

# David A. Karp

OF COUNSEL

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## Overview

The power of words to change lives has been an animating force in David Karp's career, first as a journalist for Florida's leading newspaper and then as a lawyer who focuses on appeals and representing content creators in First Amendment and defamation cases.

As an appellate lawyer, David brings a decade of experience as a professional writer and editor to the craft of writing briefs and persuading courts. He has handled appeals in federal and state courts on a range of issues: class actions, bad faith insurance cases, real property disputes, personal injury cases, and constitutional challenges to state and local laws. He also represents clients in class actions and complex commercial cases in the trial court, helping frame issues for summary judgment and dismissal, and serving as an integral part of a trial team.

David's experience as a journalist has also drawn him to defend clients sued for defamation and related torts. He is the past chair of The Florida Bar Media and Communications Law Committee, and writes and speaks about First Amendment law.

David grew up devouring newspapers, reads anything by Robert Caro and David Halberstam, and enjoys original audio, including *Fresh Air*, *The Daily*, *How I Built This*, *Long Form*, *The Splendid Table*, and *Oyez*. He loves to cook, and also enjoys riding his Peloton. David has run the Chicago marathon twice. He has lived throughout Florida with his wife, daughter, and their English cocker spaniel, Daisy.

## Experience

## Appellate Experience

- Prevailed in appeal before the U.S. Court of Appeals for the Eleventh Circuit in insurance coverage policy case turning on application of the series qualifier canon.
- Prevailed in appeal before the U.S. Court of Appeals for the Eleventh Circuit in case about interpretation of related claim provision of insurance policy, defeating plaintiff's claim for \$60-million in coverage and attorney's fees.
- **Argued** appeal before the U.S. Court of Appeals for the Eleventh Circuit and **won** reversal of district court's summary judgment order in pro bono excessive force case.
- Prevailed in three appeals before Florida's Fourth District Court of Appeal upholding summary judgment in controversy over conditions precedent to enforcement of insurance policy.
- Argued appeal in which Florida's Second District Court of Appeal adopted new evidentiary standard for proving condition precedent to enforcement of contract.
- Argued appeal in which Florida's Second District Court of Appeal adopted standard for identifying prejudice when conforming evidence to pleadings and certified question of great public importance to Florida Supreme Court about proper remedy on remand.
- Briefed and argued multiple appeals affirming final judgments of foreclosure after trial.
- Defeated writ of prohibition filed in the Florida Supreme Court to prohibit appeal in district court of appeal in \$120 million bad faith insurance case.
- Worked on appeal for financial services company before the Florida Supreme Court, which held arbitration agreements and class action waivers cannot be invalidated under state law as a matter of public policy.
- Worked on appeal reversing \$4.4 million personal injury judgment based on impermissible stacking of inferences.
- Challenged on appeal as part of a team the constitutionality of a state statute violating the dormant commerce clause by regulating trade with a foreign nation.
- Argued appeal for pro bono client before the Eleventh Circuit Court of Appeals in constitutional challenge to municipal housing policy.

## First Amendment Experience

- Challenging the constitutionality under the First Amendment of a state education law restricting books in school libraries on behalf of several of the country's largest publishers, bestselling authors, and others.
- Defended leading media company in defamation claim related to broadcast of true crime documentary series.
- Successfully defended numerous clients in defamation and related tort claims in the higher education, retail, and development industries.

- Successfully resolved defamation and tortious interference case involving challenge to waterfront development.
- Counseled educational nonprofit about development of anti-harassment admission policies consistent with First Amendment law.
- Briefed case for amici before the Eleventh Circuit Court of Appeals en banc in precedent-setting case involving the secrecy of federal grand jury records.

### **Class Action and Commercial Litigation Experience**

- Successfully defended media company in class action brought under the Video Privacy Protection Act, resolving case on favorable terms.
- Defeated putative class action case brought against leading hotel and hospitality chain over billing policies.
- Defended leading retirement services company sued in mass actions in federal and state courts over losses to pension fund of significant employer on Mississippi Gulf Coast.
- Defeated class certification motion in putative class action case in federal court filed under the Fair Debt Collection Practices Act and the Florida Consumer Collection Practices Act.
- Defeated class certification, obtained summary judgment, and won more than \$800,000 in attorneys' fees for developer as part of a team in case brought by condominium purchasers after real estate market crash.
- Won summary judgment and denial of class certification as part of a team for legal service provider accused of violating the Florida Deceptive and Unfair Trade Practices Act.
- Represented client in federal court in protracted dispute about ownership of luxury private jet.
- Obtained summary judgment in due process challenge to alleged municipal code enforcement practices.

