

# Appellate & Trial Support

## Overview



---

There are critical distinctions between persuading trial judges and persuading appellate judges. Our appellate lawyers know how to advocate to all judges and especially appellate judges.

We regularly practice in state and federal appellate courts across the country, continually gaining insights into effective appellate advocacy. We write and speak frequently on written and oral appellate advocacy, which further keeps our advocacy skills up to date. We also discuss appellate strategies and issues internally, with the benefit of decades of lessons learned and passed on, which can improve the chances of success on appeal.

With all of this comes insight and wisdom, providing an edge in court that could not be gained without access to our entire group. Our track record speaks for itself: We have obtained reversals of numerous multimillion-dollar judgments and three multibillion-dollar judgments, and we have upheld substantial judgments for our clients.

For years our appellate lawyers also have provided trial support for our clients and our clients' trial lawyers in trials throughout the United States. Working collegially and efficiently with trial counsel, we help prevent unforced errors and assure proper preservation of the record for appeal. Not only do we assist in identifying and presenting important pretrial and trial legal issues to the trial judge, we keep a sharp eye on case-dispositive issues as they develop at trial and identify the evidence required to support or challenge those issues. We help our clients manage their litigation risk and maximize their decision-making process. Our presence demonstrates to both the other side and the court the client's commitment to the case.

When a favorable verdict is rendered for our client, we analyze what else needs to be done to try to make it stick. When an adverse verdict is rendered, we engage in immediate post-trial triage with our client and trial lawyers, including resolving bonding issues. Then we appeal, with the best possible record.

At all stages of the case, we provide appellate and legal strategies as part of crisis responses to client's unexpected and time-sensitive problems. Injunctions, motions for reconsideration, extraordinary appellate writs, and interlocutory appeals are important tools in our group's arsenal.

## Our Appellate Practice

We recognize the reality that most appeals are won (or lost) on the written briefs. Consequently, we pay careful attention to our written advocacy, not only for substance and forceful advocacy but also for readability by busy appellate judges and clerks. Members of our groups always are willing to read drafts of briefs with fresh, cold eyes, as a value added to our clients. We also prepare assiduously for oral arguments, regularly conducting mock arguments before lawyers not involved in the briefing who rigorously question us and critique the arguments and answers to hard questions from the bench. Then we continue our preparation and make the actual oral arguments with the enormous benefit these exercises provide. Carlton Fields' appellate attorneys have handled appeals and provided trial support in a vast array of substantive areas of the law, including personal injury claims alleging negligence and product liability, commercial matters involving businesses embroiled in tort or contract litigation, insurance matters such as bad faith and coverage, and federal matters such as civil rights and intellectual property. In addition, we are increasingly involved in new and emerging areas of law, such as cybersecurity and data privacy, financial and professional services in today's litigious world, social media defamation and fake news, climate change, and esports. We continually work on evolving legal standards of proof for punitive damages and sanctions motions, and on preserving appellate arguments in that regard.

### **Who We Are:**

- Our attorneys have spent their careers earning credibility with appellate courts and are recognized for their appellate experience and excellence.
- We have appeared before the U.S. Supreme Court and every federal appeals court, as well as appellate courts of more than 30 states.
- Our diverse group includes a former appellate judge and former law clerks from numerous state and federal appellate courts, including the Supreme Court.

- Our lawyers have served over the years in leadership roles in many national organizations devoted to the administration of justice in state and federal courts and to improving trial and appellate court advocacy.
  - American Academy of Appellate Lawyers (former president; elected members)
  - American Bar Association (former member council for Judicial Division; co-chair Appellate Practice Committee)
  - American College of Trial Lawyers (former chair and current member of Teaching of Trial and Appellate Advocacy Committee)
  - American Judicature Society (former president)
  - American Law Institute (member of council; elected members)
  - Appellate Judges Education Institute (ABA representative on board of directors)
  - National Center for State Courts (former co-chair of Lawyers Committee)
- In addition, our lawyers are active in state bar appellate practice committees.
- As a result of our continual focus on the enhancement of our appellate advocacy skills, our group truly is greater than its parts.

## **What We Do:**

- We plan for the appeal before the appeal.
- We work with clients and trial counsel at the trial court stage to create legal strategies that improve the chances for success both at trial and on appeal, as well as to identify arguments for a potential change in the law.
- We handle interlocutory appeals and petitions for extraordinary relief before trial.
- When an adverse judgment is entered, we work with the client and trial counsel on post-trial triage, including developing the most effective appellate strategy to achieve optimal results.
- When a favorable judgment is entered, we work with the client and trial counsel to protect it.
- We prepare an early and realistic evaluation of the appeal and any cross-appeal.
- We communicate with our clients regularly so they know the status of the appeal, without sudden surprises.
- From bet-the-company cases to routine matters, we staff cases efficiently with the right attorneys to meet the client's needs and objectives.

- We author amicus briefs on issues of importance to our clients.
- We provide in-house seminars on topics of interest to our clients.

## **SUCCESSFUL APPEALS REQUIRE MASTERY OF THE APPELLATE FRAMEWORK.**

~ American Bar Association's Appellate Practice Manual

### Appellate Support at Trial

Carlton Fields is retained regularly by clients to assist trial counsel (both within and outside the firm) in jury trials across the country, and our appellate lawyers have been doing this for decades. In this way, our appellate lawyers:

- Assist trial counsel on evidentiary issues arising at trial
- Develop and argue legal issues in the case
- Assist trial counsel in preserving the record
- Prepare motions and responses to motions during trial
- Prepare jury instructions and verdict forms
- Handle charge conferences
- Brief and argue post-trial motions
- Handle any bond issues after an adverse verdict

In particular, we have found — and trial counsel have confirmed — that involving appellate counsel in key, outcome-determinative legal issues before and during trial allows the trial lawyers to focus on the trial itself, while assuring that legal arguments are presented in a way that is persuasive to the trial court and best framed for the appellate court. This primes the case for the maximum chances of success at trial and on appeal. To this end, our attorneys stay current on developments in substantive and evidentiary law. Developments in the law are provided to firm attorneys through regular internal seminars.

### 2022 Year in Review

In 2022, the Carlton Fields Appellate Practice obtained a remarkable number of appellate decisions for the benefit of their clients. The decisions included appeals from cases handled at the trial level by Carlton Fields lawyers as well as cases handled by trial lawyers in other firms. Members of the group also assisted the lead appellate lawyer by providing a cold eyes review of the draft brief and by serving as judges for mock oral arguments. In addition, the group submitted amicus curiae briefs in several important appeals in which the party we supported



prevailed. This year was a very good year for the Carlton Fields Appellate Practice Group and their clients, and we look forward to a successful 2023.

- *Susan Lynne Rohe v. Wells Fargo Bank, N.A.*, No. 21-10561 (11th Cir. Dec. 19, 2022)
- *MGFB Properties, Inc. v. Viacom Inc.*, No. 21-13458 (11th Cir. November 29, 2022)
- *Jason Trannum v. U.S. Bank National Association*, No. 1D21-3314 (Fla. 1st DCA Nov. 29, 2022)
- *Damonie Earl et al. v. The Boeing Company*, No. 21-40720 (5th Cir. Nov. 21, 2022)
- *Niloy Thakkar v. Good Gateway LLC*, No. 5D21-848 (Fla. 5th DCA Nov. 18, 2022)
- *McCormick Mile Investments, LLC v. Laurence K. Barnes*, No. 4D21-2357 (Fla. 4th DCA Nov. 9, 2022)
- *Michael Arevalo v. Mentor Worldwide LLC*, No. 21-11768 (11<sup>th</sup> Cir. November 8, 2022)
- *Arthur Cartee v. Boehringer Ingelheim Pharmaceuticals, Inc., Pfizer, Inc., GlaxoSmithKline LLC*, No. 21-10305 (11<sup>th</sup> Cir. November 7, 2022)
- *Marilyn Williams v. Boehringer Ingelheim Pharmaceuticals, Inc., Boehringer Ingelheim USA Corporation, Walgreens Boot Alliance, Inc.*, No. 21-10306 (11<sup>th</sup> Cir. November 7, 2022)
- *Millennium Bank v. Darby & Peele*, No. 1D21-3891 (Fla. 1<sup>st</sup> DCA October 10, 2022)
- *Lombardy v. Lombardy*, No. 5D22-1002 (Fla. 5<sup>th</sup> DCA Sept. 14, 2022)
- *William M. Fuget v. Rachel F. Gerker, William T. Gerker and Government Employees Insurance Company*, No. 5D21-1493 (Fla. 5<sup>th</sup> DCA August 9, 2022)
- *Lalitha E. Jacob, MD v. Mentor Worldwide*, No. 20-10132 (11<sup>th</sup> Cir. July 20, 2022)
- *Safe Harbor Equity Distressed Debt Fund v. Jugal K. Taneja*, No. 2D21-2756 (Fla. 2<sup>nd</sup> DCA June 29, 2022)
- *Transamerica Life Insurance Company v. Angelina D. Slee, Thomas M. Slee, Anthony Slee, as power of attorney for Angelina D. Slee*, No. 21-35093 (9<sup>th</sup> Cir. June 28, 2022)
- *James E. Reed v. Aviva USA Corporation*, No. A158535 (Cal. 1<sup>st</sup> DCA June 16, 2022)
- *Marlene Cueto Iglesias, Miriam Iglesias Alvarez v. Pernod Ricard*, No. 21-12398 (11<sup>th</sup> Cir. June 3, 2022)
- *Royal Palm Optical v. State Farm Mutual Automobile Insurance Company*, No. 21-11335 (11<sup>th</sup> Cir. May 25, 2022)
- *Café International Holding Company v. Chubb Limited*, No. 21-11930 (11<sup>th</sup> Cir. May 13, 2022)

- *Transamerica Life Insurance Company v. Angelina D. Slee*, No. 21-35093 (9<sup>th</sup> Cir. May 10, 2022)
- *California DUI Lawyers Association v. California Department of Motor Vehicles*, No. B305604, B309145 (Cal. 2<sup>nd</sup> DCA April 14, 2022)
- *KB Home Fort Myers LLC v. Taishan Gypsum Co.*, No. 2D21-384 (Fla. 2<sup>nd</sup> DCA April 13, 2022)
- *Kelly v. Georgia-Pacific LLC. Ripple v. CBS Corp.*, No. 4D20-1939 (Fla. 4<sup>th</sup> DCA Mar. 30, 2022)
- *ASG & C, Inc., a New York Corporation v. Arch Specialty Insurance Company*, No. 21-1761 (2<sup>nd</sup> Cir. March 22, 2022)
- *In re Heather Hills Amenities, LLC*, 8:21-CV-1057-CEH, 2022 WL 833706 (M.D. Fla. Mar. 21, 2022)
- *Managed Care Advisory Group, LLC v. United Healthcare of North Carolina*, No. 21-10247 (11<sup>th</sup> Cir. March 16, 2022)
- *Patel v. 3MT Investments, LLC*, No. 2D21-1587 (Fla. 2<sup>nd</sup> DCA Mar. 11, 2022)
- *Corey Shader, et al. v. ABS Healthcare Services, LLC*, No. 3D21-2344, 3D21-2437 (Fla. 3<sup>rd</sup> DCA March 9, 2022)
- *EHC, Inc. v. KB Home Tampa LLC*, No. 2D20-2097 (Fla. 2<sup>nd</sup> DCA Mar. 4, 2022)
- *Hernandez v. CGI Windows & Doors, Inc.*, 3D20-1318 (Fla. 3<sup>rd</sup> DCA Mar. 2, 2022)
- *Steven J. Pincus v. American Traffic Solutions, Inc.*, No. 333 So. 3d 1095 (Fla. 2022)
- *Palafox, LLC v. Diaz*, No. 1D20-3415 (Fla. 1<sup>st</sup> DCA Feb. 9, 2022)
- *Steven Pincus v. American Traffic Solutions*, No. SC21-159 (SC FL February 3, 2022)
- *Constance Marie Bostick v. St. Petersburg Manager*, No. 2D21-569 (Fla. 2<sup>nd</sup> DCA January 28, 2022)
- *Alachua Cnty v. Watson*, No. SC19-2016 (Fla. Jan. 27, 2022)
- *Gregory B. Meyers v. The St. Joe Company*, No. 2D21-1329 (Fla. 2<sup>nd</sup> DCA January 26, 2022)
- *Fleming Properties v. Robin Flemming*, No. 4D20-1396 (Fla. 4<sup>th</sup> DCA January 20, 2022)
- *Gregory B. Meyers v. The St. Joe Company*, No. 1D12-703 (Fla. 1<sup>st</sup> DCA January 13, 2022)
- *Thakkar v. Good Gateway, LLC*, 2022 WL 17071686 (Fla. 5<sup>th</sup> DCA 2022)
- *Hernandez v. CGI Windows & Doors, Inc.*, 347 So. 3d 113 (Fla. 3<sup>d</sup> DCA 2022)

- *Taneja v. First Street & Fifth Ave., LLC*, 338 So. 3d 362 (Fla. 2d DCA 2022)
- *Ripple v. CBS Corp.*, 337 So. 3d 45 (Fla. 4th DCA 2022)
- *Florida Ass’n of Realtors v. Orange Cnty.*, 350 So. 3d 115 (Fla. 5th DCA 2022)
- *Kim v. Galasso*, 348 So. 3d 1183 (Fla. 2d DCA 2022)

## COVID-19 Preparedness

Appellate courts across the country are open for business, and so are our appellate lawyers. We have been presenting virtual oral arguments through both teleconferencing and videoconferencing software. While such arguments can work fine, they are very different from in-person arguments, and the advocate must prepare and adjust for these differences. We accordingly have become proficient with the technology and techniques to ensure effective, top-notch advocacy and trial support in a post-COVID-19 world that includes virtual and in-person proceedings. Members of our firm have been integral in developing guidelines for [best practices for virtual advocacy](#) including appellate arguments. We continue to learn about the latest trends and reports on digital practices that will improve our appellate oral advocacy. Each of our offices has a dedicated “broadcast” room to assure the best possible forum for presenting arguments remotely. Our appellate lawyers use the firm’s virtual mock oral argument technology to prepare for such arguments. Practicing in the same remote forum that will be used in real life is invaluable. These uncertain times also are creating the need for extraordinary appellate relief, before final judgments, such as writs of certiorari or prohibition on various issues created by COVID-19 and other events in today’s extraordinary world. In addition to the usual trial and appellate issues that must be addressed as trials resume, unique concerns related to post-COVID-19 virtual and in-person trials and pretrials have created a new range of issues that will need to be properly preserved. It truly is a new world. Our appellate lawyers are ready to help assure that happens at the trial level.

