

COMMERCIAL LITIGATION OVERVIEW

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INTRODUCTION

Broad and Cassel counsels our clients to prevent litigation, but when a litigation issue does arise, we stand committed to providing our clients with the highest caliber legal representation available in the State of Florida. The strength of our litigation attorneys flows directly from their extensive experience in litigating a full range of complex business, commercial and governmental cases for more than 60 years.

PHILOSOPHY

Aggressive. Efficient. Cost effective. These are the words that best describe our philosophy toward litigation.

At Broad and Cassel, we prefer to consult with our clients in the beginning stages of a contested matter to review and discuss potential strategies, and evaluate the costs and benefits associated with each option. Once we mutually decide on a course of action, we work with our clients to develop a budget and determine specific staffing requirements. Where appropriate, we draw upon the skill and experience of other Broad and Cassel attorneys to ensure the strongest possible representation for our clients. Because we have nearly 180 attorneys at eight offices located throughout Florida, Broad and Cassel is well equipped to handle our clients' requirements for counsel on a statewide basis. We have the resources and personnel to handle the most complex cases.

Moreover, we apply state-of-the-art technology to the practice of law to manage the dispute resolution process in the most timely and cost effective manner possible. Importantly, we keep the client informed every step of the way. Furthermore, we have experience at every level of the court system, including all state and federal courts up to the U.S. Supreme Court.

When a case cannot be settled or won by dismissal or summary judgment, our litigation attorneys have a natural affinity for the courtroom. Our trial lawyers are as skilled at winning cases before a jury, as they are at producing favorable results through pretrial litigation strategies.

Simply stated, our overriding objective is to provide a superior result in the most efficient and cost-effective manner possible. Broad and Cassel has learned through many years of experience that most cases can be won - or settled favorably - by developing highly focused, innovative and cost-conscious litigation strategies.

AREAS OF EXPERTISE

Our experience in litigation includes the following:

■ Administrative Law Disputes

Broad and Cassel has an active lobbying practice in Tallahassee, and the Firm's attorneys are able to present a client's position in an effective manner before state legislative and administrative bodies. The Firm protects its clients' interests in dealing with government by employing several related strengths: firsthand knowledge of Florida government; the time and cost-efficiency of specialized knowledge; and proven problem solving. The Firm's attorneys regularly appear before all levels and branches of government: municipal and county boards; regional and district boards; state agencies, and the Cabinet, Supreme Court, Legislature and Office of the Governor.

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Prior governmental experience is a necessity in maneuvering through the complex and constantly changing corridors of state and local government. Broad and Cassel's background in state and local government, particularly in the firm's Tallahassee office, is invaluable. The Firm's attorneys possess in-depth knowledge of the intricacies of government, and are recognized as experts in governmental practice.

■ Appellate

Teamwork is an important part of appellate law, and our attorneys often consult with their peers from other practice areas within the firm to best serve client needs. Over the years, we have represented clients in a variety of industries in virtually every area of law. Every lawyer in the group has substantial appellate experience and maintains an active and ongoing appellate practice. Collectively, we have litigated appeals involving a broad range of civil, criminal and administrative matters in every jurisdictional setting in Florida. Our attorneys know many of the judges well, and have practiced before them for many years. Our reputation for quality workmanship, innovative arguments, and straightforward presentation gives us high credibility in our submissions to the Court of Appeals. The strength of Broad and Cassel's appellate team arises from the skill and experience of its attorneys, who have litigated significant cases before the United States Supreme Court and the Florida Supreme Court.

■ Bankruptcy and Creditors' Rights

Broad and Cassel attorneys have extensive experience representing both creditors and debtors in bankruptcy, workouts and reorganizations. When approaching these types of matters we layout individually targeted strategies designed for the special needs of each client, with the goal of representing our clients aggressively, minimizing hardships and maximizing the opportunities associated with these difficult situations. Clients benefit from our extensive experience in bankruptcy-related matters. On the creditor's side, we understand the operations of a financial institution's Special Assets Department. On the debtor's side, we work closely with in-house counsel and lawyers from around the country. If possible, we try to resolve bankruptcy issues outside of the courtroom. However, when necessary, we represent clients in proceedings before the United States Bankruptcy Courts, the U.S. District Courts and state courts throughout Florida.

■ Computer and Technology Litigation

Broad and Cassel recognized the need for computer and technology specific law professionals long ago and established a Computer and Technology Practice Group to best serve clients that manufacture, develop, sell or purchase information and technology systems. Our Computer and Technology Practice Group provides legal counsel to all kinds of businesses in three primary areas: representation of buyers and sellers of computer and information systems; legal counsel to computer and technology companies - from start-ups to established Fortune 500 companies; and litigating various disputes on behalf of technology providers. We are also one of the country's leaders in the integration of technology into the practice of law. The result is consistently top quality representation, improved client service and increased cost-effectiveness.

