



# Kevin P. McCoy

SHAREHOLDER

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## Overview

Kevin McCoy is a tested business trial lawyer and counselor. Businesses across industries turn to him for his legal experience and judgment on a variety of issues impacting their industries from routine matters to complex "bet the business" litigation.

Kevin's practice includes the prosecution and defense of business litigation and product liability claims, including clients dealing with:

- Unfair competition
- Trade secret misappropriation
- Noncompete violations
- Tortious interference
- Breach of contract
- Statutory violations
- Common law actions centering on unjust enrichment
- Director and officer misconduct
- Business divorces and business breakups
- Partnership disputes
- Consumer class actions

- Toxic torts
- Product liability and serious injuries

Kevin has been lead counsel in multiple consumer class actions that sought business-crippling damages. He has also served in lead roles in multijurisdictional mass tort cases and developed winning case and trial strategies to assist clients in navigating the myriad issues presented when defending high-value cases at the same time across multiple jurisdictions.

On the litigation side of his practice, Kevin practices under the mantra that the best way to resolve a case is to prepare it for trial from the start. He handles cases in all phases of litigation, from early negotiated resolutions through bench and jury trials and appellate review. He also is experienced in handling late engagements to triage cases when the original case plan has taken the case off track for resolution, or trial, and the case needs to be repositioned in a short time frame. He has been called upon to provide a fresh set of eyes to cases with high-exposure risk and to participate in mock trials on key issues that will control case outcomes.

Kevin dedicates a considerable amount of his practice to developing legal solutions for businesses in emerging markets. In this role, he develops strategies responsive to the litany of legal challenges that occur as the law evolves.

Kevin has also served as an arbitrator in business disputes and is available to mediate cases for parties seeking to find a resolution short of full-blown litigation.

Kevin is board certified in business litigation by the Florida Bar.

## Experience

- Lead national counsel for a major child toy manufacturer defending a portfolio of injury and wrongful death claims pending in jurisdictions throughout the United States.
- Obtained final summary judgment against plaintiffs in a 900,000-plus certified class action in federal court.
- Obtained dismissal with prejudice of putative class action seeking refund of convenience fees paid for credit card transactions, which was affirmed on appeal at the state and federal level.
- Defense counsel defending trade secret and business tort claims against competing technology company after hiring former employees from plaintiff.
- Lead trial counsel in jury trial involving business divorce issues resulting in jury verdict awarding damages to client.
- Obtained dismissal with prejudice in putative class action alleging FDCPA claims against technology client.

- Trial counsel in seven-day jury trial concerning professional negligence claims.
- Lead counsel in five-day jury trial concerning business claims and counterclaims resulting in judgment for client in excess of \$200,000 and defeat of all claims against client.
- Trial counsel in three-day bench trial resulting in final judgment of more than \$699,000, which included a determination that the client was the prevailing party entitled to the recovery of its attorneys' fees and costs in addition to the sums awarded in the judgment.
- Trial counsel in three-day bench trial for a homebuilder franchisor in its prosecution of misappropriation of trade secrets claims, including a determination that the client was the prevailing party entitled to recover attorneys' fees.
- Lead counsel in jury trial resulting in verdict for contract damages in excess of \$50,000 on behalf of client.
- Obtained summary judgment in favor of national insurer against \$24 million in claims by insured for D&O coverage for investigation costs associated with a federal securities investigation.
- Lead counsel obtaining dismissal with prejudice of millions of dollars in state qui tam whistleblower claims against corporation and individual officers of company.
- Obtained winning arbitration decision in favor of minority business owner in business divorce that permitted owner to oust majority owners and regain control of business.
- Obtained a dismissal with prejudice of a federal civil RICO claim and pendant state law claims in which the plaintiff sought \$1.5 million in damages.
- Obtained a favorable judgment following bench trial for a homebuilder franchisor in its prosecution of misappropriation of trade secrets claims, including a determination that the client was the prevailing party entitled to recover attorneys' fees.
- Represented one of the "big three" tobacco manufacturers in its defense of post-*Engle* claims pending in jurisdictions throughout Florida.
- Obtained dismissal with prejudice of Florida Deceptive and Unfair Trade Practices Act claims, Florida RICO claims, and mortgage foreclosure-related claims on behalf of an institutional lender.
- Obtained a dismissal with prejudice of a multi-count complaint seeking substantial damages against institutional lender client. Defended the result on appeal, resulting in a PCA from the appellate court.

