

## Appellate

While a case proceeds in the trial court, the strength of the case on appeal is already developing. At both the trial and appellate levels, Fowler White Boggs's appellate attorneys have the firsthand knowledge and experience necessary to set the stage for a successful appeal. Our group offers board certified appellate specialists, and no appellate matter is beyond our ability.

Fowler White Boggs's appellate attorneys are not only skilled writers and craftsmen of appellate briefs, but they are also excellent oral advocates. Our attorneys handle appeals nationwide and appear regularly in each of Florida's five District Courts of Appeal as well as the Florida Supreme Court. Our group also handles federal appeals and appellate matters from the United States District Courts all the way up to the United States Supreme Court.

Your appellate attorneys at Fowler White Boggs are not only your advocates, but are also your advisors. As advisors, their knowledge of the inner workings of the appellate courts and strong relationships and reputations with judges and outside appellate practitioners is critical. Thus, your appellate attorneys will not only advocate your position to the fullest in any appellate proceeding, but will also provide important practical insight on matters including the preservation of appellate issues in the trial court, the advisability of pursuing an appeal, and the likelihood of success.

Our group's attorneys are recognized by judges and practitioners as leaders in appellate law. They hold office and council positions in the Florida Bar's appellate practice section and are active in the appellate community. They also educate members of the legal community on appellate issues through seminars and presentations and are frequently published in a variety of legal publications on appellate matters and other substantive legal issues.

Decisions at any stage of the litigation process that give rise to appellate issues can have a crucial, high-dollar impact on your case. Fowler White Boggs's appellate attorneys are skilled and experienced in recognizing these issues, evaluating them, and navigating the substantive and procedural maze of appellate litigation.

For examples of our appellate experience, see the list below.

### Admiralty

- *MBL Life Assurance Corp. v. Suarez*, 768 So. 2d 1129 (Fla. 3d DCA 2000)(represented Defendants MBL Life/Fisher Island Corporation in vessel collision case. Obtained a reversal of a \$4 million judgment (plus costs, interest and attorney's fees), and remand for new trial.)

### Airline Tariff

- *Wackenhut Corp. v. Lippert*, 609 So. 2d 1304 (Fla. 1992)(represented Defendant Wackenhut Corporation, as agent of Delta Airlines, in seminal airline tariff case establishing liability limitations on carry-on baggage. Obtained reversal of judgment in excess of \$1 million (including costs, interest and attorney's fees) when Florida Supreme Court reversed trial court and district court of appeal, vacating judgment below.)



#### Practice Leader

Hala A. Sandridge

#### Practice Team

Ceci Culpepper Berman  
Sarah Lahlou-Amine  
Hala A. Sandridge

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### Arbitration

- Merrill Lynch, Pierce, Fenner, & Smith v. Ainsworth , 630 So. 2d 1145 (Fla. 2d DCA 1997)(successfully represented Merrill Lynch in argument that customer's lawsuit should be stayed.)
- Ulrich v. Eaton Vance Distribs., Inc. , 764 So. 2d 731 ( Fla. 2d DCA 2000)(successfully represented company in argument that parties statute or contract provision authorized an attorney's fee award.)
- Pharmacy Management Servs., Inc. v. Perschon , 622 So. 2d 75 (Fla. 2d DCA1993)(successfully represented company arguing claimant not entitled to an award of attorney fees and pre-award interest because there was no finding on which legal theories the award was based and the arbitration award itself stated that it was in full settlement of all claims.)

### Class Action De-certification

- Humana, Inc. v. Castillo , 728 So. 2d 261 (Fla. 2d DCA 1999)(successfully represented Humana to reverse order certifying a class action of policy holders alleging they were fraudulently induced to enroll in HMO policy.)
- Jackson v. Motel 6 Multipurpose , 130 F.3d 999 (11th Cir. 1997)(successfully represented Motel 6 in its petition for mandamus relief; Eleventh Circuit directed the district court to decertify class and vacate that part of the order that allowed both classes to conduct preliminary class communications.)

### Construction

- County of Brevard v. Miorelli Eng'g , 703 So. 2d 1049 (Fla. 1997)(successfully represented county in arguing that without written change order, doctrine of sovereign immunity precluded recovery of the cost of extra work done by contractor.)

### Contract Interpretation

- Centennial Mortg., Inc. v. SG/SC, LTD. , 772 So. 2d 564 ( Fla. 1st DCA 2000)(successfully represented company in argument that trial court's refusal to allow parol evidence to explain parties' intent required reversal.)

### Employer Liability

- Represented convenience store industry defeating series of claims by sales clerks who argued that employers should have protected them from attacks by armed robbers. Ream v. The Southland Corp. , 696 So. 2d 361 (Fla. 2d DCA 1997); Estate of Reid v. Swats , 686 So. 2d 19 (Fla. 2d DCA 1996); Cartwright v. The Southland Corporation , 682 So. 2d 580 (Fla. 3d DCA 1996.)
- Wood v. Green , 323 F.3d 1309 (11th Cir. 2003)(successfully represented Clerk of the Circuit court in reversing an ADA jury verdict on the basis that the employee's request for an indefinite leave of absence indicated that the employee was requesting an unreasonable accommodation.)

