



# Joseph H. Lang Jr.

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## Overview

Joseph Lang is a shareholder in the firm's Appellate Practice and Trial Support group. He has extensive experience representing clients before and at trial on legal issues, motions practice, preservation of error, and jury instructions, and then throughout the appellate process.

At trial, Joseph has represented clients in automotive, insurance, medical device, negligence, and smoking and health cases. In doing so, he has attended and provided counsel on legal issues throughout entire jury trials in Fort Lauderdale, Fort Myers, Jacksonville, Miami, Orlando, Pensacola, St. Petersburg, Sarasota, Tampa, and West Palm Beach. In addition, on a multitude of occasions he has attended trials in a more limited role to argue specific legal motions, such as directed verdicts or post-trial filings, or to handle jury instructions conferences on specific days.

On appeal, Joseph has briefed and argued cases for automotive, banking, liability insurance, maritime insurance, title insurance, nonprofit housing, and real estate development clients, among others. He has briefed and argued appeals in the Eleventh Circuit Court of Appeals, the Florida Supreme Court, and all five Florida District Courts of Appeal. He has been involved in more than 100 docketed matters in the Florida Supreme Court. Nationally, Joseph has handled cases in the Third, Fourth, Sixth, and Eighth Circuit Courts of Appeals.

Joseph also has significant experience in extraordinary writs practice, amicus curiae briefing, jurisdictional briefing, constitutional litigation, class action defense, punitive damages defense, and post-trial issues such as stays and supersedeas bonding.

Joseph is an elected member of the American Law Institute and a former chair of the Florida Supreme Court Committee on Standard Jury Instructions in Civil Cases. He is board certified in Appellate Practice by The Florida Bar. Prior to joining the firm, he served as a law clerk to the Honorable Ben F. Overton of the Florida Supreme Court.

## Experience

- *Jockey Club III Ass'n, Inc. v. Apeiron Miami, LLC*, Nos. 3D17-1393, 3D17-1494, 2020 WL 2892410 (Fla. 3d DCA June 3, 2020). Real property development and maintenance issues related to the Jockey Club development

in Miami.

- *Doss v. General Mills, Inc.*, No. 19-12714, 2020 WL 2554384 (11th Cir. May 20, 2020). Class action practice. Article III standing.
- *Lifsey Real Estate & Holdings, Inc. v. Starwood Capital Grp., L.P.*, No. 2D19-669, 2020 WL 865066 (Fla. 2d DCA Feb. 21, 2020). Personal jurisdiction.
- *Hillcrest Country Club Ltd. P'ship v. Zyscovich, Inc.*, 288 So. 3d 1265 (Fla. 4th DCA 2020). Contract interpretation issues related to an architectural services contract.
- *BP Expl. & Prod., Inc. v. Claimant ID 100204031*, 765 F. App'x 98 (5th Cir. 2019). *Deepwater Horizon* class action settlement issues.
- *Markland v. Insys Therapeutics, Inc.*, 758 F. App'x 777 (11th Cir. 2018). Federal preemption.
- *Shuker v. Smith & Nephew, PLC*, 885 F.3d 760 (3d Cir. 2018). Federal preemption.
- *United States v. HPC Healthcare, Inc.*, 723 F. App'x 783 (11th Cir. 2018). False Claims Act pleading standard.
- *Simmons Foods, Inc. v. Indus. Risk Insurers*, 863 F.3d 792 (8th Cir. 2017). Contractual limitations provisions. Prejudgment interest.
- *Platypus Wear, Inc. v. Horizonte LTDA*, 693 F. App'x 843 (11th Cir. 2017); *Platypus Wear, Inc. v. Horizonte LTDA*, 558 F. App'x 929 (11th Cir. 2014). Availability of prospective equitable relief.
- *Mink v. Smith & Nephew, Inc.*, 860 F.3d 1319 (11th Cir. 2017). Federal preemption.
- *Wells Fargo Equip. Fin., Inc. v. Bacjet, LLC*, 221 So. 3d 671 (Fla. 4th DCA 2017). Personal jurisdiction.
- *City of Largo v. AHF-Bay Fund, LLC*, 215 So. 3d 10 (Fla. 2017); *AHF-Bay Fund, LLC v. City of Largo*, 169 So. 3d 133 (Fla. 2d DCA 2015). Issues related to PILOT (payments in lieu of taxes) agreements.
- *City of Aventura v. Jimenez*, 211 So. 3d 158 (Fla. 3d DCA 2016). Amici brief in support of Mark Wandall Traffic Safety Act and efficacy of using cameras to enforce traffic lights.
- *Enclave at Citrus Park Homeowners Ass'n, Inc. v. Beazer Homes, Inc.*, 194 So. 2d 1028 (Fla. 2d DCA 2016). Defense against second-tier certiorari petition involving issues related to section 125.022, Florida Statutes.
- *Uhlfelder v. Wells Fargo Bank, N.A.*, 193 So. 2d 891 (Fla. 1st DCA 2016). Defense of final judgment of foreclosure.
- *Alley v. City of Tampa*, 183 So. 3d 355 (Fla. 2d DCA 2015). Defense of certiorari challenges to municipal land use decisions.
- *Teva Pharm. Indus. v. Ruiz*, 181 So. 3d 513 (Fla. 2d DCA 2015). Personal Jurisdiction.
- *Higgins v. Commonwealth Land Title Ins. Co.*, 172 So. 3d 888 (Fla. 1st DCA 2015). Class action practice. Title insurance reissue rates.
- *Krauss v. PNC Bank, N.A.*, 174 So. 3d 1004 (Fla. 2d DCA 2015). Deficiency judgments.
- *Ethos Dev., LLC v. JKF Enters., LLC*, 160 So. 3d 423 (Fla. 2d DCA 2015). Certiorari; Severance and abatement issues.
- *Alberton v. Commonwealth Land Title Ins. Co.*, No. 14-8072 (3d Cir. June 11,