## Meet Our Newest Team Members

**Scott Menger** (Los Angeles) represents clients in litigation and appeals involving breach of contract, conversion, fraud, unfair business practices, civil rights violations, and medical malpractice defense. He served as a judicial extern to the Honorable Beverly Reid O’Connell of the U.S. District Court for the Central District of California and to the Honorable H. Chester Horn Jr. of the Los Angeles County Superior Court.

## Experience

## Appellate Wins - 2022

It was a great first quarter for the Carlton Fields Appellate lawyers as they secured successful outcomes for our clients.

- Obtained affirmance of the bankruptcy court's dismissal of their complaint, arguing that the bankruptcy court erred in its resolution of several issues, including claim preclusion and equitable mootness. *In re Heather Hills Amenities, LLC*, 8:21-CV-1057-CEH, 2022 WL 833706 (M.D. Fla. Mar. 21, 2022) – [Nathan Foell](#)
- Obtained partial affirmance of final judgment in Wrongful Death Act case regarding ability of a surviving spouse and adult children to recover loss of consortium damages where the injury at issue predated the marriage between the spouse and the decedent. The Fourth District certified conflict with a Fifth District decision. *Kelly v. Georgia-Pacific LLC. Ripple v. CBS Corp.*, No. 4D20-1939 (Fla. 4th DCA Mar. 30, 2022) – [Matt Conigliaro](#)
- Obtained order directing final judgment in our client's favor and precluding the appellee from going forward on an amended complaint to collect more than \$11 million on a guaranty related to a prior appeal in which we secured the reversal of a \$9.8 million judgment. *Taneja v. First Street & Fifth Avenue LLC*, No. 2D20-679 (Fla. 2d DCA Mar. 25, 2022); *Taneja v. First Street & Fifth Avenue LLC*, 310 So. 3d 1275 (Fla. 2d DCA 2021) – [Matt Conigliaro](#)
- Obtained quashal of decision of lower appellate court where, applying fundamentals of statutory interpretation, statutes governing budgetary process for counties and sheriffs did not permit sheriffs to make object-level transfers in budget without approval of board of county commissioners. *Alachua Cnty v. Watson*, No. SC19-2016 (Fla. Jan. 27, 2022) – [Sylvia Walbolt](#)
- Obtained reversal of a final judgment based on trial court's error in permitting opposing party to utilize pleadings as admissions at trial. The appellate court ordered a new trial. *Hernandez v. CGI Windows & Doors, Inc.*, 3D20-1318 (Fla. 3d DCA Mar. 2, 2022) – [Matt Conigliaro](#)
- Obtained per curiam affirmance and appellate attorneys' fees award in favor of our client KB Home. *EHC, Inc. v. KB Home Tampa LLC*, No. 2D20-2097 (Fla. 2d DCA Mar. 4, 2022) – [Joe Lang](#)
- Obtained denial of a certiorari petition regarding an order requiring discovery of a parties' financial records. *Patel v. 3MT Investments, LLC*, No. 2D21-1587 (Fla. 2d DCA Mar. 11, 2022) – [Matt Conigliaro](#)

---

## Additional Appellate Wins

- ***Crime v. Looney***, 328 So. 3d 1157 (Fla. 1st DCA 2021). Won reversal of \$2.6 million merits and fees judgments, remanding for a new trial in personal injury case.

- *Llauro v. Linville*, 2021 WL 5767935 (11th Cir. Nov. 6, 2021). Won affirmance of dismissal of civil rights case.
- *Taneja v. First Street & Fifth Avenue LLC*, 310 So. 3d 1275 (Fla. 2d DCA 2021). Won reversal of \$9.8 million judgment in commercial case.
- A team of Carlton Fields lawyers recently obtained a favorable ruling from the Ninth Circuit Court of Appeals in a large insurance coverage matter. The Ninth Circuit affirmed the district court's order granting summary judgment for AIG, holding that the contract exclusion in a "media liability" insurance policy barred coverage for a \$77.5 million settlement Office Depot entered to resolve claims brought against it under the California False Claims Act. Carlton Fields President and CEO Gary Sasso presented oral argument before the Ninth Circuit Court of Appeals.
- Carlton Fields Shareholders Sylvia Walbolt and Dean Morande secured an appellate opinion confirming that, under an exception to the local action rule, a lender may bring its multimillion-dollar foreclosure case in a single action, even where the underlying properties are located in multiple counties. The decision resolved what the opposing party claimed was an interdistrict split on the application of the local action rule.
- In *Salcedo v. Hanna*, No. 17-14077 (11th Cir. Aug. 28, 2019), Carlton Fields appellate attorneys represented an entity sued under the TCPA in a putative class action for sending a single unwanted text message. In a landmark decision, the Eleventh Circuit Court of Appeals held that the plaintiff failed to allege a concrete injury sufficient to confer Article III standing, creating a circuit split on the issue.
- A Carlton Fields appellate and trial team [recently obtained an affirmance](#) from the Eleventh Circuit Court of Appeals in a class action lawsuit. The trial team first secured a ruling from the district court dismissing the plaintiff's second amended class action complaint with prejudice as an impermissible "shotgun pleading" in violation of the Federal Rules of Civil Procedure. On appeal, the Eleventh Circuit held that the district court did not abuse its discretion because, despite the district court's instructions, the amended complaint failed to provide a "short and plain statement" giving each defendant fair notice of the claims against it and the grounds upon which they rested.
- [In granting a petition for writ of certiorari](#) brought by Carlton Fields, the Second District Court of Appeal recently resolved an issue of first impression under Florida law. The trial judge had deferred ruling on a motion to dismiss asserting lack of personal jurisdiction, instead ordering the parties to first arbitrate both the jurisdictional dispute and the merits of the case. The court held this was a departure from the essential requirements of the law because the trial court was required to resolve the personal jurisdiction challenge before it could refer the action to arbitration.



- Our team obtained an appellate victory in a [sovereign immunity case involving fair associations](#) in Florida. Reversing a trial court's decision, the appellate court held that fair associations have limited sovereign immunity under Florida law.
- [\*Shuker v. Smith & Nephew, PLC\*](#), 885 F.3d 760 (3d Cir. 2018). In a case of first impression, the Third Circuit Court of Appeals held that the plaintiff's negligence, strict liability, and breach of implied warranty claims against our client, a medical device manufacturer, were expressly preempted under the Medical Device Amendments of 1976 to the Federal Food, Drug, and Cosmetic Act. The plaintiff's claims involved a hip-replacement system that consisted of a number of component parts subject to different categories of federal regulation.
- [\*United States v. HPC Healthcare, Inc.\*](#), 723 F. App'x 783 (11th Cir. 2018). The Eleventh Circuit Court of Appeals affirmed dismissal with prejudice of a qui tam action brought against our client for the alleged fraudulent submission of medical billing to Medicare and Medicaid. The court agreed that the plaintiff had failed to plead detailed allegations sufficient to satisfy the applicable standards under Federal Rule of Civil Procedure 9(b).
- [\*Bechtel Corp. v. Batchelor\*](#), No. 3D16-2624, 2017 WL 6598822 (Fla. 3d DCA Dec. 27, 2017). Florida's Third District Court of Appeal reversed a \$12.8 million verdict and remanded for entry of judgment as a matter of law in favor of our client, a contractor that had performed maintenance at a power plant owned by Florida Power & Light. The appellate court agreed that the plaintiff failed to prove that our client had sufficient control over the power plant such that it could be held responsible in a premises liability action involving alleged exposure to asbestos. In addition, the court held that the trial court had improperly provided an adverse-inference jury instruction.
- [\*Pinellas Cty. v. Richman Grp. of Fla., Inc.\*](#), 253 So. 3d 662 (Fla. 2d DCA 2017). Florida's Second District Court of Appeal reversed a \$16.5 million award against our client, Pinellas County, in an action alleging equal protection and substantive due process constitutional violations. The action stemmed from the county's denial of a developer's application to change a land-zoning designation from "industrial limited" to "residential limited." The appellate court determined that the zoning denial was rationally based on legitimate government concerns regarding maintaining a desired level of industrial zoning and significant community opposition to the proposed change in zoning designation.
- [\*Holmes Reg'l Med. Ctr., Inc. v. Allstate Ins. Co.\*](#), 225 So. 3d 780 (Fla. 2017). The Florida Supreme Court quashed the decision of the Fifth District Court of Appeal and ruled in our client's favor by holding that an initial tortfeasor that has had judgment for its negligence entered against it — but has not fully satisfied that judgment — is not entitled to seek equitable subrogation from a subsequent tortfeasor, such as an allegedly negligent treating physician.



- ***McDaniel v. Fifth Third Bank***, 192 So. 3d 489 (Fla. 5th DCA 2016). Florida's Fifth District Court of Appeal affirmed the dismissal of a putative class action alleging unlawful check-cashing fees. The Fifth District affirmed the trial court's ruling that the claims were federally preempted, as well as its ruling that section 655.85, Florida Statutes, does not provide a private cause of action.
- ***PNC Bank, N.A. v. Smith***, No. S15Q1445 (Ga. Feb. 22, 2016). The Georgia Supreme Court unanimously held that guarantors could expressly waive protections afforded to them by Georgia's anti-deficiency statute. In response to two questions certified by the U.S. District Court for the Northern District of Georgia, the court found that compliance with Georgia's anti-deficiency statute requiring confirmation of a nonjudicial foreclosure sale constituted a condition precedent to a lender's pursuit of a deficiency action to recover from guarantors the remaining balance owed on a loan following foreclosure of collateral property. But the court further held that guarantors could contractually waive such condition precedent, thereby allowing a lender to pursue a deficiency directly from guarantors, the lack of confirmation of such sale notwithstanding.
- ***Charlotte Cty. v. Andress Family Fla., LP***, 186 So. 3d 1029 (Fla. 2d DCA 2016). Florida's Second District Court of Appeal affirmed a final judgment for plaintiffs in a multimillion-dollar inverse condemnation action. The court affirmed the finding that Charlotte County, through its actions, inactions, and regulations, effected a compensable temporary taking of private property in violation of the United States and Florida constitutions.
- ***Hoeftling v. City of Miami***, 811 F.3d 1271 (11th Cir. 2016). The Eleventh Circuit Court of Appeals reversed the district court's dismissal of all of plaintiffs' claims except his substantive due process claim. The plaintiff asserted that the city illegally seized and destroyed his sailboat without justification or notice. The court held, among other things, that the trial court incorrectly (1) applied a heightened pleading standard to plaintiff; (2) considered reports attached to the first amended complaint but omitted from the second; (3) deemed the procedural due process claim insufficient as to municipal liability; and (4) concluded that the seizing officers were entitled to qualified immunity based on the improperly considered reports.
- ***Crosby Valve, LLC v. Dep't of Ins.***, 131 A.3d 1087 (Pa. Commw. Ct. 2016). The Commonwealth Court of Pennsylvania affirmed the orders of the Pennsylvania Insurance Department, which denied policyholder objectors' motions to intervene in the department's administrative review proceeding involving a "Form A" transaction to transfer ownership of several insurance companies, and which protected the confidential financial and business information of the parties to the transaction. The court held that the insurance department did not violate the policyholder objectors' due process rights in the proceeding, and dismissed, for lack of standing, the policyholder objectors' attempted appeal from the department's order approving the transaction.

- ***Dello Russo v. Fifth Third Bank***, 634 F. App'x 774 (11th Cir. 2015). The Eleventh Circuit Court of Appeals affirmed dismissal with prejudice of a complaint alleging a multimillion-dollar claim. The complaint alleged a lender committed fraud and was unjustly enriched in conjunction with the plaintiff's personal guaranty of corporate promissory notes. The district court applied Illinois law to dismiss the complaint, finding the parties agreed to the application of Illinois law in the guaranty, even though the guarantor argued his claims were "extra contractual." The Eleventh Circuit agreed the choice-of-law contract provision applied and that dismissal was required under Illinois law.
- ***Allstate Ins. Co. v. Theodotou***, 171 So. 3d 163 (Fla. 5th DCA 2015). Represented medical care providers in a case certifying a question of great public importance to the Florida Supreme Court on the application of the equitable subrogation doctrine, where an unsatisfied judgment had been entered against the initial tortfeasor. The Florida Supreme Court accepted jurisdiction, and review is pending.
- ***Rothstein v. Balboa Ins. Co.***, 794 F.3d 256 (2d Cir. 2015). The Second Circuit Court of Appeals reversed the district court's order denying defendants' motion to dismiss on the basis of the "filed-rate doctrine." The court ruled that a claim challenging a regulator-approved rate is subject to the doctrine regardless of whether the rate passes through an intermediary. Finding that the plaintiffs' claims would undermine the rate-making authority of the state insurance regulators who approved the rate, the court remanded for dismissal.
- ***Wachovia Mtg. Corp. v. Posti***, 166 So. 3d 944 (Fla. 4th DCA 2015). Florida's Fourth District Court of Appeal held the trial court lacked jurisdiction to award the requested relief because it was not requested in the pleadings or tried by consent.
- ***Wells Fargo Bank, N.A. v. Michaels***, 166 So. 3d 226 (Fla. 5th DCA 2015). Florida's Fifth District Court of Appeal reversed the trial court's denial of a motion to vacate the order dismissing the case because the trial court failed to enter or serve the order or otherwise give notice to the parties.
- ***Bond Safeguard Ins. Co. v. Nat'l Union Fire Ins. Co. of Pittsburgh***, 628 F. App'x 64 (11th Cir. 2015). The Eleventh Circuit Court of Appeals upheld the application of a directors and officers liability policy's "arising out of" contract liability exclusion to a land development-related business dispute between the developer and its surety, which was pleaded solely in tort. The court held that a clear nexus existed between the alleged torts and that the underlying development contracts, that the tort claim was inextricably intertwined with circumstances surrounding the development contracts, and that the resolution of the tort claim required consideration of the losses and duties under the development contract.

