

Appellate

It is not only McGlinchey Stafford's existing clients who depend upon the firm's appellate practice group to handle appeals. In numerous instances, lawyers in other firms and national companies will retain our appellate attorneys after they have had other trial lawyers on the case.

Among the many successes of the appellate practice group are cases involving:

- Commercial transactions
- Constitutional law
- Education matters
- Labor law
- Legal ethics
- Lending law
- Local governmental zoning
- Property and contractual conflicts
- Real estate and finance
- Taxation

The appellate practice group includes lawyers who have served on state and federal rules committees, and have been recognized by their peers for their appellate skills by being selected as members of appellate organizations, including the American Academy of Appellate Lawyers, and by serving as officers of appellate bars, including as President of the Bar Association of the Fifth Federal Circuit. In addition, a number of our appellate attorneys are former state and federal judicial law clerks, including those who have clerked in state supreme courts and in the U.S. Fifth Circuit Court of Appeals.

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Experience

Clarification of Florida's Lis Pendens Statute

Ober v. Town of Lauderdale-by-the-Sea, 218 So.3d 952 (Fla. 4th DCA 2017).

The firm was successful in overturning a trial court judgment that adversely impacted title to all property in Florida when a foreclosure sale is involved.

Bisby v. Garza (342 Fed.Appx. 969)

Court of Appeals affirmed motion to dismiss granted to client American Correctional Association on the basis that claims for civil rights violations could not be brought against a non-state actor.

Borrell v. Vital Weight Control, Inc. (2009 WL 783342)

Court of Appeals confirmed the decision of the trial court that the plaintiff could not recover against the client under a quantum meruit cause of action.

Consumer Portfolio Services, Inc. v. Obregon (2010 WL 4361765)

Court of Appeals affirmed decision that client financial services company did not breach settlement agreement.

Defense of various national mortgage lenders and credit card issuers in class actions alleging that pre-screened mailers violate the Fair Credit Reporting Act

Defense of various national mortgage servicers in actions for wrongful foreclosure and/or improper servicing practices

Greene v. Deutsche Bank Nat. Trust Co. (2005 WL 1244604)

Court of Appeals affirmed summary judgment in favor of client bank on the basis that the plaintiff had previously obtained final judgment on the same issue raised in subsequent litigation.

In re Bank of America, N.A. (2012 WL 4841625)

Court of Appeals granted mandamus relief and reversed a sanctions order entered against bank client because the district court judge had exceeded his power in issuing sanctions for failing to comply with a settlement agreement.

In re Lumsden (291 S.W.3d 456)

Represented the client hospital in appeal affirming there was no service of plaintiff's expert report as hospital in medical malpractice action until final judicial determination that expert report was adequate.

In re Methodist Hosp. (2009 WL 1886667)

Represented the client hospital in a mandamus action challenging trial court's ruling that expert witness could not testify at trial.

In re Ortiz (2015 WL 1021314)

Court of Appeals denied mandamus relief sought by the Plaintiff based on the application of the law of the case doctrine.

Methodist Hosp. v. Shepherd-Sherman (296 S.W.3d 193)

Represented the client hospital in a challenge that the Plaintiff's physician's expert report did not meet the requirements for an expert report under Texas statute.

Mitchell v. Methodist Hosp. (2009 WL 5174186)

Court of Appeals affirmed the trial court's decision that the Plaintiff's expert report did not adequately support claim against client hospital for vicarious liability for patient's death from infection at site of catheter in arm.

Mutual Concepts, Inc. v. First Nat. Bank of Omaha (495 Fed.Appx. 514)

Court of appeals reversed district court judgment awarding attorney's fees against bank client because attorney's fees were not recoverable under Nebraska law.

National City Bank of Indiana v. Ortiz (401 S.W.3d 867)

Court of Appeals reversed in part and rendered in part a judgment in favor of the plaintiff against bank clients because the trial court had granted summary judgment on the basis of a theory the plaintiff failed to plead.

Poock v. Washington Mut. Bank, F.A. (2009 WL 2050905)

Represented the client bank in a challenge to a trial court's ruling on venue under the mandatory venue statute relating to real property.

Represented landowners in establishing that abandonment of a non-conforming use requires intent to abandon, and not merely the passage of time.

City of Lake Worth v. Cook, 1 Fla. L. Weekly Supp. 383 (Fla. 15th Cir.), aff'd, 626 So. 2d 1115 (Fla. 4th DCA 1993).

Represented party enforcing payment under a real estate contract and established new law regarding waiver of the right of equity of redemption in settlement agreements.

Rothschild Reserve Intern., Inc. v. Silver, 830 So. 2d 224 (Fla. 4th DCA 2002).

Represented seller of real estate arising out a breach of contract that involved two appeals to the district court of appeal and the Florida Supreme Court, including making new law regarding payment of attorney's fees.

Swift v. Wilcox, 924 So. 2d 885 (Fla. 4th DCA 2006).

Represented seller of real estate regarding the applicability of arbitration provisions in real estate disputes.

Keyes Co. v. Spencer, 16 So. 3d 213 (Fla. 4th DCA 2009).

Santander Consumer USA, Inc. v. Palisades Collection, LLC (447 S.W.3d 902)

Court of Appeals reversed in part and rendered in part a summary judgment against the client financial services company for breach of contract based on the application of the statute of limitations.

Successful representation of amici power companies before the Ohio Supreme Court in appeal of decisions finding utility pole owners liable to motorists who struck utility poles.

Successfully argued that when a vehicle collides with a utility pole located off the improved portion of a roadway but within the right-of-way, a public utility is not liable as a matter of law if the utility has obtained any necessary permission to install the pole and the pole does not interfere with the ordinary course of travel.

Successful representation of Buyer and Seller before the Ohio Supreme Court and Ohio Board of Tax Appeals (BTA) in case centered around a sale-leaseback transaction.

Established that a sale-leaseback sale price is not fair market value for real estate tax purposes.

Taylor v. Anderson (2014 WL 547032)

Court of Appeals affirmed motion to dismiss granted to client American Correctional Association on the basis that claims for civil rights violations could not be brought against a non-state actor.

Recent News

June 27, 2019	McGlinchey Stafford's Manuel Farach honored with Lawyer of the Year, Hall of Fame distinctions McGlinchey News Release
November 1, 2018	McGlinchey Stafford's Practices Ranked Among Top in Nation in U.S. News/Best Lawyers' "Best Law Firms" 2019 McGlinchey News Release
September 24, 2018	McGlinchey Stafford Member Manuel Farach Becomes Triple Board-Certified by The Florida Bar in Appellate, Real Estate, and Business Litigation Categories McGlinchey News Release
July 17, 2018	McGlinchey Stafford Expands Into Tennessee, Opens New Nashville Office McGlinchey News Release
November 1, 2017	McGlinchey Stafford's Practices Ranked Among Top in Nation in U.S. News/Best Lawyers' "Best Law Firms" 2018 McGlinchey News Release
January 6, 2015	McGlinchey Stafford Elects Five New Members McGlinchey News Release