

# Real Property Litigation

## Overview

Carlton Fields handles all types of real property litigation. Our lawyers regularly represent clients in a wide range of commercial disputes that involve every aspect of the rights and duties associated with real property. We represent clients in state and federal courts across the country, as well as in matters before arbitration panels and administrative bodies.

Our clients include developers, owners, landlords, and tenants, and we have particularly extensive experience in representing title insurers and their insureds. We regularly represent lenders who hold mortgages or other claims secured by interests in real property in enforcing those claims, including in lien priority disputes. Our broad experience also includes representing clients in disputes regarding purchase and sale agreements, joint ventures, development agreements, leases, restrictive covenants, mineral rights, riparian rights, easements or other access rights, boundary disputes, and adverse possession. We handle eminent domain actions, partition suits, slander of title suits, quiet title suits and disputes, specific performance actions, and tort claims and other actions involving the use and development of real property. We also have defended several class action suits arising out of real property ownership, transactions, and regulation.

## Experience

### Developer Litigation

- Obtained verdict for our client in 15-day bench trial on breach of contract claims arising from termination of a \$68 million purchase and sale contract in Los Angeles Superior Court.
- Obtained affirmance on appeal of judgment granting specific performance on a \$13.5 million commercial real estate transaction.
- Obtained affirmance on appeal of a judgment declaring that the redevelopment of a commercial property would not overburden or violate a joint cross-access easement between shopping center client and an adjoining shopping center.
- Represented developers in condominium litigation, Interstate Land Sales Act litigation, and escrow deposit dispute litigation.

### Landlord Tenant Disputes

- Represented national and regional commercial property owners in lease enforcement, tenant litigation, exclusive use issues, environmental issues, insurance-related matters, and bankruptcy-related litigation.
- Represented national retail chain concerning lease enforcement efforts against landlords, including enforcing exclusive-use rights, disputing common-area maintenance charges, determining liquidated damages resulting from failure to timely provide lease premises to tenant, enforcing self-insurance provisions, and otherwise resolving disputes concerning lease interpretation.
- Represented landlords and tenants concerning allegations of air quality and mold issues in lease premises.
- Represented national retail chain in dispute with subtenant concerning exercise of self-help, which was preventing construction of retail store.
- Represented nationwide retail chain concerning landlords' efforts to fabricate default in effort to cancel valuable long-term lease rights.
- Represented national grocery store chain in reversal of a summary judgment, resulting in opinion establishing the validity and enforceability of a commercial exclusive covenant in recorded shopping center lease.

### **Eminent Domain Actions**

- Represented developers in condemnation proceedings, including opposing reasonableness and scope of taking, determining fair market value of interests taken, and related proceedings.
- Represented major developer concerning proposed taking of 70-plus acre parcel and established that fair market value on date of taking was more than 25 times greater than the value proposed by the condemning entity.
- Represented quasi-governmental agency in efforts to obtain, via eminent domain, sufficient real property to double track existing railroad line from Fort Lauderdale to West Palm Beach.
- Represented property owners in raising inverse condemnation claims, including Bert Harris claim pursuant to Florida Statutes.
- Represented property owner in eminent domain action in which initial offer was \$200,000 and ultimate award by a 12-person jury was \$5.2 million.

### **Commercial Foreclosures and Loan Workouts**

- Represented secured lender in restructure of \$200 million in loans to significant commercial real estate developer.

- Represented secured lenders and indenture trustees in workouts, foreclosures, and bankruptcy matters involving condominium projects, subdivisions, multifamily, commercial, office, and retail properties.
- Represented national lending institutions in commercial foreclosures in federal and state courts involving
  - hotels, fractured residential and commercial condominiums
  - agricultural property, partially developed land, and undeveloped land
  - industrial property, strip malls, and office buildings
  - homeowner associations
- Represented receivers and special masters in federal and state courts to manage commercial properties in foreclosure.
- Tried commercial foreclosure action resulting in \$7.6 million final judgment in favor of client against borrower and guarantors on office complex in Vero Beach, Florida.
- Represented major national banks in commercial mortgage foreclosures.

### **Lien Priority Disputes**

- Represented national life insurance company in a multimillion-dollar foreclosure action, with appellate proceedings involving litigation over lien priority rights between lender and community development association over unpaid property assessments.
- Represented lender in challenge to validity of its mortgage on grounds it was unauthorized under a partnership agreement and obtained summary judgment based on finding of ratification.
- Represented lender in equitable subrogation claim resulting in judgment in favor of lender after bench trial.
- Represented institutional lender in mortgage priority dispute with holder of “silent second” mortgage that had been recorded before institutional lender’s mortgage.

