

## Joseph H. Lang Jr.

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## Overview

Joseph Lang has extensive experience representing clients before and at trial on legal issues, motions practice, preservation of error, and jury instructions, and then throughout the appellate process.

At trial, Joseph has represented clients in automotive, insurance, medical device, negligence, and smoking and health cases. In doing so, he has attended and provided counsel on legal issues throughout entire jury trials in Fort Lauderdale, Fort Myers, Jacksonville, Miami, Orlando, Pensacola, St. Petersburg, Sarasota, Tampa, and West Palm Beach. In addition, on a multitude of occasions he has attended trials in a more limited role to argue specific legal motions, such as directed verdicts or post-trial filings, or to handle jury instructions conferences on specific days.

On appeal, Joseph has briefed and argued cases for automotive, banking, liability insurance, maritime insurance, title insurance, nonprofit housing, and real estate development clients, among others. He has briefed and argued appeals in the Eleventh Circuit Court of Appeals, the Florida Supreme Court, and all six Florida District Courts of Appeal. He has been involved in more than 100 docketed matters in the Florida Supreme Court. Nationally, Joseph has handled cases in the Third, Fourth, Sixth, Eighth, Ninth, and Tenth Circuit Courts of Appeals.

Joseph also has significant experience in extraordinary writs practice, amicus curiae briefing, jurisdictional briefing, constitutional litigation, class action defense, punitive damages defense, and post-trial issues such as stays and supersedeas bonding.

Joseph is an elected member of the American Law Institute and a former chair of the Florida Supreme Court Committee on Standard Jury Instructions in Civil Cases. He is board certified in appellate practice by the Florida Bar. Prior to joining the firm, he served as a law clerk to the Honorable Ben F. Overton of the Florida Supreme Court.

## Experience

- *Nolen v. Fairshare Vacation Owners Ass'n*, No. 22-11128, 2023 WL 5622595 (11th Cir. Aug. 31, 2023). Class action practice; Trust Code litigation.
- *W P Auto Sales, Inc. v. Liberty Mutual Insurance Co.*, 363 So. 3d 1077 (Fla. 6th DCA 2023). Construction lien litigation.
- *EHC, Inc. v. KB Home Tampa LLC*, 335 So. 3d 1193 (Fla. 2d DCA 2022). Construction contract litigation.
- *Pincus v. American Traffic Solutions, Inc.*, 25 F. 4th 1339 (11th Cir. 2022). Class action practice; statutory interpretation; unjust enrichment.
- *Pincus v. American Traffic Solutions, Inc.*, 333 So. 3d 841 (Fla. 2022). Class action practice; statutory interpretation; unjust enrichment.
- *KB Home Fort Myers LLC v. Taishan Gypsum Co.*, 336 So. 3d 841 (Fla. 2d DCA 2022). Post-judgment motions to vacate; Florida Rule of Civil Procedure 1.540.
- *Jockey Club III Ass'n, Inc. v. Apeiron Miami, LLC*, 306 So. 3d 185 (Fla. 3d DCA 2020). Real property development and maintenance issues related to the Jockey Club development in Miami.
- *Doss v. General Mills, Inc.*, 816 F. App'x. 312 (11th Cir. 2020). Class action practice. Article III standing.
- *Lifsey Real Estate & Holdings, Inc. v. Starwood Capital Grp., L.P.*, 295 So. 3d 765 (Fla. 2d DCA 2020). Personal jurisdiction.
- *Hillcrest Country Club Ltd. P'ship v. Zyscovich, Inc.*, 288 So. 3d 1265 (Fla. 4th DCA 2020). Contract interpretation issues related to an architectural services contract.
- *BP Expl. & Prod., Inc. v. Claimant ID 100204031*, 765 F. App'x 98 (5th Cir. 2019). *Deepwater Horizon* class action settlement issues.
- *Markland v. Insys Therapeutics, Inc.*, 758 F. App'x 777 (11th Cir. 2018). Federal preemption.
- *Shuker v. Smith & Nephew, PLC*, 885 F.3d 760 (3d Cir. 2018). Federal preemption.
- *United States v. HPC Healthcare, Inc.*, 723 F. App'x 783 (11th Cir. 2018). False Claims Act pleading standard.
- *Simmons Foods, Inc. v. Indus. Risk Insurers*, 863 F.3d 792 (8th Cir. 2017). Contractual limitations provisions. Prejudgment interest.
- *Platypus Wear, Inc. v. Horizonte LTDA*, 693 F. App'x 843 (11th Cir. 2017); *Platypus Wear, Inc. v. Horizonte LTDA*, 558 F. App'x 929 (11th Cir. 2014). Availability of prospective equitable relief.
- *Mink v. Smith & Nephew, Inc.*, 860 F.3d 1319 (11th Cir. 2017). Federal preemption.