2014). Opposing Rule 23(f) petition.

- *Layton v. Smithkline Beecham Corp.*, 137 So. 3d 384 (Fla. 2d DCA 2014). Manufacturing defect and causation allegations.
- *Adams Homes of Nw. Fla., Inc. v. KB Home Fort Myers, LLC*, 145 So. 3d 103 (Fla. 2d DCA 2013). Specific performance.
- *US Bank, N.A. v. Marion*, 122 So. 3d 398 (Fla. 2d DCA 2013). Verification issues under Florida Rule of Civil Procedure 1.110(b).
- *Farkas v. Nat'l Union Fire Ins. Co. of Pittsburgh*, 518 F. App'x 178 (4th Cir. 2013).
- *Laschober v. Ford Motor Co.*, 88 So. 3d 943 (Fla. 2d DCA 2012). Warranty and FDUTPA issues.
- *Ethicon Endo-Surgery, Inc. v. McGowan*, 83 So. 2d 713 (Fla. 1st DCA 2012). Manufacturing defect and causation issues.
- *Miller v. Kemmons Wilson, Inc.*, 104 So. 3d 1098 (Fla. 2d DCA 2012). Venue.
- *State Nat'l Ins. Co. v. NCO Fin. Sys., Inc.*, No. 11-10772 (11th Cir. Oct. 11, 2011). Order enforcing settlement agreement.
- *Cherry v. D.B. Zwirn Special Opportunities Fund, L.P.*, 433 F. App'x 870 (11th Cir. 2011). Class action/derivative action issues.
- *Wolicki-Gables v. Arrow Int'l, Inc.*, 634 F.3d 1296 (11th Cir. 2011). Federal preemption.
- *Kemmons Wilson, Inc. v. Miller*, 52 So. 3d 667 (Fla. 2d DCA 2011). Personal jurisdiction.
- *Goldberg v. Merrill Lynch Credit Corp.*, 35 So. 2d 905 (Fla. 2010). Exclusive jurisdiction and unlicensed-practice-of-law issues.
- *Cramer v. Ford Motor Co.*, 49 So. 3d 241 (Fla. 2d DCA 2010). Class certification issues.
- *Testa v. S. Escrow & Title, LLC*, 36 So. 3d 713 (Fla. 1st DCA 2010). Title insurance policy issues.
- *Coventry First LLC v. Office of Ins. Regulation*, 30 So. 3d 552 (Fla. 1st DCA 2010). Retroactive application of statutes. Mootness.
- *Brisson v. Ford Motor Co.*, 349 F. App'x 433 (11th Cir. 2009). Magnuson-Moss Warranty Act express and implied warranty claims.
- *In re James Hoving*, No. 09-0103 (6th Cir. July 29, 2009). Opposing Rule 23(f) petition.
- *Lake v. Tenneco, Inc.*, 319 F. App'x 769 (11th Cir. 2009). Product liability, duty to warn, open and obvious dangers.
- *Transamerica Leasing, Inc. v. Inst. of London Underwriters*, 430 F.3d 1326 (11th Cir. 2005). English law and practice, law of the case, mandate rule, and judicial estoppel issues.

