



## Robert W. Pass

OF COUNSEL

TALLAHASSEE

 850.513.3608

 850.222.0398

CONNECT

 [rpass@carltonfields.com](mailto:rpass@carltonfields.com)

## Overview

Bob Pass' more than 40 years of practice span a broad array of complex litigation in state and federal courts, including large commercial contract disputes under the Uniform Commercial Code, commercial arbitrations, class action litigation, constitutional challenges to state statutes, insurance regulation and commercial insurance coverage litigation, unfair and deceptive trade practices, and representing corporations in civil investigations by state agencies. Bob has extensive experience in electronic discovery — counseling clients in developing organizational policies, procedures, and systems to effectively and efficiently participate in discovery involving electronically stored information (ESI), as well as representing clients on ESI discovery matters in litigation.

In addition to trials in state and federal courts, Bob has tried lengthy commercial arbitrations and adversarial hearings in Florida administrative forums. He has counseled clients in matters of dispute avoidance, pre-litigation planning, and strategic decision-making in circumstances implicating potential litigation risk.

Bob is a member of The Sedona Conference, a nonprofit national organization of litigation counsel and corporate counsel seeking to establish "best practices" for computerized litigation and electronic discovery, and speaks and publishes in the area of electronic discovery.

## Experience

- *Florida Education Association v. Florida Department of Education* (N.D. Fla. 2018-2020) (represented Florida Department of Education in large Title VI class action).
- *In re Receivership of National Group Insurance Co.* (Fla. Cir. Ct. 2017-2019) (represented large reinsurer of insolvent insurer in dispute with state receivers in Florida and Puerto Rico).
- *Chandler v. International Association of Fire Chiefs Inc.* (Fla. Cir. Ct. 2017) (represented International Association of Fire Chiefs in public records suit).
- *Florida Democratic Party v. Scott* (N.D. Fla. 2016) (represented Florida secretary of state in election suit).
- *Anapolsky v. Nat'l Union Fire Ins. Co. of Pittsburgh* (S.D. Fla. Sept. 26, 2013) (large claim under directors and officers insurance policy).
- *Fla. Dep't of Fin. Servs. v. Nat'l Union Fire Ins. Co. of Pittsburgh* (N.D. Fla. Mar. 7, 2012) (large claim under directors and officers insurance policy).
- *Farkas v. Nat'l Union Fire Ins. Co. of Pittsburgh* (E.D. Va. Mar. 21, 2011) (large claim under directors and officers insurance policy).
- *First Am. Title Ins. Co. v. Attorneys' Title Ins. Co.* (Fla. Cir. Ct. 2010-2011) (suit by title insurer to compel state insurance regulator to initiate receivership against competitor).
- *RTI Biologics, Inc. v. Lexington Ins. Co.* (Fla. Cir. Ct. 2011-2012) (large commercial insurance coverage dispute for alleged mass tort).
- *Bray & Gillespie Mgmt., LLC v. Lexington Ins. Co.* (M.D. Fla. 2009-2010) (jury trial of large hurricane property loss claim involving six beachfront hotels).
- *OMNI Healthcare v. HFHP* (large commercial arbitration before AAA three-arbitrator panel) (2008).
- *In re Seroquel Prods. Liab. Litig.* (M.D. Fla. Sept. 2007-present) (pending multidistrict pharmaceutical litigation; e-discovery counsel and lead defense liaison with court-appointed special master for electronic discovery since September 2007).
- *TECO Coal Corp. v. Orlando Utils. Comm'n* (E.D. Ky. 2008-present) (pending litigation, contract dispute over long-term coal contract).
- *Am. Int'l Grp. v. Fla. Office of Ins. Regulation* (formal adversarial administrative hearing before the Florida Division of Administrative Hearings) (2005).
- *Am. Int'l Grp. v. Fla. Office of Ins. Regulation* (formal adversarial administrative hearing before the Florida Division of Administrative Hearings) (2004).
- *State v. AT&T* (Fla. Cir. Ct. 2004) (unfair trade practices claim).
- *Lincoln v. Thomasville Honda* (N.D. Fla. 2004) (civil RICO).
- *Seven Hills, Inc. v. Bentley*, 848 So. 2d 345 (Fla. 1st DCA 2003) (land use dispute)
- *Town of Belleair v. Progress Energy Fla.* (commercial arbitration) (2003).
- *Dep't of Revenue v. City of Gainesville*, 859 So. 2d 595 (Fla. 1st DCA 2003) (constitutionality of Florida tax statute).