- *Wells Fargo Equip. Fin., Inc. v. Bacjet, LLC*, 221 So. 3d 671 (Fla. 4th DCA 2017). Personal jurisdiction.
- *City of Largo v. AHF-Bay Fund, LLC*, 215 So. 3d 10 (Fla. 2017); *AHF-Bay Fund, LLC v. City of Largo*, 169 So. 3d 133 (Fla. 2d DCA 2015). Issues related to PILOT (payments in lieu of taxes) agreements.
- *City of Aventura v. Jimenez*, 211 So. 3d 158 (Fla. 3d DCA 2016). Amici brief in support of Mark Wandall Traffic Safety Act and efficacy of using cameras to enforce traffic lights.
- *Enclave at Citrus Park Homeowners Ass'n, Inc. v. Beazer Homes, Inc.*, 194 So. 2d 1028 (Fla. 2d DCA 2016). Defense against second-tier certiorari petition involving issues related to section 125.022, Florida Statutes.
- *Uhlfelder v. Wells Fargo Bank, N.A.*, 193 So. 2d 891 (Fla. 1st DCA 2016). Defense of final judgment of foreclosure.
- *Alley v. City of Tampa*, 183 So. 3d 355 (Fla. 2d DCA 2015). Defense of certiorari challenges to municipal land use decisions.
- *Teva Pharm. Indus. v. Ruiz*, 181 So. 3d 513 (Fla. 2d DCA 2015). Personal Jurisdiction.
- *Higgins v. Commonwealth Land Title Ins. Co.*, 172 So. 3d 888 (Fla. 1st DCA 2015). Class action practice. Title insurance reissue rates.
- *Krauss v. PNC Bank, N.A.*, 174 So. 3d 1004 (Fla. 2d DCA 2015). Deficiency judgments.
- *Ethos Dev., LLC v. JKF Enters., LLC*, 160 So. 3d 423 (Fla. 2d DCA 2015). Certiorari; Severance and abatement issues.
- *Alberton v. Commonwealth Land Title Ins. Co.*, No. 14-8072 (3d Cir. June 11, 2014). Opposing Rule 23(f) petition.
- *Layton v. Smithkline Beecham Corp.*, 137 So. 3d 384 (Fla. 2d DCA 2014). Manufacturing defect and causation allegations.
- *Adams Homes of Nw. Fla., Inc. v. KB Home Fort Myers, LLC*, 145 So. 3d 103 (Fla. 2d DCA 2013). Specific performance.
- *US Bank, N.A. v. Marion*, 122 So. 3d 398 (Fla. 2d DCA 2013). Verification issues under Florida Rule of Civil Procedure 1.110(b).
- *Farkas v. Nat'l Union Fire Ins. Co. of Pittsburgh*, 518 F. App'x 178 (4th Cir. 2013).
- *Laschober v. Ford Motor Co.*, 88 So. 3d 943 (Fla. 2d DCA 2012). Warranty and FDUTPA issues.
- *Ethicon Endo-Surgery, Inc. v. McGowan*, 83 So. 2d 713 (Fla. 1st DCA 2012). Manufacturing defect and causation issues.
- *Miller v. Kemmons Wilson, Inc.*, 104 So. 3d 1098 (Fla. 2d DCA 2012). Venue.
- *State Nat'l Ins. Co. v. NCO Fin. Sys., Inc.*, No. 11-10772 (11th Cir. Oct. 11, 2011). Order enforcing settlement agreement.
- *Cherry v. D.B. Zwirn Special Opportunities Fund, L.P.*, 433 F. App'x 870 (11th Cir. 2011). Class action/derivative action issues.
- *Wolicki-Gables v. Arrow Int'l, Inc.*, 634 F.3d 1296 (11th Cir. 2011). Federal preemption.

