

## **BRIAN ALLIGOOD WINS DISMISSAL OF WRONGFUL DEATH ACTION AGAINST NORTH CAROLINA NURSING HOME**

By August 25, 2017

**Brian Alligood** of the firm's Greensboro, North Carolina office recently prevailed on a motion to dismiss a wrongful death action filed against a North Carolina nursing home. The complaint alleged that the nursing home staff was negligent in leaving a bottle of body wash within the reach of a demented resident with an alleged propensity to ingest foreign objects.

BKBM moved to dismiss the complaint on grounds that the complaint failed to comply with the pre-suit expert witness certification requirements of Rule 9(j) of the North Carolina Rules of Civil Procedure. In response to the motion, the plaintiff argued that her complaint could proceed under a general negligence theory and thereby elude Rule 9(j) requirements. The plaintiff also filed an amended complaint in an effort to support this alternative theory. **Mr. Alligood** successfully argued that the complaint, even as amended, sounded in medical malpractice and was subject to dismissal due to its Rule 9(j) noncompliance.