



# Marty J. Solomon

SHAREHOLDER

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## Overview

Marty Solomon is a real property litigator. He defends title insurers nationwide in direct litigation, coverage litigation, bad faith actions, title agent defalcation response, and class action defense. Marty's practice also extends to expert witness services for title insurers, general real property litigation, generally as counsel retained by a title insurer, and electronic discovery disputes in federal courts. He has defended state and federal consumer class actions around the country on behalf of title insurance underwriters, telecommunications carriers, and retailers. Marty has represented clients in state and federal courts, arbitrations, and mediations, in disputes throughout Florida as well as in Georgia, Ohio, Illinois, Michigan, New Hampshire, New York, Pennsylvania, and the Virgin Islands.

Marty also represents commercial lenders in creditors' rights and lien priority litigation, as well as developers and commercial landlords in contract disputes.

Marty is an avid cyclist, skier, and photographer.

## Experience

- *Stewart Title Guar. Co. v. Machado Family Ltd. P'ship No. 1*, No. 6:17-cv-00562, 2018 WL 1877465 (M.D. Fla. Apr. 19, 2018) (granting summary judgment to title insurer in coverage action where title insurer had paid the cost of litigation to cure a defect in the insured mortgage).
- *Downing v. Fidelity Nat'l Title Ins. Co.*, No. 17-14299 (11th Cir. Apr. 12, 2018) (per curiam affirming dismissal at No. 3:16-cv-00119, 2017 WL 6371196 (N.D. Ga. Sept. 14, 2017)). Putative class action against six title insurers alleging unlawful conspiracy to defraud purchasers of title insurance in Georgia by scheming to eliminate discounts from published premiums dismissed with prejudice because, *inter alia*, alleged misrepresentations of law are not actionable and even, if actionable, were not proximate cause of alleged injury to plaintiff.
- *Stewart Title Guar. Co. v. Machado Family Ltd. P'ship No. 1*, No. 6:17-cv-00562, 2017 WL 3622006 (M.D. Fla. Aug. 23, 2017) (staying bad faith counterclaim against title insurer's declaratory judgment action for coverage).