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■ Constitutional Law and Governmental Litigation

Our team of attorneys is exceedingly capable of handling complex constitutional, statutory and regulatory matters, including experience in litigating cases involving state and local taxes or other exactions, reimbursement programs, licenses or permitting, regulatory takings of property, civil rights, and government contracts. Our team has successfully represented private parties and government agencies and officials at all levels, including administrative action, trial courts, and state and federal appellate courts. We offer premier litigation service for society's tough issues.

■ Construction Law and Litigation

Construction related disputes are serious issues faced daily by construction and architectural design firms, contractors, sub-trades and material suppliers, governmental agencies, real estate development companies and owners of real estate portfolios. The Firm's Construction Law and Litigation Practice Group has extensive experience in the resolution of complex claims, helping clients to manage and control litigation and arbitration costs and avoid unnecessary court action whenever possible. A full range of services is offered to owners, general contractors, sub-contractors, construction managers, sureties, engineers, architects, subcontractors and material suppliers. We have successfully guided clients through matters such as: building envelope failures, water intrusion, and mold issues; contract drafting and negotiations; project dispute resolution procedures including dispute resolution boards, mediation and arbitration; breach of contract claims; claims alleging design and construction errors and omissions; claims for extras, delay, acceleration, disruption, loss of productivity, and out-of-sequence work; and construction lien and bond disputes.

Our objective is always to provide resources, responsiveness, results and superior client service.

■ Eminent Domain

Broad and Cassel is widely recognized as one of the premier Florida law firms in the area of eminent domain and condemnation. For more than 60 years, we have represented both condemning authorities, as well as property owners involved in condemnation actions. Our attorneys handle virtually every aspect of eminent domain and condemnation matters - both routine and complex. Our philosophy is simple: To minimize legal expenses, while delivering the best possible outcome, for our client. We serve as trusted advisors and counselors to our clients. When representing condemning authorities our goal is to deliver the property in the most efficient and cost effective manner possible. And when we represent the property owners affected by the condemnation process, our experience and knowledge in representing condemning authorities proves invaluable, as we strive to obtain the highest possible dollar amount for the subject property. In the past two years, we have handled more than 240 eminent domain cases, including 85 eminent domain actions for the Orlando-Orange County East-West Expressway Authority, and numerous eminent domain actions for the Palm Beach County Board of Commissioners. In addition, we represent local and foreign property owners across the State of Florida in a variety of land use issues.

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■ Estate and Trust Litigation

Broad and Cassel offers legal representation in a full array of estate, trust, guardianship and fiduciary litigation. These areas of litigation include the prosecution or defense of will and trust contests, guardianships, fiduciary accountings, actions challenging the exercise of fiduciary powers, actions to determine the meaning of wills or trusts, challenges and defenses of fiduciary investments and removal and surcharge of fiduciaries. Broad and Cassel Trust and Estate attorneys around the state combine their expertise and skill in the estate, trust and guardianship areas in conjunction with members of our Litigation Services practice area for the most effective handling of these matters. Attorneys who practice in this area have not only acted as litigating attorneys, but have been instrumental in acting as mediators in cases of prominence. Our attorneys are regularly called upon by the judiciary to assist the court as curators, administrators ad litem and attorneys ad litem in contested matters.

■ Health Law Litigation

Our Health Law Practice Group is intimately aware of the complex issues faced by health providers, suppliers and consumers. As our health care clients can testify, we are committed to providing exceptional legal counsel. We serve as advisors and counselors to our clients in this challenging industry. For more than 30 years, we have successfully handled matters in virtually every area of health law, and with all types and sizes of health care clients.

Broad and Cassel's Health Law attorneys provide its clients a full range of legal counsel, including: third party reimbursement, which includes Federal Health Programs such as Medicare and Medicaid and private payor programs; health law litigation and dispute resolution, including Medicare and Medicaid Reimbursement Disputes; mergers and acquisitions / Integrated Delivery Systems; provider operations; Federal Health Program Counseling and Advice; Health Maintenance Organizations (HMOs) and other managed care entities; physician groups; legislative and regulatory; licensure and Certificate of Need (CON); and fraud and abuse (criminal, civil and administrative).

■ Intellectual Property Litigation

For many companies, intellectual property is the most valuable asset of the organization. Our Intellectual Property attorneys help clients create their intellectual property assets, exploit opportunities to create added value through licensing and acquisition, obtain financing, and protect against infringement by unauthorized parties. We provide legal counsel involving intellectual property to a wide array of clients. When it comes to dispute resolution, our intellectual property litigation attorneys have a broad base of experience and have litigated several high profile cases. Our attorneys represent clients in offensive as well as defensive intellectual property litigation, and have counseled them on resolution of intellectual property disputes both in courts and in proceedings before the United States Patent and Trademark Office. The result of our attorney's hard work is the highest quality legal services and business advice for you and to hundreds of established, as well as emerging and middle market companies doing business in Florida and around the world.