### **Title and Other Real Property Disputes**

- Obtained dismissal of multimillion-dollar slander of title counterclaim based upon lis pendens and ruling that statements in lis pendens were made within the course of judicial proceedings and were thus subject to the absolute litigation privilege.
- Established prior owner of property’s title under theory of constructive trust at bench trial.

- Represented borrower in defense of ejectment suit seeking to evict borrower from her property, thereby depriving borrower of equity in the property, and obtained reversal of trial court's order entitling lender to ejectment.
- Represented nationwide commercial property owners in action to enforce restrictive covenants against regional developer that was developing adjoining parcel.
- Represented developer against local governments' efforts to prohibit development of multiacre parcel.
- Represented purchaser of multiacre parcel concerning sale and leaseback transaction where seller was seeking to have transaction recharacterized as a loan.
- Represented property owners and developers concerning alleged environmental or conservation violations.
- Represented property owners in matters of encroachment, easement, mineral rights, and other use issues involving adjoining or subtending property owners.

## Insights

03.25.2024

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02.14.2024

My House Was Just Stolen: Title Fraud, The Problem, And The Beginning Of A Solution  
*Actionline, Real Property Probate and Trust Law Section of The Florida Bar*

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02.13.2024

The Docket: N.Y. Court Holds Insurer's Claim Timely in Foreclosure Action  
*Title News, American Land Title Association*

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07.29.2022

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07.22.2022

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07.01.2022

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06.24.2022

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06.10.2022

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05.27.2022

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05.20.2022

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04.29.2022

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12.28.2021

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12.18.2021

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11.26.2021

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11.19.2021

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11.05.2021

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10.29.2021

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10.22.2021

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09.24.2021

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08.27.2021

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08.20.2021

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07.30.2021

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07.23.2021

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07.09.2021

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06.25.2021

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06.18.2021

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05.28.2021

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04.30.2021

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04.23.2021

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02.26.2021

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12.26.2020

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12.18.2020

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11.23.2020

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11.20.2020

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09.08.2020

Agency Order Issued by CDC: Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19

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09.04.2020

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Hotel Ruling Could Save Disney World Millions in Taxes

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05.20.2020

Inverse Condemnation and Government Pandemic Response

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Are You Protected Against the Risk of Construction Delays and Increased Construction Costs Due to COVID-19?

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11.01.2019

The History of Condominium Development Rhymes: Contract Purchasers Are Again Seeking to Get Out of Purchasing Condominium Units

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09.27.2019

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Florida Appellate Court Rules That Arbitration Agreement in Special Warranty Deed Can Bind Subsequent Purchasers

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12.21.2018

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11.23.2018

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11.16.2018

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10.29.2018

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08.18.2018

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12.18.2017

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11.30.2017

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11.14.2017

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10.30.2017

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10.09.2017

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09.20.2017

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09.05.2017

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07.25.2017

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The New 2016 ALTA Commitment with Florida Modifications: Expressing the Limitations on Liability

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03.20.2017

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02.14.2017

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02.10.2017

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02.03.2017

Real Property & Title Insurance Update: Week Ending January 27, 2017

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01.25.2017

Real Property & Title Insurance Update: Week Ending January 20, 2017

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01.19.2017

Real Property & Title Insurance Update: Week Ending January 13, 2017

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01.11.2017

Real Property & Title Insurance Update: Week Ending January 6, 2017

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12.15.2016

Real Property & Title Insurance Update: Weeks Ending December 2 & 9, 2016

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12.02.2016

Real Property & Title Insurance Update: Weeks Ending November 18 & 25, 2016

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11.17.2016

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Surrendering Your Property in Bankruptcy Means You Must Actually Surrender It

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10.03.2016

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Defalcation is a Dirty Word, But Not the End of the World

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08.30.2016

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08.17.2016

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08.11.2016

Real Property & Title Insurance Update: Week Ending August 5, 2016

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08.01.2016

Real Property & Title Insurance Update: Week Ending July 29, 2016

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07.25.2016

Real Property & Title Insurance Update: Week Ending July 22, 2016

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07.20.2016

Real Property & Title Insurance Update: Week Ending July 15, 2016

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07.08.2016

Real Property & Title Insurance Update: Weeks Ending June 24 & July 1, 2016

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06.21.2016

Real Property & Title Insurance Update: Weeks Ending June 10 & 17, 2016

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06.07.2016

Real Property & Title Insurance Update: Weeks Ending May 29 & June 3, 2016

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06.03.2016

2016 Florida Legislative Post-Session Report

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05.26.2016

Real Property & Title Insurance Update: Weeks Ending May 13 & May 20, 2016

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05.10.2016

Real Property & Title Insurance Update: Weeks Ending April 29 & May 6, 2016

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04.26.2016

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04.11.2016

Real Property & Title Insurance Update: Week Ending April 8, 2016

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04.06.2016

Real Property & Title Insurance Update: Week Ending April 1, 2016

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03.30.2016

Real Property & Title Insurance Update: Week Ending March 25, 2016

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03.23.2016

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01.26.2016

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The Basics of E-Recording

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What You Must Know About Florida's Commercial Mortgage Foreclosure Process