- *Ober v. Town of Lauderdale-by-the-Sea*, 218 So. 3d 952 (Fla. 4th DCA 2017). Counsel for amicus curiae Florida Land Title Association, which appeared in the case for the first time on rehearing. Opinion on rehearing, withdrawing prior opinion and construing Florida's lis pendens statute to discharge liens placed on property between a final judgment of foreclosure and a judicial sale.
- *Kahama VI, LLC v. HJH, LLC*, No. 8:11-cv-02029, 2016 WL 7104175 (M.D. Fla. Dec. 12, 2016) (expert witness for Old Republic National Title Co., opinion supporting summary judgment, which was granted to the title insurer in a coverage dispute with an insured lender).
- *Old Republic Nat'l Title Ins. Co. v. Guardian Title & Escrow, Inc.*, No. 2016-CA-285 (Fla. Cir. Ct. Aug. 15, 2016) (granting ex parte motion to appoint receiver, for injunction, and for break order against title insurance agent).
- *Downing v. Fidelity Nat'l Title Ins. Co.*, No. 3:15-cv-00154, 2016 WL 3526064 (N.D. Ga. June 9, 2016) (granting motion to dismiss putative class action alleging overcharging for title insurance).
- *Diaz v. Bank of Am., N.A.*, No. 9:15-cv-80224 (S.D. Fla. July 15, 2015) (granting motion to dismiss putative class action alleging mishandling of tax payments by title insurance agency).
- *Old Republic Nat'l Title Ins. Co. v. First Am. Title Ins. Co.*, No. 8:15-cv-00126, 2015 WL 1530611 (M.D. Fla. Apr. 6, 2015) (granting in part title insurer's motion to dismiss counterclaims in reinsurance dispute).
- *Old Republic Nat'l Title Ins. Co. v. First Am. Title Ins. Co.*, No. 8:15-cv-00126, 2015 WL 1349817 (M.D. Fla. Mar. 25, 2015) (denying motion to dismiss title insurer's negligence claim based on faulty underwriting of underlying loan policies in a reinsurance dispute. (Linked to *Law360* article on the decision.)
- *Higgins v. Commonwealth Land Title Ins. Co.*, No. 04-365-CA (Fla. Cir. Ct. Apr. 21, 2014) (summary judgment in favor of title insurer and against certified class of refinancing borrowers who alleged they had been overcharged by not being provided reissue rates for title insurance).
- *Alberton v. Commonwealth Land Title Ins. Co.*, 299 F.R.D. 109 (E.D. Pa. 2014) (decertifying class of refinancing borrowers who alleged they had been overcharged by not being provided reissue and refinance rates for title insurance).
- *McGee v. Commonwealth Land Title Ins. Co.*, 537 F. App'x 843 (11th Cir. 2013) (affirming dismissal of breach of contract claims brought against title insurer by condominium unit purchasers who alleged that defects in declaration caused entire condominium regime to fail).
- *Lake Buena Vista Vacation Resort, L.C. v. Lawyers Title Ins. Corp.*, 95 So. 3d 244 (Fla. 5th DCA 2012) (per curiam affirmance of summary judgment in favor of title insurer against defalcation claim where no title commitments had been issued in favor of buyers because condominium project had not yet been constructed).
- *Lowe v. Lawyers Title Ins. Corp.*, No. 312009CA10974, 2012 WL 12941564 (Fla. Cir. Ct. July 23, 2012) (final summary judgment in favor of title insurer against defalcation and negligence claims based on theft of escrowed funds by a separate escrow company owned by a licensed title agent).
- *Susser v. OptimumBank*, 86 So. 3d 1137 (Fla. 4th DCA 2012) (per curiam affirmance of summary judgment in favor of institutional lender in mortgage priority dispute with holder of "silent second" mortgage that had been recorded before institutional lender's mortgage).
- *Brinker v. Chicago Title Ins. Co.*, No. 8:10-cv-01199, 2012 WL 1081211 (M.D.

Fla. Feb. 9, 2012), *report and recommendation adopted*, 2012 WL 1081182 (M.D. Fla. Mar. 30, 2012) (denying class certification because individualized issues of loss causation predominated in closing protection letter suit by condominium buyers who alleged that they would not have purchased units if attorney closing agent had made more or different disclosures).

