanwhile, a Wilmer spokesman said the firm also declined to comment on the case because it was pending litigation.

Client Representation

Womble's representation of the county was not "the greatest look" for the firm, noted Alicia Hughes, who is interim director of Emory University School of Law's Center for Civil Rights and Social Justice and not involved with the case.

But she said all sides need representation in a lawsuit, and "someone had to represent those people."

"The ultimate goal is to have all voices at the table," she said.

Speaking generally, Hughes said lawyers on all ends of the political spectrum typically are part of large law firms and may be willing to take on a client with whom they agree on an issue. The firm's leadership must make the ultimate business decision whether to represent a client with controversial views, she said.

Like numerous other large law firms, Womble expressly states on its website that it promotes diversity, equity and inclusion in its hiring. Its website includes a statement condemning "institutional racism" and it is also a Mansfield-certified firm, signifying its ongoing efforts to develop a racially diverse leadership group.

Womble was formed in 2017 from the merger of North Carolina-based Womble Carlyle Sandridge & Rice with U.K.-based Bond Dickinson.

Joshua Peck, a PR consultant and former media relations official for several law firms, said Womble's seemingly opposing stands of being devoted to diversity while representing a client supporting a racially divisive symbol could affect the hiring of young associates who often trend toward being more progressive.

However, most firms likely would defend representation of a controversial client, as well as potentially inflamma-

tory wording in a brief or in court as being what is required to represent a client in a court challenge, he said. Peck added that Womble was "within their rights" to represent a client with controversial views.

Peck said firms may view taking on such clients simply as a "business" move and maintain that everyone deserves representation no matter their issues. The same firms also often engage in such socially conscious actions as pro bono work, he noted.

"Most have a good record of doing good," Peck said.

Peck said Wilmer also had multiple motivations in taking the NAACP case as well as representation of Harvard University in its unsuccessful defense of its affirmative action program in college admissions earlier this year. Conservative legal activist Edward Blum's Students for Fair Admissions prevailed before the U.S. Supreme Court in the case.

"Undoubtedly, a significant number of WilmerHale partners were eager to take on the North Carolina county on behalf of the NAACP, trusting that their eventual, hoped-for victory would benefit people of color and others of goodwill in the state and outside it, and would help generally advance the cause of justice in removing these noxious public symbols of our racist, Confederate past," Peck said.

Wilmer, whose largest office is in Washington, D.C., also has represented controversial clients in its history, including Beatrice Foods in a lawsuit in the 1980s alleging the company was liable for contamination of a Massachusetts town's drinking water source.

Statue History

The Alamance County monument dates to 1914 when the United Daughters of the Confederacy supplied the funding for the 30-foot granite and marble monument as part of a movement by the group to build hundreds of similar memorials in counties across the South in the early 20th century.

The North Carolina Conference of the NAACP sued the county in 2021 to have the memorial moved to a different location after saying the statue, among other issues, violated the state constitution's Equal Protection Clause.

The NAACP then took the case to the state Court of Appeals after a trial court's October 2022 ruling favoring the county. The NAACP, some civil rights groups and five area residents are suing the county.

Attorneys representing Alamance County, including from Womble, said in their response to the NAACP's arguments for rehearing the case that the county was following state law by not removing the statue.