



# Clifton R. Gruhn

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## Overview

Cliff Gruhn's practice involves defending financial services clients in complex litigation matters and class actions in federal and state courts throughout the United States.

Cliff litigates cases involving a variety of issues involving life, long-term care, and property-casualty insurance at both the trial and appellate levels. These litigations involve allegations of fraud, breach of contract, breach of fiduciary duty, bad faith as part of coverage disputes, and violations of federal statutes, including RICO, ERISA, RESPA, and the TCPA, as well as state statutes governing unfair trade practices, suitability, sales and marketing, and debt collection.

Cliff is regularly involved in complex motion practice, large-scale electronic discovery, and trial preparation, as well as client counseling to ensure compliance with federal and state statutes and regulations.

## Experience

- *MSP Recovery Claims, Services LLC v. Endurance American Insurance Company*, 2021 WL 706225 (S.D. Fla. Feb. 23, 2021) (dismissing putative class action alleging violations of the Medicare Secondary Act).
- *Maxon v. Sentry Life Insurance Company*, 2018 WL 3850011 (M.D. Fla. Apr. 11, 2018) (granting motion to transfer putative national class action to insurer's home district), 2019 WL 4540057 (W.D. Wis. Sept. 19, 2019) (dismissing claims for breach of contract, conversion, and declaratory relief in putative national class action challenging cost of insurance and other provisions in universal life insurance policies), *reconsideration denied* (Nov. 27, 2019), *appeal dismissed*, 2020 WL 3414847 (7th Cir. Apr. 15, 2020).
- *PDVSA U.S. Litig. Trust v. Lukoil Pan Americas, LLC*, No. 1:18-cv-20818 (S.D. Fla. Mar. 8, 2019) (dismissing case alleging RICO and antitrust violations, as well as numerous other common law and statutory claims, based on purported bid-rigging and price-fixing involving international oil companies and banks).
- *Pruco Life Ins. Co. v. Baggs*, No. 3:16-cv-00206 (N.D. Fla. Aug. 29, 2017) (granting declaration of entitlement to rescind and reform life insurance policy based on material misrepresentations and misstatements in applications).
- *Epstein v. Transamerica Life Ins. Co.*, No. 2010-015515 (Fla. Cir. Ct. Mar. 6, 2017) (partially dismissing complaint alleging underpayment of benefits under

health insurance policy).

- *Hill v. Allianz Life Ins. Co. of N. Am.*, 51 F. Supp. 3d 1277 (M.D. Fla. 2014) (denying motion to remand); 2016 WL 872936 (M.D. Fla. Feb. 17, 2017), *aff'd*, 693 F. App'x 855 (11th Cir. 2017) (granting summary judgment in defamation and tortious interference action brought by former agent of life insurance and annuity company); 2019 WL 932264 (M.D. Fla. Feb. 26, 2019) (awarding attorneys' fees to insurer).
- *Patel v. Pruco Life Ins. Co.*, No. 1:16-cv-23520 (S.D. Fla. Dec. 5, 2016) (granting interpleader and awarding attorneys' fees in favor of insurer).
- *Direct Gen. Ins. Co. v. Houston Cas. Co.*, 139 F. Supp. 3d 1306 (S.D. Fla. 2015), *aff'd*, 661 F. App'x 980 (11th Cir. 2016) (granting final summary judgment in favor of professional liability insurance carriers based on broad interpretation of "related claims" provision).
- *Office Depot, Inc. v. AIG Specialty Ins. Co.*, No. 2:15-cv-02416, 2016 WL 6106408 (C.D. Cal. June 6, 2016) (granting judgment in favor of media liability insurer holding that insurer had no duty to reimburse \$15 million in defense expenses or to indemnify \$77.5 million settlement of a whistleblower suit; court found that Section 533 of the California Insurance Code precluded any duty to defend or indemnify the qui tam lawsuit alleging violations of the California False Claims Act).
- *Eisenberg Dev. Corp. v. City of Miami Beach*, 95 F. Supp. 3d 1376 (S.D. Fla. 2015) (finding entitlement to attorneys' fees and costs pursuant to 42 U.S.C. § 1988, 28 U.S.C. § 1927, Federal Rule of Civil Procedure 11, and the court's inherent authority after obtaining final summary judgment).
- *Club Madonna, Inc. v. City of Miami Beach*, No. 1:13-cv-23762, 2015 WL 5559894 (S.D. Fla. Sept. 22, 2015) (awarding more than \$100,000 in attorneys' fees under 42 U.S.C. § 1988).
- *Mann v. Unum Life Ins. Co. of Am.*, 129 So. 3d 895 (Fla. 2d DCA 2014) (affirming dismissal with prejudice in favor of defendant in statewide class action regarding long-term care insurance rate setting).
- *Doe v. Ejercito De Liberacion Nacional*, No. 1:10-cv-21517 (S.D. Fla. Aug. 11, 2014) (report and recommendation to dissolve writ of garnishment seeking to garnish cash value of whole life insurance policy), *withdrawn following settlement* (S.D. Fla. Sept. 17, 2014) (recommending award of attorneys' fees incurred by insurer in defending writ of garnishment proceedings), *adopting report and recommendation* (S.D. Fla. Oct. 14, 2014).
- *Allianz Life Ins. Co. of N. Am. v. Cain*, No. 3:12-cv-00264, 2013 WL 3880217 (W.D.N.C. July 26, 2013) (granting motion for entry of temporary restraining order).
- *Hunter v. Transamerica Life Ins. Co.*, No. 4:10-cv-04906, 2011 WL 4621111 (S.D. Tex. Sept. 27, 2011) (dismissing national class action collaterally attacking prior class action settlement), *aff'd* 498 F. App'x 430 (5th Cir. 2012).
- *Landon v. Orange Clothing Co.*, No. 10-20310 (Fla. Cir. Ct. Aug. 8, 2012) (granting final default judgment as sanction for discovery misconduct in action alleging misappropriation of funds from business).
- *Baba Lodging LLC v. Wyndham Worldwide Operations, Inc.*, No. 5:10-cv-01750, 2011 WL 1598910 (W.D. La. Apr. 26, 2011) (dismissing case against client due to lack of personal jurisdiction because defendant was not joint venturer with co-defendant and passive website was insufficient for exercise of personal jurisdiction).
- *Global Towers, LLC v. Telecom Rentals, Inc.*, No. 10-80726 (S.D. Fla.)