- *Kemmons Wilson, Inc. v. Miller*, 52 So. 3d 667 (Fla. 2d DCA 2011). Personal jurisdiction.
- *Goldberg v. Merrill Lynch Credit Corp.*, 35 So. 2d 905 (Fla. 2010). Exclusive jurisdiction and unlicensed-practice-of-law issues.
- *Cramer v. Ford Motor Co.*, 49 So. 3d 241 (Fla. 2d DCA 2010). Class certification issues.
- *Testa v. S. Escrow & Title, LLC*, 36 So. 3d 713 (Fla. 1st DCA 2010). Title insurance policy issues.
- *Coventry First LLC v. Office of Ins. Regulation*, 30 So. 3d 552 (Fla. 1st DCA 2010). Retroactive application of statutes. Mootness.
- *Brisson v. Ford Motor Co.*, 349 F. App'x 433 (11th Cir. 2009). Magnuson-Moss Warranty Act express and implied warranty claims.
- *In re James Hoving*, No. 09-0103 (6th Cir. July 29, 2009). Opposing Rule 23(f) petition.
- *Lake v. Tenneco, Inc.*, 319 F. App'x 769 (11th Cir. 2009). Product liability, duty to warn, open and obvious dangers.
- *Transamerica Leasing, Inc. v. Inst. of London Underwriters*, 430 F.3d 1326 (11th Cir. 2005). English law and practice, law of the case, mandate rule, and judicial estoppel issues.

## Areas of Focus

### Practices

- Appellate & Trial Support
- Banking, Commercial, and Consumer Finance
- Litigation and Trials
- Mass Tort and Product Liability
- Creditors' Rights and Bankruptcy
- Real Property Litigation
- Development
- Title Insurance
- Pharmaceuticals and Medical Devices
- Class Actions

### Industries

- Banking, Commercial, and Consumer Finance

## Insights

04.13.2023

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

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04.12.2023

A Cautionary Note on Honking Your Own Horn

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09.15.2022

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

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08.12.2022

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

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07.28.2022

Applying New Fla. Settlement Proposal Rule To Pending Cases

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04.29.2022

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

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01.18.2022

Fifth Circuit Clarifies the Domain of Cross-Appeal Jurisprudence

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01.14.2022

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

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09.17.2021

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

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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

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06.25.2021

Eleventh Circuit Approves Largest, Most Comprehensive Data Breach Recovery in U.S. History

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05.04.2021

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

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03.13.2021

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

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03.02.2021

MDL Court Denies Class Certification of Proposed "NAS Babies" Class

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12.28.2020

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

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11.20.2020

What's the Alternative? Preclusion Doctrines and Alternative Holdings

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11.13.2020

A Class Action Settlement With a Chocolate Company Melts Away: Eleventh Circuit Issues En Banc Decis

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10.14.2020

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

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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

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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

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08.10.2020

Whither Objector Blackmail

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06.22.2020

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

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05.19.2020

CAFA: Ninth Circuit Affirms District Court's Sua Sponte Invocation and Application of Discretionary Home State Exception

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05.12.2020

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

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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

