



# Markham R. Leventhal

SHAREHOLDER

WASHINGTON, D.C.

**P** : 202.965.8189

**F** : 202.965.8104

MIAMI

**P** : 305.347.6905

**F** : 305.530.0055

CONNECT

[mleventhal@carltonfields.com](mailto:mleventhal@carltonfields.com)

## Overview

Markham Leventhal has a national litigation practice focusing on the defense of financial institutions, insurers, and other sophisticated businesses in federal and state courts across the United States. Markham has defended more than 150 class actions and has extensive experience managing multijurisdictional litigation, including the simultaneous defense of multiple class actions in different states and the management of parallel civil and regulatory proceedings. He has served as lead or national coordinating counsel in multiple jurisdictions including New York, New Jersey, Florida, Alabama, Arizona, Arkansas, California, Connecticut, Colorado, Georgia, Illinois, Kentucky, Louisiana, Massachusetts, Michigan, Mississippi, Montana, Nebraska, New Mexico, North Carolina, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Washington, D.C., Washington, and West Virginia. Markham has also briefed positions both for and against motions to transfer filed with the Judicial Panel on Multidistrict Litigation and has argued before the MDL Panel.

Markham is frequently called upon to defend class actions and other high-exposure cases involving claims of fraud, inadequate disclosure, breach of contract, breach of fiduciary duty, bad faith, regulatory violations, deceptive trade practices, false advertising, and alleged statutory violations of RICO, ERISA, the TCPA, the FLSA, privacy statutes, antitrust statutes, and state consumer protection laws. His litigation experience includes insurance coverage litigation, reinsurance litigation, securities litigation, unfair competition, fraudulent transfer litigation, trademark and copyright infringement, arbitration, and federal and state court appeals.

Markham serves as co-chair of the firm's Life, Annuity, and Retirement Solutions Industry Group, and he has defended cases involving virtually every insurance or financial product issued by the life, annuity, and retirement industries, including national ERISA class actions involving retirement plans. Markham also defends some of the largest and most sophisticated property and casualty insurers in class action litigation across the country.

Markham has served as lead counsel in NAIC multistate examinations, disputes with individual state insurance regulators, and he has defended against civil investigative demands, regulatory subpoenas, and lawsuits brought by state attorneys general and other governmental agencies.

In addition to his defense work, Markham frequently assists clients in analyzing class action exposure and avoiding or mitigating the risk of class action litigation

through corrective measures and the design of consumer outreach or remediation programs.

A veteran appellate practitioner, Markham has served as lead counsel in appellate matters before the U.S. Supreme Court, the U.S. Court of Appeals for the Second, Fourth, Fifth, Sixth, Eighth, Ninth, Tenth, Eleventh, and District of Columbia Circuits, and numerous state appellate courts across the country.

Markham is a member of the Class Actions and Derivative Suits Committee of the ABA Section of Litigation, the DRI's Data Management and Security Committee, and The Sedona Conference Working Group on Data Security and Privacy Liability.

## All Insights

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| 06.28.2021 | Supreme Court: "Unharmful" Class Members Are Not Entitled to Damages; \$40M TransUnion Judgment Reversed |
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| 06.10.2020 | Insurers' Successful Challenge to 2016 Amendments to Florida's Unclaimed Property Act Reversed on Appeal |
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| 05.10.2019 | Carlton Fields Defends Transamerica in Putative Class Action Involving Long-Term Care Insurance |
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| 07.11.2016 | Trial Pros: Carlton Fields' Markham Leventhal |
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| 08.08.2014 | Florida Court Rejects "Date of Death" Trigger for Escheating Life Insurance Death Benefits Under Florida's Unclaimed Property Act |
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| 08.01.2014 | Chapter 2, "Preemption," in the Handbook on ERISA Litigation |
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| 01.03.2014 | West Virginia Court Dismisses Lawsuits Challenging Life Insurers' Unclaimed Death Benefits Practices |
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| 05.31.1998 | Class Actions: Fundamentals of Certification Analysis, Florida Bar Journal |
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| 12.31.1984 | Civil Conspiracy and Aiding-Abetting: Discussing the Structure of the Theories and Related Principles of Legal Causation |
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## All News

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| 10.25.2021 | Life Insurers Face Challenge of Loss of Knowledge, Scattered Data |
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| 04.27.2021 | 2021 Washington, D.C. Super Lawyers Recognizes Carlton Fields Attorneys |
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12.09.2020	Carlton Fields Attorneys Markham R. Leventhal and Joseph W. Swanson Named 2020 BTI Client Service All-Stars
04.17.2020	Washington, D.C. Super Lawyers Honors Carlton Fields Attorneys on 2020 Lists
07.30.2019	Carlton Fields' Washington, D.C. Office Adds Two Skilled Trial Attorneys
04.19.2019	Washington, D.C. Super Lawyers Honors Carlton Fields Attorneys on 2019 List
04.12.2019	Carlton Fields Defends Transamerica Life Insurance Company in Putative Class Action Involving Long-Term Care Insurance
03.29.2019	Carlton Fields' Life, Annuity, and Retirement Solutions Industry Group Co-Chair, Markham Leventhal, Named "BTI Client Service All-Star" for 2019