(obtained voluntary dismissal of action alleging breach of contract concerning sale of wireless communications towers after filing or motion to dismiss).

## All Insights

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| 09.03.2020 | ASB Airs Summer Rerun: Seeks Round 2 of ASOP 2 Comments  |
| 10.04.2019 | Mostly Tricks Proposed for ASOP 2  |
| 07.11.2019 | Proposed Revisions to ASOP 2 May Impact Your Product Pricing and Litigation Exposure   |
| 10.17.2018 | Inexperienced Class Counsel Stalls Class Certification While Defendants Attempt to Employ EEOC Conci   |
| 10.16.2018 | Court Denies Class Certification Based on Judicial Estoppel  |
| 10.01.2018 | Classified: The Class Action Blog Editor   |
| 06.21.2018 | No Refund For You! Voluntary Payment Defense Precludes Class Certification in Florida Red Light Came   |
| 06.14.2018 | District Court Denies Motion for Preliminary Approval of Class Action Settlement Citing Dearth of Information and Failure to Follow Court's Settlement Guidelines            |
| 05.14.2018 | Supreme Court to Determine Whether An Arbitration Clause Must Explicitly Authorize Class-wide Arbitration  |
| 02.20.2018 | Conflict of Interest Renders Spouse of Former Class Counsel Inadequate Class Representative  |
| 01.30.2018 | Second Circuit Reiterates: Defendants Must Satisfy Burden of Persuasion Through a Preponderance of the Evidence to Rebut Basic Presumption in Securities Fraud Class Actions |
| 12.21.2017 | Putative Class Member's Spoliation of Evidence Disqualifies Him as a Class Representative  |
| 08.10.2017 | Fifth Circuit Vacates Settlement Approval in ERISA Class Action, Remanding With Instructions to Reexamine the Legitimacy of Promised Future Payments                         |
| 05.30.2017 | Dish Network Liable for \$61 Million After North Carolina District Court Trebles Damages in TCPA Clas  |

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- 05.18.2017 District Court Denies Certification of Nationwide Class, Finding Individual Retail Stores' Alleged Failures to Follow Internal Policies Not Suitable for Class Relief
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- 04.18.2017 2017 Carlton Fields Class Action Survey Highlights
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- 03.24.2017 Play Ball! California Federal Court Reconsiders Order Denying Minor League Baseball Players' Motion For Class Certification
- 
- 03.24.2017 Two Second Circuit Cases, Two Applications of Campbell-Ewald, Two Different Results, Three Weeks Apart
- 
- 02.22.2017 Third Circuit Affirms Denial of Class Certification Because Expert's Exclusion of Relevant Data From Analysis of Classwide Antitrust Impact Precluded a Finding of Predominance
- 
- 01.17.2017 Ninth Circuit Parses "Administrative Feasibility" and "Ascertainability" – Refuses to Acknowledge Either as a Prerequisite to Class Certification
- 
- 01.06.2017 State Law Prohibiting Class Actions Does Not Preclude Court From Maintaining Certification and Approving Settlement Agreement
- 
- 01.04.2017 Ninth Circuit Denies Rehearing En Banc, Requires Ex-Uber Drivers to Arbitrate Claims Individually
- 
- 09.02.2016 Adding to Circuit Split, Divided Ninth Circuit Finds Concerted Action Waiver in Ernst & Young's Employment Agreement Unenforceable Under NLRA
- 
- 07.06.2016 Declined: Second Circuit Panel Shreds Visa and MasterCard Antitrust Settlement
- 
- 07.06.2016 Court Orders Additional Notice to Class Regarding Counsel's Request for Fees Based on Work Performed Following Initial Fee Award
- 
- 03.29.2016 Questions About Delivery Drivers' Employee/Independent Contractor Status Preclude Commonality and P
- 
- 06.01.2013 LTC Insurance Update: Failure to Pay Claims a Form of Elder Abuse?

## All News

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

## Recognition

- Recognized by the Cuban American Bar Association for outstanding service and dedication to the CABA Pro Bono Project

## Professional & Community Involvement

- American Bar Association
- Dade County Bar Association

## Pro Bono

- Frequently represents minors in dependency proceedings.

## Credentials

### EDUCATION

- University of Miami School of Law (J.D., magna cum laude, 2009)
  - Order of the Coif
- Bellevue University (B.S., 2006)

### BAR ADMISSIONS

- Florida

### COURT ADMISSIONS

- U.S. Court of Appeals, Seventh Circuit
- U.S. Court of Appeals, Eleventh Circuit
- U.S. District Court, Middle District of Florida
- U.S. District Court, Southern District of Florida
- U.S. District Court, Western District of Wisconsin

## Areas of Focus

### PRACTICES

- Appellate & Trial Support
- Class Actions
- ERISA Employee Benefit Plan Litigation
- Financial Services Regulatory
- Life, Annuity, and Retirement Litigation

### INDUSTRIES

- Banking, Commercial, and Consumer Finance

- Life, Annuity, and Retirement Solutions
- Litigation and Trials
- Property & Casualty Insurance
- Real Property Litigation