## All Insights

09.17.2021 Taking Advantage of Preliminary Substantive Jury Instructions and Preliminary Charge Conferences: Practical Considerations and Tips

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06.25.2021	No Second Bite at the Apple: Eighth Circuit Examines Identity-of-Parties and Identity-of-Causes-of-Action Requirements for Claim Preclusion Under Florida Law
06.25.2021	Eleventh Circuit Approves Largest, Most Comprehensive Data Breach Recovery in U.S. History
05.04.2021	Eighth Circuit Delivers an Inconvenient Truth: Defendants' Forum Non Conveniens Was Untimely, Despite Absence of Express Deadline
03.12.2021	Appealing Alternative Holdings: Don't "Sit Down on the Track" After Clearing "Just the First Hurdle in the Race"
03.02.2021	MDL Court Denies Class Certification of Proposed "NAS Babies" Class
12.28.2020	An Enterprising Effort Gets Transported Back to Earth: Mash-Ups and the Fair Use Doctrine
11.19.2020	What's the Alternative? Preclusion Doctrines and Alternative Holdings
11.13.2020	A Class Action Settlement With a Chocolate Company Melts Away: Eleventh Circuit Issues En Banc Decis
10.14.2020	"This Is Florida's Problem. Not Texas's." Fifth Circuit's Decision on Personal Jurisdiction Includes Two Cautionary Reminders
09.22.2020	Don't Leave it to the Appellate Court to "Make the Best of a Bad Thing": The Seventh Circuit is the Latest to Require a Contemporaneous Objection to an Inconsistent Verdict Before the Jury Disbands
08.11.2020	Let Me Introduce My Affiliate: Fourth Circuit Enforces Arbitration Agreement on Motion by Affiliate, DirecTV, of Original Party to Agreement, AT&T Mobility
08.10.2020	Whither Objector Blackmail
06.22.2020	Is It an Equity Investment or Usury? Second Circuit, Nostra Sponte, Certifies Two Questions to New York Court of Appeals

05.19.2020	CAFA: Ninth Circuit Affirms District Court's Sua Sponte Invocation and Application of Discretionary Home State Exception
05.12.2020	Welcome to the Party, Pal: Supreme Court Invokes Party Presentation Principle
05.04.2020	Eight Is Not Enough: Ninth Circuit Denies En Banc Review in a Takings Clause Case Over Dissenting Votes of Eight Circuit Judges
04.20.2020	Personal Jurisdiction in the Internet Age: A Virtual Learning Case Study, Preservation Issues, and a Sockdolager
03.24.2020	Reporting for Work
10.30.2019	A Dart Across the Bow
09.20.2019	Closing the Chapter on Generalized False Claims
07.03.2019	Don't Estop Believin' – Courts May Save Your Judicial Estoppel Argument
11.07.2018	The Bitter and the Sweet
10.25.2018	All Hope is Not Lost: Raising a New Argument on Appeal
09.25.2018	Enough is Enough: The Limits of Invoking Rule 23(c)(1)(C)
09.25.2018	Class Certification Denied in 'Junk Fax' Case in Electronic Age
09.24.2018	The Eleventh Circuit Weighs in on the Intersection of Arbitration and Class Action Jurisprudence
07.03.2018	Are Administrative Fees and Costs a Benefit to the Class as a Whole? A Circuit Split Continues
03.23.2018	Objection, Interrupted
08.22.2017	Eighth Circuit Reverses Sanctions on Lawyers that Settled Federal Court Class Action in State Court
08.21.2017	Third Circuit Follows ANZ Securities Decision and Reverses for Dismissal of Exchange Act Claims as Untimely
05.03.2017	Attempting to Counter a CAFA Loophole