- ***Matheson v. Miami-Dade Cty.***, 187 So. 3d 22 (Fla. 3d DCA 2015). Florida's Third District Court of Appeal held a constitutional referendum clearly and unambiguously explained to voters its purpose, which was to find out whether two-thirds of those voters supported the expansion of a tennis center that hosts the Miami Open Tennis Tournament and modification and extension of the county's agreements with the operator of the facility.
- ***Bank of Am., N.A. v. Asbury***, 165 So. 3d 808 (Fla. 2d DCA 2015). Florida's Second District Court of Appeal reversed a final judgment finding the plaintiff did not comply with a condition precedent to a foreclosure action and remanded. On appeal, the plaintiff argued, and the court agreed, that the trial court improperly considered whether a default notice had been delivered because the defendant did not raise the issue in her answer or as an affirmative defense.
- ***AHF-Bay Fund, LLC v. City of Largo***, 169 So. 3d 133 (Fla. 2d DCA 2015), *review pending*, SC15-1201. Florida's Second District Court of Appeal reversed an order granting summary judgment in favor of the city of Largo based on a PILOT (payment in lieu of taxes) agreement. The court ruled that the payments called for by the PILOT agreement and sought to be enforced by the city against a not-for-profit, tax-exempt entity are the equivalent of ad valorem taxes that would otherwise be due but for the statutory tax exemption and, as a result, the city's PILOT agreement violates Article VII, Section 9(a) of the Florida Constitution (providing that municipalities shall impose taxes only as authorized by law) and the public policy of promoting affordable housing. The court ruled the PILOT agreement was therefore void. [Read Opinion](#).
- ***Merrimon v. Unum Life Ins. Co. of Am.***, 758 F.3d 46 (1st Cir. 2014). The First Circuit Court of Appeals held that the insurer's use of retained asset accounts did not constitute self-dealing under ERISA section 406(b), but reversed as to the trial court's ruling that the insurer breached a duty of loyalty to the plaintiff class under ERISA section 406(a) through the use of those accounts.
- ***Am. Bus. USA Corp. v. Dep't of Rev.***, 151 So. 3d 67 (Fla. 4th DCA 2014), *review pending*, SC14-2404. The Fourth District Court of Appeal struck down a tax assessed by the Florida Department of Revenue as a violation of the dormant Commerce Clause of the U.S. Constitution. The Florida Department of Revenue collected sales tax from a Florida florist for orders placed by out-of-state customers. These orders were relayed to out-of-state florists, and these out-of-state florists would actually fill the orders and deliver the flowers. Despite an administrative regulation directly on point, the Fourth District overturned the tax and determined that Florida had no "substantial nexus" to such transactions. Because the flowers never entered Florida and did not have any type of connection to Florida, the state of Florida could not constitutionally tax these transactions. The Fourth District also upheld a tax assessed on calling-card sales based on a record-keeping issue.

- ***McDaniel v. Fifth Third Bank***, 568 F. App'x 729 (11th Cir. 2014). The Eleventh Circuit Court of Appeals reversed an order remanding a putative class action to Florida state court. The district court ruled that certain of the claims asserted were legally insufficient and, thus, the damages claimed thereunder did not satisfy the amount-in-controversy requirement of the Class Action Fairness Act of 2005. The Eleventh Circuit held that when determining subject-matter jurisdiction, the issue is not the plaintiff's probable success on the merits.
- ***In re Adoption of D.P.P.***, 158 So. 3d 633 (Fla. 5th DCA 2014). The Fifth District Court of Appeal reinstated a judgment of adoption and reversed the order that vacated that judgment of adoption on the basis that the trial court lacked jurisdiction to consider a petition for adoption filed by unmarried women.
- ***Winn-Dixie Stores, Inc. v. Dolgencorp, LLC***, 746 F.3d 1008 (11th Cir. 2014). The Eleventh Circuit Court of Appeals reversed a district court order that refused to grant full injunctive relief for violations of real property restrictive covenants running with the land.
- ***Gen. Elec. Capital Corp. v. Shattuck***, 132 So. 3d 908 (Fla. 2d DCA 2014). The Second District Court of Appeal reversed a \$1.1 billion judgment, holding that the court erroneously added non-party entities to that judgment.
- ***Bloch v. Wells Fargo Home Mortg.***, 755 F. 3d 886 (11th Cir. 2014). The Eleventh Circuit Court of Appeals affirmed a final defense summary judgment addressing the effect of a "trial" loan modification, application of the Florida Banking Statute of Frauds, and the proof needed to maintain promissory estoppel and negligence claims.
- ***Cohen v. Am. Sec. Ins. Co.***, 735 F.3d 601 (7th Cir. 2013). The Seventh Circuit Court of Appeals affirmed the dismissal of a class action complaint. A homeowner failed to purchase homeowners insurance, and pursuant to disclosures in the loan agreement, the lender secured insurance and passed the cost to the homeowner. The homeowner sued under a variety of statutory and common law claims, most of which sounded in fraud or tort, and argued that the lender-placed insurance was too expensive and included a "kickback" to the lender's insurance-agency affiliate. Although the district court dismissed based on federal preemption and the filed-rate doctrine, the Seventh Circuit affirmed because the complaint and proffered amendments thereto failed to state a viable claim for relief. The homeowner was contractually obligated to maintain property insurance, and the consequences for failing that obligation had been clearly disclosed.
- ***London v. Wal-Mart Stores, Inc.***, 340 F.3d 1246 (11th Cir. 2003). The Eleventh Circuit Court of Appeals decertified a class in a suit alleging that appellants violated Florida laws affecting credit life insurance, finding the class representative failed to meet Rule 23(a)(4)'s adequate representation prerequisite because of the significant personal and financial ties between the class representative and class counsel, which cast doubt on the appellee's ability to place the interest of the class above those of class counsel.



- ***City of Palm Bay v. Wells Fargo Bank, N.A.***, 114 So. 3d 924 (Fla. 2013). The Florida Supreme Court invalidated a municipal ordinance that gave local code enforcement liens “superpriority” over previously recorded interests in real property, such as mortgage liens. The court held that the Florida Legislature has adopted a prioritization scheme for recorded instruments, with a general rule of first in time, and that municipalities cannot adopt ordinances that conflict with that statutory scheme by giving certain liens priority over instruments that would otherwise have priority under state law.
- ***Farkas v. Nat’l Union Fire Ins. Co. of Pittsburgh***, 518 F. App’x 178 (4th Cir. 2013). The Fourth Circuit Court of Appeals affirmed a decision that put teeth into exclusions of coverage of a directors and officers liability policy where the insured “in fact” committed criminal acts. The insured sought coverage for defense costs for his federal criminal trial for bank, wire, and securities fraud.
- ***Kostelac v. Allianz Global Corp. & Specialty AG***, 517 F. App’x 670 (11th Cir. 2013). The Eleventh Circuit Court of Appeals upheld the enforcement of an international forum-selection clause contained in an aviation product liability policy issued to a German aircraft manufacturer. The putative assignees of the German insured, who were American citizens, had attempted to evade the forum-selection clause, which mandated that all coverage litigation take place in the courts of Germany. The Eleventh Circuit agreed that the clause was enforceable against the American assignees and affirmed dismissal of the action to Germany under the doctrine of forum non conveniens.
- ***Ford Motor Co. v. Stimpson***, 115 So. 3d 401 (Fla. 5th DCA 2013). Following a verdict in Ford’s favor, the trial court entered judgment in the plaintiff’s favor, and alternatively ordered a new trial, finding that Ford committed a fraud on the court. The Fifth District Court of Appeal reversed and remanded for reinstatement of the verdict, concluding that the record did not support the fraud finding and that the jury had already considered and rejected these allegations. In addition, the court held the new trial was inappropriate.
- ***Plancher v. UCF Athletics Ass’n, Inc.***, 175 So. 3d 724 (Fla. 2015). The Florida Supreme Court confirmed the analysis used to examine whether a corporation acts as an instrumentality of the state and thus possesses limited sovereign immunity. In a case involving the death of a college football player, a trial court ruled that the corporation operating UCF’s athletics department lacked sovereign immunity, and the plaintiff obtained a \$10 million judgment. The Fifth District Court of Appeal reversed, and the Supreme Court approved that reversal, holding that sovereign immunity and the \$200,000 cap on liability applied.
- ***Farias v. Mr. Heater, Inc.***, 684 F.3d 1231 (11th Cir. 2012). The Eleventh Circuit Court of Appeals affirmed summary judgment in favor of manufacturer. The court held that the product’s English-language warnings were adequate as a matter of law. The court also held that because manufacturer and retailer did not advertise or market the product in Spanish, they were not required to include Spanish-language instructions and warnings.

- ***Union Carbide Corp. v. Aubin***, 97 So. 3d 886 (Fla. 3d DCA 2012), *rev. pending*, SC12-2075. The Third District Court of Appeal reversed a \$6.6 million judgment and ordered a partial new trial in a product liability case. The court held that a raw asbestos supplier was entitled to a directed verdict on a defective design claim because no evidence showed the alleged design caused the injuries at issue. The court also held that the jury instructions on a failure to warn claim were misleading because they imposed a duty on the raw material supplier to warn users of finished products about the dangers of asbestos without explaining how the supplier could satisfy that burden. The Florida Supreme Court accepted jurisdiction to review this decision and the case remains pending.
- ***Hunter v. Runyan***, 382 S.W.3d 643 (Ark. 2011). The Supreme Court of Arkansas affirmed the denial of a motion to intervene in a nationwide class action settlement.
- ***McKesson Medication Mgmt., LLC v. Slavin***, 75 So. 3d 308 (Fla. 3d DCA 2011). The Third District held that a pharmacy operator had no duty to train nurses and doctors regarding medications used during surgery. The court reversed a \$5.3 million personal injury judgment and remanded for entry of judgment in operator's favor.
- ***Archbishop Coleman F. Carroll High Sch., Inc. v. Maynoldi***, 30 So. 3d 533 (Fla. 3d DCA 2010). The family of a teenager severely injured in an automobile accident sued his school alleging they were responsible for a party that occurred after school hours and off campus. The Third District reversed a \$12 million judgment for entry of judgment in the school's favor, finding a school has no duty to supervise nonschool-related activities. The case also addressed the application of alcohol defense statute to parents of injured minor.
- ***Godfrey v. Precision Airmotive Corp.***, 46 So. 3d 1020 (Fla. 5th DCA 2010). The Fifth District reversed a multimillion-dollar verdict against an airplane engine manufacturer on the basis of the improper admission of evidence of other accidents. The appellate court also held that the trial court correctly entered summary judgment in favor of the manufacturer on the issue of punitive damages.
- ***ACLU v. Miami-Dade Cty. Sch. Bd.***, 557 F.3d 1177 (11th Cir. 2009). The Eleventh Circuit Court of Appeals reversed a preliminary injunction, finding that the school board did not violate the First Amendment in choosing to replace an elementary school library book containing inaccuracies about Cuba.
- ***Coleman (Parent) Holdings, Inc. v. Morgan Stanley & Co.***, 20 So. 3d 952 (Fla. 4th DCA 2009). The Florida Fourth District Court of Appeal affirmed a trial court order denying the plaintiff's motion to set aside a judgment in Morgan Stanley's favor. The plaintiff had sought to set aside the judgment and obtain a new trial based on allegations of fraud after the trial court entered judgment in accordance with the Fourth District's earlier opinion reversing the \$1.58 billion judgment against Morgan Stanley.



- ***Embry v. Ryan***, 11 So. 3d 408 (Fla. 2d DCA 2009). In a case of first impression, the Second District Court of Appeal held that a woman who adopted a biological child of her same-sex partner was entitled full faith and credit of adoption entered into in another state.
- ***Keith v. ManorCare, Inc.***, 218 P. 3d 1257 (N.M. Ct. App. 2009). The New Mexico Court of Appeals reversed a \$53.2 million judgment, including punitive damages, against our client, and ordered a new trial. The appellate court agreed that the trial court erred by entering a pretrial finding that a parent company employed the staff who worked at its subsidiary's nursing home.
- ***Alvarez v. Ins. Co. of N. Am.***, 313 F. App'x 465 (3d Cir. 2008). The Third Circuit Court of Appeals affirmed dismissal of putative class action by insured under a long-term care policy, holding that neither the policy nor sales materials were false or misleading, the insured did not rely on any alleged misrepresentation, and no confidential relationship existed between the insurer and the insured at the time of the alleged misrepresentations.
- ***Ford Motor Co. v. Hall-Edwards***, 971 So. 2d 854 (Fla. 3d DCA 2007). In this product liability action, the Third District Court of Appeal: (1) reversed a \$60 million jury verdict in favor of parents of a minor killed in an accident involving an Explorer (based on the improper admission of evidence of other accidents and evidence of subsequent remedial measures); and (2) ordered a new trial.
- ***Engle v. R.J. Reynolds***, 945 So. 2d 1246 (Fla. 2006), *aff'g in part and rev'g in part*, 853 So. 2d 434 (Fla. 3d DCA 2003). The Florida Supreme Court overturned a \$145 billion award in a class action brought against multiple cigarette manufacturers. The appeal involved issues concerning class certification, punitive damages, and improper conduct of counsel.
- ***Thorn v. Jefferson-Pilot Life Ins. Co.***, 445 F.3d 311 (4th Cir. 2006). In a case alleging that an insurer's predecessor violated federal law by charging higher premiums to African American policyholders, we argued that the limitations defense could not be resolved on a classwide basis, and the Fourth Circuit Court of Appeals affirmed the district court's denial of class certification.
- ***London v. Wal-Mart Stores, Inc.***, 340 F.3d 1246 (11th Cir. 2003). The Eleventh Circuit Court of Appeals reversed class certification in action brought by credit card applicant against issuer and credit life insurer, alleging Truth in Lending Act violations, finding that the applicant could not fairly and adequately represent the class.
- ***Zarella v. Minn. Mut. Life Ins. Co.***, 824 A.2d 1249 (R.I. 2003). The Supreme Court of Rhode Island vacated judgment on jury verdict in favor of insured on negligent misrepresentation claim, and affirmed the trial court's denial of class certification and dismissal of plaintiff's remaining claims.
- ***Am. Bankers Ins. Co. of Fla. v. Booth***, 830 So. 2d 1205 (Miss. 2002). The Mississippi Supreme Court, on an interlocutory appeal, reversed chancery court's denial of defendant's motion to dismiss class action complaint, holding that Mississippi does not permit class actions, including equitable class actions, in chancery court.

- ***Great-West Life & Annuity Ins. Co. v. Knudson***, 534 U.S. 204 (2002). Argued case before the U.S. Supreme Court that clarified the circumstances in which monetary relief is available under ERISA for breach of fiduciary duty claims.
- ***Parkhill v. Minn. Mut. Life Ins. Co.***, 286 F.3d 1051 (8th Cir. 2002). In an action alleging deceptive marketing practices, we defeated class certification and obtained summary judgment on behalf of life insurer, which the Eighth Circuit Court of Appeals affirmed.
- ***In re LifeUSA Holding Inc.***, 242 F.3d 136 (3d Cir. 2001). Argued to the Third Circuit Court of Appeals that commonality, superiority, and predominance requirements of Rule 23 were not satisfied in a class action case brought by purchasers of deferred annuity contracts, who asserted presale misrepresentation and nondisclosure claims.