## Representative Cases

- *Nolen v. Fairshare Vacation Owners Ass'n*, No. 22-11128, 2023 WL 5622595 (11th Cir. Aug. 31, 2023).
- *Nolen v. Fairshare Vacation Owners Ass'n*, 591 F. Supp. 3d 1191 (M.D. Fla. 2022).
- *Pincus v. Am. Traffic Sols., Inc.*, 986 F.3d 1305 (11th Cir. 2021).
- *Hillcrest Country Club Ltd. P'ship v. Zyscovich, Inc.*, 288 So. 3d 1265 (Fla. 4th DCA 2020).
- *Lewis Tree Serv., Inc. v. Asplundh Tree Expert, LLC*, 311 So. 3d 206 (Fla. 2d DCA 2020).

- *Pincus v. Am. Traffic Sols., Inc.*, No. 9:18-cv-80864, 2019 WL 9355827 (S.D. Fla. Jan. 14, 2019).
- *City of Oldsmar v. Trinh*, 210 So. 3d 191 (Fla. 2d DCA 2016).
- *State ex rel. City of Aventura v. Jimenez*, 211 So. 3d 158 (Fla. 3d DCA 2016).
- *Griffin v. ARX Holding Corp.*, 208 So. 3d 164 (Fla. 2d DCA 2016).
- *Burr v. Philip Morris USA, Inc.*, No. 8:07-cv-01429, 2012 WL 5290164 (M.D. Fla. Sept. 28, 2012).
- *Riley v. Wells Fargo Bank, N.A.*, 129 So. 3d 1075 (Fla. 2d DCA 2013).
- *Office Depot, Inc. v. Nat'l Union Fire Ins. Co. of Pittsburgh*, 734 F. Supp. 2d 1304 (S.D. Fla. 2010), *aff'd*, 453 F. App'x 871(11th Cir. 2011). Summary judgment in favor of insurer on insured's claims of more than \$24 million in investigation costs.
- *Harry & David v. J&P Acquisition*, No. 1:09-cv-03056, 2009 WL 4892296 (D. Or. Dec. 17, 2009) (dismissing claims against corporate principals for lack of personal jurisdiction).
- *Merritt v. Lake Jovita Homeowner's Ass'n*, No. 8:08-cv-00098, 2010 WL 627531 (M.D. Fla. Feb. 23, 2010) (awarding appellate attorneys' fees in favor of clients for their defense of a frivolous appeal).

## Areas of Focus

### Practices

- [Litigation and Trials](#)
- [Mass Tort and Product Liability](#)
- [Cannabis Law](#)
- [Technology](#)
- [Class Actions](#)

### Industries

- [Technology](#)

## Insights

12.15.2020

Ledgers and Law: Real-World Planning for Cyber Attacks

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11.12.2020

Ledgers and Law: Roadblocks Facing the Cannabis Industry

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10.14.2020

Ledgers and Law: Start With an Ending in Mind When Building a New Business

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09.22.2020

Ledgers and Law: Beyond Face Masks: HR and Employment Considerations During and After a Pandemic

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05.29.2020

Florida's Fourth District Gives Protection to an Obvious Secret

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03.02.2020

Canna We Talk Cannabis? Not So Patently Obvious: Patent Infringement in the Cannabis Industry

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02.10.2020

Canna We Talk Cannabis? Cybersecurity Risks Bring Growing Pains to Cannabis Businesses

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01.08.2020

Court Stays CBD Class Action Until FDA Rolls Out Regulation

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11.05.2019

Is Cannabis Banking Safe Yet? It's a Definite, Maybe

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10.18.2019

Cannabis Companies - Don't Let Your Valuable Trade Secrets Go Up in Smoke

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10.10.2019

Cannabis Consumer Class Actions: The Implicit and Indispensable Ascertainability Requirement

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09.24.2019

Florida Court Peels Away Deceptive Label, Increasing Exposure in Class Actions

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08.06.2019

Canna We Talk Cannabis? Emerging Topics in Cannabis Law

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05.03.2019

Florida Hemp: Is Green the New Orange?