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6 Things to Include in a Final Money Judgment

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General Guidelines for Florida Landlords

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Financing of Commercial Real Estate Chapter, Florida Real Property Complex Transactions

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Current Trends in Real Estate Class Actions and Real Estate Related Discrimination Claims

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---

## Our Team

## Key Contacts



Christopher Smart

SHAREHOLDER

---

## Additional Members



H. Ray Allen II

OF COUNSEL

---

Tampa

☎ 813.229.4270



Frank A. Appicelli

SHAREHOLDER

---

Hartford

☎ 860.392.5015



Erin E. Banks

SHAREHOLDER

---

Tampa

📞 813.229.4212



Naomi M. Berry

SHAREHOLDER

---

Miami

📞 305.539.7210



Dane R. Blunt

SHAREHOLDER

---

Tampa

📞 813.229.4156



Alicia Whiting Bozich

SENIOR COUNSEL

---

Tampa

📞 813.229.4305



Dana Chaaban

ASSOCIATE

---

Orlando

📞 407.244.8236



Daniel L. DeCubellis

SHAREHOLDER

---

Orlando

📞 407.244.8228



Robert W. DiUbaldo

SHAREHOLDER

---

New York

☎ [212.380.9635](tel:212.380.9635)



Michael P. Donaldson

SHAREHOLDER

---

Tallahassee

☎ [850.513.3613](tel:850.513.3613)



Steven C. Dupré

SHAREHOLDER

---

Tampa

📞 813.229.4341



Jorkeell Echeverria

ASSOCIATE

---

New Jersey

📞 212.430.5521



David B. Esau

SHAREHOLDER

---

West Palm Beach

📞 [561.650.8015](tel:561.650.8015)



Scott D. Feather

SHAREHOLDER

---

Tampa

📞 [813.229.4338](tel:813.229.4338)



Christopher B. Freeman

SHAREHOLDER

---

Atlanta

☎ 404.815.2710



Kristin A. Gore

SHAREHOLDER

---

West Palm Beach

☎ 561.650.8046



Shannon B. Gray

OF COUNSEL

---

Tampa

☎ 813.229.4314



Merrick L. Gross

SHAREHOLDER

---

Miami

☎ 305.530.4046



Clifton R. Gruhn

SHAREHOLDER

---

Miami

☎ 305.347.6990



Alan M. Grunspan

SHAREHOLDER

---

Miami

☎ 305.539.7209



John R. Hart

SHAREHOLDER

---

West Palm Beach

📞 561.650.8024



Jourdan R. Haynes

SHAREHOLDER

---

Tampa

📞 813.229.4282



Blair C. Hedges

SHAREHOLDER

---

Orlando

☎ 407.481.5443



Donald E. Hemke

OF COUNSEL

---

Tampa

☎ 813.229.4101



Emil Hirsch

SHAREHOLDER

---

Washington, D.C.

☎ 202.965.8184



Aaron A. Holman

ASSOCIATE

---

Orlando

☎ 407.244.8229



Matthew H. Jacobson

SHAREHOLDER

---

Miami

☎ 305.539.7372



Daniel C. Johnson

SHAREHOLDER

---

Orlando

☎ 407.244.8237



Ryan D. Johnson

ASSOCIATE

---

Miami

☎ 305.539.7229



Amir Kaltgrad

SHAREHOLDER

---

Los Angeles

☎ 310.843.6346



Leslie P. King

SHAREHOLDER

---

Hartford

📞 860.392.5053



Donald R. Kirk

SHAREHOLDER

---

Tampa

📞 813.229.4334



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)



Hywel Leonard

OF COUNSEL

---

Tampa

☎ 813.229.4215



Edgel C. Lester Jr.

OF COUNSEL

---

Tampa

☎ 813.229.4231



Markham R. Leventhal

SHAREHOLDER

---

Washington, D.C.