## Insights

05.17.2024

Florida Appeals Court Decisions: Week of May 13-17, 2024

---

05.10.2024

Florida Appeals Court Decisions: Week of May 6-10, 2024

---

05.10.2024

Prepping for the Panel (Or Not)

---

05.03.2024

Florida Appeals Court Decisions: Week of April 29-May 3, 2024

---

04.26.2024

Florida Appeals Court Decisions: Week of April 22-26, 2024

---

04.05.2024

Florida Appeals Court Decisions: Week of April 1-5, 2024

---

03.29.2024

Florida Appeals Court Decisions: Week of March 25 - 29, 2024

---

03.22.2024

Florida Appeals Court Decisions: Week of March 18 - 22, 2024

---

03.15.2024

Florida Appeals Court Decisions: Week of March 11 - 15, 2024

---

03.08.2024

Florida Appeals Court Decisions: Week of March 4 - 8, 2024

---

03.01.2024

Florida Appeals Court Decisions: Week of February 26 - March 1, 2024

---

02.23.2024

Florida Appeals Court Decisions: Week of February 19 - 23, 2024

---

02.16.2024

Florida Appeals Court Decisions: Week of February 12 - 16, 2024

---

02.09.2024

Florida Appeals Court Decisions: Week of February 5 - 9, 2024

---

02.02.2024

Florida Appeals Court Decisions: Week of January 29 - February 2, 2024

---

01.27.2024

Florida Appeals Court Decisions: Week of January 22 - 26, 2024

---

01.20.2024

Florida Appeals Court Decisions: Week of January 15 - 19, 2024

---

01.13.2024

Florida Appeals Court Decisions: Week of January 8 - 12, 2024

---

01.06.2024

Florida Appeals Court Decisions: Week of January 1 - 5, 2024

---

12.30.2023

Florida Appeals Court Decisions: Week of December 25 - 29, 2023

---

12.23.2023

Motions For Rehearing: An Often Overlooked Preservation Requirement

---

12.23.2023

Florida Appeals Court Decisions: Week of December 18 - 22, 2023

---

12.15.2023

Florida Appeals Court Decisions: Week of December 11 - 15, 2023

---

12.09.2023

Florida Appeals Court Decisions: Week of December 4 - 8, 2023

---

12.02.2023

Florida Appeals Court Decisions: Week of November 27-December 1, 2023

---

11.23.2023

Florida Appeals Court Decisions: Week of November 20-22, 2023

---

11.18.2023

Florida Appeals Court Decisions: Week of November 13-17, 2023

---

11.11.2023

Florida Appeals Court Decisions: Week of November 6-10, 2023

---

11.06.2023

Don't Abandon All Hope on Appeal

---

11.03.2023

Florida Appeals Court Decisions: Week of October 30-November 3, 2023

---

10.28.2023

Florida Appeals Court Decisions: Week of October 23-27, 2023

---

10.28.2023

Pencils Down? Tell the Court!

---

10.21.2023

Florida Appeals Court Decisions: Week of October 16-20, 2023

---

10.14.2023

Florida Appeals Court Decisions: Week of October 9-13, 2023

---

10.12.2023

Chevron on the Brink — the Supreme Court Could Revolutionize Administrative Law This Term  
(But Shouldn't)

*Westlaw Today*

---

10.10.2023

Asking for Oral Argument in the U.S. Courts of Appeals

---

10.06.2023

Florida Appeals Court Decisions: Week of October 2-6, 2023

---

09.30.2023

Florida Appeals Court Decisions: Week of September 25-29, 2023

---

09.27.2023

Right for Any Reason? Well, Not for Any Reason

---

09.16.2023

Florida Appeals Court Decisions: Week of September 11 - 15, 2023

---

09.16.2023

Florida Appeals Court Decisions: Week of September 18-22, 2023

---

09.09.2023

Florida Appeals Court Decisions: Week of September 4 - 8, 2023

---

09.02.2023

Florida Appeals Court Decisions: Week of August 28 - September 1, 2023

---

08.31.2023

Florida's Fourth District Issues First Appellate Decision Expressly Adopting Business Judgment Rule in Employment Discrimination Cases

---

08.30.2023

More on Competent Summary Judgment Evidence: The Rule Does Not Just Apply to Affidavits

---

08.26.2023

Florida Appeals Court Decisions: Week of August 21 - 25, 2023

---

08.19.2023

Florida Appeals Court Decisions: Week of August 14 - 18, 2023

---

08.15.2023

The Adoption of Proposed Orders Verbatim: Avoiding Reversible Error

---

08.12.2023

Florida Appeals Court Decisions: Week of August 7 - 11, 2023

---

08.10.2023

Properly Joining in an Appellate Brief Filed in a Separate Appeal

---

08.05.2023

Florida Appeals Court Decisions: Week of July 31 - August 4, 2023

---



07.29.2023

Florida Appeals Court Decisions: Week of July 24 - 28, 2023

---

07.26.2023

Motions in Limine: An Update on Uses, Abuses, and Pitfalls

---

07.22.2023

Florida Appeals Court Decisions: Week of July 17 - 21, 2023

---

07.15.2023

Florida Appeals Court Decisions: Week of July 10 - 14, 2023

---

07.08.2023

Florida Appeals Court Decisions: Week of July 3 - 7, 2023

---

07.06.2023

Top 10 First Amendment Cases of the 2022-2023 Supreme Court Term

---

07.01.2023

The Ten Commandments of Writing an Effective Appellate Brief

---

07.01.2023

Florida Appeals Court Decisions: Week of June 26 - 30, 2023

---

06.29.2023

11th Circuit: District Courts May Equitably Toll FAA 3-Month Deadline to Challenge Arbitration Awards

---

06.27.2023

SCOTUS Interprets FAA to Impose Mandatory Stay of Proceedings in District Courts Pending Interlocutory Appeal From Denial of Motion to Compel Arbitration

---

06.24.2023

Florida Appeals Court Decisions: Week of June 19 - 23, 2023

---

06.17.2023

Florida Appeals Court Decisions: Week of June 12 - 16, 2023

---

06.10.2023

2 Ways Calif. Justices' PAGA Ruling May Play Out

*Law360*

---

06.09.2023

Florida Appeals Court Decisions: Week of June 5 - 9, 2023

---

06.03.2023

Florida Appeals Court Decisions: Week of May 29 - June 2, 2023

---

06.02.2023

As Anticipated: SCOTUS Makes the Appellate Process of Purely Legal Issues Less Stringent

---

05.30.2023

U.S. Supreme Court Unanimously Upholds the Federal Circuit's Enablement Inquiry for Patent Claims

---

05.27.2023

Florida Appeals Court Decisions: Week of May 22 - 26, 2023

---

05.20.2023

Florida Appeals Court Decisions: Week of May 15 - 19, 2023

---

05.13.2023

Florida Appeals Court Decisions: Week of May 8 - 12, 2023

---

05.06.2023

Florida Appeals Court Decisions: Week of May 1-5, 2023

---

05.01.2023

SCOTUS: Must “Purely Legal” Issues Rejected at Summary Judgment Be Re-Raised at Trial to Be Preserved for Appeal?

---

04.29.2023

Florida Appeals Court Decisions: Week of April 24 - 28, 2023

---

04.22.2023

Florida Appeals Court Decisions: Week of April 17 - 21, 2023

---

04.15.2023

Florida Appeals Court Decisions: Week of April 10 - 14, 2023

---

04.13.2023

Jury Requests for Readback of Testimony: Florida Supreme Court Approves New Rule 1.453

---

04.12.2023

A Cautionary Note on Honking Your Own Horn

---

04.08.2023

Florida Appeals Court Decisions: Week of April 3 - 7, 2023

---

04.01.2023

Florida Appeals Court Decisions: Week of March 27 - 31, 2023

---

03.25.2023

Florida Appeals Court Decisions: Week of March 20 - 24, 2023

---

03.17.2023

Florida Appeals Court Decisions: Week of March 13 - 17, 2023

---

03.11.2023

Florida Appeals Court Decisions: Week of March 6 - 10, 2023

---

03.10.2023

California Employers May Wish to Update Their Arbitration Agreements in Light of New California Court of Appeals Decision Involving PAGA

---

03.03.2023

Florida Appeals Court Decisions: Week of February 27 - March 3, 2023

---

03.01.2023

Personal Jurisdiction in Today's Commercial World: It Doesn't Take Much to be Conducting a Business Venture

---

02.25.2023

Florida Appeals Court Decisions: Week of February 20 - 24, 2023

---

02.18.2023

Florida Appeals Court Decisions: Week of February 13 - 17, 2023

---

02.10.2023

Florida Appeals Court Decisions: Week of February 6 - 10, 2023

---

02.07.2023

"Petty" Behavior: Sometimes Overlooking An Opponent's Technical Violation Is The Best Course Of Action

---

02.03.2023

Florida Appeals Court Decisions: Week of January 30 - February 3, 2023

---

01.28.2023

Florida Appeals Court Decisions: Week of January 23 - 27, 2023

---

01.27.2023

Mootness: Can a Plaintiff Dismiss a Defendant's Appeal of An Injunction the Plaintiff No Longer Needs?

---

01.20.2023

Florida Appeals Court Decisions: Week of January 16 - 20, 2023

---

01.14.2023

Florida Appeals Court Decisions: Week of January 9 - 13, 2023

---

01.10.2023

The Perils of Pretrial Stipulations

---

01.06.2023

Florida Appeals Court Decisions: Week of January 2 - 6, 2023

---

12.31.2022

Florida Appeals Court Decisions: Week of December 26 - 30, 2022

---

12.19.2022

U.S. Supreme Court to Decide Challenges to Student Debt Relief

---

12.17.2022

Florida Appeals Court Decisions: Week of December 12 - 16, 2022

---

12.10.2022

Florida Appeals Court Decisions: Week of December 5 - 9, 2022

---

12.03.2022

Florida Appeals Court Decisions: Week of November 28 - December 2, 2022

---

11.23.2022

Florida Appeals Court Decisions: Week of November 21 - 25, 2022

---

11.19.2022

Florida Appeals Court Decisions: Week of November 14 - 18, 2022

---

11.14.2022

Imperfect Perfection: Florida Has Zero Tolerance for Creditors Who Misname Debtors in UCC-1 Financing Statements

---

11.11.2022

Florida Appeals Court Decisions: Week of November 7 - 11, 2022

---

11.04.2022

Florida Appeals Court Decisions: Week of October 31 - November 4, 2022

---

10.28.2022

Florida Appeals Court Decisions: Week of October 24 - 28, 2022

---

10.21.2022

Florida Appeals Court Decisions: Week of October 17 - 21, 2022

---

10.14.2022

Florida Appeals Court Decisions: Week of October 10 - 14, 2022

---

10.07.2022

Florida Appeals Court Decisions: Week of October 3 - 7, 2022

---

09.30.2022

Florida Appeals Court Decisions: Week of September 26 - 30, 2022

---

09.23.2022

Florida Appeals Court Decisions: Week of September 19 - 23, 2022

---

09.16.2022

Florida Appeals Court Decisions: Week of September 12 - 16, 2022

---

09.15.2022

Top 20 Takeaways for Trial and Appellate Lawyers From the Eleventh Circuit's Chiquita Opinion

---



09.09.2022

Florida Appeals Court Decisions: Week of September 5 - 9, 2022

---

09.02.2022

Florida Appeals Court Decisions: Week of August 29 - September 2, 2022

---

08.26.2022

Florida Appeals Court Decisions: Week of August 22 - 26, 2022

---

08.19.2022

Florida Appeals Court Decisions: Week of August 15 - 19, 2022

---

08.12.2022

If at First You Don't Succeed, Maybe Appeal Rather Than Try, Try Again

---

08.12.2022

Florida Appeals Court Decisions: Week of August 8 - 12, 2022

---

08.05.2022

Florida Appeals Court Decisions: Week of August 1 - 5, 2022

---

07.29.2022

Florida Appeals Court Decisions: Week of July 25 - 29, 2022

---

07.28.2022

Applying New Fla. Settlement Proposal Rule To Pending Cases

***Law360***

---

07.22.2022

Florida Appeals Court Decisions: Week of July 18 - 22, 2022

---

07.18.2022

Eleventh Circuit Addresses Potential Conflict Between FDCPA and TILA, Holds That Debt Collector Must Comply With Both

---

07.15.2022

Florida Appeals Court Decisions: Week of July 11 - 15, 2022

---

07.08.2022

Florida Appeals Court Decisions: Week of July 4 - 8, 2022

---

07.02.2022

Florida Appeals Court Decisions: Week of June 27 - July 1, 2022

---

06.30.2022

Top 10 First Amendment Cases of the Supreme Court Term

---

06.25.2022

Florida Appeals Court Decisions: Week of June 20 - 24, 2022

---

06.17.2022

Florida Appeals Court Decisions: Week of June 13 - 17, 2022

---

06.17.2022

Silence Is Not Always Golden: Preserving the Record in Opposing Motions for Summary Judgment

---

06.11.2022

Florida Appeals Court Decisions: Week of June 6 - 10, 2022

---

06.04.2022

Florida Appeals Court Decisions: Week of May 30 - June 3, 2022

---

05.28.2022

Florida Appeals Court Decisions: Week of May 23 - 27, 2022

---

05.20.2022

Florida Appeals Court Decisions: Week of May 16 - 20, 2022

---

05.13.2022

Florida Appeals Court Decisions: Week of May 9 - 13, 2022

---

05.07.2022

Florida Appeals Court Decisions: Week of May 2 - 6, 2022

---

04.29.2022

Florida Appeals Court Decisions: Week of April 25 - 29, 2022

---

04.29.2022

To Waive or to Forfeit, That Is the Question (On Appeal)

---

04.23.2022

Florida Appeals Court Decisions: Week of April 18 - 22, 2022

---

04.16.2022

Florida Appeals Court Decisions: Week of April 11 - 15, 2022

---

04.09.2022

Florida Appeals Court Decisions: Week of April 4 - 8, 2022

---

04.08.2022

Florida Supreme Court Weighs in on Delegation Language in Arbitration Provisions, Affirms Sufficiency of "Reference to Rules" Approach

