



Naomi M. Berry

SHAREHOLDER

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Overview

Naomi Berry is a trial lawyer with significant courtroom experience in a wide variety of complex business litigation and arbitration matters. Naomi focuses on consumer finance and banking litigation and has handled a number of residential and commercial mortgage foreclosure actions, as well as lender liability and loan servicing claims under TILA, RESPA, FCRA, and FDCPA, and their state law counterparts.

Naomi also focuses her practice on health care litigation, handling various matters for health care clients involving quality, risk management and physician peer review, privacy concerns, and data breaches, as well as other civil disputes related to medical providers. Naomi devotes the remainder of her practice to general business litigation, employment law, class actions, and arbitration matters.

Naomi handles pro bono matters for the nation's under served and indigent population, serving as an advocate for children and prisoners, and working with Election Protection through the Lawyers' Committee for Civil Rights Under Law.

A South Florida native, Naomi is also active in the community and serves on the executive committee for Women United. Naomi has a particular passion for advancing women in the business community and has served as president of the Women's Chamber of Commerce of Miami-Dade County, as a member of the host committee for the City Year Women's Leadership Luncheon, and as a member of the Florida Association for Women Lawyers.

Experience

Consumer Finance and Banking Matters

- Represented national banking and financial institutions in numerous residential and commercial foreclosure matters and obtained summary judgments.
- Handle multiple commercial loan workouts and settlements.
- Handled multiple residential foreclosure matters involving claims of violations of Florida's statute of limitations and res judicata.
- Defended student loan servicer in multiple lawsuits involving claims for alleged violations of the FDCPA, FCCPA, FCRA, FDUTPA and the TCPA.

- Obtained dismissal with prejudice of lawsuit alleging fraud and wrongful foreclosure. *Vinik v. Wells Fargo Bank, N.A.*, No. 19-10160, in the Seventeenth Judicial Circuit in and for Broward County, Florida.
- Defended creditors and collection agencies in multiple lawsuits alleging violations of FDCPA and FCCPA.
- Defended timeshare association in putative federal class action for alleged violations of FDCPA. *Friday v. Palm-Aire Resort Owners Ass'n, Inc.*, No. 0:15-cv-60774 (S.D. Fla. 2015)
- Obtained dismissal with prejudice of lawsuit alleging lender's breach of settlement agreement. *Pereira v. Wells Fargo Bank, N.A.*, No. 15-024958 CA 01, in the Eleventh Judicial Circuit in and for Miami-Dade County, Florida.
- Obtained dismissal of claims against credit card provider for alleged violations of the FCCPA. *Lopez v. Wells Fargo Bank, N.A.*, No. COCE 15-003232, in the County Court in and for Broward County, Florida.
- Obtained dismissal with prejudice of claims against lender relating to alleged negligence of appraiser hired by lender in failing to discover defects in property prior to closing of purchase and mortgage. *Turner v. O'Malley*, No. CACE 11-31483, in the Seventeenth Judicial Circuit in and for Broward County, Florida.
- Obtained favorable ruling after evidentiary hearing and argument on novel legal issues relating to the issuance of certificate of title after a foreclosure sale and affirmance after appeal. *Crimson Ibis, LLC v. U.S. Bank, N.A.*, 155 So. 3d 357 (Fla. 3d DCA 2014).
- Obtained dismissal with prejudice of lender liability claims arising out of residential foreclosure matter. *Blum v. Glen Garron, LLC*, 51 F. Supp. 3d 1286 (S.D. Fla. 2014).
- Obtained dismissal of lender liability claim brought by multiple plaintiffs arising out of 15 separate mortgages based upon improper joinder. *Barber v. America's Wholesale Lender*, 289 F.R.D. 364 (M.D. Fla. 2013).

General Commercial Litigation Matters

- Defended law firm against claims of malpractice arising out of trusts and estates representation.
- Defended telecommunications company against claims of wrongful termination.
- Represented investor in dispute over stock ownership.
- Defended television company against multiple claims of defamation and trademark infringement.
- Defended personal representative in probate adversary litigation involving claims of undue influence and lack of capacity.
- Obtained summary final judgment on promissory note and guaranty in commercial dispute involving sale of shares under purchase agreement.
- Defended telecommunications company in multiple contract disputes with vendors and agents.
- Obtained dismissal with prejudice of lawsuit against generic drug manufacturer on preemption grounds.
- Defended insurance company and its principals in bad faith litigation.
- Defended national bank in complex litigation for breach of contract and misappropriation of trade secrets.
- Defended brokerage firm against claims of tortious interference with expectancy

relating to financial transfers made by decedent who was allegedly incompetent.

- Defended trucking company in breach of contract dispute with customer.
- Represented judgment creditor in Florida collection efforts on foreign judgment.

Health Care Matters

- Defended hospital against claims of tortious interference and violations of Florida's Whistleblower Act by terminated physician.
- Defended health insurance company in putative class action for breach of contract by insured.
- Defended physician practice against claims of wrongful termination by former physician employee/shareholder in AAA arbitration.
- Defended health insurer in putative class action by insured relating to denial of coverage under criminal activities exclusion in policy.
- Defended physician practice against claims of breach of contract by former physician employee in AHLA arbitration.
- Assisted with trial preparation and appellate briefs for several physician peer review matters.

Arbitration Matters

- Defended telecommunications company against claims of wrongful termination in AAA arbitration.
- Defended physician practice against claims of wrongful termination by former physician employee/shareholder in complex AAA arbitration.
- Defended physician practice against claims of breach of contract by former physician employee in AHLA arbitration.
- Defended telecommunications company against contract and tort claims in AAA arbitration.
- Defended loan servicer against claims of servicing irregularities in consumer AAA arbitration.

