





# Dean A. Morande

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## Overview

Dean Morande has handled hundreds of appeals in a wide range of complex commercial cases. His extensive litigation experience covers a number of substantive practice areas, including real property litigation, consumer finance, product liability, health care, class actions, telecommunications, and corporate litigation. Dean works with trial lawyers throughout all phases of litigation to ensure that any issues that arise are well-positioned for favorable outcomes in both the trial and appellate courts.

Dean is board certified in Appellate Law by The Florida Bar. Prior to joining the firm, Dean clerked for the Honorable Edward E. Carnes of the U.S. Court of Appeals for the Eleventh Circuit.

## Experience

### Appellate Decisions

### Real Property

- *Barry M. Brant, as trustee, v. Metropolitan Life Insurance Company*, No. 4D20-1207 (Fla. 4th DCA Sept. 16, 2020). Successfully defended against prohibition petition and obtained appellate decision holding that the local action rule permitted a lender to bring its multimillion-dollar foreclosure case in a single action, even where the underlying properties are located in multiple counties. Favorably resolved claimed inter-district split on the application of the local action rule.
- *Winn-Dixie Stores, Inc. v. Dolgencorp, LLC*, 881 F.3d 835 (11th Cir. 2018). Obtained reversal of district court order that failed to fully implement real property exclusives in accordance with mandate from prior Eleventh Circuit decision.
- *Bluefield Ranch Mitigation Bank Tr. v. S. Fla. Water Mgmt. Dist.*, 263 So. 3d 125 (Fla. 4th DCA 2018). Obtained reversal of order dismissing petition for administrative hearing for lack of standing. Opinion holds that mitigation bank has standing to challenge SFWMD's compliance with statutes governing mitigation credits.
- *Waterview Towers Condo. Ass'n, Inc. v. Leisure Resorts, LLC*, 246 So. 3d 362 (Fla. 4th DCA 2018). Affirmance of temporary injunction preventing implementation of condominium association rules pending final conclusion of litigation.
- *Futernick v. Trushina*, 207 So. 3d 329 (Fla. 3d DCA 2016). Affirmance of judgment for delay of performance damages and post-judgment interest.
- *Waterways Plaza, LLC v. Groupe Pac. Mgmt., Inc.*, 179 So. 3d 334 (Fla. 3d DCA 2015). Affirming judgment permitting removal of signage easement based on failure to maintain.
- *Futernick v. Trushina*, 146 So. 3d 63 (Fla. 3d DCA 2014). Obtained affirmance of an order requiring specific performance of a real estate contract that exceeded \$2.3 million.
- *Winn-Dixie Stores, Inc. v. Dolgencorp, LLC*, 746 F.3d 1008 (11th Cir. 2014). Obtained reversal of order refusing to grant full injunctive relief for violations of real property covenants running with the land.
- *Jordan v. St. Johns Cty.*, 63 So. 3d 835 (Fla. 5th DCA 2011). Obtained reversal of adverse judgment and argued that the county has a duty to repair and maintain its public roads and that inverse condemnation proceedings are available when the failure to discharge that duty results in diminished access.
- *Briarwood Shopping Ctr., LLC v. Lowe's Home Ctr., Inc.*, 18 So. 3d 1044 (Fla. 2d DCA 2009). Obtained affirmance of judgment requiring the repurchase of a \$13.5 million piece of commercial real estate.
- *Oak Square Joint Venture v Brand Props. IV, LLC*, 9 So. 3d 620 (Fla. 1st DCA 2009). Secured decision upholding judgment refusing to enjoin redevelopment of property into a commercial retail shopping center based on alleged violation of a joint cross-access agreement.
- *Dolgencorp, Inc. v. Winn-Dixie Stores, Inc.*, 988 So. 2d 1287 (Fla. 5th DCA 2008). Affirmance of trial court's decision determining the enforceability of a grocery exclusive as a real property covenant running with the land.

- *Winn-Dixie Stores, Inc. v. Dolgencorp, Inc.*, 964 So. 2d 261 (Fla. 4th DCA 2007). Secured reversal of order refusing to recognize shopping center grocery exclusive as a real property covenant running with the land, enforceable against subsequent tenants.