---

04.02.2022

Florida Appeals Court Decisions: Week of March 28 - April 1, 2022

---

03.30.2022

In re Burden of Proof v. Standard of Review

---

03.25.2022

Florida Appeals Court Decisions: Week of March 21 - 25, 2022

---

03.19.2022

Florida Appeals Court Decisions: Week of March 14 - 18, 2022

---

03.12.2022

Florida Appeals Court Decisions: Week of March 7 - 11, 2022

---

03.05.2022

Florida Appeals Court Decisions: Week of February 28 - March 4, 2022

---

02.26.2022

Florida Appeals Court Decisions: Week of February 21 - 25, 2022

---

02.19.2022

Florida Appeals Court Decisions: Week of February 14 - 18, 2022

---

02.12.2022

Florida Appeals Court Decisions: Week of February 7 - 11, 2022

---

02.10.2022

How to Avoid Getting Shot Down – A Primer on Shotgun Pleadings

---

02.05.2022

Florida Appeals Court Decisions: Week of January 31 - February 4, 2022

---

01.29.2022

Florida Appeals Court Decisions: Week of January 24 - 28, 2022

---

01.22.2022

Florida Appeals Court Decisions: Week of January 17 - 21, 2022

---

01.21.2022

The Disappearing Oral Argument

*ABA Litigation Magazine*

---

01.18.2022

Fifth Circuit Clarifies the Domain of Cross-Appeal Jurisprudence

---

01.15.2022

Florida Appeals Court Decisions: Week of January 10 - 14, 2022

---

01.14.2022

Florida Supreme Court Authorizes Interlocutory Appeals From Orders Allowing or Disallowing Punitive Damages Claims

---

01.08.2022

Florida Appeals Court Decisions: Week of January 3 - 7, 2022

---

12.31.2021

Florida Appeals Court Decisions: Week of December 27 - 31, 2021

---

12.24.2021

Florida Appeals Court Decisions: Week of December 20 - 23, 2021

---

12.18.2021

Florida Appeals Court Decisions: Week of December 13 - 17, 2021

---

12.11.2021

Florida Appeals Court Decisions: Week of December 6 - 10, 2021

---

12.04.2021

Florida Appeals Court Decisions: Week of November 29 - December 3, 2021

---

11.24.2021

Florida Appeals Court Decisions: Week of November 22 - 24, 2021

---

11.20.2021

Florida Appeals Court Decisions: Week of November 15 - 19, 2021

---

11.16.2021

All Things Reconsidered: Getting It Right the First Time

---

11.13.2021

Florida Appeals Court Decisions: Week of November 8 - 12, 2021

---

11.11.2021

Properly Joining in a Co-Party's Brief or Motion to Avoid Waiver Issues: Further Considerations for Fact-Specific Arguments

---

11.06.2021

Florida Appeals Court Decisions: Week of November 1 - 5, 2021

---

11.05.2021

Waiving the Personal Jurisdiction Defense

---

10.29.2021

Florida Appeals Court Decisions: Week of October 25 - 29, 2021

---

10.23.2021

Florida Appeals Court Decisions: Week of October 18 - 22, 2021

---

10.16.2021

Florida Appeals Court Decisions: Week of October 11 - 15, 2021

---

10.08.2021

Florida Appeals Court Decisions: Week of October 4 - 8, 2021

---

10.02.2021

Florida Appeals Court Decisions: Week of September 27 - October 1, 2021

---

09.25.2021

Florida Appeals Court Decisions: Week of September 20 - 24, 2021

---



09.18.2021

Florida Appeals Court Decisions: Week of September 13 - 17, 2021

---

09.17.2021

Taking Advantage of Preliminary Substantive Jury Instructions and Preliminary Charge Conferences: Practical Considerations and Tips

---

09.11.2021

Florida Appeals Court Decisions: Week of September 6 - 10, 2021

---

09.04.2021

Florida Appeals Court Decisions: Week of August 30 - September 3, 2021

---

08.28.2021

Florida Appeals Court Decisions: Week of August 23 - 27, 2021

---

08.26.2021

Florida Supreme Court Adopts and Codifies Apex Doctrine

---

08.21.2021

Florida Appeals Court Decisions: Week of August 16 - 21, 2021

---

08.14.2021

Florida Appeals Court Decisions: Week of August 9 - 13, 2021

---

08.06.2021

Florida Appeals Court Decisions: Week of August 2 - 6, 2021

---

07.31.2021

Florida Appeals Court Decisions: Week of July 26 - 30, 2021

---

07.24.2021

Florida Appeals Court Decisions: Week of July 19 - 23, 2021

---

07.22.2021

Fifth Circuit Says Compelling Lawyers to Join State Bar May Violate First Amendment Rights

---

07.17.2021

Florida Appeals Court Decisions: Week of July 12 - 16, 2021

---

07.09.2021

Florida Appeals Court Decisions: Week of July 5 -9, 2021

---

07.02.2021

Florida Appeals Court Decisions: Week of June 28 - July 2, 2021

---

06.25.2021

Florida Appeals Court Decisions: Week of June 21 - 25, 2021

---

06.25.2021

No Second Bite at the Apple: Eighth Circuit Examines Identity-of-Parties and Identity-of-Causes-of-Action Requirements for Claim Preclusion Under Florida Law

---

06.21.2021

Florida Appeals Court Decisions: Week of June 14 - 18, 2021

---

06.11.2021

Florida Appeals Court Decisions: Week of June 7 - 11, 2021

---

06.09.2021

Live Trials During the COVID-19 Pandemic: What's Changed?

---

06.05.2021

Florida Appeals Court Decisions: Week of May 31 - June 4, 2021

---

05.29.2021

Florida Appeals Court Decisions: Week of May 24 - 28, 2021

---

05.25.2021

Preserving Violations of Orders Granting Motions in Limine: Object Contemporaneously or Forever Hold Your Peace

---

05.21.2021

Florida Appeals Court Decisions: Week of May 17 - 21, 2021

---

05.21.2021

Major Changes Yet Some Things Stay the Same: A Follow Up on the Three “Musts” for a Competent Affidavit or Declaration in Light of Florida’s Newly Amended Summary Judgment Rule

---

05.15.2021

Florida Appeals Court Decisions: Week of May 10 - 14, 2021

---

05.07.2021

Florida Appeals Court Decisions: Week of May 3 -7, 2021

---

05.04.2021

Eighth Circuit Delivers an Inconvenient Truth: Defendants’ Forum Non Conveniens Was Untimely, Despite Absence of Express Deadline

---

05.01.2021

Florida Appeals Court Decisions: Week of April 26 - 30, 2021

---

04.24.2021

Florida Appeals Court Decisions: Week of April 19 - 23, 2021

---

04.16.2021

Florida Appeals Court Decisions: Week of April 12 - 16, 2021

---

04.15.2021

Moving for Judgment as a Matter of Law: How Specific Must You Be?

---

04.10.2021

Florida Appeals Court Decisions: Week of April 5 - 9, 2021

---

04.02.2021

Florida Appeals Court Decisions: Week of March 29 - April 2, 2021

---

03.26.2021

Florida Appeals Court Decisions: Week of March 22 - 26, 2021

---

03.20.2021

Florida Appeals Court Decisions: Week of March 15 - 19, 2021

---

03.13.2021

Appealing Alternative Holdings: Don't "Sit Down on the Track" After Clearing "Just the First Hurdle in the Race"

---

03.13.2021

Florida Appeals Court Decisions: Week of March 8 - 12, 2021

---

03.06.2021

Florida Appeals Court Decisions: Week of March 1 - 5, 2021

---

02.27.2021

Florida Appeals Court Decisions: Week of February 22 - 26, 2021

---

02.20.2021

Florida Appeals Court Decisions: Week of February 15 - 19, 2021

---

02.16.2021

Another Consideration Involving Unpreserved Error

---

02.13.2021

Florida Appeals Court Decisions: Week of February 8 - 12, 2021

---

02.06.2021

Florida Appeals Court Decisions: Week of February 1 - 5, 2021

---

01.30.2021

Florida Appeals Court Decisions: Week of January 25 - 29, 2021

---

01.22.2021

Florida Appeals Court Decisions: Week of January 18 - 22, 2021

---

01.16.2021

Florida Appeals Court Decisions: Week of January 11 - 15, 2021

---

01.09.2021

Florida Appeals Court Decisions: Week of January 4 - 8, 2021

---

12.31.2020

Florida Appeals Court Decisions: Week of December 28 - 31, 2020

---

12.28.2020

An Enterprising Effort Gets Transported Back to Earth: Mash-Ups and the Fair Use Doctrine

---

12.23.2020

Florida Appeals Court Decisions: Week of December 21 - 23, 2020

---

12.19.2020

Florida Appeals Court Decisions: Week of December 14 - 18, 2020

---

12.12.2020

Florida Appeals Court Decisions: Week of December 7 - 11, 2020

---

12.08.2020

Taking Charge: Making Specific and Timely Objections to Jury Instructions

---

12.05.2020

Florida Appeals Court Decisions: Week of November 30 - December 4, 2020

---

11.25.2020

Florida Appeals Court Decisions: Week of November 23 - 27, 2020

---

11.21.2020

Florida Appeals Court Decisions: Week of November 16 - 20, 2020

---

11.14.2020

Florida Appeals Court Decisions: Week of November 9 - 13, 2020

---

11.07.2020

Florida Appeals Court Decisions: Week of November 2 - 6, 2020

---

10.31.2020

Florida Appeals Court Decisions: Week of October 26 - 30, 2020

---

10.23.2020

Florida Appeals Court Decisions: Week of October 19 - 23, 2020

---

10.21.2020

Pennsylvania Court Sets Out New Work Product Privilege Considerations for Medical Providers' PSQIA Information

---

10.17.2020

Florida Appeals Court Decisions: Week of October 12 - 16, 2020

---

10.14.2020

"This Is Florida's Problem. Not Texas's." Fifth Circuit's Decision on Personal Jurisdiction Includes Two Cautionary Reminders

---

10.12.2020

Preserving Arguments: Playing "Hide the Ball" Can Be Costly

---



10.10.2020

Florida Appeals Court Decisions: Week of October 5 - 9, 2020

---

10.02.2020

Florida Appeals Court Decisions: Week of September 28 - October 2, 2020

---

09.26.2020

Florida Appeals Court Decisions: Week of September 21 - 25, 2020

---

09.22.2020

Don't Leave it to the Appellate Court to "Make the Best of a Bad Thing": The Seventh Circuit is the Latest to Require a Contemporaneous Objection to an Inconsistent Verdict Before the Jury Disbands

---

09.18.2020

Florida Appeals Court Decisions: Week of September 14 - 18, 2020

---

09.11.2020

Florida Appeals Court Decisions: Week of September 7 - 11, 2020

---

09.04.2020

Florida Appeals Court Decisions: Week of August 31 - September 4, 2020

---

08.31.2020

Bar Orders Must Be Integral To Settlement in Order To Be Essential

---

08.29.2020

Florida Appeals Court Decisions: Week of August 24 - 28, 2020

---

08.22.2020

Florida Appeals Court Decisions: Week of August 17 - 21, 2020

---

08.14.2020

Florida Appeals Court Decisions: Week of August 10 - 14, 2020

---

08.11.2020

Let Me Introduce My Affiliate: Fourth Circuit Enforces Arbitration Agreement on Motion by Affiliate, DirecTV, of Original Party to Agreement, AT&T Mobility

---

08.08.2020

Florida Appeals Court Decisions: Week of August 3 - 7, 2020

---

08.03.2020

In the Weeds With the Farm Bill: 7th Circuit Says States Can Regulate Smokable Hemp but Can't Go Too Far

---

08.01.2020

Florida Appeals Court Decisions: Week of July 27 - 31, 2020

---

07.25.2020

Florida Appeals Court Decisions: Week of July 20 - 24, 2020

---

07.20.2020

Orders Subject to Review

*Florida Appellate Practice*

---

07.18.2020

Florida Appeals Court Decisions: Week of July 13 - 17, 2020

---

07.11.2020

Florida Appeals Court Decisions: Week of July 6 - 10, 2020

---

07.08.2020

Rejecting Precedent: What Cases About Abortion Rights and the Sixth Amendment Teach Us About Preserving Objections to Existing Case Law

---

07.07.2020

The "Compass Rose" Method for Corporate Witness Interviews

---

07.03.2020

Florida Appeals Court Decisions: Week of June 29 - July 3, 2020

---

06.27.2020

Florida Appeals Court Decisions: Week of June 22 - 26, 2020

---

06.26.2020

Peremptory Strike: Preserving Every Error During a Peremptory Challenge

---

06.25.2020

Florida Legislative Amendment Impacting County Court Appeals

---

06.22.2020

Is It an Equity Investment or Usury? Second Circuit, Nostra Sponte, Certifies Two Questions to New York Court of Appeals

---

06.19.2020

Florida Appeals Court Decisions: Week of June 15 - 19, 2020

---

06.12.2020

Florida Appeals Court Decisions: Week of June 8 - 12, 2020

---

06.12.2020

Considerable Deference With a Caveat: Third Circuit Addresses Fee Awards

---

06.10.2020

Insurers' Successful Challenge to 2016 Amendments to Florida's Unclaimed Property Act Reversed on Appeal

---

06.06.2020

Florida Appeals Court Decisions: Week of June 1 - 5, 2020

---

06.01.2020

Mastering "Zoom Advocacy"

*American College of Trial Lawyers*

---

05.30.2020

Florida Appeals Court Decisions: Week of May 25 - 29, 2020

---

05.29.2020

Florida's Fourth District Gives Protection to an Obvious Secret

---

05.23.2020

Florida Appeals Court Decisions: Week of May 18 - 22, 2020

---

05.16.2020

Florida Appeals Court Decisions: Week of May 11 - 15, 2020

---

05.12.2020

Welcome to the Party, Pal: Supreme Court Invokes Party Presentation Principle

---

05.09.2020

Florida Appeals Court Decisions: Week of May 4 - 8, 2020

---

05.06.2020

Silence Is Golden, or Is It?