Class Action Matters

- Defended health insurance company in putative class action related to denials of coverage under criminal activities exclusion.
- Defended loan servicers in multiple putative class actions involving claims of TCPA, FDCPA, and FCCPA violations.
- Defended telecommunications company in multiple putative class actions involving claims of TCPA violations.
- Defended multiple putative class actions alleging various claims involving red-light camera vendors.
- Defended timeshare association in putative federal class action for alleged violations of the FDCPA. *Friday v. Palm-Aire Resort Owners Ass'n, Inc.*, No. 0:15-cv-60774 (S.D. Fla. 2015).

Appellate Matters

- Obtained per curiam affirmance of dismissal with prejudice of defamation suit. *Baggett v. Weintraub & Discovery Commc'ns, Inc.*, 256 So. 3d 185 (Fla. 3d DCA 2018).

- Obtained per curiam affirmance of summary final judgment on promissory note and guaranty. *Hernandez v. Kronos Holdings Invs.*, 229 So. 3d 1236 (Fla. 3d DCA 2017).
- Obtained per curiam affirmance of order denying motion for relief from judgment in residential foreclosure matter. *Barnes v. Yale Mortg. Corp.*, 171 So. 3d 726 (Fla. 4th DCA 2015).
- Obtained per curiam affirmance of favorable ruling after evidentiary hearing and argument on novel legal issues relating to the issuance of certificate of title after a foreclosure sale. *Crimson Ibis, LLC v. U.S. Bank, N.A.*, 155 So. 3d 357 (Fla. 3d DCA 2014).
- Obtained per curiam affirmance of order awarding attorneys' fees after evidentiary hearing. *Martin v. BankUnited*, 145 So. 3d 848 (Fla. 3d DCA 2014).
- Obtained per curiam affirmance of order directing clerk to issue certificate of title. *Arango v. Deutsche Bank Nat'l Tr. Co.*, 87 So. 3d 1264 (Fla. 3d DCA 2012).

Pro Bono

- Volunteered with Lawyers' Committee for Civil Rights Under Law Election Protection program call center and field program during multiple elections; Remote Call Center Lead for Miami-Dade County in 2020.
- Represented prisoner in lawsuit against prison employees for violations of civil rights relating to physical assault.
- Represented transgender prisoner in lawsuit against several prison employees for violations of civil rights.
- Argued against motion for directed verdict at trial and assisted with trial preparation in civil rights lawsuit in which trial team obtained final judgment in favor of prisoner client. *Hamze v. Doe*, No. 1:11-cv-21227 (S.D. Fla.).
- Represented former foster child in conjunction with Lawyers for Children America.

All Insights

05.05.2021	More Is Not Merrier: Eleventh Circuit Sends Message to Debt Collectors Using Third-Party Vendors
10.26.2020	Florida's Uniform Commercial Real Estate Receivership Act
10.08.2020	Summary of Covenants Not to Compete: A Global Perspective – Florida Chapter <i>ABA Intellectual Property Law Section</i>
07.24.2020	Florida's New Receivership Act Offers Some Clarity for Commercial Real Estate Stakeholders
05.17.2019	Gender Diversity with Mediators, Arbitrators, and Expert Witnesses <i>The Woman Advocate</i>

- 01.24.2019 Gender Diversity With Mediators, Arbitrators and Expert Witnesses
(subscription required)
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- 11.02.2016 Law Enforcement Thwarts Sovereign Freeman
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- 12.08.2015 CFPB Hits Credit Reporting Agency with \$8 Million Penalty for FCRA Violations

All News

- 08.26.2020 New Commercial Receivership Act Offers Clarity That May Lead to More Diversity
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- 12.07.2018 Carlton Fields Receives 2018 Lawyers for Children America Pro Bono Law Firm Award
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- 02.15.2018 Seven Carlton Fields Attorneys Elected to Shareholder

Professional & Community Involvement

- American Bar Association
 - Section of Litigation
 - Co-Chair, Business Torts and Unfair Competition Committee
 - Co-Chair, Website and Social Media (2017–2018)
- The Florida Bar
- Dade County Bar Association
- City Year Women's Leadership Luncheon Host Committee (2014–2016)
- Florida Association for Women Lawyers
- Lawyers for Children America
- Miami-Dade Beacon Council
 - New Leaders Taskforce
- Women's Chamber of Commerce of Miami-Dade County
 - President (2014)
- Women United
 - Executive Council

Speaking Engagements

- "Florida's Uniform Commercial Real Estate Receivership Act," Carlton Fields (October 21, 2020)

- "An Ounce of Prevention Is Worth a Pound of Cure: How Effective Pre-Litigation Trade Secrets Management Can Avoid Litigation and Improve Outcomes," ABA 2020 Corporate Counsel CLE Seminar, Carlsbad, CA (February 14, 2020)
- "Women Litigators in the Age of Implicit Bias," ABA 2019 Women in Litigation Joint CLE Conference, Chicago, IL (November 14, 2019)
- "Considerations Regarding Attorney-Client Privilege in Joint Representation," ABA 2019 Section of Litigation & Solo Small Firm and General Practice Division CLE Conference, New York, NY (May 2019)

Credentials

EDUCATION

- University of Michigan Law School (J.D., 2009)
- Yale University (B.A., 2004)

COURT ADMISSIONS

- U.S. District Court, Middle District of Florida
- U.S. District Court, Southern District of Florida
- Florida State Courts

BAR ADMISSIONS

- Florida

Areas of Focus

PRACTICES

- Class Actions
- Litigation and Trials
- Real Property Litigation

INDUSTRIES

- Banking, Commercial, and Consumer Finance
- Health Care