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05.01.2017 An Offer You Can Refuse

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04.13.2017 Pay Attention: A Class Certification Decision You Might Want To Remember

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02.20.2017 Noodle This! The Yin and Yang of Two Courts, Two Antitrust Cases, Two Class Certification Motions, Two Daubert Challenges, Two Opposite Results, One Day Apart

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02.06.2017 Judge Gorsuch on Class Actions

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01.03.2017 When Objecting Once Is Not Enough: Recognizing a Continuing Duty as the Charges and Verdict Form Evolve

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04.05.2016 Objecting to a Magistrate Judge's Report and Recommendation

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06.01.2015 A Look Back One Hundred Years at the Oldish Cases of 1915

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01.01.2014 Justice Ben F. Overton: Confronting his Prior Decisions

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07.01.2013 The CAFA Year in (Appellate) Review: A Look Back at the Class Action Fairness Act in the Circuit Courts of Appeals in 2012-2013

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04.21.2013 Fourth Circuit Court of Appeals Puts Teeth into the "In Fact" Exclusions of a D&O Policy

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01.01.2012 The CAFA Year in (Appellate) Review

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11.01.2010 Marjorie Kinnan Rawlings: The Cross Creek Case

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07.20.2010 New 11th Circuit CAFA Decision That May Affect Subject Matter Jurisdiction in Pending Class Actions in Federal Court

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04.05.2010 Circuit Variations - Chapter 17 in A Practitioner's Guide To Appellate Advocacy

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03.31.2010 New Decision Addressing Punitive Damages Award for Excessiveness Under Federal Law

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03.08.2010 Florida Supreme Court Approves New Standard Jury Instructions in Civil Cases

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- 10.05.2009 Help Thyself with a Cross-Appeal; the Courts May Not Sally Forth to Help You
- 
- 10.01.2009 Original Proceedings, Writ Large
- 
- 11.01.2007 Off The Record
- 
- 11.30.2006 A Lot of No Evidence is Still No Evidence
- 
- 01.27.2006 Significant Appellate Decision - Preservation of Argument Regarding the Insufficiency of the Evidence for Appellate Review
- 
- 01.01.2006 Amicus Briefs, Florida Appellate Practice
- 
- 11.09.2005 Significant Appellate Decision - Staff Privileges and Hospital Bylaws
- 
- 10.10.2005 Significant Appellate Decision - Economic Loss Doctrine and Future Profits
- 
- 12.29.2003 Amicus Briefs Revisited
- 
- 01.01.2003 Amicus Briefs: Friend or Foe of Florida Courts?

### **All News**

- 06.11.2020 Apeiron at the Jockey Club Developer Wins Key Ruling from Appeals Court
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- 06.05.2020 Third District Court of Appeal Upholds Carlton Fields Client Apeiron's Real Property and Development Rights
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- 01.24.2020 Carlton Fields Appellate Win Featured in Daily Business Review
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- 10.09.2019 Carlton Fields' Joseph H. Lang Jr. Appointed As ALI Adviser
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- 06.27.2019 Carlton Fields Recognized at The Florida Bar Appellate Practice Section Awards
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- 04.19.2019 Carlton Fields Receives 2019 Outstanding Pro Bono Service by a Law Firm
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- 07.09.2018 Super Lawyers Honors 81 Carlton Fields Attorneys on 2018 Florida "Super Lawyers" and "Rising Stars"
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- 01.25.2018 Carlton Fields Wins Appeals Court Victory in False Claims Act Case
- 
- 01.24.2018 11th Circ. Won't Revive \$320M Fla. Hospice FCA Case
- 
- 08.15.2017 78 Carlton Fields Attorneys Named "Best Lawyers in America"
- 
- 06.23.2017 Florida Super Lawyers Ranks 92 Carlton Fields Attorneys as 2017 "Super Lawyers" and "Rising Stars"