## Health Care

- *State, Dep't of Health v. Bayfront HMA Med. Ctr., LLC*, 236 So. 3d 466 (Fla. 1st DCA 2018). Co-counsel in successful appeal reversing order enjoining hospital from operating a provisional trauma center.
- *Desai v. Lawnwood Med. Ctr., Inc.*, 219 So. 3d 869 (Fla. 4th DCA 2017), and *Keller v. Lawnwood Med. Ctr., Inc.*, 219 So. 3d 879 (Fla. 4th DCA 2017). Affirmed dismissal of suits by doctors challenging credentialing decisions based on failure to exhaust administrative remedies. After full briefing and oral argument, the Florida Supreme Court dismissed the appeal, leaving the highly favorable Fourth District decision in place. *Desai v. Lawnwood Med. Ctr., Inc.*, 260 So. 3d 218 (Fla. 2018).
- *HCA Health Servs. of Fla., Inc. v. CyberKnife Ctr. of Treasure Coast, LLC*, 204 So. 3d 469 (Fla. 4th DCA 2016). Obtained reversal of \$1.8 million judgment based on failure of proof regarding correct measure of damages.
- *Pollitz v. Halifax Staffing, Inc.*, 187 So. 3d 957 (Fla. 5th DCA 2016). Summary affirmance of order refusing to permit amendment of complaint to add First Amendment claims.
- *Estate of McCall v. United States*, 134 So. 3d 894 (Fla. 2014). Prepared amicus curiae brief in appeal addressing Florida's statutory cap on wrongful death noneconomic damages recoverable in a medical malpractice action.
- *Sitarik v. JFK Med. Ctr. Ltd. P'ships*, 127 So. 3d 521 (Fla. 4th DCA 2013). Obtained affirmance of order dismissing claims for tortious interference with a business relationship, conspiracy to tortiously interfere, and violations of Florida's whistleblower's statute.
- *Ioannou v. Lawnwood Med. Ctr., Inc.*, 126 So. 3d 1067 (Fla. 4th DCA 2013). Obtained affirmance of final summary judgment in case in which the doctor alleged that the hospital wrongfully denied his application for reappointment to the medical staff. The affirmance confirmed the hospital's statutory immunity from suit resulting from the doctor's failure to plead extrinsic evidence of intentional fraud in the recredentialing process.
- *Zakharia v. Cedars Healthcare Grp., Ltd.*, 103 So. 3d 169 (Fla. 3d DCA 2012). Affirmed dismissal of claims that hospital improperly suspended and revoked the doctor's clinical privileges when release language in the medical staff bylaws barred those claims.
- *HCA Health Servs. of Fla., Inc. v. Cyberknife Ctr. of Treasure Coast, LLC*, 63 So. 3d 935 (Fla. 4th DCA 2011). Obtained writ of certiorari to quash order permitting financial discovery when contract at issue barred punitive damages.
- *Lawnwood Med. Ctr., Inc. v. Desai*, 54 So. 3d 1027 (Fla. 4th DCA 2011). Affirming order dismissing action based on statutory immunity from suit from claims arising out of appointment or reappointment process.