---

05.04.2020

Eight Is Not Enough: Ninth Circuit Denies En Banc Review in a Takings Clause Case Over Dissenting Votes of Eight Circuit Judges

---

05.04.2020

Brief Writing in an Age of Virtual Oral Appellate Arguments

---

05.02.2020

Florida Appeals Court Decisions: Week of April 27 - May 1, 2020

---

04.25.2020

Florida Appeals Court Decisions: Week of April 20 - 24, 2020

---

04.20.2020

Personal Jurisdiction in the Internet Age: A Virtual Learning Case Study, Preservation Issues, and a Sockdolager

---

04.18.2020

Florida Appeals Court Decisions: Week of April 13 - 17, 2020

---

04.10.2020

Florida Appeals Court Decisions: Week of April 6 - 10, 2020

---

04.03.2020

Florida Appeals Court Decisions: Week of March 30 - April 3, 2020

---

03.27.2020

Florida Appeals Court Decisions: Week of March 23 - 27, 2020

---

03.20.2020

Florida Appeals Court Decisions: Week of March 16 - 20, 2020

---

03.14.2020

Florida Appeals Court Decisions: Week of March 9 - 13, 2020

---

03.07.2020

Florida Appeals Court Decisions: Week of March 2 - 6, 2020

---

02.29.2020

Florida Appeals Court Decisions: Week of February 24 - 28, 2020

---

02.26.2020

Contra Dicta-ry: Your Agency Challenge May Be Waived, Even If Cases Say You “Likely” Preserved It

---

02.21.2020

Florida Appeals Court Decisions: Week of February 17 - 21, 2020

---

02.19.2020

Practice Makes Perfect: Mock Oral Arguments and Effective Oral Advocacy

---

02.15.2020

Florida Appeals Court Decisions: Week of February 10 - 14, 2020

---

02.08.2020

Florida Appeals Court Decisions: Week of February 3 - 7, 2020

---

02.06.2020

The Three “Musts” for a Competent Affidavit or Declaration

---

01.31.2020

Florida Appeals Court Decisions: Week of January 27 - 31, 2020

---

01.30.2020

Florida Supreme Court’s Advisory Opinion on Amendment 4 Is a ‘Triumph of the Text’ | Column  
*Tampa Bay Times*

---

01.27.2020

Florida Supreme Court Opens the Door to New Class of Interlocutory Appeals

---

01.25.2020

Jurors Are Only Human: Proper Instructions Can Aid Their Good-Faith Deliberations  
*Litigation Practice Law Journal, American Bar Association*

---

01.25.2020

Florida Appeals Court Decisions: Week of January 20 - 24, 2020

---

01.18.2020

Florida Appeals Court Decisions: Week of January 13 - 17, 2020

---



01.13.2020

The Game of Forfeiture: Fumbling the Ball and How the Court May Recover It

---

01.11.2020

Florida Appeals Court Decisions: Week of January 6 - 10, 2020

---

01.07.2020

Who Me? Couldn't Be: Eleventh Circuit Finds Plaintiffs Lack Standing to Sue Ala. Attorney General in Equal Protection Lawsuit

---

01.04.2020

Florida Appeals Court Decisions: Week of December 30, 2019 - January 3, 2020

---

12.28.2019

Florida Appeals Court Decisions: Week of December 23 - 27, 2019

---

12.21.2019

Florida Appeals Court Decisions: Week of December 16 - 20, 2019

---

12.14.2019

Florida Appeals Court Decisions: Week of December 9 - 13, 2019

---

12.07.2019

Florida Appeals Court Decisions: Week of December 2 - 6, 2019

---

12.03.2019

To Move for Rehearing or Not to Move for Rehearing: That Is the Question

---

11.29.2019

Florida Appeals Court Decisions: Week of November 25 - 29, 2019

---

11.23.2019

Florida Appeals Court Decisions: Week of November 18 - 22, 2019

---

11.20.2019

Devil in the Details: Gilbert King on Truth and Transparency in the Judicial Process

---

11.16.2019

Florida Appeals Court Decisions: Week of November 11 - 15, 2019

---

11.14.2019

When Is a Defense “Available”? Avoiding Waiver by Being Bold When Asserting Defenses

---

11.09.2019

Florida Appeals Court Decisions: Week of November 4 - 8, 2019

---

11.07.2019

Deciding When a Misstatement to a Court Makes a Mockery of the Judicial System

---

11.01.2019

Florida Appeals Court Decisions: Week of October 28 - November 1, 2019

---

10.30.2019

Read the Case — The Whole Case!

---

10.28.2019

Cow Manure Meets Insurance Law: Seventh Circuit Addresses Breach of Contract Exclusions in Malpractice Insurance

---

10.26.2019

Florida Appeals Court Decisions: Week of October 21 - 25, 2019

---

10.19.2019

Florida Appeals Court Decisions: Week of October 14 - 18, 2019

---

10.11.2019

Florida Appeals Court Decisions: Week of October 7 - 11, 2019

---

10.04.2019

Florida Appeals Court Decisions: Week of September 30 - October 4, 2019

---

09.28.2019

Florida Appeals Court Decisions: Week of September 23 - 27, 2019

---

09.20.2019

Florida Appeals Court Decisions: Week of September 16 - 20, 2019

---

09.13.2019

Florida Appeals Court Decisions: Week of September 9 - 13, 2019

---

09.12.2019

Unforced Errors: Don't Leave a Ground of the Court's Ruling Unchallenged

---

09.09.2019

Seventh Circuit Reins in Federal Trade Commission's Implied Powers

---

09.07.2019

Florida Appeals Court Decisions: Week of September 2 - 6, 2019

---

08.30.2019

Don't Waive Goodbye to Your Right to a Jury Trial

---

08.30.2019

Florida Appeals Court Decisions: Week of August 26 - 30, 2019

---

08.26.2019

What's the Question?: Framing Issues on Appeal

*Appellate Practice Newsletter*

---

08.23.2019

Florida Appeals Court Decisions: Week of August 19 - 23, 2019

---

08.16.2019

Florida Appeals Court Decisions: Week of August 12 - 16, 2019

---

08.10.2019

Florida Appeals Court Decisions: Week of August 5 - 9, 2019

---

08.03.2019

Florida Appeals Court Decisions: Week of July 29 - August 2, 2019

---

07.27.2019

Florida Appeals Court Decisions: Week of July 22 - 26, 2019

---

07.22.2019

Let's Get Political: Fourth Circuit Protects Maryland Voter List as "Political Speech"

---

07.20.2019

Florida Appeals Court Decisions: Week of July 15 - 19, 2019

---

07.13.2019

Florida Appeals Court Decisions: Week of July 8 - 12, 2019

---

07.04.2019

Florida Appeals Court Decisions: Week of July 1 - 5, 2019

---

07.03.2019

Don't Estop Believin' – Courts May Save Your Judicial Estoppel Argument

---

06.29.2019

Florida Appeals Court Decisions: Week of June 24 - 28, 2019

---

06.26.2019

Ninth Circuit Dials Back Robocall Exemption for Government Debt

---

06.22.2019

Florida Appeals Court Decisions: Week of June 17 - 21, 2019

---

06.20.2019

Preserving the Record: Summary Judgments and Judicial Notice

---

06.17.2019

Cracks in the Armor?

---

06.15.2019

Florida Appeals Court Decisions: Week of June 10 - 14, 2019

---

06.12.2019

Form Over Substance? High Court Agrees to Take a Look at an Old Fifth Circuit Rule Requiring Formal Objection

---

06.10.2019

No Soup for You!

---

06.10.2019

The Misleading Ellipsis

---

06.10.2019

What Lawyers Can Learn From Newspaper Editorials

---

06.08.2019

Florida Appeals Court Decisions: Week of June 3 - 7, 2019

---

05.31.2019

Florida Appeals Court Decisions: Week of May 27 - 31, 2019

---

05.24.2019

Florida Appeals Court Decisions: Week of May 20 - 24, 2019

---

05.17.2019

Florida Appeals Court Decisions: Week of May 13 - 17, 2019

---

05.15.2019

Oral Argument as an Opportunity to Deliberate With the Court

---

05.10.2019

Florida Appeals Court Decisions: Week of May 6 - 10, 2019

---

05.07.2019

Preserving Premature Rulings

---

05.03.2019

Florida Appeals Court Decisions: Week of April 29 - May 3, 2019

---

05.02.2019

A Lesson in Sticking to Your Guns: Court Reverses Course and Finds No Duty to Defend or Indemnify on a Motion for Reconsideration

---

04.27.2019

Florida Appeals Court Decisions: Week of April 22 - 26, 2019

---

04.20.2019

Florida Appeals Court Decisions: Week of April 15 - 19, 2019

---

04.17.2019

Using Post-Trial Motions to Argue Error for the First Time

---

04.13.2019

Florida Appeals Court Decisions: Week of April 8 - 12, 2019

---

04.06.2019

Florida Appeals Court Decisions: Week of April 1 - 5, 2019

---



03.30.2019

Florida Appeals Court Decisions: Week of March 25 - 29, 2019

---

03.23.2019

Florida Appeals Court Decisions: Week of March 18 - 22, 2019

---

03.22.2019

Openings in Appellate Oral Arguments

---

03.18.2019

Preserving the Record

---

03.18.2019

Trial Checklist

---

03.16.2019

Florida Appeals Court Decisions: Week of March 11 - 15, 2019

---

03.09.2019

Florida Appeals Court Decisions: Week of March 4 - 8, 2019

---

03.07.2019

A Post-Trial Triage Checklist

---

03.05.2019

More Is Usually Better: One Objection to An Expert's Opinion Will Not Necessarily Preserve a Challenge to Its Admission

---

03.02.2019

Florida Appeals Court Decisions: Week of February 25 - March 1, 2019

---

03.01.2019

50 Ways to Leave Your Worries

*Paraclete*

---

02.23.2019

Florida Appeals Court Decisions: Week of February 18 - 22, 2019

---

02.20.2019

Preserved, Actually: Preservation of Arguments Definitively Rejected by the Trial Court

---

02.16.2019

Florida Appeals Court Decisions: Week of February 11 - 15, 2019

---

02.09.2019

Florida Appeals Court Decisions: Week of February 4 - 8, 2019

---

02.06.2019

As an Advocate, Welcome Questions From the Bench and Use Them to Win Your Appeal

---

02.02.2019

Florida Appeals Court Decisions: Week of January 28 - February 1, 2019

---

01.26.2019

Florida Appeals Court Decisions: Week of January 21 - 25, 2019

---

01.22.2019

Against the Wait: Failure to Object to Jury's Award of Future Lost Wages Precludes Verdict Challenge

---

01.18.2019

Florida Appeals Court Decisions: Week of January 14 - 18, 2019

---

01.12.2019

Florida Appeals Court Decisions: Week of January 7 - 11, 2019

---

01.05.2019

Florida Appeals Court Decisions: Week of December 31, 2018 - January 4, 2019

---

12.31.2018

Is Your Sufficiency Challenge Sufficiently Preserved for Appeal?

---

12.29.2018

Florida Appeals Court Decisions: Week of December 24 - 28, 2018

---

12.22.2018

Florida Appeals Court Decisions: Week of December 17 - 21, 2018

---

12.15.2018

Florida Appeals Court Decisions: Week of December 10 - 14, 2018

---

12.08.2018

Florida Appeals Court Decisions: Week of December 3 - 7, 2018

---

11.30.2018

Florida Appeals Court Decisions: Weeks of November 19 - 30, 2018

---

11.28.2018

The Future Of LGBT Protections: Will High Court Weigh In?

---

11.17.2018

Florida Appeals Court Decisions: Week of November 12 - 16, 2018

---

11.13.2018

Careful What You Ask For: Think Twice Before Asking the Appellate Court to Uphold Pleadings You Failed to Fix in the Trial Court

---

11.09.2018

Florida Appeals Court Decisions: Week of November 5 - 9, 2018

---

11.03.2018

Florida Appeals Court Decisions: Week of October 29 - November 2, 2018

---

10.31.2018

Three Ways to Annoy an Appellate Court Clerk – and Jeopardize Your Appeal

---

10.27.2018

Florida Appeals Court Decisions: Week of October 22 - 26, 2018

---

10.25.2018

All Hope is Not Lost: Raising a New Argument on Appeal

---

10.20.2018

Florida Appeals Court Decisions: Week of October 15 - 19, 2018

---

10.18.2018

8 Questions Clients Must Ask About Draft Briefs to Help Win Appeals

---

10.13.2018

Florida Appeals Court Decisions: Week of October 8 - 12, 2018

---

10.05.2018

Florida Appeals Court Decisions: Week of October 1 - 5, 2018

---

10.03.2018

Timely and Specific: Making Objections to Federal Magistrate Reports

---

10.03.2018

New York Law Journal: Criminal Immunity Under FSIA, and Civil RICO Liability for Foreign Sovereigns

---

10.01.2018

Contributor, This Week's Florida Appeals Court Decisions

---

10.01.2018

Orders Subject to Review

*Florida Appellate Practice*

---

09.29.2018

Florida Appeals Court Decisions: Week of September 24 - 28, 2018

---

09.24.2018

The Keys to Preserving Error for Appeal

---

09.22.2018

Florida Appeals Court Decisions: Week of September 17 - 21, 2018

---

09.17.2018

It Can Be Easy to Fail to Preserve, Or Even to Waive, Jury Instruction Error

---

09.15.2018

Florida Appeals Court Decisions: Week of September 10 - 14, 2018

---

09.13.2018

To Err Is Human, but the Tippy Coachman Rule Can Get the Trial Judge Home

---

09.07.2018

Florida Appeals Court Decisions: Week of September 3 - 7, 2018

---

08.31.2018

Florida Appeals Court Decisions: Week of August 27 - 31, 2018

---

08.25.2018

Florida Appeals Court Decisions: Week of August 20 - 24, 2018

---

08.14.2018

When Asking for Relief Is Not Enough: Eleventh Circuit Affirms a First Dismissal With Prejudice

---

07.28.2018

Florida Appeals Court Decisions: Week of July 23 -27, 2018

---

07.16.2018

Florida Appeals Court Decisions: Week of July 16 - 20, 2018

---

07.06.2018

Motions for Directed Verdict: Failure to Move Is At Your Peril!