## Recognition

- BTI "Client Service All-Star" (2019, 2020)
- Washington, D.C., Super Lawyers, Class Action, *Super Lawyers Magazine* (2020–2021)
- Washington, D.C., Super Lawyers, Civil Litigation: Defense, *Super Lawyers Magazine* (2014–2019)

## Professional & Community Involvement

- American Bar Association
  - Section of Litigation
    - Class Actions and Derivative Suits Committee
    - Corporate Counsel Committee
  - Tort Trial and Insurance Practice Section
- Defense Research Institute
  - Data Management and Security Committee
- The Sedona Conference
  - Working Group on Data Security and Privacy Liability
- Miami-Dade County Bar Association
  - Federal Court Committee
- Legal Committee USA Triathlon
  - Chair (1998–2005)

## Speaking Engagements

- "Recent Class Action Litigation Against the Insurance Industry," National Alliance of Life Companies Spring 2021 Conference, Scottsdale, AZ (June 4, 2021)
- "A Pandemic of Litigation - An Update of Class Action Litigation Affecting the Travel Insurance Industry," U.S. Travel Insurance Association Annual Conference (October 20, 2020)
- "'Howey' Doing in the World of Securities Regulation? Rulemaking, Examinations, Enforcement, and Retirement Plan Litigation Development," IRI ACTION19 Conference, Washington, D.C. (May 17, 2019)
- "Class Action Development: Its Effect on the Life Insurance Industry," National Alliance of Life Companies 2018 Spring Conference, Santa Fe, NM (April 2018)
- "Latest Developments and Trends in Significant Annuity and Life Insurance Litigation," IRI Government, Legal & Regulatory Conference, Washington, D.C. (July 2015)
- "IRI Cybersecurity Forum," IRI Government, Legal & Regulatory Conference, Washington, D.C. (July 2015)
- "Litigation Forum: Class Action Litigation and Supreme Court Decisions," IRI Government, Legal & Regulatory Conference, Washington, D.C. (July 2014)
- "Class Action Litigation Against the Life Insurance Industry," National Alliance of Life Companies 2013 Fall Conference, Jackson Hole, WY (September 2013)
- "2013 U.S. Supreme Court Class Action Developments," IRI Government, Legal & Regulatory Conference, Washington, D.C. (June 2013)
- "Class Action and Complex Litigation Developments Affecting the Life Insurance Industry," National Alliance of Life Companies 2011 Spring Conference, Longboat Key, FL (April 2011)
- "Class Action and Individual Litigation Developments," ALI-ABA Conference on Insurance and Financial Services Litigation, Chicago, IL (July 2010)
- "Developments in Life Insurance Class Action Litigation," National Alliance of Life Companies 2005 Spring Conference, Rancho Mirage, CA (April 2005)
- "Emerging Trends in Class Actions, Bad Faith and Market Conduct Examination," ABA Tort Trial and Insurance Practice Section Midwinter Meeting, Phoenix, AZ (January 2005)
- "Class Actions: Developments in Life Insurance and Annuity Litigation," ALI-ABA Conference on Life Insurance Company Products (November 2002)
- "Litigation Technology in the Courtroom," ALI-ABA Conference on Life and Health Insurance Litigation (May 2000)

## Credentials

### EDUCATION

- New York University School of Law (LL.M., 1986)
- Seton Hall University School of Law (J.D., 1985)

### COURT ADMISSIONS

- U.S. Supreme Court
- U.S. Court of Appeals, Second Circuit
- U.S. Court of Appeals, Fourth

- Duke University (B.S., 1981)

#### BAR ADMISSIONS

- District of Columbia
- Florida
- Mississippi
- New Jersey
- New York

#### Circuit

- U.S. Court of Appeals, Fifth Circuit
- U.S. Court of Appeals, Sixth Circuit
- 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, Eastern District of Arkansas
- U.S. District Court, Western District of Arkansas
- U.S. District Court, District of Columbia
- U.S. District Court, Middle District of Florida
- U.S. District Court, Southern District of Florida
- U.S. District Court, Northern District of Florida
- U.S. District Court, Northern District of Mississippi
- U.S. District Court, Southern District of Mississippi
- U.S. District Court, District of Nebraska
- U.S. District Court, District of New Jersey
- U.S. District Court, Eastern District of New York
- U.S. District Court, Southern District of New York
- U.S. District Court, Western District of New York

### Areas of Focus

#### PRACTICES

- Appellate & Trial Support
- Class Actions
- Cybersecurity and Privacy
- ERISA Employee Benefit Plan Litigation
- Financial Services Regulatory

#### INDUSTRIES

- Banking, Commercial, and Consumer Finance

- Labor & Employment
- Life, Annuity, and Retirement Litigation
- Life, Annuity, and Retirement Solutions
- Litigation and Trials
- Property & Casualty Insurance
- Real Property Litigation
- Securities and Derivative Litigation