☎ [202.965.8189](tel:202.965.8189)



Laurel Lockett

SHAREHOLDER

---

Tampa

☎ [813.229.4139](tel:813.229.4139)



Troy A. Mainzer

ASSOCIATE

---

Tampa

☎ [813.229.4239](tel:813.229.4239)



Michael D. Margulies

SHAREHOLDER

---

New York

☎ [212.430.5511](tel:212.430.5511)



Julianna Thomas McCabe

SHAREHOLDER

---

Miami

☎ 305.347.6870



Kathleen S. McLeroy

SHAREHOLDER

---

Tampa

☎ 813.229.4228



H. Scott Miller

SHAREHOLDER

---

Hartford

☎ 860.392.5011



Dean A. Morande

SHAREHOLDER

---

West Palm Beach

☎ 561.650.8014



Mark A. Neubauer

SHAREHOLDER

---

Los Angeles

☎ [310.843.6310](tel:310.843.6310)



Ilan A. Nieuchowicz

SHAREHOLDER

---

West Palm Beach

☎ [305.539.7381](tel:305.539.7381)



Robert Novack

SHAREHOLDER

---

New York

☎ [212.430.5510](tel:212.430.5510)



Christopher M. Paolini

SHAREHOLDER

---

Orlando

☎ [407.244.8253](tel:407.244.8253)



Jason Perkins

SHAREHOLDER

---

Orlando

☎ 407.244.8250



John C. Pitblado

SHAREHOLDER

---

Hartford

☎ 860.392.5024



Robert M. Quinn

SHAREHOLDER

---

Tampa

☎ 813.229.4217



Alan Rosenthal

SHAREHOLDER

---

Miami

☎ 305.539.7301



Michael Jay Rune II

SHAREHOLDER

---

Miami

☎ 305.539.7231



Alex B. Silverman

SHAREHOLDER

---

New York

☎ 212.380.9627



R. Jeffrey Smith

OF COUNSEL

---

Hartford

☎ 860.392.5018



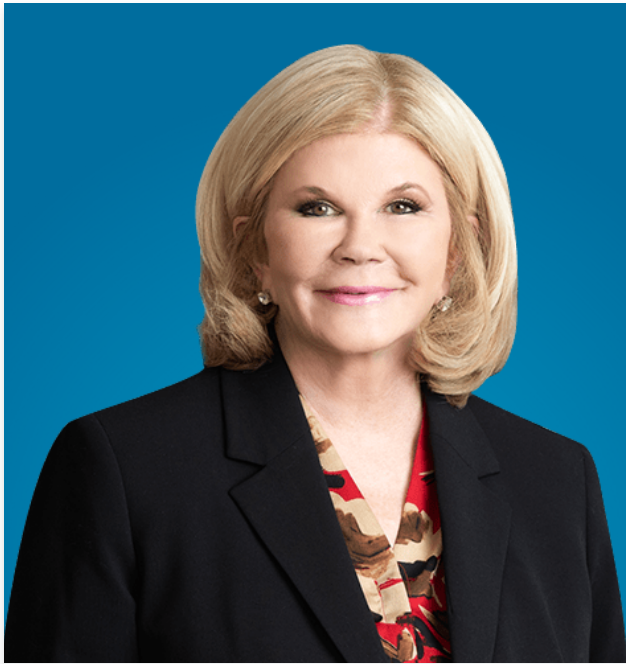
Michele B. Softness

OF COUNSEL

---

Miami

☎ 305.539.7234



Lee Stapleton

SHAREHOLDER

---

Miami

☎ 305.530.4076



Charles W. Throckmorton

SHAREHOLDER

---

Miami

☎ 305.539.7284



Nora A. Valenza-Frost

OF COUNSEL

---

New York

☎ [212.380.9631](tel:212.380.9631)



Lavinia James Vaughn

OF COUNSEL

---

Tampa

☎ [813.229.4144](tel:813.229.4144)



Barry Leigh Weissman

SHAREHOLDER

---

Los Angeles

☎ [310.843.6322](tel:310.843.6322)



Henry S. Wulf

SHAREHOLDER

---

West Palm Beach

☎ [561.650.8042](tel:561.650.8042)



Michael G. Zilber

ASSOCIATE

---

Miami

📞 305.530.4058



Alana Zorrilla-Gaston

SHAREHOLDER

---

West Palm Beach

📞 561.659.7070

## Related Capabilities

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- Construction Transactions
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- Development
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- Construction
- Real Estate
- Banking, Commercial, and Consumer Finance

- Environmental, Land Use & Development Approvals and Litigation
- Litigation and Trials
- Title Insurance
- Appellate & Trial Support
- Environmental Regulation & Litigation
- Real Estate Workouts and Problem Loan Resolution
- Energy and Utilities
- Family Law
- Government Affairs and Lobbying
- Administrative Litigation and Appeals
- Distressed Asset and Workout
- Banking, Commercial, and Consumer Finance
- Class Actions