



# Tres

Tres Cleveland  
Partner

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Birmingham  
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## MY SERVICES

Higher Education

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## EDUCATION

University of Mississippi, J.D., *cum laude*, 2003

Augustus Longstreet Scholarship

Moot Court Board

Mississippi State University, BBA, *summa cum laude*, 2000

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## ADMISSIONS

Alabama

Mississippi

## overview

Tres Cleveland's deep experience in the higher education industry enables him to anticipate and support all client needs. A litigator by trade, he has successfully represented educational institutions, third-party servicers, and financial investors in dozens of reported cases in courts throughout the country.

Tres' experience in education-related litigation is broad. He has handled cases involving the False Claims Act, Title IX, ADA accreditation, federal and state program reviews, state attorneys general enforcement actions, student fraud and educational malpractice claims, employment discrimination, real estate and vendor contract disputes, arbitration enforcement, and more. He has defended a proprietary educational institution in hundreds of individual arbitrations brought by former students.

Tres also regularly represents educational institutions and other entities in regulatory matters and corporate transactions. He frequently appears before the U.S. Department of Education, regional and national accreditors, state attorneys general, and state licensure boards. His experience in the industry also helps him provide counsel to institutions, investors and financiers in higher education mergers and acquisitions, as well as other complex corporate restructuring matters, including bankruptcies and receiverships. In addition, Tres provides guidance to institutions looking to convert their tax status in proceedings before the Department of Education.

## experience

- *Mai v. The Art Institute of Dallas Aii, LLC*, No. DC-21-07474 (Dallas Cty. Civ. Ct. Jan. 28, 2022). Successfully compelling former student's breach of contract claims against college to arbitration.
- *Qureshi v. Alabama College of Osteopathic Medicine*, No. 1:20-cv-934 (M.D. Ala. Dec. 28, 2021). Obtained dismissal of former student's Title VII national origin discrimination claims against medical college.
- *Matthews v. American Society of Professional Education*, 2021 WL 6285264 (W.D. Tex. Nov. 4, 2021). Obtained dismissal of federal copyright infringement suit arising out of development and use of student training materials.
- *Jenkins v. Georgia Driving Academy*, No. 2021-MAG-1131 (Rockdale Cty. Mag. Ct.) (Jul. 13, 2021) Prevailed at trial on former student's claims that professional driving school failed to accommodate disability.
- *Hilburg v. Fortis College*, No. 01-20-0014-5423 (AAA) (June 28, 2021). Obtained dismissal of student's claim that college's transition to distance education during COVID-19 pandemic violated enrollment agreement.
- *VC Macon GA, LLC v. Virginia College, LLC*, No. 5:18-cv-388 (M.D. Ga. Feb. 24, 2021) Obtained dismissal of landlord's fraud and misrepresentation claims against college.