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04.20.2020

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

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03.24.2020

Reporting for Work

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10.30.2019

A Dart Across the Bow

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07.03.2019

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

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11.07.2018

The Bitter and the Sweet

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10.25.2018

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

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09.25.2018

Enough is Enough: The Limits of Invoking Rule 23(c)(1)(C)

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09.25.2018

Class Certification Denied in 'Junk Fax' Case in Electronic Age

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09.24.2018

The Eleventh Circuit Weighs in on the Intersection of Arbitration and Class Action Jurisprudence

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07.03.2018

Are Administrative Fees and Costs a Benefit to the Class as a Whole? A Circuit Split Continues

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03.23.2018

Objection, Interrupted

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08.22.2017

Eighth Circuit Reverses Sanctions on Lawyers that Settled Federal Court Class Action in State Court

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05.03.2017

Attempting to Counter a CAFA Loophole

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05.01.2017

An Offer You Can Refuse

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02.20.2017

Noodle This! The Yin and Yang of Two Courts, Two Antitrust Cases, Two Class Certification Motions, Two Daubert Challenges, Two Opposite Results, One Day Apart

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02.06.2017

Judge Gorsuch on Class Actions

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01.03.2017

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

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04.05.2016

Objecting to a Magistrate Judge's Report and Recommendation

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06.01.2015

A Look Back One Hundred Years at the Oldish Cases of 1915

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01.01.2014

Justice Ben F. Overton: Confronting his Prior Decisions

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07.01.2013

The CAFA Year in (Appellate) Review: A Look Back at the Class Action Fairness Act in the Circuit Courts of Appeals in 2012-2013

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04.22.2013

Fourth Circuit Court of Appeals Puts Teeth into the "In Fact" Exclusions of a D&O Policy

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01.01.2012

The CAFA Year in (Appellate) Review

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11.01.2010

Marjorie Kinnan Rawlings: The Cross Creek Case

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07.21.2010

New 11th Circuit CAFA Decision That May Affect Subject Matter Jurisdiction in Pending Class Actions in Federal Court

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04.05.2010

Circuit Variations - Chapter 17 in A Practitioner's Guide To Appellate Advocacy

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03.31.2010

New Decision Addressing Punitive Damages Award for Excessiveness Under Federal Law

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03.08.2010

Florida Supreme Court Approves New Standard Jury Instructions in Civil Cases

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10.05.2009

Help Thyself with a Cross-Appeal; the Courts May Not Sally Forth to Help You

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10.01.2009

Original Proceedings, Writ Large

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11.01.2007

Off The Record

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12.01.2006

A Lot of No Evidence is Still No Evidence

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01.27.2006

Significant Appellate Decision - Preservation of Argument Regarding the Insufficiency of the Evidence for Appellate Review

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01.01.2006

Amicus Briefs, Florida Appellate Practice

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11.09.2005

Significant Appellate Decision - Staff Privileges and Hospital Bylaws

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10.10.2005

Significant Appellate Decision - Economic Loss Doctrine and Future Profits

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12.29.2003

Amicus Briefs Revisited

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01.01.2003

Amicus Briefs: Friend or Foe of Florida Courts?

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## News

08.31.2023

Carlton Fields Represents Fairshare Vacation Owners Association in Class Action Appellate Victory

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07.29.2022

Joseph Lang and David Wright Publish Article on New Florida Settlement Proposal Rule in Law360

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03.11.2022

Certified Class Action Defeated: Federal Judge Rules That Fairshare Vacation Owners Association Did Not Breach Fiduciary Duty to Its Members

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06.11.2020

Apeiron at the Jockey Club Developer Wins Key Ruling from Appeals Court

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06.05.2020

Third District Court of Appeal Upholds Carlton Fields Client Apeiron's Real Property and Development Rights