## Consumer Finance/Commercial Finance

- *Wells Fargo Bank, N.A. v. Ordonez*, 272 So. 3d 859 (Fla. 2d DCA 2019). Successfully reversed adverse foreclosure judgment based on improper documentary stamp tax finding.
- *Wells Fargo Bank, N.A. v. Smith*, 263 So. 3d 134 (Fla. 1st DCA 2018). Obtained reversal of six-figure attorneys' fees judgment based on jurisdictional argument presented for the first time on appeal.
- *U.S. Bank, N.A. v. Wells Fargo Bank, N.A.*, 245 So. 3d 679 (Fla. 2d DCA 2018). Secured affirmance of summary judgment precluding the use of equitable subrogation in lien priority dispute.
- *Wells Fargo Bank, N.A. v. Rendon*, 245 So. 3d 917 (Fla. 3d DCA 2018). Reversal of order dismissing foreclosure action based on statute of limitations defense.
- *U.S. Bank, N.A. v. Tranumn*, 247 So. 3d 567 (Fla. 1st DCA 2018), and 234 So. 3d 871 (Fla. 1st DCA 2018). Obtained reversal of adverse judgment and corresponding award of attorneys' fees based on improper severance of claims.
- *Wells Fargo Bank, N.A. v. Eisenberg*, 220 So. 3d 517 (Fla. 4th DCA 2017). Reversal of order dismissing foreclosure action based on erroneous ruling as to proof of amounts due and owing.
- *U.S. Bank, N.A. v. Adams*, 219 So. 3d 211 (Fla. 2d DCA 2017), and *Wells Fargo Bank, N.A. v. Guess*, 213 So. 3d 1014 (Fla. 2d DCA 2017). Obtained reversal of orders dismissing foreclosure actions based on improper application of statutory condition precedent.
- *Wells Fargo Bank, N.A. v. Ayers*, 219 So. 3d 89 (Fla. 4th DCA 2017). Reversal of order dismissing foreclosure action based on erroneous ruling as to evidentiary support for lost promissory note.
- *De La Osa v. Wells Fargo Bank, N.A.*, 208 So. 3d 259 (Fla. 3d DCA 2016). Persuaded en banc court to affirm trial court order setting aside void final order based on application of rule permitting relief from void judgments.
- *Citibank, N.A. v. Olsak*, 208 So. 3d 227 (Fla. 3d DCA 2016). Reversal of adverse judgment based on trial court's reliance on improper expert testimony.
- *Wells Fargo Bank, N.A. v. Bilecki*, 192 So. 3d 559 (Fla. 4th DCA 2016). Reversal of adverse summary judgment based on improper application of burden of proof.
- *Wells Fargo Bank, N.A. v. Gonzalez*, 186 So. 3d 1092 (Fla. 4th DCA 2016). Obtained reversal of order dismissing case in which defendants failed to plead a release defense based on settlement agreement in earlier unrelated litigation.
- *Phan v. Deutsche Bank Nat'l Tr. Co.*, 198 So. 3d 744 (Fla. 2d DCA 2016). Affirming judgment in Florida's first appellate decision applying the principle of constructive possession to establish standing in the context of a residential mortgage foreclosure case.
- *Milce v. Wells Fargo Bank, N.A.*, 183 So. 3d 1256 (Fla. 4th DCA 2016). Affirming order refusing to stay action based on entitlement to costs in prior dismissed action in which no costs judgment had been obtained.
- *Mauro v. Wells Fargo Bank, N.A.*, 180 So. 3d 1083 (Fla. 4th DCA 2015). Affirming order denying motion to quash service of process when return was valid on its face and statutory notice requirements were satisfied.

- *Market Tampa Invs. LLC, v. Stobaugh*, 177 So. 3d 31 (Fla. 2d DCA 2015). Affirming lower court ruling that investor who purchased property after recording of lis pendens did not have the right to intervene in subsequent foreclosure case.
- *Vasilevskiy v. Wachovia Bank, N.A.*, 171 So. 3d 192 (Fla. 5th DCA 2015). Affirming judgment for lender. Holding that notice of intent to accelerate required by mortgage was sufficient even though it provided only 28 days to cure when claimed error was not a material breach of the mortgage.
- *Wachovia Mortg. Corp. v. Posti*, 166 So. 3d 944 (Fla. 4th DCA 2015). Reversing judgment for borrower entered after trial. Holding that trial court lacked jurisdiction to order lender/servicer to enter into a loan modification with the borrower.
- *Wells Fargo Bank, N.A. v. Michaels*, 166 So. 3d 266 (Fla. 5th DCA 2015). Reversing order dismissing foreclosure action where trial court failed to provide proper notice of trial. Holding order entered without notice is void.
- *Bank of Am. v. Asbury*, 165 So. 3d 808 (Fla. 2d DCA 2015). Reversing entry of summary judgment in favor of borrower when borrower failed to plead ground argued as basis for entry of summary judgment.
- *Roman v. Wells Fargo Bank, N.A.*, 143 So. 3d 489 (Fla. 5th DCA 2014). Holding that notice of default was effective when mailed and there was nothing in the mortgage requiring a lender/servicer to prove receipt.
- *Bloch v. Wells Fargo Home Mortg.*, 755 F.3d 886 (11th Cir. 2014). In an appeal with multiple issues of importance to the lending/servicing industry, obtained affirmance of decision addressing the effect of a “trial” modification, application of Florida's Banking Statute of Frauds, and the proof needed to maintain promissory estoppel and negligence claims.
- *Wells Fargo Bank, N.A. v. Morcom*, 125 So. 3d 320 (Fla. 5th DCA 2013). Reversal of order dismissing foreclosure action based on improper standard for a lender’s standing to enforce a mortgage through a foreclosure action.
- *KCF Site Dev., LLC v. PNC Bank, N.A.*, 122 So. 3d 499 (Fla. 5th DCA 2013). Obtained affirmance of summary judgment on claims of unjust enrichment, seeking an equitable lien on undisbursed construction loan proceeds, and statutory damages based on decision to cease funding the loan at issue.
- *Corning v. Wells Fargo Bank, N.A.*, 120 So. 3d 1278 (Fla. 1st DCA 2013). Affirmance of denial of challenge to duly noticed foreclosure sale.
- *Wells Fargo Bank, N.A. v. Stahler*, 115 So. 3d 1105 (Fla. 5th DCA 2013). Reversal of order dismissing case based on trial court’s failure to consider relevant factors for dismissal as a sanction.
- *Deutsche Bank Nat'l Tr. Co. v. Sela*, 110 So. 3d 537 (Fla. 4th DCA 2013). Reversal of trial court order striking pleadings and dismissing case as a sanction for discovery violations.