- *City of Winter Park v. Progress Energy Fla.* (commercial arbitration) (2002).
- *Fla. State Univ. v. McHugh* (formal adversarial administrative hearing before the Florida Division of Administrative Hearings; constitutional "academic freedom" issues) (2001).
- *City of Casselberry v. Progress Energy Fla.* (commercial arbitration) (2001).
- *Leon Cty. v. Talquin Elec. Coop., Inc.*, 795 So. 2d 1142 (Fla. 1st DCA 2001) (constitutional challenges to local utility ordinances).
- *Chicago Title Ins. Co. v. Butler*, 770 So. 2d 1210 (Fla. 2000) (constitutionality of Florida insurance statute).
- *Gibbs Props. Corp. v. CIGNA Corp.*, 196 F.R.D. 430 (M. D. Fla. 2000) (putative national class action over alleged insurance practices).
- *Alachua Cty. v. State*, 737 So. 2d 1065 (Fla. 1999) (constitutionality of county revenue impositions).
- *Am. Recycling Co. v. Cty. of Manatee*, 963 F. Supp. 1572 (M. D. Fla. 1997) (federal constitutional rights claims).
- *Fed. Deposit Ins. Corp. v. Jacobs, Robbins & Gaynor* (M. D. Fla. 1995) (professional malpractice claim against law firm).
- *MediTek Therapy, Inc. v. Vat-Tech, Inc.*, 658 So. 2d 644 (Fla. 2d DCA 1995) (unfair trade practices claim).
- *Jewell Jelling, Inc., Labofarma, S.A. v. G.D. Searle, Inc.* (S. D. Fla. 1994) (breach of contract claim involving sale of Argentine subsidiary of U.S. parent).
- *Fla. Dep't of Banking & Fin. v. Bay Bank* (formal adversarial administrative hearing before the Florida Division of Administrative Hearings seeking removal of bank directors) (1994).
- *Fla. Power Corp. v. Seminole Cty.*, 579 So. 2d 105 (Fla. 1991) (constitutional challenges to local ordinances).
- *Marine One, Inc. v. Manatee Cty.*, 898 F.2d 1490 (11th Cir. 1990) (federal constitutional rights claims).
- *In re Gator Power* (formal adversarial administrative hearing before the Florida Division of Administrative Hearings; challenge to which electric utility could serve the University of Florida) (1987).
- *In re Advisory Op. to the Governor*, 509 So. 2d 292 (Fla. 1987) (briefing constitutionality of sale and use tax on certain services).
- *Langley v. Fed. Deposit Ins. Corp.*, 792 So. 2d 541 (5th Cir. 1986), *aff'd*, *Langley v. Fed. Deposit Ins. Corp.*, 479 U.S. 1028 (1987) (argued in Supreme Court by U.S. solicitor general; rights of FDIC under failed bank statutes).
- *Univ. of S. Fla. v. Comptroller of Fla.* (M. D. Fla. 1982) (constitutionality of state budget provisions).
- *Citizens of State v. Pub. Serv. Comm'n*, 425 So. 2d 534 (Fla. 1982) (challenge to legality of Florida PSC's first use of a "forward looking test year" in setting electric utility rates).

- *Highlands Cty. Hosp. v. Radiology Grp.* (commercial arbitration over exclusive radiology contract with hospital).

## Areas of Focus

### Practices

- Litigation and Trials
- Energy and Utilities
- False Claims Act, Qui Tam, and Whistleblower Defense
- Health Care
- Life, Annuity, and Retirement Litigation
- Class Actions

### Industries

- Health Care
- Life, Annuity, and Retirement Solutions
- Property & Casualty Insurance

## Insights

05.21.2014

The Nuts and Bolts of Responding to E-Discovery

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07.11.2012

The New Florida Electronic Discovery Rules Compared to Their Federal Counterparts

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03.02.2012

Predictive Coding Technology Endorsed by Federal Court

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12.28.2011

Best Practices in Electronic Record Retention (Vendors)

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12.28.2011

Best Practices in Electronic Record Retention

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01.01.2011

Federal And State Electronic Discovery Rules (And Proposed Rules), And The Stages Of E Discovery

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01.01.2011

E-Discovery, A View From The Bench And The Practitioner: Electronic Searching For Relevant Electronically Stored Information (“ESI”) And Litigant Preservation Obligations As To ESI In The Possession O

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09.15.2010

When Cloud Computing Meets E-Discovery Obligations

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03.01.2007

Safe Harbor and Sanctions under Rule 37

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## News

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

- AV Rated by Martindale-Hubbell
- *The Best Lawyers in America*, Commercial Litigation, Energy Law (2005–2024)
- Florida Super Lawyers, *Super Lawyers Magazine* (2007–2017)
- *Chambers USA*, Insurance (2006–2012)

## Professional & Community Involvement

- American Bar Association
  - Section of Litigation
- American Bar Foundation
- American Law Institute
- The Florida Bar
  - Administrative Law Section
  - Trial Lawyers Section
- The Florida Bar Foundation
- University of South Florida President's Council
- Greater Tampa Bay Phi Beta Kappa Society
- The Sedona Conference
  - Past Member

## Speaking Engagements

- "The Nuts and Bolts of Responding to E-Discovery," DRI Life, Health, Disability, and ERISA Seminar, Chicago, IL (2014)
- "E-Discovery: A View From the Bench and the Practitioner," ABA Annual Forum on the Construction Industry, Scottsdale, AZ (2011)
- "Federal and State Electronic Discovery Rules (and Proposed Rules), and the Stages of E-Discovery," Fourth Annual Construction Law Forum, Orlando, FL (2011)
- "Trends and Developments in Electronic Discovery," Florida Judges of Compensation Claims (June 4, 2010)
- "Electronic Discovery," Florida Judges of Compensation Claims (June 4, 2010)
- "Ten Big Picture, 'Must Learn' Lessons in E-Discovery," In-House Counsel Forum, Orlando, FL (February 26, 2010)
- "Electronic Discovery," The Florida Bar Government Lawyer Section (September 18, 2009)
- "Ethical Issues in E-Discovery," ABA Webcast (June 4, 2008)
- "Preservation Through Production – Effective Management of Electronic Discovery," Counsel to Counsel Forum (May 24, 2006)
- "Managing Discovery in the Digital Age," Counsel to Counsel Forum (January 25, 2006)
- Emerging Issues Policy Forum, a forum on emerging issues in the electric utility industry nationwide under the Energy Policy Act of 2005, Orlando, FL (Fall 2005)

## Credentials

## Education

- Florida State University College of Law (J.D., high honors, 1974)
  - Editor, *Florida State University Law Review*
- Florida State University (B.A., 1971)

## Bar Admissions

- Florida

## Court Admissions

- U.S. Supreme Court
- 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