### **Environmental Litigation Experience**

- Represented international aquaculture company in administrative investigation into compliance with county, state, and federal water regulations.
- Represented municipality in case brought by state environmental protection agency over sewage spills.
- Defended agricultural landowner in enforcement case brought under Clean Water Act.

## **Areas of Focus**

### **Practices**

- [Appellate & Trial Support](#)
- [Intellectual Property](#)

### **Industries**

- [Telecommunications](#)

- [Litigation and Trials](#)
- [Media, Entertainment, Music & Sports](#)
- [Telecommunications](#)
- [Class Actions](#)

## Insights

08.07.2024

Classified Monthly A Roundup of Class Action Decisions From Federal Appellate Courts June 2024

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07.01.2024

Top First Amendment Cases of the 2023-2024 Supreme Court Term

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05.31.2024

Classified Monthly A Roundup of Class Action Decisions From Federal Appellate Courts April 2024

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04.10.2024

Classified Monthly A Roundup of Class Action Decisions From Federal Appellate Courts March 2024

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03.19.2024

Classified Monthly A Roundup of Class Action Decisions From Federal Appellate Courts February 2024

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02.23.2024

Classified Monthly A Roundup of Class Action Decisions From Federal Appellate Courts January 2024

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01.22.2024

Classified Monthly A Roundup of Class Action Decisions From Federal Appellate Courts

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10.10.2023

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

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07.12.2023

11th Circuit Stands Alone in Barring All Class Incentive Awards

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07.06.2023

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

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11.15.2022

Delivery in 30 Minutes or Less: Supreme Court Punts on Who Qualifies Under FAA Exemption for Interstate Commerce Workers

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09.15.2022

Classified: The Class Action Blog Podcast - Eleventh Circuit Stands on Principle in TCPA Settlement Case

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06.30.2022

Top 10 First Amendment Cases of the Supreme Court Term

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07.14.2021

Survey of Florida Libel Law

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05.04.2021

Survey of Florida Libel Law

*Media Libel Law 2020-2021*

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06.26.2020

Peremptory Strike: Preserving Every Error During a Peremptory Challenge

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05.08.2020

More Alike Than Different: Sixth Circuit Instructs MDL Court to Find Efficiencies Within Federal Rules Governing Individual Cases

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05.06.2020

Silence Is Golden, or Is It?

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05.04.2020

Survey of Florida Libel Law

*Media Libel Law 2019–2020*

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03.31.2020

COVID-19: What a Lender Can Do to Prepare for the Inevitable Defaults Part 2

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03.21.2020

Can Governments Commandeer Your Property During COVID-19? California Says Yes

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01.27.2020

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

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11.20.2019

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

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11.07.2019

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

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09.09.2019

Seventh Circuit Reins in Federal Trade Commission's Implied Powers

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07.22.2019

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

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06.17.2019

Cracks in the Armor?

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06.10.2019

No Soup for You!

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06.10.2019

What Lawyers Can Learn From Newspaper Editorials

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05.07.2019

Preserving Premature Rulings

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07.13.2014

Judicial Profiles: Judge Edwin A. Scales, III

*The Record (PDF)*

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01.02.2011

Helping Journalists Get the Story Right

*Hillsborough County Bar Association Lawyer Magazine (PDF)*

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07.02.2009

Why Justice Thomas Should Speak at Oral Argument

*Florida Law Review (PDF)*

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## News

08.29.2024

David Karp Files Landmark First Amendment Lawsuit Challenging Florida Book Ban for Major U.S. Publishers

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05.30.2024

David Karp Quoted in Law360: "NRA Wins Free Speech High Court Battle But May Lose Its War"

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01.01.2024

David Karp Interviewed in Law360: "5 Supreme Court Cases to Watch This Spring"

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10.01.2021

Florida Awaits Appeals Decision on New Social Media Law; Legal Experts Say It Probably Won't Survive

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06.07.2021

Carlton Fields' David A. Karp Named Chair of The Florida Bar Media and Communications Law Committee

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06.18.2020

Late Carlton Fields Shareholder Richard J. Ovelmen to Be Honored at The Florida Bar Convention

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09.20.2019

Georgia Lynching Leads 11th Circuit to Rethink Grand Jury Secrecy

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04.19.2019

Carlton Fields Hires Noted Appellate Attorney David Karp

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04.18.2019

Carlton Fields Adds Experienced Appellate Attorney David A. Karp

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## Recognition

- *The Best Lawyers in America*, Appellate Practice (2024–2025)
- Florida Rising Stars, *Super Lawyers Magazine* (2019)

## Professional & Community Involvement

- American Bar Association
  - Forum on Communications Law
- The Florida Bar
  - Chair, Media and Communications Law Committee (2022)
  - Co-Chair, Media Law Conference (2016)
  - Judge, Parker Thomson Awards for Outstanding Legal Journalism in Florida (2019–2020)
  - Appellate Practice Section
  - Adviser, Subcommittee on Civil Defamation Jury Instruction, Standard Jury Instructions Committee – Civil Cases