- *Wells Fargo Bank, N.A. v. Unknown Heirs of Chipner*, 100 So. 3d 252 (Fla. 4th DCA 2012). Reversal of order dismissing action based on unpleaded affirmative defense.
- *Figueroa v. MERSCORP, Inc.*, 477 F. App'x 558 (11th Cir. 2012). Affirmance of dismissal of RICO claims based on *Rooker-Feldman* doctrine.
- *Brigliadora v. Wells Fargo Bank, N.A.*, 447 F. App'x 941 (11th Cir. 2011). Affirmance of dismissal of complaint asserting TILA and breach of contract claims.
- *U.S. Bank, N.A. v. Paiz*, 68 So. 3d 940 (Fla. 3d DCA 2011). Obtained reversal of order staying writ of possession and permitting discovery on motion to vacate final judgment.
- *Korte v. U.S. Bank, N.A.*, 64 So. 3d 134 (Fla. 4th DCA 2011). Affirmance of order imposing sanctions against defense counsel in a mortgage foreclosure action.
- *PNCEF, LLC v. S. Aviation, Inc.*, 60 So. 3d 1120 (Fla. 4th DCA 2011). Obtained reversal of order denying prejudgment writ of replevin.
- *Copperhead, LLC v. Seacoast Nat'l Bank*, 72 So. 3d 766 (Fla. 4th DCA 2011). Affirmance of \$20 million-plus judgment against borrower and guarantors on promissory notes.
- *MacMillan Oil Co. of Fla., Inc. v. Wells Fargo Bank, N.A.*, 48 So. 3d 854 (Fla. 4th DCA 2010). Affirmance of order recognizing priority of lender's claim against judgment debtor.

## Family Law

- *Schmidt v. Schmidt*, 120 So. 3d 31 (Fla. 4th DCA 2013). Obtained reversal of equitable distribution award based on improper valuation of an existing business, and reversal of alimony award for failure to consider imputation of income from investment properties.

## Arbitration

- *Milestone v. Citrus Specialty Grp., Inc.*, No. 19-14935 (11th Cir. Jan. 2, 2020). Obtained voluntary dismissal after moving to dismiss appeal based on non-appealability of order compelling arbitration.
- *Seminole Cty. Tax Collector v. Domo, Inc.*, No. 19-11782, 2019 WL 5784949 (11th Cir. Aug. 31, 2019). Successfully had appeal dismissed in its early stages based on non-appealability of order compelling arbitration.

## First Amendment

- *Everglades Law Ctr., Inc. v. S. Fla. Water Mgmt. Dist.*, 44 Fla. L. Weekly D2356 (Fla. 4th DCA Sept. 18, 2019). Represented amicus curiae in appeal addressing interplay between broad sunshine laws and the mediation privilege.

## Areas of Focus

## Practices

- Appellate & Trial Support
- Banking, Commercial, and Consumer Finance
- Real Estate
- Litigation and Trials
- Mass Tort and Product Liability
- Cannabis Law
- Real Property Litigation
- Lending
- Institutional Investment and Finance
- Trade Secrets / Noncompete Litigation and Consulting
- Eminent Domain
- Class Actions

## Industries

- Banking, Commercial, and Consumer Finance
- Real Estate

## Insights

12.23.2023

Motions For Rehearing: An Often Overlooked Preservation Requirement

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09.27.2023

Right for Any Reason? Well, Not for *Any* Reason

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08.31.2023

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

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08.30.2023

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

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08.15.2023

The Adoption of Proposed Orders Verbatim: Avoiding Reversible Error

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08.10.2023

Properly Joining in an Appellate Brief Filed in a Separate Appeal

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01.27.2023

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

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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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11.11.2021

