



# John R. Hart

SHAREHOLDER

WEST PALM BEACH

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## Overview

John Hart has represented many industry-leading lenders and title insurance companies in loan workout negotiations, commercial mortgage foreclosures in more than 20 counties throughout the state of Florida, commercial lease disputes, cases involving real estate fraud, title insurance matters on behalf of title companies and their insureds, and a variety of other real estate litigation matters.

During his 27 years of practice in Florida, John's substantial business litigation experience also includes representation of companies and individuals in a wide range of business disputes involving shareholders' agreements, misappropriation of trade secrets, arbitration proceedings, defense of class action litigation involving payday lenders, declaratory relief actions involving rights and obligations under life insurance policies, property valuation determinations, homeowner and condominium association litigation, lender liability claims, receiverships, etc.

Over the past 15 years, John has tried approximately 20 matters involving commercial and real estate litigation disputes, which trials have included both bench and jury trials, as well as arbitration proceedings. He is the West Palm Beach office managing shareholder.

## Experience

- *U.S. Bank, N.A. v. Joe James Enters. LLC*, No. 50-2010-CA-007405 (Fla. Cir. Ct. 2014). Represented court-appointed receiver in evidentiary proceedings resulting in a prevailing motion to sell commercial property in Boca Raton over objections of a third party.
- *PNC Bank Nat'l Ass'n v. Hiawassee Woods, LLC*, No. 6:12-cv-01484 (M.D. Fla. 2012). Prosecuted receivership and rent sequestration motions at evidentiary proceedings involving multimillion-dollar shopping center property in Orlando, Florida.
- *PNC Bank vs. Kosovo Realty Corp.*, No. 50-2011-CA-002959 (Fla. Cir. Ct. 2011). Prosecuted a motion for the appointment of a receiver in a four-day evidentiary hearing in a hotly contested matter involving a hotel and restaurant property in South Palm Beach.

- *PNC Bank vs. Ameritrend Commerce Ctr.*, No. 3120 10 CA 01 0806 (Fla. Cir. Ct. 2011). Tried commercial foreclosure action resulting in \$7,619,621 final judgment in favor of client against borrower and guarantors on office complex in Vero Beach, Florida.
- *Esque Real Estate Holdings, Inc. v. C.H. Consulting, Ltd.*, 940 So. 2d 1185 (Fla. 4th DCA 2006). Representation of lender in mortgage foreclosure action that resulted in summary judgment in favor of lender for approximately \$1 million. On appeal, Fourth District Court of Appeal held that trial court did not abuse its discretion in denying motion to vacate foreclosure sale for alleged inadequacy of sale price where mortgagor failed to allege any irregularity or defect connected with the sale process.
- *May v. Barthelet*, 886 So. 2d 324 (Fla. 4th DCA 2004). Representation of Mandalay Resorts Group Inc. in legal proceedings under Florida's Vexatious Litigant Law, section 68.093, Florida Statutes (2003), which resulted in barring further frivolous lawsuits against client.
- *Walter T. Embry, Inc. v. LaSalle Nat'l Bank*, 868 So. 2d 661 (Fla. 4th DCA 2004). Interlocutory appeal in mortgage foreclosure action involving gasoline station property. Represented lender in appellate proceedings affirming the entry of a dismissal order. After this decision, prosecuted remainder of action through conclusion of non-jury trial and judgment in favor of client, which judgment was also later affirmed by the Fourth District Court of Appeal.
- *Buckeye Check Cashing, Inc. v. Cardegna*, 824 So. 2d 228 (Fla. 4th DCA 2002). Representation of Buckeye Check Cashing Inc. in defense of class action lawsuit involving allegations of usury and violation of various state statutes. Fourth District Court of Appeal held that federal law controlled enforcement of arbitration agreements at issue, and reversed trial court's order denying the lender's motion to compel arbitration. The Fourth DCA's decision was subsequently reversed by the Florida Supreme Court, but was reinstated by the Florida Supreme Court after the U.S. Supreme Court accepted jurisdiction of the case and issued an opinion affirming the Fourth DCA's 2002 decision.
- *Kirkland v. Miller*, 702 So. 2d 620 (Fla. 4th DCA 1997). Pro bono representation of a borrower, Ruby Kirkland, who was defending an ejectment lawsuit, seeking to evict her from her home of many years, thereby depriving her of her equity in the property. Lender structured the transaction through the use of an Illinois land trust in order to avoid foreclosure upon default. Fourth DCA held that the transaction at issue was not a valid Illinois land trust; it was a mortgage securing indebtedness. The Fourth DCA reversed trial court's order entitling lender to ejectment.
- *New England Mut. Life Ins. Co. v. Podhurst, Orseck, Josefsberg, Eaton, Meadow, Olin & Perwin, P.A.*, 690 So. 2d 1354 (Fla. 3d DCA 1997). Representation of lender, New England Mutual Life Insurance Co., in an appeal involving in excess of \$2 million of insurance proceeds from Hurricane Andrew in connection with two shopping centers in Dade County, Florida. Third DCA held that lender's interest in casualty insurance policy proceeds had priority over law firm's charging lien for services rendered to borrower in obtaining settlement with insurance company.
- *N.Y. Life Ins. & Annuity Corp. v. Hammocks Cmty. Ass'n, Inc.*, 622 So. 2d 1369 (Fla. 3d DCA 1993). Representation of New York Life in a multimillion-dollar foreclosure action, with appellate proceedings involving litigation over lien priority rights between lender and community development association over unpaid property assessments.
- *Johnson v. Bauman*, 549 So. 2d 1185 (Fla. 5th DCA 1989). Defense of appeal by borrower of judgment rendered in favor of lender on promissory note pursuant