- American Constitution Society
  - President, South Florida Lawyer Chapter (2023)
  - Board of Directors, South Florida Lawyer Chapter (2019–present)
  - Board of Directors, Tampa Lawyer Chapter (2017–2019)
  - Florida Path to the Bench Working Group (2020–present)
- Greater Miami Chamber of Commerce
  - Leadership Miami, Class of 2019-2020
- First Amendment Foundation
- Yale Alumni School Committee (1995–present)

## Speaking Engagements

- "First Amendment and the U.S. Supreme Court Seminar," 2024 Florida Bar Convention, Orlando, FL (June 20, 2024)
- "Discussion on NetChoice's Challenges to Texas and Florida Social Media Laws," Hillsborough County Bar Association, Tampa, FL (March 28, 2024)
- "Developments in Florida Defamation Law," Media Law Seminar, University of Miami School of Law (February 19, 2024)
- "First Amendment and the U.S. Supreme Court," 2023 Reporters' Workshop, The Florida Bar Media and Communications Law Committee and Florida Supreme Court, Tallahassee, FL (November 6, 2023)
- "[Common Carriers or Private Speech? The Impact of 303 Creative on the NetChoice Circuit Split](#)," 2023 Allen L. Poucher Lecture, University of Florida College of Law (October 19, 2023)
- "Eleventh Circuit Year in Review: A Look at Leading Cases and Trends," ACS South Florida Lawyer Chapter, Miami, FL (September 22, 2023)
- "First Amendment and the U.S. Supreme Court," 2022 Reporters' Workshop, The Florida Bar Media and Communications Law Committee and Florida Supreme Court, Tallahassee, FL (September 20, 2022)
- "The Ins and Outs of Rule 9.130: A Lawyer's Guide to Non-Final Appeals – Part II – Class Action Appeals," The Florida Bar Appellate Practice Section (August 12, 2022)
- "[First Amendment and the U.S. Supreme Court Seminar](#)," 2022 Annual Florida Bar Convention, The Florida Bar Media and Communications Law Committee, Orlando, FL (June 24, 2022)
- "[Eleventh Circuit Year in Review: The Civil Docket](#)," American Constitution Society (April 22, 2022)
- "[Like, Share or Cancel: Social Media & The First Amendment](#)," The Florida Bar Media and Communications Law Committee (April 14, 2022)
- "A Look Inside a U.S. Supreme Court Case," American Constitution Society, Florida Lawyer Chapter (March 1, 2022)

- "Actual Malice in Libel Law," Media Law Seminar, University of Miami School of Law (February 28, 2022)
- [1st Amendment and the U.S. Supreme Court](#)," The Florida Bar Media and Communications Law Committee (June 25, 2021)
- "A View From the House: U.S. Representative Ted Deutch on Judicial Nominations, Voting Rights, and the Work of the House Judiciary Committee," American Constitution Society, Florida Lawyer Chapter (May 10, 2021)
- "Florida and the Presidential Transition," American Constitution Society, Florida Lawyer Chapter (December 7, 2020)
- "Statutory Interpretation: Approaches, Canons, and Trends," Carlton Fields Appellate Practice Seminar (December 4, 2020)
- "COVID-19: What a Lender Can Do to Prepare for the Inevitable Defaults – Part Two," Carlton Fields (March 31, 2020)
- "General Verdict Forms and Jury Instructions," Carlton Fields Appellate Practice Seminar (June 21, 2019)
- "The Future of Political Gerrymandering in Florida," American Constitution Society, Tampa Lawyer Chapter (2019)
- "The Role of the State Attorney General," American Constitution Society, Tampa Lawyer Chapter (2018)
- "Hot Topics and New Developments in Public Access and Privacy Law in Florida," The Florida Bar Media Law Conference (2016)

## Credentials

### Education

- University of Florida Fredric G. Levin College of Law (J.D., magna cum laude, 2009)
  - Order of the Coif
  - Executive Managing Editor, *Florida Law Review*
- Yale University (B.A., 1995)

### Bar Admissions

- Florida

### Court Admissions

- U.S. Supreme Court
- U.S. Court of Appeals, Fifth Circuit
- U.S. Court of Appeals, Eleventh Circuit
- U.S. District Court, Middle District of Florida
- U.S. District Court, Northern District of Florida
- U.S. District Court, Southern District of Florida
- U.S. Bankruptcy Court, Middle District of Florida

### Clerkships

- Hon. Susan C. Bucklew, U.S. District Court,  
Middle District of Florida