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

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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

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02.06.2020

The Three "Musts" for a Competent Affidavit or Declaration

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12.03.2019

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

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10.10.2019

Cannabis Consumer Class Actions: The Implicit and Indispensable Ascertainability Requirement

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06.20.2019

Preserving the Record: Summary Judgments and Judicial Notice

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08.14.2018

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

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05.25.2017

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

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04.20.2016

Getting It Right The First Time: Presenting A Persuasive Argument Without Relying On The Court's Familiarity With The Facts Or The Law

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03.22.2016

Properly Joining in a Co-Party's Brief or Motion to Avoid Waiver Issues

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05.08.2015

Florida Court Recognizes Need To Show Prejudice To Establish Defense Of Failure Of Conditions Precedent Under Paragraph 22 Of The Mortgage

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06.08.2011

Fourth District Holds That "Ensuing Loss" Provision In All Risk Policy Is Unambiguous

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01.27.2011

Court Confirms Scope Of Statutory Immunity Against Suits Related To Appointment Of Medical Staff Members

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03.01.2010

Annual Review of Developments in Business and Corporate Litigation, Chapter 7

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05.31.2009

Review of Orders Dismissing or Defaulting for Discovery Violations: The Evolution of the Abuse of Discretion Standard

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03.27.2009

The Supreme Court May Grant Cert To Decide The Scope Of Preemption Over State Laws Prohibiting Or Effectively Prohibiting Telecommunications Service

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12.01.2008

Consumer Cases Brought under Rule 23(b)(3): Strategies for Defeating Class Certification

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12.01.2008

Appealing an Interlocutory Decision: What Exactly Is a Controlling Question of Law Under 28 U.S.C. § 1292(b)?

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04.03.2008

Winning Or Losing Before The Merits: Dismissal or Default as a Sanction for Discovery Violations

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01.01.2007

A Class Of Their Own: Model Procedural Rules and Evidentiary Evaluation of Computer-Generated 'Animations'

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01.01.2003

Publication Plans in the United States Courts of Appeals: The Unattainable Paradigm

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## News

10.30.2019

Carlton Fields' Dean Morande Quoted in Law360 Article on CBD Industry Class Actions

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07.11.2018

Carlton Fields Attorneys Detail Appellate Court Victory

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01.31.2018

Carlton Fields Scores Appellate Win for Winn-Dixie; 11th Circuit Scolds Big Lots and Dollar General

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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
- Civil Litigation Pro Bono Attorney of the Year Award, Legal Aid Society of Palm Beach County (2009)
- Florida Super Lawyers, *Super Lawyers Magazine* (2019–2021)
- Florida Rising Stars, *Super Lawyers Magazine* (2010–2017)

## Professional & Community Involvement

- American Bar Association
- The Florida Bar
  - Appellate Practice Section
- Palm Beach County Bar Association
  - Appellate Practice Committee

## Speaking Engagements

- "Practical Tips for Telephonic and Zoom Oral Arguments," The Florida Bar Appellate Practice Section (May 11, 2020)
- "The Art of Objecting: A Trial Lawyer's Guide to Preserving Error for Appeal" (March 14, 2014)

## Pro Bono

- Successfully obtained dismissal of challenge to final judgment for dissolution of marriage.
- *Fla. State Oriental Med. Ass'n, Inc. v. Slepín*, 971 So. 2d 141 (Fla. 1st DCA 2007). Successfully argued for reversal of award of attorneys' fees against nonprofit corporation.
- Litigated on behalf of indigent family whose home had incurred significant hurricane damage.

## Credentials

## Education

- Florida State University College of Law (J.D., highest honors, 2004)
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  - Articles Editor, *The Florida State University Law Review*
- University of Florida (B.A., 1999)

## Bar Admissions

- Florida

## Industry Specialization

## Certifications

- Appellate Practice

## Court Admissions

- U.S. Supreme Court
- U.S. Court of Appeals, Fifth Circuit
- U.S. Court of Appeals, Sixth Circuit
- U.S. Court of Appeals, Eighth Circuit
- U.S. Court of Appeals, Tenth Circuit
- U.S. Court of Appeals, Eleventh Circuit
- U.S. District Court, District of Connecticut
- 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. Edward E. Carnes, U.S. Court of Appeals, Eleventh Circuit