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12.19.2016

The Ghost of Depositions Past

*Trials and Tribulations, DRI*

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12.06.2016

Whistleblowers on Campus: DOJ Adds Research Universities to its False Claims Act Focus

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08.31.2016

Changes To Florida's New Anti-Corruption Law Take Effect October 1

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05.04.2016

Voir Dire—Winning the Case Before It Starts

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04.26.2016

Florida Law Mandates Police Body Camera Policies—Then Lets Agencies Fend for Themselves

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03.25.2016

Florida Qui Tam Statute Applies to False Claims Made to State, not Local, Governments

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03.21.2016

First District Tells Relators: Know Your Role in State Whistleblower Actions

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02.20.2012

Current Developments In D&O Insurance Coverage

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10.18.2011

Eleventh Circuit Holds No Coverage For Investigation Costs

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03.01.2011

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

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News

08.31.2023

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

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06.13.2023

Carlton Fields Attorneys Named 2023 BTI Client Service All-Stars

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07.01.2022

Carlton Fields Named Top Firm and Attorneys Named Legal Leaders in Florida Trend's 2022 "Legal Elite"

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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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01.24.2020

Carlton Fields Appellate Win Featured in Daily Business Review

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08.02.2019

Five Carlton Fields Lawyers Earn Board Certification From The Florida Bar

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06.24.2019

Carlton Fields' Kevin P. McCoy Elected to Serve on The Florida Bar Foundation Board of Directors

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08.15.2018

Putting the Brakes on Red-Light Camera Lawsuits

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07.13.2018

Carlton Fields Attorneys Win Dismissal of Red-Light Camera Class Action

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07.11.2018

Fla. \$200M Red-Light Camera Class Action Tossed

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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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10.09.2017

Carlton Fields’ Clients Prevail in Unusual Qui Tam Case

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10.06.2017

Judge Says Attorneys Are Immune From Court Filing Fees Suit

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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 Business Litigation by the Florida Bar
- AV Rated by Martindale-Hubbell
- BTI Client Service All-Stars (2023)
- *The Best Lawyers in America*, Commercial Litigation (2024)
- Florida Legal Elite, *Florida Trend Magazine* (2022)
- Florida Super Lawyers, *Super Lawyers Magazine* (2023)
- Florida Rising Stars, *Super Lawyers Magazine* (2011–2021)
- Most Effective Lawyers Award, *Daily Business Review* (2016)
- Outstanding Pro Bono Service by a Young Lawyer Award, Bay Area Legal Services (2010)

## Professional & Community Involvement

- American Bar Association
- The Florida Bar
  - Former Member, Thirteenth Circuit Grievance Committee
- The Florida Bar Foundation
  - Board of Directors
- Hillsborough County Bar Association



- Hillsborough County Bar Foundation
  - Trustee
- J. Clifford Cheatwood American Inn of Court (2010–2012)
- Bay Area Legal Services
  - Chair (2016)
  - Board of Directors, Secretary (2012–2014)
- Florida Blue Key

## Speaking Engagements

- "High Potential: Florida's Growing Cannabis Industry," Synapse Summit, Tampa, FL (February 12, 2020)
- "Failure to Warn and Class Action Claims," CBD Seminar, PLAC, Miami, FL (January 15, 2020)
- "Class Action Trends: Stairway to Heaven or Highway to Hell?," ACC South Florida 10th Annual CLE Conference, Fort Lauderdale, FL (September 19, 2019)
- "Lights, Cameras, Action: The State of Red Light Cameras and Body Cameras in Florida," 39th Annual Local Government Law in Florida, The Florida Bar, Orlando, FL (May 7, 2016)

## Pro Bono

- Kevin dedicates a significant amount of time each year to helping deserving clients with their legal matters on a pro bono basis. Kevin served as board chair for Bay Area Legal Services in 2016.

## Credentials

### Education

- University of Florida Fredric G. Levin College of Law (J.D., cum laude)
  - Editor in Chief, *University of Florida Journal of Law & Public Policy*
- University of Florida (B.A., with honors)

### Court Admissions

- 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

### Bar Admissions

- Florida

- Texas

## Industry Specialization Certifications

- Business Litigation