---

07.02.2018

Florida Appeals Court Decisions: Week of July 2 - 6, 2018

---

06.25.2018

Florida Appeals Court Decisions: Week of June 25 - 29, 2018

---

06.18.2018

Florida Appeals Court Decisions: Week of June 18 - 22, 2018

---

06.12.2018

Good for the Goose, Good for the Gander: Waiver of a Waiver Objection

---

06.11.2018

Florida Appeals Court Decisions: Week of June 11 - 15, 2018

---

06.04.2018

Florida Appeals Court Decisions: Week of June 4 - 8, 2018

---

06.04.2018

Objecting to Violations of Prior Rulings

---

05.28.2018

Florida Appeals Court Decisions: Week of May 28 - June 1, 2018

---

05.21.2018

Florida Appeals Court Decisions: Week of May 21 - 25, 2018

---

05.14.2018

Florida Appeals Court Decisions: Week of May 14 - 18, 2018

---

05.07.2018

Florida Appeals Court Decisions: Week of May 7 - 11, 2018

---

05.03.2018

For Want Of A Deadline: Avoiding A Jurisdictional Pitfall

---

04.30.2018

Florida Appeals Court Decisions: Week of April 30 - May 4, 2018

---

04.23.2018

Florida Appeals Court Decisions: Week of April 23 - 27, 2018

---

04.16.2018

Florida Appeals Court Decisions: Week of April 16 - 20, 2018

---

04.09.2018

Florida Appeals Court Decisions: Week of April 9 - 13, 2018

---

04.06.2018

Together, But Independent – Finality Under Rule 42(a) Consolidation

---

04.02.2018

Florida Appeals Court Decisions: Week of April 2 - 6, 2018

---

03.26.2018

Florida Appeals Court Decisions: Week of March 26 - 30, 2018

---

03.23.2018

Objection, Interrupted

---

03.19.2018

Florida Appeals Court Decisions: Week of March 19 - 23, 2018

---

03.12.2018

Florida Appeals Court Decisions: Week of March 12 - 16, 2018

---

03.06.2018

So You're Telling Me There's A Chance! – The Difference Between Waiver and Forfeiture

---

03.02.2018

Florida Appeals Court Decisions: Week of March 2 - 9, 2018

---

02.26.2018

Florida Appeals Court Decisions: Week of February 26 - March 2, 2018

---

02.19.2018

Florida Appeals Court Decisions: Week of February 19 - 23, 2018

---

02.12.2018

Florida Appeals Court Decisions: Week of February 12 - 16, 2018

---

02.06.2018

From De Novo to Clear Error: Don't Risk Your Standard of Review When Objecting to a Magistrate's Report

---

02.05.2018

Florida Appeals Court Decisions: Week of February 5 - 9, 2018

---

01.29.2018

Florida Appeals Court Decisions: Week of January 29 - February 2, 2018

---

01.22.2018

Florida Appeals Court Decisions: Week of January 22 - 26, 2018

---



01.15.2018

Florida Appeals Court Decisions: Week of January 15 - 19, 2018

---

01.08.2018

Florida Appeals Court Decisions: Week of January 8 - 12, 2018

---

01.03.2018

Appeal it All! Guarding Against Multiple, Independent Grounds

---

01.01.2018

Florida Appeals Court Decisions: Week of January 1 - 5, 2018

---

11.14.2017

Taking a Toll: The Effect of Post-Judgment Motions on Appeal Deadlines

---

09.20.2017

When in Doubt, Assume the Earliest Possible Deadline

---

07.31.2017

The Ins and Outs of Appellate Statements of Jurisdiction: How to Avoid Common Mistakes

---

07.07.2017

You Gotta Serve Somebody, But You Gotta Do So Correctly: Preserving Sanctions Motions

---

05.25.2017

Right for the Wrong Reason - Reversal Requires More Than Just an Error

---

04.13.2017

The Air of Preservation Is Now Filled With “Specific” Arguments

---

04.10.2017

The Ninth Circuit Finds California’s Illustration Statutes Can Serve as the Predicate for UCL Liability

---

04.10.2017

Spokeo Leaves Lower Courts to Wrangle With Article III Standing Issues

---

03.13.2017

Preserving Constitutional Issues: Three States, Three Cases, One Hard Lesson

---

02.28.2017

Litigant Beware: Ignore the Duty to Reconstruct the Record Under Rule 10(c) at Your Peril

---

01.26.2017

Pitfalls Of Relying On Evidence Previously Filed “For Any Purpose” When Opposing Summary Judgment

---

01.03.2017

When Objecting Once Is Not Enough: Recognizing a Continuing Duty as the Charges and Verdict Form Evolve

---

12.19.2016

The Ghost of Depositions Past

*Trials and Tribulations, DRI*

---

12.15.2016

District Of New Jersey Rewards Defendant’s Candor, Finds No Waiver In Successive Motion to Dismiss

---

12.06.2016

“Waive” Your Undeveloped Arguments Goodbye

---

12.01.2016

Off The Record. Or Not?

---

11.22.2016

Appeal Dismissed: SCOTUS Delivers Tough Lesson to Be Careful What You Ask For

---

10.26.2016

Ready for Your Close-up? Five Tips for Using Videoconferencing Technology at Trial

---

10.18.2016

The Lasting Benefits of a Judicial Clerkship

---

10.10.2016

Avoiding Close Calls: Sixth Circuit's *Galaria v. Nationwide* Decision Offers Valuable Pleading Tips

---

09.23.2016

A Former Appellate Court Judge Offers Tips to Trial Attorneys

---

09.19.2016

Contemplating Cross-Appeals – When “Winners” Need to Appeal

---

09.06.2016

Does Your Expert Challenge Quack Like an Untimely Daubert Motion?

---

08.23.2016

The Art of Evaluating an Appeal: 10 Hard-Learned Tips

---

08.03.2016

Be Wary About A Trial Court's Assurances of Preservation

---

08.01.2016

Arbitration of \$553.84 Claims Under Home Warranties

---

07.08.2016

Appealing Class Certification Orders

---

07.07.2016

Winner Beware: When the Court Overrules Your Opponent's Objection or Sustains Yours, You May Have a Special Problem

---

06.28.2016

Excluded Evidence: Is Your Proffer Sufficient To Preserve The Error?

---

06.15.2016

Yes Counselor You Argued That Below, But No It Is Not Preserved

---

06.01.2016

Seeing is Believing: Preserving Your Argument as to Audiovisual Evidence and Demonstrative Aids in the Courtroom

---

05.23.2016

Before You Push Play – Important Considerations When Using Videotaped Depositions at Trial

---

## Our Team

## Key Contacts



Sylvia H. Walbolt

SHAREHOLDER

---

📞 850.425.3396

## Additional Members



Scott Abeles

SHAREHOLDER

---

Washington, D.C.

☎ [202.965.8112](tel:202.965.8112)



D. Matthew Allen

SHAREHOLDER

---

Tampa

☎ [813.229.4304](tel:813.229.4304)



Enrique D. Arana

SHAREHOLDER

---

Miami

📞 305.347.6876



Nicholas E. Athanas

ASSOCIATE

---

Miami

📞 305.539.7230



Stephen Beke

SENIOR COUNSEL

---

Los Angeles

☎ [310.843.6312](tel:310.843.6312)



Bruce J. Berman

SHAREHOLDER

---

Miami

☎ [305.539.7415](tel:305.539.7415)





Alicia Whiting Bozich

SENIOR COUNSEL

---

Tampa

☎ 813.229.4305



Scott E. Byers

SHAREHOLDER

---

Miami

☎ 305.347.6819



Natalie J. Carlos

SHAREHOLDER

---

Miami

☎ 305.539.7370



Kenneth J. Cesta

OF COUNSEL

---

New Jersey

☎ 973.828.2618



Stephanie Chau

OF COUNSEL

---

Los Angeles

☎ 310.843.6314



Jeffrey A. Cohen

SHAREHOLDER

---

Miami

☎ 305.539.7289



Jeffrey Michael Cohen

OF COUNSEL

---

Miami

☎ 305.539.7304



Matthew J. Conigliaro

SHAREHOLDER

---

Tampa

☎ 813.229.4254



Katarina Dobsinska

ASSOCIATE

---

Miami

☎ 305.530.4057



Julia E. Duffy

ASSOCIATE

---

New Jersey

☎ 212.430.5514





Jorkeell Echeverria

ASSOCIATE

---

New Jersey

📞 [212.430.5521](tel:212.430.5521)



Stephanie A. Fichera

SHAREHOLDER

---

Miami

📞 [305.347.6810](tel:305.347.6810)



Thomas M. Findley

OF COUNSEL

---

Tallahassee

☎ 850.425.3389



Nathaniel G. Foell

SHAREHOLDER

---

Tampa

☎ 813.229.4188



Christopher B. Freeman

SHAREHOLDER

---

Atlanta

☎ 404.815.2710



Todd M. Fuller

SHAREHOLDER

---

Miami

☎ 305.347.6868





Harvey W. Geller

SHAREHOLDER

---

Los Angeles

☎ [310.843.6332](tel:310.843.6332)



John L. Gibbons

ASSOCIATE

---

Washington, D.C.

☎ [202.965.8161](tel:202.965.8161)



Brendan N. Gooley

SHAREHOLDER

---

Hartford

☎ 860.392.5036



Clifton R. Gruhn

SHAREHOLDER

---

Miami

☎ 305.347.6990



F. Townsend Hawkes

OF COUNSEL

---

Tallahassee

☎ 850.513.3602



Emil Hirsch

SHAREHOLDER

---

Washington, D.C.

☎ 202.965.8184



Ethan Horwitz

SHAREHOLDER

---

New York

📞 [212.380.9617](tel:212.380.9617)



Amy Lane Hurwitz

SHAREHOLDER

---

Miami

📞 [305.539.7309](tel:305.539.7309)



Allison Oasis Kahn

SHAREHOLDER

---

West Palm Beach

📞 561.650.8041



David A. Karp

OF COUNSEL

---

Miami

📞 305.539.7280





Roger S. Kobert

SHAREHOLDER

---

New York

📞 [212.785.9161](tel:212.785.9161)



Joseph H. Lang Jr.

SHAREHOLDER

---

Tampa

📞 [813.229.4253](tel:813.229.4253)



Markham R. Leventhal

SHAREHOLDER

---

Washington, D.C.

📞 [202.965.8189](tel:202.965.8189)



Michael D. Margulies

SHAREHOLDER

---

New York

📞 [212.430.5511](tel:212.430.5511)



Julianna Thomas McCabe

SHAREHOLDER

---

Miami

☎ 305.347.6870



Casey R. Hardy McGowan

ASSOCIATE

---

West Palm Beach

☎ 561.650.8032





Scott L. Menger

ASSOCIATE

---

Los Angeles

☎ [310.843.6326](tel:310.843.6326)



Dean A. Morande

SHAREHOLDER

---

West Palm Beach

☎ [561.650.8014](tel:561.650.8014)



Meredith M. Moss

SHAREHOLDER

---

Los Angeles

☎ 310.843.6304



Paul L. Nettleton

SHAREHOLDER

---

Miami

☎ 305.539.7224



Mark A. Neubauer

SHAREHOLDER

---

Los Angeles

☎ [310.843.6310](tel:310.843.6310)



Christopher J. Norris

ASSOCIATE

---

Miami

☎ [305.530.4033](tel:305.530.4033)



Robert Novack

SHAREHOLDER

---

New York

📞 [212.430.5510](tel:212.430.5510)



Charlisa R. Odom

ASSOCIATE

---

Tampa

📞 [813.229.4368](tel:813.229.4368)



Richard Oliver

SHAREHOLDER

---

Tampa

☎ 813.229.4252



Rachel A. Oostendorp

OF COUNSEL

---

Miami

☎ 305.539.7260





Gary L. Sasso

PRESIDENT AND CHIEF EXECUTIVE  
OFFICER

---

Tampa

📞 813.229.4256



Adam P. Schwartz

SHAREHOLDER

---

Tampa

📞 813.229.4336



Alex B. Silverman

SHAREHOLDER

---

New York

☎ [212.380.9627](tel:212.380.9627)



Michael D. Sloan

SHAREHOLDER

---

West Palm Beach

☎ [561.822.2979](tel:561.822.2979)



Christopher Smart

SHAREHOLDER

---

Tampa

📞 813.229.4142



Samuel B. Spinner

ASSOCIATE

---

Miami

📞 305.347.6885





Benjamin M. Stoll

SHAREHOLDER

---

Washington, D.C.

📞 202.965.8160



J. Coy Stull

OF COUNSEL

---

Tampa

📞 813.229.4120



Charles W. Throckmorton

SHAREHOLDER

---

Miami

☎ 305.539.7284



Nora A. Valenza-Frost

OF COUNSEL

---

New York

☎ 212.380.9631



Julian C. Velez

ASSOCIATE

---

Tampa

☎ 813.229.4968



Peter D. Webster

SHAREHOLDER

---

Tallahassee

☎ 850.513.3600



Roben S. West

ASSOCIATE

---

Atlanta

📞 404.815.2754



Michael N. Wolgin

SHAREHOLDER

---

Miami

📞 305.347.6880



David R. Wright

SHAREHOLDER

---

Tampa

📞 [813.229.4355](tel:813.229.4355)



Michael L. Yaeger

SHAREHOLDER

---

New York

📞 [212.380.9623](tel:212.380.9623)

## Mock Oral Arguments

### Gain an Appellate Edge

Oral argument on appeal is the final opportunity to reinforce your themes and communicate why you should win. It also is the best chance to discover and answer the court's questions about the case before a decision is rendered. Often there is limited time to argue your position, and there are no timeouts or "do-overs." This is why it makes sense to practice by making a mock oral argument before a panel of "judges" cold to the case.

Carlton Fields' Appellate Edge gives clients the ability to conduct mock oral arguments in a traditional setting or online. Using technology, we can eliminate travel-related expenses, making this important service financially accessible for a broad range of appeals.



Recognizing that no one size fits all appeals, we offer a range of alternatives, each at a fixed fee, to fit the particular appeal and the budget.

### **Cold Eyes, Hot Panel**

This process allows the client to obtain an efficient and effective real-life mock oral argument using high-quality “judges” to assist the advocate in preparing for oral argument, with certainty in the price at the outset. Our years of experience in conducting mock appellate arguments, coupled with our lawyers’ own experience in the rough and tumble of oral arguments, makes us effective and efficient in preparing advocates to deliver their best possible appellate argument and the best possible answers to hard questions from a hot panel.

### **When Should You Conduct a Mock Appellate Oral Argument?**

- Several weeks before the oral argument, to polish the presentation, obtain constructive feedback, and refine answers to hard questions.
- When a first run results in the need for substantial redo.

### **Carlton Fields Appellate Argument Presentation**

Success in an appellate argument is directly linked to preparation. Carlton Fields offers a range of appellate services to help prepare an advocate through mock oral argument.

