



## Kathryn L. Ender

Partner

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Kathryn ("Katie") Ender is a Florida Bar Board Certified Specialist in Appellate Litigation. Katie co-chairs Dinsmore's national Appellate and Legal Issues practice, and chairs Florida's appellate group. With 17 years of litigation and appellate experience, Katie provides skilled representation and legal counsel to clients from pre-suit demand through trial, and to conclusion of any appeal. Katie's primary areas of practice include insurance coverage, contract law, construction disputes, premises liability negligence, professional negligence, and attorneys' fee disputes.

Katie has significant experience handling complex civil appeals, and has handled over 350 appeals, argued over 50 oral arguments, and obtained over 75 written decisions in Florida's state and federal courts. At the trial level, Katie routinely acts as embedded litigation support counsel, offering strategic support to trial counsel, and handling all legal issues, dispositive motions, jury instructions, and pre- and post-trial motion practice.

As a former member and Vice-Chair of the Florida Bar Standing Committee on Civil Rules, Katie has a multilayered knowledge of Florida's rules of procedure, and uses this to her advantage throughout her practice. Katie has also authored chapters for Florida's Civil Practice Before Trial secondary source (14th edition), and is a frequent presenter on preservation of error, appellate procedure, and issues involving attorneys' fees.

Katie received her law degree from the American University Washington College of Law and, post-graduation, served as a law clerk for the Honorable Vance E. Salter at the Third District Court of Appeal.

### Services

- Appellate | Legal Issues
- Litigation
- Construction Industry

### Education

- American University Washington College of Law (J.D., 2007)
- The Ohio State University (B.A., 2003)

## Bar Admissions

- Florida

## Court Admissions

- U.S. Court of Appeals for the Eleventh Circuit
- U.S. District Court for the Southern District of Florida
- U.S. District Court for the Middle District of Florida
- U.S. District Court for the Eastern District of Wisconsin

## Affiliations/Memberships

- Dade County Bar Association
- Florida Association for Women Lawyers, Miami-Dade Chapter
- Miami-Dade Bar Association
- Broward County Bar Association
- Florida Supreme Court Historical Society
- Florida Bar Standing Committee on Civil Rules (Vice-Chair, 2021-22; Appointed Member 2016-2022)

## Distinctions

- Florida *Super Lawyers*® (2017-2018)
- Recipient, Golden Gavel, Outstanding Litigation Performance awarded by Westfield Insurance Co., June 2016

## Experience

### **Taboada v. Duarte, 3D23-2234, 2024 Fla. App. LEXIS 6326, 2024 WL 3800640 (Fla. 3d DCA Aug. 14, 2024)**

Reversing multi-million dollar judgment enforcing a promissory note, and holding that the note was void and unenforceable under Florida law and principles of judicial estoppel did not apply.

### **Estate of Feliciano v. Rivertree Landing Apts., LLC et al., 387 So. 3d 422 (Fla. 2d DCA 2024), rev. denied SC2024-0787, 2024 Fla. LEXIS 1201, 2024 WL 3630178**

Declining supreme court jurisdiction over district court opinion that reaffirms Florida's long-standing body-of-water doctrine that limits a landowner's liability for drowning in a natural body of water.

### **Citizens Prop. Ins. Corp. v. Avril, 385 So. 3d 140 (Fla. 4th DCA 2024)**

Holding that application of an insurance policy deductible is not a defense that must be pled and requiring trial court to apply the deductible post-verdict where jury was not otherwise tasked with reduction of plaintiff's damages.

### **Full Pro Restoration v. Citizens Prop. Ins. Corp., 373 So. 3d 1189 (Fla. 3d DCA 2023)**

Affirming denial of a continuance of summary judgment hearing where there is no evidence that further discovery would establish relevant material facts.

**Holmes v. LFI Ft. Pierce, et al., SC22-925, 2022 Fla. LEXIS 1505, 2022 WL 4930541 (Fla. 2022)**

Declining to accept jurisdiction in case alleging inter-district conflict over case law applying the going-and-coming rule under section 440.092, Florida Statutes.

**Spradley, etc. et al. v. Citizens Prop. Ins. Corp., 334 So. 3d 716 (Fla. 1st DCA 2022)**

Affirming judgment in favor of Citizens arising from a coverage dispute in a multi-vehicle accident, finding no duty to defend as a result of a policy exclusion for ownership, maintenance, or use of the vehicle.

**Gitlin v. Citizens Prop. Ins. Corp., 331 So. 3d 705 (Fla. 2d DCA 2022)**

Affirming trial court's ruling that payment of an appraisal award did not warrant award of additional attorneys' fees in the insured's favor as litigation as not necessary to resolve the insured's claim.

**J.L. Prop. Owners Ass'n v. Schnurr, 336 So. 3d 291 (Fla. 4th DCA 2022)**

Obtaining partial reversal of a multi-million-dollar final judgment where trial court awarded remittitur of future medical care but denied the defendant's request for new trial, and further developing Florida law on comparative fault, non-delegable duties, and Fabre defendants.

**Sisson v. Titan Florida, LLC, Case No. 2019-CA-009291 AXX, Fifteenth Judicial Circuit in and for Palm Beach County, Florida, reconsideration granted (May 18, 2021)**

Dismissal with prejudice for fraud on the court.

**Bishop v. Lipman & Lipman, Inc., 321 So. 3d 724 (Fla. 2DCA 2021)**

Affirming judgment in favor of defendant on claims for wrongful termination brought pursuant to Florida's Whistleblower Act.

**Bender v. Shatz, 300 So. 3d 193 (Fla. 4th DCA 2020)**

Affirming order denying, in part, a motion to quash a writ of garnishment, and developing Florida law on the parties' respective burdens under chapter 77, Florida Statutes.