## Recognition

- Board Certified in Appellate Practice by The Florida Bar
- AV Rated by Martindale-Hubbell
- John R. Hamilton Pro Bono Award, The Florida Bar Appellate Practice Section (2019)
- *The Best Lawyers in America*, Appellate Practice (2016–2022)
- Florida Super Lawyers, *Super Lawyers Magazine* (2009–2021)
- Florida Legal Elite, *Florida Trend Magazine* (2007–2011, 2013)
- Carlton Fields Pro Bono Publico Award (2010, 2014)
  - The Pro Bono Publico Award is presented periodically in special recognition of significant pro bono efforts undertaken by groups of attorneys who have, as a group, provided exemplary pro bono representation.
- Carlton Fields William Reece Smith Jr. Pro Bono Award (2008)
  - The William Reece Smith Jr. Pro Bono Award was established in 1997 to recognize an associate and a shareholder who each has individually provided exceptional pro bono legal services in the spirit of the award's namesake and our Chairman Emeritus, William Reece Smith Jr., who is known internationally for his advocacy for legal services for the poor.

## Professional & Community Involvement

- American Bar Association
  - Litigation Section
- American Bar Foundation
  - Life Fellow (2019–present)
- American Law Institute
  - Elected Member
  - Adviser, Restatement (Third) of Torts: Defamation and Privacy
- The Florida Bar
  - Appellate Practice Section



- Eleventh Circuit Court of Appeals Historical Society
- Florida Supreme Court
  - Standard Jury Instructions Committee — Civil Cases (2003–2015)
    - Chair (2014–2015)
    - Vice Chair (2011–2013)
    - Reporter (2000–2003)
- Florida Supreme Court Historical Society
  - Board of Trustees (2010–present)
- Carlton Fields
  - Co-Chair, Pro Bono Committee (2018–present)

## Speaking Engagements

- "Florida Bar Rules on Advertising," Legal Marketing Association (April 2013)
- "Navigating Class Action Appeals," Eleventh Circuit Appellate Practice Institute (February 2013)
- "Anatomy of an Appeal: Persuasion," ABA Young Lawyers Division Spring Conference (May 2009)

## Pro Bono

- Author of numerous briefs and petitions seeking capital post-conviction relief in the state and federal appellate courts for client William H. Kelley (2007–present).
- *Kelley v. State; Kelley v. McNeil*, 3 So. 3d 970 (Fla. 2009).
- *State of Florida v. Erick Richardson*, 915 So. 2d 86 (Fla. 2005). Habitual felony offender sentencing issues.
- *Colwell v. Head*, No. 2001-V-847 (Ga. Super. Ct. 2001). Capital post-conviction relief.
- *Jones v. State*, 740 So. 2d 520 (Fla. 1999). Capital post-conviction relief; competency to stand trial.

## Credentials

### EDUCATION

- Georgetown University Law Center (LL.M., 1998)
- University of Florida College of Law (J.D., 1995)
- University of Florida (B.A., 1992)

### BAR ADMISSIONS

- Florida

### COURT ADMISSIONS

- U.S. Supreme Court
- U.S. Court of Appeals, Third Circuit
- U.S. Court of Appeals, Fourth Circuit
- U.S. Court of Appeals, Fifth Circuit
- U.S. Court of Appeals, Sixth Circuit
- U.S. Court of Appeals, Seventh Circuit

INDUSTRY SPECIALIZATION  
CERTIFICATIONS

- Appellate Practice

- U.S. Court of Appeals, Eighth Circuit
- U.S. Court of Appeals, Ninth Circuit
- U.S. Court of Appeals, Tenth Circuit
- 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
- Florida State Courts

CLERKSHIPS

- Hon. Benjamin F. Overton, Florida Supreme Court

**Areas of Focus**

PRACTICES

- Appellate & Trial Support
- Class Actions
- Creditors' Rights and Bankruptcy
- Development
- Litigation and Trials
- Mass Tort and Product Liability
- Pharmaceuticals and Medical Devices
- Real Property Litigation
- Title Insurance

INDUSTRIES

- Banking, Commercial, and Consumer Finance