- *McGee v. Commonwealth Land Title Ins. Co.*, No. 8:11-cv-01100, 2012 WL 263000 (M.D. Fla. Jan. 30, 2012) (order dismissing claims by condominium buyers that developer's alleged failure to make required disclosures, secure administrative approval, and set aside sufficient common elements caused entire condominium regime to fail, creating a covered title defect).
- *Brinker v. Chicago Title Ins. Co.*, No. 8:10-cv-01199 (M.D. Fla. Sept. 9, 2011) (granting protective order against discovery of joint defense privileged communications between title insurance underwriter and title agent defending claims under closing protection letters).
- Represented a major title insurance underwriter in recouping the vast majority of a multimillion-dollar title agent defalcation loss from its liability insurer, recovering a condominium purchased with stolen funds by the title agent, then coordinating with Florida's office of statewide prosecution to secure a 10-year prison sentence and a \$6.8 million restitution order against the title agent's principal.
- *Corwin v. Lawyers Title Ins. Co.*, 276 F.R.D. 484 (E.D. Mich. 2011) (obtained denial of class certification in putative statewide consumer class action against title insurance underwriter alleging overcharging for title insurance premiums).
- *Partell v. Lawyers Title Ins. Corp.*, No. 1:08-cv-00166, 2011 WL 4974730 (W.D.N.Y. Sept. 30, 2011) (order dismissing putative class action complaint based on the named plaintiffs' failure to state a claim under Section 8 of the Real Estate Settlement Procedures Act (RESPA) and declining to exercise supplemental jurisdiction over remaining state law claims).
- *Macula v. Lawyers Title Ins. Co.*, 272 F.R.D. 214 (N.D. Ohio 2011) (order finding case moot and that court lacked subject-matter jurisdiction due to denial of class certification and Rule 68 offer of judgment for amount of named plaintiff's individual claim).
- *Macula v. Lawyers Title Ins. Co.*, 264 F.R.D. 307 (N.D. Ohio 2009) (obtained denial of putative statewide consumer class action against title insurance underwriter alleging overcharging for title insurance premiums).
- *Hoving v. Lawyers Title Ins. Corp.*, 256 F.R.D. 555 (E.D. Mich. 2009) (obtained denial of class certification in putative multistate class action alleging overcharging for title insurance premiums).
- *Smith v. Lawyers Title Ins. Corp.*, No. 2:07-cv-12124, 2009 WL 514210 (E.D. Mich. Mar. 2, 2009) (obtained dismissal of putative multistate class action alleging violations of RESPA, unfair trade practices, and unjust enrichment based on alleged overcharging for title insurance).
- *Commonwealth Land Title Ins. Co. v. Higgins*, 975 So. 2d 1169 (Fla. 1st DCA 2008) (granting writ of certiorari to quash a trial court discovery order that had required the production of more than 300,000 title agent closing files in a putative class action involving title insurance rates).
- *Lehman Bros. Holdings, Inc. v. Hirota*, No. 8:06-cv-02030, 2007 WL 1471690 (M.D. Fla. May 21, 2007) (granting motion to dismiss on economic loss rule grounds, negligence, fraud, and conspiracy claims against title insurer and closing agent that were based on the same facts as breach of closing instruction and breach of closing protection letter contract claims).
- *Chicago Title Co. v. Alday-Donalson Title Co. of Fla., Inc.*, 832 So. 2d 810 (Fla.

2d DCA 2002) (affirming dismissal and summary judgment in favor of client Stewart Title Guaranty Co.).

- Represented a major title insurance underwriter in coordinating resolution of claims stemming from a multimillion-dollar title agent defalcation, obtaining a \$1.89 million restitution order and coordinating with criminal authorities who obtained a five-year jail term for the principal of the title agent.

## All Insights

07.09.2018	Super Lawyers Honors 81 Carlton Fields Attorneys on 2018 Florida “Super Lawyers” and “Rising Stars”
11.01.2017	The New Closing Protection Resets the Understanding Between Lenders and Title Insurers and Corrects Unhealthy Nationwide Trends in the Caselaw
08.31.2017	Bullet-Point Update: Electronic and Federal Court Discovery Issues for the Week of August 13, 2017
08.21.2017	Bullet-Point Update: Electronic and Federal Court Discovery Issues for the Week of July 31, 2017
08.03.2017	BTI Ranks Carlton Fields among Firms with Best Insurance Industry Client Relationships
07.31.2017	Bullet-Point Update: Electronic and Federal Court Discovery Issues for the Week of July 24, 2017
07.21.2017	Are the Bad Old Days of Blind Stonewalling in Discovery Finally Coming to a Close?
07.21.2017	Bullet-Point Update: Electronic and Federal Court Discovery Issues for the Week of July 14, 2017
07.17.2017	Florida’s First District Court of Appeal Should Abandon the Standing at Inception Rule in Mortgage Foreclosure Cases
06.23.2017	Florida Super Lawyers Ranks 92 Carlton Fields Attorneys as 2017 “Super Lawyers” and “Rising Stars”
01.17.2017	Cybersecurity and Privacy Policy as a Board of Directors Issue
01.16.2017	Bullet Points on a Primer: The Quick Version of the Sedona Conference’s Data Privacy Primer