**MiMedex Grp., Inc. v. Perring, 298 So. 3d 679 (Fla. 4th DCA 2020)**

Granting petition for writ of certiorari and quashing trial court order requiring disclosure of privileged audit report prepared by third-party retained to advise regarding alleged corporate misconduct.

**Walters v. Beach Club Villas Condo., Inc., 301 So. 3d 343 (Fla. 3d DCA 2020)**

Substantially developing Florida law relating to the scope of non-delegable duties of property owners.

**Atlantic Civil, Inc. v. Swift, 271 So. 3d 32 (Fla. 3d DCA 2018)**

Holding that a proposal for settlement is invalid and unenforceable when it requires mutual acceptance by multiple offerees. *Jurisdiction denied* Case No. SC19-409, 2019 WL 7286911, 2019 Fla. LEXIS 2418 (Fla. Dec. 30, 2019)

**R. Randy Gonzalez v. Pacheco, 254 So. 3d 527 (Fla. 3d DCA 2018)**

Concluding that a joint proposal for settlement conditioned upon mutual acceptance deprived multiple offerees of their ability to independently evaluate and accept the proposal, making it invalid and unenforceable. *Jurisdiction denied* Case No. SC18-1940, 2019 WL 4165124, 2019 Fla. LEXIS 1557 (Fla. Sept. 30, 2019)

**Amerisure Ins. Co. v. Auchter Co., 2018 WL 4293149 (M.D. Fla. 2018), reconsideration denied, WL 632297 (M.D. Fla. 2019)**

Granting summary judgment in favor of surety on novel issue of Florida and Georgia insurance law in a construction defect case.

**Patel v. Prudential Ins. Co. of Am., 758 Fed. Appx. 771 (11th Cir. 2018)**

Affirming summary judgment and holding that the insured permissibly assigned the death benefit proceeds of a life insurance to a bank as collateral.

**Brookie v. Winn-Dixie Stores, Inc., 213 So. 3d 1129 (Fla. 1st DCA 2017)**

Affirming final summary judgment in the defendants' favor, concluding that the condition was open and obvious and not inherently dangerous, and that a plaintiff has a duty to exercise reasonable care for his own safety.

**Cendejas v. K.C. Tile & Marble, Inc., 203 So. 3d 164 (Fla. 2d DCA 2016)**

Denying certiorari relief to third-party claiming Fifth Amendment Privilege.

**Palm-Aire Holdings, LLC v. JRGS Invs., LLC, 208 So. 3d 714 (Fla. 3d DCA 2016)**

Affirming final judgment in favor of a managing member and disallowing plaintiff to pierce the corporate veil.

**Muirhead v. Peterson & Smith Equine Hosp., LLC, 198 So. 3d 638 (Fla. 5th DCA 2016)**

Affirming final judgment in favor of defendant after trial court granted judgment notwithstanding the verdict.

**De La Torre v. Flanigan's Enterprises, Inc., 187 So. 3d 330 (Fla. 4th DCA 2016)**

Affirming final judgment for defendant on the basis of Florida's Reverse Dram Shop Act.

**Gardner v. Rondon, 187 So. 3d 1256 (Fla. 4th DCA 2016)**

Affirming order enforcing settlement agreement after tender of insurance proceeds.

**Dickerson Fla., Inc. v. Taylor Engineering, Inc., 177 So. 3d 253 (Fla. 1st DCA 2015)**

Final judgment in favor of defendant where plaintiff sought over \$15 million in damages allegedly occurring during a dredging project.

**Martin v. Halifax Healthcare Sys., 621 Fed. Appx. 594 (11th Cir. 2015)**

Affirming order granting summary judgment in defendant's favor finding no violation of the ADA or Rehabilitation Act.

**Lakeland Regional Med. Ctr. v. Rodriguez, 175 So. 3d 295 (Fla. 2d DCA 2015)**

Affirming administrative order entered pursuant to Florida's Birth Related Neurological Injury Compensation Act.

**Armour v. Hass, 190 So. 3d 109 (Fla. 4th DCA 2015)**

Issuing a writ of certiorari quashing the trial court's order permitting premature legal malpractice claim to proceed.

**Brophy v. Jiangbo Pharmaceuticals, 781 F.3d 1295 (11th Cir. 2015)**

Affirming order of dismissal for failure to meet heightened pleading requirement of the Private Securities Litigation Reform Act, in Chinese Pharma Class Action litigation.

**Bhogaita v. Altamonte Heights Condo. Ass'n, 765 F.3d 1277 (11th Cir. 2014)**

Affirming summary judgment granted in favor of a condominium association on a Fair Housing Act claim due to failure to accommodate asserted need for a therapy dog.

**Rojas v. Buena Vista Concessions, Inc., 117 So. 3d 1109 (Fla. 5th DCA 2013)**

Affirming trial court's order dismissing plaintiff's action as a result of execution of an exculpatory agreement.

## Publications

May 1, 2023

**Delegating the Nondelegable [Duty]**

The Barrister, Broward County Bar Association

May 26, 2022

**Florida Supreme Court Bars Nonmonetary Terms in Proposals for Settlement**

LBBS Legal Alerts

January 1, 2022

**Florida Civil Practice Before Trial, ch. 11 (Joinder) and ch. 13 (Motions and Orders)**

Florida Civil Practice Before Trial 14th ed.

April 29, 2021

**Florida Supreme Court Adopts Federal Summary Judgment Standard, Substantially Conforming Florida's Rule 1.510 to Federal Rule 56**

LBBS Legan Alerts

May 24, 2019

**Florida Supreme Court Resurrects the Daubert Standard**

LBBS Appellate Daily Blasts