- MasterMind Involvement Mktg., Inc. v. The Art Institute of Atlanta, LLC, 389 F. Supp. 3d 1291 (N.D. Ga. 2019). Obtained injunction requiring vendor to return social media login credentials to multiple universities.
- Bishop v. St. Paul's School of Nursing, No. 19-69422. Successfully defended race discrimination claims against nursing school in matter before New York City Commission on Human Rights.
- Garcia v. Virginia College, LLC, No. 1:18-cv-621 (E.D. Tex. Aug. 5, 2019) Successfully compelled student and employee putative class action claims against college to arbitration.
- 401 Palace Parkway v. Education Affiliates, Inc., No. 3:19-cv-151 (N.D. Tex.) Represented university in real estate dispute with landlord that settled.
- Adams v. Antonelli College, 304 F.Supp.3d 656 (S.D. Ohio 2018) Obtained summary judgment in putative class action suit by former students alleging college misrepresented its approval status with state nursing board.
- United States ex rel. Gilbert v. Virginia College, LLC, 305 F.Supp.3d 1315 (N.D. Ala. 2018) Obtained dismissal of relator's False Claims Act suit alleging college falsified student records to maintain eligibility for federal Title IV funds.
- Marshall v. Alabama College of Osteopathic Medicine, 2018 WL 4955211 (M.D. Ala. Oct. 12, 2018) Obtained dismissal of student ADA and due process claims.
- Borden v. Antonelli College, 304 F.Supp.3d 678 (S.D. Ohio 2018) Obtained dismissal of students' fraud and breach of contract claims regarding transferability of credits.
- United States ex rel. Barret v. Beauty Basics, Inc., 2015 WL 3650960 (N.D. Ala. 2015) Obtained dismissal of False Claims Act suit alleging that school failed to provide students with grades and properly licensed instructors as required in order to obtain Title IV funds.
- Fitzhenry v. One on One Marketing, 2015 WL 4459023 (D.S.C. 2015) Obtained dismissal of suit alleging marketing agency working on behalf of university violated federal Telephone Consumer Protection Act.
- Won the dismissal of student's federal claims under the Higher Education Act, as well as the dismissal of student's class action claims, while the student's remaining individual state law claims were successfully compelled to arbitration. Also successfully defended student's appeal to the 5th Circuit Court of Appeals. Natifracuria Daniels v. Virginia College at Jackson, et al, No. 3:11-CV-496 (S.D. Miss. Nov. 29, 2011) (aff'd Daniels v. Va. College at Jackson, 478 Fed. Appx. 892 (5th Cir. 2012)
- Obtained dismissal of class action claims in a case where the students' claims against a for-profit educational institution were successfully compelled to arbitration and the court ruled that the students waived class action adjudication pursuant to the arbitration provision. Asbell v. Education Affiliates, Inc., et al., No. 3:12-CV-00579 (M.D. Tenn. April 25, 2013)
- Won an appeal to the Mississippi Supreme Court, in a 9-0 decision, whereby the Supreme Court reversed the lower court's order granting the students' motion to invalidate the college's arbitration provision. Va. College, LLC v. Blackmon, 109 So. 3d 1050 (Miss. 2013).
- Successfully defended an appeal to the Alabama Supreme Court of the trial court's order granting our motion to compel the student's claims to arbitration. Shalundia Dixon, et al. v. Virginia College, No. 2011-195 (Cir. Ct. Mobile County Ala. May 13, 2011) (aff'd Shalundia Dixon, et al. v. Virginia College, No. 1101156 (Ala. May 30, 2012)
- In both federal and state courts, successfully obtained orders enforcing college's arbitration provision and, thereby, compelling students' claims to arbitration. Anderson v. Va. College, LLC, 2012 U.S. Dist. LEXIS 130619 (S.D. Miss. Sept. 13, 2012); Brittany Davis, et al. v. Virginia College of Jackson MS, et al., No. 3:12-CV-510 (S.D. Miss. Aug. 21, 2012); Francisco Rodriguez v. Virginia College, LLC, No. 13083854-S-00 (Magis. Cr. Bibb County Ga. Sept. 23, 2013); Shirley Hughes v. Virginia College, et al., No. 13 GS 2986 (Gen. Sessions Ct. Hamilton County Tenn. Apr. 15, 2013); Kimberly Moore, et al. v. Virginia College of Jackson, et al., No.

251-06-408CIV (Cir. Ct. Hinds County Miss. July 21, 2009); Phillip J. Shelnut, et al. v. Virginia College, L.L.C., et al., No. CV-2007-902009 (Cir. Ct. Jefferson County Ala. Oct. 14, 2008)

- Obtained defense verdicts in various AAA arbitrations defending student claims alleging that a college's accreditation was fraudulently concealed and provided no marketability.
- Won a motion to exclude the testimony and strike the reports of two expert witnesses. Va. College, LLC v. Martin, 2012 U.S. Dist. LEXIS 178132 (S.D. Miss. Dec. 17, 2012)

## affiliations

### Professional

- California Association of Private Postsecondary Schools (CAPPS)
- Career Colleges and Schools of Texas (CCST)
- Career Education Colleges and Universities (CECU)
- Career Schools Private Education Network (CSPEN)
- Florida Association of Postsecondary Schools and Colleges (FAPSC)
- Mid-Atlantic Association of Career Schools (MAACS)
- American Bar Association
- Alabama State Bar Association
- Mississippi State Bar Association
- Birmingham Bar Association

## recognitions

- Listed in The Best Lawyers in America® (by BL Rankings), 2021-2024
- Listed as an Alabama Super Lawyers® Rising Star, 2012-2013