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■ Labor and Employment

For many companies, managing the workplace has become an increasingly complex and litigious part of running their business. Luckily Broad and Cassel has built one of the most comprehensive and experienced Labor and Employment Practice Groups in Florida. The attorneys in our Labor and Employment Practice Group believe in litigation prevention and work with clients to prevent unfavorable developments before they happen. When litigation does arise, our attorneys operate on two fundamental principles: 1.) To aggressively represent our client's interest to obtain the most favorable result, and 2.) To minimize the legal fees and related costs associated with any claim. To accomplish these objectives, we work in close partnership with our clients to evaluate cases on the front end. After that, we develop a case-specific litigation strategy and execute that strategy in the most cost-effective manner possible.

Our attorneys have successfully represented clients in union organizing attempts and have handled collective bargaining negotiations. We also routinely represent employers in federal and state courts, as well as before administrative agencies such as the Equal Employment Opportunity Commission, the Public Employees Relations Commission, and various state EEO deferral agencies. We have noteworthy experience in employment litigation, including: employment policies and procedures manuals; management development and training; discrimination cases based on race, sex, age, disability, national origin and religion; whistleblower retaliations; Family Medical Leave Act; sexual harassment issues in the workplace; public accommodations issues under the Americans with Disabilities Act (ADA); issues involving wage and hour regulations; and wrongful termination.

■ Land Use and Environmental Litigation

Our Land Use and Environmental attorneys are leaders in their field and have been selected to represent clients before dozens of local municipalities and counties, the Florida Department of Environmental Protection, Water Management Districts, the Florida Department of Community Affairs, the United States Environmental Protection Agency, the United States Department of Army Corps of Engineers, the United States Department of Interior Fish and Wildlife Service, the National Marine Fisheries Service, the Florida Fish and Wildlife Conservation Commission, the Governor and Cabinet sitting in a variety of capacities, including the Board of Trustees of the Internal Improvement Trust Fund and the Florida Land and Water Adjudicatory Commission, the Florida Department of Transportation, and the Department of Agriculture and Consumer Services. In addition to appearing before these governmental bodies, our attorneys have extensive experience in State of Florida Division of Administrative Hearings administrative adjudication, rule challenge and other proceedings, and in Circuit and Appellate Courts, both in actions for declaratory relief and in appellate actions, regarding land use, zoning, environmental, and other regulatory issues.

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■ Real Estate Litigation

Since its inception in 1946, Broad and Cassel has grown to become one of the largest and most sophisticated real estate law firms in the state. We have handled virtually every type of real estate and business transaction, representing buyers, sellers, developers and lenders of all types and sizes. Unfortunately, disputes arise from time to time. Of course, we counsel our real estate clients on ways to prevent litigation from ever happening in the first place. But when a litigation issue does arise, Broad and Cassel stands committed to providing our clients with the best legal representation available in the State of Florida. Our attorneys concentrate in resolving disputes involving all aspects of the sale, development and financing of real property. Many of these matters generally fall into the following areas of law: Foreclosure and Deed-in-lieu of Foreclosure; Contract Disputes involving the Sale of Real Property; Lease Defaults and Injunctive Relief; Eminent Domain and Condemnation; Broker Commission Disputes; Landlord / Tenant Issues; Zoning, Land Use and Environmental Disputes; Property Tax Disputes; Premises Liability Issues; Title Insurance Claims; and Lis Pendens Issues. In the event that you or your company faces a dispute involving real property in Florida, we invite you to consider our experience and credentials.

■ White Collar Criminal and Civil Fraud Defense

Institutions and individuals confronting all phases of criminal, civil, and even administrative fraud matters – from investigation through trial and on appeal – consistently turn to Broad and Cassel attorneys. Clients benefit from our extensive experience in investigative matters and jury and non-jury trial experience, as well as appeals, not only in Florida courts, but also throughout the United States. When it comes to the representation of corporations or individuals faced with a white-collar criminal or civil defense matter, Broad and Cassel offers the experience, talent, and sophistication that few law firms in Florida can match.

Our attorneys have a sophisticated understanding of how government investigators work at every level as well as our clients' operations and workforce. Broad and Cassel attorneys believe in litigation prevention. Team members have experience and proven success in the informal resolution of investigations, without formal criminal or civil fraud enforcement action. We also have unsurpassed experience in dealing with fraud matters in its many forms (criminal, civil and administrative) and with all its collateral consequences, such as Federal and state sanctions and disciplinary matters and government debarment and exclusions and contractual relationships. We have experience in representing clients before federal and state grand juries, criminal, civil and administrative agency investigations and prosecutions, quasi-criminal enforcement proceedings, jury trials and related complex civil litigation.

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INDUSTRIES REPRESENTED

Our client list in this practice area reads like a "who's who" of domestic and foreign companies doing business in Florida, including companies in the following industries:

- Agriculture
- Automotive/Dealership
- Banking and Lending Institutions
- Computer and Technology Law
- Governmental Agencies
- Hospitals
- Hospitality, including attractions, hotels and motels
- Insurance
- Local and State Governments
- Manufacturing
- Professional Services
- Real Estate Development
- Retail and Wholesale
- Transportation and Distribution
- Utilities