### Indemnification

- ICA Construction Corp. v. Frederick R. Harris, Inc. , 701 So. 2d 113 (Fla. 3d DCA 1997)(represented Defendant ICA Construction Corporation in contractual indemnification case. Obtained reversal of \$1.2 million judgment (plus costs, attorney's fees and interest running) with remand for final judgment in favor of client.)

### Insurance Coverage

- Sarkis v. Allstate Ins. Co. , 28 Fla. L Weekly S740 ( Fla. Oct. 2, 2003 )(represented Allstate Insurance Company and eliminated use of contingency risk multiplier in cases where fee award was based upon offer judgment.)
- Santos v. State Farm Mut. Auto. Ins. Co. , 707 So. 2d 1181 (Fla. 2d DCA 1998) (represented State Farm Mutual Automobile Insurance Company defeating claim that its "business pursuits" and "business operations" exclusions were ambiguous and unenforceable.)
- Plastic Surgery Center, P.A. v. State Auto. Mut. Ins. Co. , 783 So. 2d 261 (Fla. 2d DCA 2000)(represented commercial insurer defeating surgeon's claim that spoliation of evidence claim brought against him by patient was covered occurrence not excluded by professional services exclusion.)
- Maxwell v. State Farm Fire & Cas. Co. , 717 So. 2d 1014 (Fla. 2d DCA 1998)(represented insurer in defeating claim

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for property damage caused by pesticide overspraying because damage fell within policy's "contamination" exclusion.)

- *Deni Associates of Florida, Inc. v. State Farm & Casualty Ins. Co.*, 711 So. 2d 1135 (Fla. 1998)(represented Florida Farm Bureau successfully in a consolidated decision by the Florida Supreme Court setting the benchmark for pollution coverage in client's favor.)

### Jury Misconduct

- *Davis v. Cohen*, 816 So. 2d 671 (Fla. 3d DCA 2002)(represented Defendant DSI Transports, Inc. in multi-car collision case. Obtained a reversal of a judgment in excess of \$2 million (plus costs, interest and attorney's fees), and remand for a new trial.)

### Labor

- *Adams Fruit Company, Inc. v. Barrett*, 494 U.S. 638, 110 S. Ct. 1384 (1990)(represented Adams Fruit Co., a citrus grower, and presented oral argument to United States Supreme Court on federal statute establishing migrant workers' rights. Though we were unsuccessful on appeal, the decision spurred the United States Congress to modify and clarify the federal statute to comport with client's position on appeal and correct error in original drafting of the law.)

### Landlord Liability

- *Calta v. Schleman*, 833 So. 2d 1120 (Fla. 2d DCA 2002)(represented landlord in defeating serious injury claim brought by tenant's son who lost eye when shot by playmate's blowgun.)

### Medical Liability

- *Pearlstein v. King*, 610 So. 2d 445 (Fla. 1992)(represented physician defeating patient's claim by use of newly enacted procedural requirement which lower courts deemed inapplicable. Florida Supreme court applied requirement to existing claim.)

### Professional Liability

- *Stogniew v. McQueen*, 656 So. 2d 917 (Fla. 1995)(represented therapist, who had been sanctioned by the Department of Professional Regulation, in defeating patient's civil claim. The Florida Supreme Court rejected United States Supreme Court's reasoning regarding collateral estoppel.)
- *Hunt Ridge at Tall Pines, Inc. v. Hall*, 766 So. 2d 399 (Fla. 2d DCA 2000)(represented lawyer and his firm defeating claim that he was liable to a non-client homeowners association by virtue of documents he created at the request of project's developer.)

### Qualified Immunity

- *Vermette v. Ludwig*, 707 So. 2d 742 (Fla. 2d DCA 1997)(successfully represented deputy and sheriff in reversing denial of summary judgment where they were acting in the performance of a discretionary governmental function in participating in a sting operation and where probable cause existed to support plaintiff's arrest.)

### Rental Car Liability

- *Glover v. Scamp Auto Rental I, Inc.*, 682 So. 2d 562 (Fla. 2d DCA 1996)(represented rental car company in shifting primary insurance responsibility to customer's insurer despite customer's failure to fully complete rental agreement.)

### Restaurant Liability

- *Gary v. Bar Management Corp.*, 600 So. 2d 1112 (Fla. 2d DCA 1992)(represented restaurant in defeating serious injury claim brought by customer infected by vibro vulnificus after eating raw oysters.)
- *Castellano v. Raynor*, 725 So. 2d 1197 (Fla. 2d DCA 1999)(represented physical education teacher in defeating claim brought by school secretary injured by a football.)

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- *Luteran v. Pinellas County School Bd.*, 725 So. 2d 1121 (Fla. 2d DCA 1998)(represented School Board in sustaining verdict which awarded the parents of a student killed exiting a school bus only nominal damages.)

### Tort

- *Thunderbird Drive-In Theatre, Inc. v. Reed*, 571 So. 2d 1341 (Fla. 4th DCA 1990)(represented Defendant Thunderbird Drive-In Theatre, Inc. in auto accident case involving quadriplegic plaintiff. Obtained reversal of \$4.875 million judgment (plus costs, interest running, and attorney's fees), and remand for a new trial.)

### Trade Secrets

- *East v. Aqua Gaming, Inc.*, 805 So. 2d 932 (Fla. 2d DCA 2001)(successfully represented company in upholding temporary injunction order in favor of company as customer list included confidential information not available elsewhere.)