#### **Features**

- Mock arguments are conducted before a panel of experienced Carlton Fields attorneys.
- Mock argument time can extend for two hours.
  - Advocate will complete an initial uninterrupted argument.
  - Following feedback from judges, advocate will give an argument with questioning from each judge.
  - Judges then will debrief and work collaboratively with the advocate to develop strategies for the argument and handling the toughest questions.
- Judges will replicate a true appellate argument with the intent of helping the advocate prepare for the real experience.
- Clients and trial counsel may participate in person or remotely.
- Mock argument sessions are recorded for advocate to use in further preparation.

# Amicus Briefs

Carlton Fields' national Appellate Practice and Trial Support Group has extensive experience representing large companies, associations, and trade groups as amicus curiae in cases involving a multitude of issues affecting their interests. Through our extensive experience in the appellate courts, we have developed a command of strategies and techniques that allow us to present effective arguments as amici that grab the attention of appellate judges by providing insight on issues that cannot be provided in the merits briefing due, for instance, to limitations caused by the record on appeal.

Our group includes lawyers who have briefed and argued cases before the U.S. Supreme Court, every federal appeals court, and in the state courts of more than 30 states. It includes former law clerks from numerous federal and state appellate courts, including the U.S. Supreme Court and the Florida Supreme Court; a former judge from Florida's district courts of appeal; a former deputy solicitor general of Florida; and two fellows of the American Academy of Appellate Lawyers, an invitation-only national organization.

## Representative Amicus Curiae Briefs

Our appellate lawyers continue authoring amicus briefs in important appeals.

In *Securities and Exchange Commission v. Romeril*, No. 19-4197, we filed an amicus curiae brief in the Second Circuit Court of Appeals on behalf of Americans for Prosperity Foundation, in support of appellant Barry D. Romeril. Our brief advanced a constitutional challenge, on First Amendment grounds, to the SEC's "gag order" rule prohibiting settling defendants from speaking about the SEC's conduct or misstatements about the settled case. AFP Foundation is a nonprofit dedicated to educating Americans to be advocates of a free and open society based on separation of powers and a constitutionally limited government, including a limited administration state.

In *Worley v. Citrus County Fair Association Inc.*, No. 5D19-2092, we filed an amicus curiae brief in Florida's Fifth District Court of Appeal on behalf of the Florida Federation of Fairs and Livestock Shows Inc., regarding the application of sovereign immunity to Florida fair associations. FFF is a trade association representing Florida's many fair associations.

In *Keyes Co. v. Lesnik*, No. 4D19-3340, we filed an amicus curiae brief in Florida's Fourth District Court of Appeal on behalf of the Florida Association of Realtors d/b/a Florida Realtors regarding escrow agents' liability when funds deposited in connection with a real property sale fail to clear and the sale never closes. Florida Realtors is Florida's largest trade organization, with approximately 195,000 members.

Our attorneys have filed amicus curiae briefs in other matters, including:

- *Fla. Dep't of Transp. v. Schwefringhaus*, 188 So. 3d 840 (Fla. 2016). Represented industry association in action involving whether state Department of Transportation was bound by railroad crossing agreement under which it received a revocable license to use land

- *McCaffree Fin. Corp. v. Principal Life Ins. Co.*, 811 F.3d 998 (8th Cir. 2016). Represented industry group in support order granting motion to dismiss in ERISA class action involving allegedly excessive management fees charged by retirement plan service provider.
- *Gainesville Woman Care, LLC v. State of Fla.*, No. SC16-381 (Fla.). Represented Florida Right to Life on the constitutionality of a 24-hour waiting period before terminating a pregnancy.
- *Mirzataheri v. FM E. Developers, LLC*, 193 So. 3d 19 (Fla. 3d DCA 2016). Represented trade association in action involving whether homestead property can be the subject of an action for specific performance.
- *Ober v. Town of Lauderdale-By-The-Sea*, No. 4D14-4597 (Fla. 4th DCA). Representing trade association in action involving rights of individuals who purchase a home at a judicial sale.
- *Rothstein v. Balboa Ins. Co.*, 794 F.3d 256 (2d Cir. 2015). Represented American Security Insurance Co. on application of the filed-rate doctrine to lender-placed insurance claims.
- *Rochow v. Life Ins. Co. of N. Am.*, 780 F.3d 364 (6th Cir. 2015). Represented industry groups and the U.S. Chamber of Commerce in action involving damages available to individuals receiving ERISA benefits.
- *Sells v. CSX Transp.*, 170 So. 3d 27 (Fla. 1st DCA 2015). Represented industry association in action involving whether railroad had duty to equip trains with automated external defibrillators in anticipation of the possibility that employees might suffer cardiac arrests.
- *Wollschlaeger v. Governor of Fla.*, 760 F.3d 1195 (11th Cir. 2014), *opinion vacated and superseded on reh'g*, 797 F.3d 859 (11th Cir. 2015), *opinion vacated and superseded on reh'g sub nom. Wollschlaeger v. Governor of the State of Fla.*, 814 F.3d 1159 (11th Cir. 2015), *reh'g en banc granted, opinion vacated sub nom. Wollschlaeger v. Governor of Fla.*, 649 F. App'x 647 (11th Cir. 2016), *and on reh'g en banc sub nom. Wollschlaeger v. Governor of Fla.*, 848 F.3d 1293 (11th Cir. 2017). Represented American Bar Association in First Amendment challenge to the right of a regulated medical professional to engage in gun safety counseling with patients.
- *Merrimon v. Unum Life Ins. Co. of Am.*, 758 F.3d 46 (1st Cir. 2014). ERISA claims involving life insurer's use of retained asset accounts in connection with paying benefits.
- *Fridman v. Safeco Ins. Co. of Ill.*, No. SC13-1607 (Fla.). Represented industry associations on issue whether the district court correctly found that in an action for uninsured motorist benefits, an insurer's payment of policy limits and confession of judgment fully resolves the substantive issues framed by the pleadings, rendering the issues moot and requiring dismissal of the action.



- *Heco v. Johnson Controls, Inc.*, No. 2013-473, Vermont Supreme Court. Representing Product Liability Advisory Council advocating the admission of evidence the plaintiff was not wearing a seat belt in automotive product liability actions and that the trial court correctly followed Vermont precedent and the vast majority of U.S. courts' holdings.
- *Estate of McCall v. United States*, 145 So. 3d 894 (Fla. 2014). Represented large corporation in action challenging the constitutionality of statutory cap on noneconomic damages.
- *Raymond James Fin. Servs., Inc. v. Phillips*, 162 So. 3d 186 (Fla. 2013). Represented Florida Association of Realtors in connection with whether statutes of limitations can be raised as defenses in arbitration proceedings.
- *Leimkuehler v. Am. United Life Ins. Co.*, 713 F.3d 905 (7th Cir. 2013). Represented industry group in class action involving alleged revenue sharing by retirement plan service provider.
- *Kolbe v. BAC Home Loans Servicing, LP*, 738 F.3d 432 (1st Cir. 2013). Represented industry group in appeal involving a challenge to lender-placed flood insurance.
- *Edmonson v. Lincoln Nat'l Life Ins. Co.*, 725 F.3d 406 (3d Cir. 2013). Represented industry group in ERISA class action involving group life insurer's use of retained asset accounts to pay life insurance benefits.
- *Hoover v. Maxum Indem. Co.*, 730 S.E.2d 413 (Ga. 2012). Represented the Georgia Defense Lawyers Association, an insurance defense oriented industry group, in authority an amicus brief in support of a motion for reconsideration.
- *Trafalgar at Greenacres, Ltd. v. Zurich Am. Ins. Co.*, 100 So. 3d 1155 (Fla. 4th DCA 2012). Represented insurance company and trade group in action regarding insurance bad faith.
- *Nationwide Life Ins. Co. v. Haddock*, 460 F. App'x 26 (2d Cir. 2012). Represented industry group regarding the district court's order certifying nationwide plan trustee class under Rule 23(b)(2) in ERISA litigation involving alleged "revenue sharing" fees received by 401(k) retirement plan service provider.
- *Curtis v. N. Life Ins. Co.*, No. 82582-3, Washington State Supreme Court. Amicus brief filed on behalf of the American Council of Life Insurers (ACLI).
- *Sorrell v. IMS Health, Inc.*, 564 U.S. 552 (2011). Amicus brief filed on behalf of TechFreedom.
- *Otte v. Life Ins. Co. of N. Am.*, No. 11-1973 (1st Cir. 2011). Represented industry group in appeal relating to district court's class certification order in ERISA litigation involving a group life insurer's use of retained asset accounts to pay life insurance benefits.

- *Genovese v. Provident Life & Accident Ins. Co.*, 74 So. 3d 1064 (Fla. 2011); *Aircraft Holdings, LLC v. X.L. Specialty Ins. Co.*, No. SC06-1303 (Fla.) (voluntarily dismissed after full briefing). Drafted an amicus brief on behalf of insurance companies supporting position that insurers should retain their right to assert attorney-client privilege with regard to confidential communications with their attorneys concerning the handling of and litigation over contractual disputes that arise when the insureds later file an action accusing the insurers of bad faith.
- *Raymond James Fin. Servs., Inc. v. Phillips*, 126 So. 3d 186 (Fla. 2013). Represented trade association in action involving whether statute of limitations can be raised as a defense in arbitration proceedings.
- *Healthcare Strategies Inc. v. ING Life Ins. & Annuity Co.*, No. 12-4092 (2d Cir.). Represented industry group regarding 401(k) retirement plan service provider's petition for interlocutory appellate review, pursuant to Federal Rule of Civil Procedure 23(f) of the district court's order certifying nationwide plan administrator class under Rule 23(b)(3) in ERISA "excessive fee" litigation.
- *Masone v. City of Aventura*, Florida Supreme Court. Represented industry group in action addressing the authority to implement intersection safety cameras.
- *Travis v. Am. Honda Motor Co., Inc.*, No. 2010 CA 2935 (Fla. Cir. Ct.). Represented industry group in action involving whether the Florida Legislature had the authority to overrule what it found to be an unfair, inequitable, and incorrect decision of the Florida Supreme Court.
- *Stop the Beach Renourishment, Inc. v. Fla. Dep't of Env'tl. Prot.*, 560 U.S. 702 (2010). Represented industry group in action alleging the state's beach renourishment project was an unconstitutional taking.
- *United States ex rel. Loughren v. Unum Grp.*, 613 F.3d 300 (1st Cir. 2010). Represented industry and employer groups in action under federal civil False Claims Act involving private long-term disability insurance industry practices relating to insureds' application for Social Security Disability Insurance benefits.
- *Peters v. Gen. Motors Corp.*, No. SC 87559, Missouri Supreme Court. Representing Product Liability Advisory Council regarding imposition of punitive damages and the admissibility of evidence of other incidents.
- *Metro-Goldwyn-Mayer Studios, Inc. v. Grokster, Ltd.*, 545 U.S. 913 (2005). Drafted amicus brief on merits of engineering society in high-profile copyright case, advocating position ultimately adopted by Court.
- *Peters v. Gen. Motors Corp.*, No. SC 87559, Missouri Supreme Court. Representing Product Liability Advisory Council regarding imposition of punitive damages and the admissibility of evidence of other incidents.

- *D'Angelo v. Fitzmaurice*, 863 So. 2d 311 (Fla. 2003). Drafted an amicus brief on behalf of the Florida Defense Lawyers Association regarding application of set-off and apportionment rules in medical malpractice action.
- *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 535 U.S. 722 (2002). Drafted amicus brief on merits for engineering society in high-profile patent case, advocating position ultimately adopted by the Court.
- *Jackson v. Gen. Motors Corp.*, No. M2001-000433-SC-R23-CQ, Tennessee Supreme Court Appeal. Representing Product Liability Advisory Council regarding the proper test for a design defect in product liability cases.

## Judges/Clerkships

Our appellate team consists of a former appellate judge and former law clerks from state and federal appellate courts, including the U.S. Supreme Court.

**Peter D. Webster, Florida First District Court of Appeal**



**Matthew J. Conigliaro** – Law Clerk to the Honorable Jacqueline R. Griffin, Florida Fifth District Court of Appeal (1995–1997)

**Nathaniel G. Foell** – Law Clerk to the Honorable David F. Hamilton, U.S. Court of Appeals for the Seventh Circuit (2014–2015)

**David A. Karp** – Law Clerk to the Honorable Susan C. Bucklew, U.S. District Court for the Middle District of Florida (2009–2010)

**Joseph H. Lang Jr.** – Law Clerk to the Honorable Benjamin F. Overton, Florida Supreme Court (1995–1997)

**Dean A. Morande** – Law Clerk to the Honorable Edward E. Carnes, U.S. Court of Appeals for the Eleventh Circuit (2004–2005)

**Paul Nettleton** – Law Clerk to the Honorable Joseph Nesbitt, Florida Third District Court of Appeal (1984–1986)

**Rachel Oostendorp** – Law Clerk to the Honorable Adalberto Jordan, U.S. Court of Appeals for the Eleventh Circuit (2016–2017); Law Clerk to the Honorable Beth Bloom, U.S. District Court for the Southern District of Florida (2015–2016)

**Gary L. Sasso** – Law Clerk to the Honorable Byron R. White, U.S. Supreme Court (1978–1979); Law Clerk to the Honorable Spottswood W. Robinson III, U.S. Court of Appeals for the District of Columbia Circuit (1977–1978)

**Peter D. Webster** – Law Clerk to the Honorable Gerald Bard Tjoflat, U.S. District Court for the Middle District of Florida (1974–1975)

**Steven Weisburd** – Law Clerk to the Honorable Alfred T. Goodwin, U.S. Court of Appeals for the Ninth Circuit

**Roben S. West** – Law Clerk to the Honorable Charles R. Wilson, U.S. Court of Appeals for the Eleventh Circuit (2016–2018)

**Michael L. Yaeger** – Law Clerk to the Honorable Samuel A. Alito Jr., U.S. Court of Appeals for the Third Circuit (2004–2005)

## Related Capabilities

### Practices

- Banking, Commercial, and Consumer Finance
- Construction
- Health Care
- Construction Litigation
- Consumer Finance
- ERISA Employee Benefit Plan Litigation
- Government Law & Consulting
- Labor & Employment
- Life, Annuity, and Retirement Litigation
- Litigation and Trials
- Mass Tort and Product Liability
- Pharmaceuticals and Medical Devices
- Real Property Litigation
- White Collar Crime & Government Investigations
- Telecommunications

### Industries

- Banking, Commercial, and Consumer Finance
- Construction
- Health Care
- Telecommunications
- Life, Annuity, and Retirement Solutions

- Telecom: Litigation and Arbitration
- Telecom: Transactions
- Energy and Utilities
- Life, Annuity, and Retirement Solutions
- Class Actions