to verdict after conclusion of three-day jury trial. Also prosecuted cross-appeal, entitling lender to prejudgment interest at the default rate of 18 percent on borrower's promissory note obligation.

## All News

- 02.01.2019 Carlton Fields Attorneys Recognized As "Power Leaders"

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- 10.08.2018 Carlton Fields Attorneys Interviewed About Win in Show Horse Case

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- 01.09.2018 Aaron C. Dunlap Joins Carlton Fields

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- 08.21.2017 Defendants prevail in "Dirty Stopper" case

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- 08.15.2017 78 Carlton Fields Attorneys Named "Best Lawyers in America"

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- 01.02.2017 Carlton Fields Attorneys Named to the 2017 "South Florida Legal Guide"

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- 01.01.2017 Carlton Fields Names Six New Office Managing Shareholders

## Recognition

- AV Rated by Martindale-Hubbell (1997–present)
- South Florida Power Leaders, *South Florida Business Journal* (2019)
- *The Best Lawyers in America*, Commercial Litigation (2016–2020)
- *South Florida Legal Guide* (2004–2015)
- Palm Beach County Legal Aid Society Firm Award (2008)
  - Represented, pro bono, indigent woman in four-day jury trial involving real estate dispute.
- Palm Beach County Legal Aid Society Real Property Pro Bono Award (1998)

## Professional & Community Involvement

- American Bar Association
  - Section of Litigation
- The Florida Bar
  - Real Property, Probate, and Trust Law Section

## Speaking Engagements

- "Troubled Assets: Valuation, Legal and Asset Management Issues," National Council of Real Estate Investment Fiduciaries (NCREIF) Valuation Committee Meeting (2010)

- “Breach of Real Estate Contract Litigation, Case Law Update and Ethical Considerations,” Palm Beach County Bar Association Real Estate Seminar (2009)
- “Florida Foreclosure and Related Bankruptcy and Title Issues,” NBIT Seminars (1999, 2004)

## Credentials

### EDUCATION

- University of Virginia School of Law (J.D., 1986)
- University of Miami (B.A., magna cum laude, 1983)

### BAR ADMISSIONS

- Florida

### COURT ADMISSIONS

- 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, Northern District of Florida
- Florida State Courts

## Areas of Focus

### PRACTICES

- Creditors' Rights and Bankruptcy
- Distressed Asset and Workout
- Litigation and Trials
- Real Property Litigation
- Title Insurance

### INDUSTRIES

- Real Estate