

Florida Supreme Court Opens the Door to New Class of Interlocutory Appeals

APPELLATE & TRIAL SUPPORT | JANUARY 27, 2020



David A. Karp

On January 23, 2020, the Florida Supreme Court changed the Florida Rules of Appellate Procedure to create a new class of interlocutory appeals and expand the right to bring other appeals from nonfinal orders.

The court amended Rule 9.120(a)(3) to allow appeals from the nonfinal orders that deny motions asserting entitlement to absolute or qualified immunity in civil rights claims arising under federal law. This change, effective immediately, impacts section 1983 and other claims brought against government actors — and allows for an immediate appeal on threshold immunity questions.

The change also enlarges the right to bring appeals from nonfinal order denying motions that assert sovereign immunity and immunity under Florida Statutes section 768.28(9). The court removed the requirement that orders must “determine that, as a matter of law, a party is not entitled” to immunity. That language spawned debates about whether one-sentence trial court orders made such determinations.

The change shows once again that the new majority on the Florida Supreme Court is willing to rethink — and rewrite — existing rules and precedents.

Carlton Fields’ Appellate Practice and Trial Support Group can help you evaluate whether this new rule opens the door to an immediate appeal.

©2021 Carlton Fields, P.A. Carlton Fields practices law in California through Carlton Fields, LLP. Carlton Fields publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information and educational purposes only, and should not be relied on as if it were advice about a particular fact situation. The distribution of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship with Carlton Fields. This publication may not be quoted or referred to in any other publication or proceeding without the prior written consent of the firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our Contact Us form via the link below. The views set forth herein are the personal views of the author and do not necessarily reflect those of the firm. This site may contain hypertext links to information created and maintained by other entities. Carlton Fields does not control or guarantee the accuracy or completeness of this outside information, nor is the inclusion of a link to be intended as an endorsement of those outside sites.