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01.24.2020

Carlton Fields Appellate Win Featured in Daily Business Review

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10.09.2019

Carlton Fields' Joseph H. Lang Jr. Appointed As ALI Adviser

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09.20.2019

Closing the Chapter on Generalized False Claims

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06.27.2019

Carlton Fields Recognized at The Florida Bar Appellate Practice Section Awards

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04.19.2019

Carlton Fields Receives 2019 Outstanding Pro Bono Service by a Law Firm

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07.09.2018

Super Lawyers Honors 81 Carlton Fields Attorneys on 2018 Florida “Super Lawyers” and “Rising Stars”

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01.25.2018

Carlton Fields Wins Appeals Court Victory in False Claims Act Case

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01.24.2018

11th Circ. Won't Revive \$320M Fla. Hospice FCA Case

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08.15.2017

78 Carlton Fields Attorneys Named “Best Lawyers in America”

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06.23.2017

Florida Super Lawyers Ranks 92 Carlton Fields Attorneys as 2017 “Super Lawyers” and “Rising Stars”

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## Recognition

- Board Certified in Appellate Practice by the Florida Bar
- AV Rated by Martindale-Hubbell
- John R. Hamilton Pro Bono Award, The Florida Bar Appellate Practice Section (2019)
- *The Best Lawyers in America*, Appellate Practice (2016–2024)
- Florida Super Lawyers, *Super Lawyers Magazine* (2009–2023)
- Florida Legal Elite, *Florida Trend Magazine* (2007–2011, 2013)

# Professional & Community Involvement

- American Bar Association
  - Litigation Section
- American Bar Foundation
  - Life Fellow (2019–present)
- American Law Institute
  - Elected Member
  - Adviser, Restatement (Third) of Torts: Defamation and Privacy
- The Florida Bar
  - Appellate Practice Section
- Eleventh Circuit Court of Appeals Historical Society
- Florida Supreme Court
  - Standard Jury Instructions Committee — Civil Cases (2003–2015)
    - Chair (2014–2015)
    - Vice Chair (2011–2013)
    - Reporter (2000–2003)
- Florida Supreme Court Historical Society
  - Board of Trustees (2010–present)
  - Chair, Publications Subcommittee (2023–present)

## Speaking Engagements

- "Florida Bar Rules on Advertising," Legal Marketing Association (April 2013)
- "Navigating Class Action Appeals," Eleventh Circuit Appellate Practice Institute (February 2013)
- "Anatomy of an Appeal: Persuasion," ABA Young Lawyers Division Spring Conference (May 2009)

## Pro Bono

- Author of numerous briefs and petitions seeking capital post-conviction relief in the state and federal appellate courts for client William H. Kelley (2007–present).
- *Kelley v. State; Kelley v. McNeil*, 3 So. 3d 970 (Fla. 2009).
- *State of Florida v. Erick Richardson*, 915 So. 2d 86 (Fla. 2005). Habitual felony offender sentencing issues.
- *Colwell v. Head*, No. 2001-V-847 (Ga. Super. Ct. 2001). Capital post-conviction relief.

- *Jones v. State*, 740 So. 2d 520 (Fla. 1999). Capital post-conviction relief; competency to stand trial.

## Credentials

### Education

- Georgetown University Law Center (LL.M., 1998)
- University of Florida College of Law (J.D., 1995)
- University of Florida (B.A., 1992)

### Bar Admissions

- Florida

### Industry Specialization

### Certifications

- Appellate Practice

### Court Admissions

- U.S. Supreme Court
- U.S. Court of Appeals, Third Circuit
- U.S. Court of Appeals, Fourth Circuit
- U.S. Court of Appeals, Fifth Circuit
- U.S. Court of Appeals, Sixth Circuit
- U.S. Court of Appeals, Seventh Circuit
- U.S. Court of Appeals, Eighth Circuit
- U.S. Court of Appeals, Ninth Circuit
- U.S. Court of Appeals, Tenth 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

### Clerkships

- Hon. Benjamin F. Overton, Florida Supreme Court