12.19.2016	Efficiency: A Discovery Philosophy, and All You Really Need to Know About Predictive Coding
09.09.2016	Defalcation is a Dirty Word, But Not the End of the World
01.13.2015	Will 2015 Be The Year of the Data Breach Class Action?: Target Data Breach Claims Survive Motions to Dismiss
12.31.2014	Winning The Next War: Title Insurers Can Expect a New Set of Challenges in the Coming Years
12.22.2014	Aggressive Regulators and the Plaintiffs' Lawyers Who Follow Them
10.01.2014	The Corporate Representative's Deposition Bill Of Rights (And Wrongs)
09.16.2014	In for One, and Only One – Title Insurers' Limited Duty to Defend
08.26.2014	Practice Pointer: Leave Your Phone at Home on Deposition Day
07.08.2014	Title Insurers Face a Decade of New Challenges
03.20.2012	E-Discovery Practice Pointer: Boosting Your Chances of Recovering Electronic Discovery Costs
03.08.2012	E-Discovery Practice Pointer: Famous Last Words, "No Need For a Litigation Hold, We May Work This Thing Out Without Even Calling Litigation Counsel"
03.02.2012	Predictive Coding Technology Endorsed by Federal Court
02.29.2012	Court-Approved Predictive Coding Can Save Discovery Dollars in Data-Intensive Litigation
02.14.2012	E-Discovery Practice Pointer: Consider Retaining an Expert For Help With Keyword Searches
02.08.2012	E-Discovery Practice Pointer: Don't Stipulate To Search Terms Until You Count Your Hits
02.06.2012	E-Discovery Pop Quiz: Shared Electronic Database Costs May Create Trap for Unwary Litigants
12.30.2011	An Overview of Closing Protection Letters for Title Insurance

## Recognition

- AV Rated by Martindale-Hubbell
- Selected for inclusion in *Florida Super Lawyers* (2018-2019)

## Professional & Community Involvement

- The Sedona Conference
  - Working Groups 1 & 11
- The Florida Bar
  - Real Property, Probate and Trust Law Section
    - Co-Chair, Real Property Litigation Committee
- American Bar Association
  - Section of Litigation
  - Tort Trial and Insurance Practice Section
    - Title Insurance Litigation Committee
- Federal Bar Association
- Hillsborough County Bar Association

## Speaking Engagements

- “The New ALTA Closing Protection Letter,” Claims Avoidance Roundtable, Florida Land Title Association (April 2018)
- “Thirteen Ways to Improve Your Legal Writing,” The Florida Bar Real Property, Probate and Trust Law Section CLE.
- “Closing Protection Letter Law Developments,” Fidelity National Title Group In-House CLE (March 2018).
- “Title Insurers’ Handling of Title Agent Defalcations,” Fidelity National Title Group In-House CLE (March 25, 2014).
- “Frame and Anchor: Use the Psychology of Mediation to Your Advantage,” Stewart Title Guaranty Co. Claims College, Tampa, FL (January 16, 2013).
- “Fewer Closings, More Protection: Trends in Closing Protection Letter Litigation,” Florida Land Title Association, St. Petersburg, FL (April 14, 2010).
- “To Pay or Not to Pay, That Is the Question: Are Consequential Damages Recoverable Under an Owner’s Policy for a Partial Failure of Title?” ABA Title Insurance Litigation Committee Spring Seminar & Meeting, San Antonio (February 29, 2008).
- “Attorney-Client Privilege Issues in Title Insurance Claims Handling and Litigation,” Claims Avoidance Roundtable, Florida Land Title Association, Orlando, FL (April 18, 2007)
- “Avoiding Bad Faith Claims in Florida’s Title Insurance Industry,” Claims Avoidance Roundtable, Florida Land Title Association (April 2006)
- “Developments in Equitable Subrogation,” Claims Avoidance Roundtable,

## Credentials

### EDUCATION

- Tulane Law School (J.D., *magna cum laude*, 2001)
- New College of Florida (B.A., 1998)

### BAR ADMISSIONS

- Florida

### COURT ADMISSIONS

- Florida Supreme Court
- U.S. Court of Appeals, Third Circuit
- U.S. Court of Appeals, Sixth 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

## Areas of Focus

### PRACTICES

- Appellate & Trial Support
- Class Actions
- Cybersecurity and Privacy
- Development
- Financial Elder Abuse
- Institutional Investment and Finance
- Litigation and Trials
- Real Property Litigation
- Title Insurance

### INDUSTRIES

- Real Estate