

CATHERINE J. MACIVOR

PARTNER, COMPLEX LITIGATION, COMPLIANCE AND EMPLOYMENT LAW GROUP

A veteran litigator, corporate strategist and trusted advisor to private and public companies for over thirty years, clients seek counsel from Ms. MacIvor concerning corporate risk management strategy and corporate compliance with state and federal laws. With an extensive history of representing senior leadership in crisis and risk situations, Ms. MacIvor's practice focuses on providing independent counsel to clients by investigating facts, providing critical legal guidance and, when appropriate, objective remediation recommendations.

Ms. MacIvor has earned recognition as an experienced litigator and business lawyer in both federal and state courts, arbitrations, and in matters brought by government agencies concerning legal compliance, and dispute prevention throughout the United States. She has successfully defended corporate clients in complex litigation and appeals in a wide array of state and federal class and collective actions and multi-party litigation. Ms. MacIvor has significant experience in defending cases such as high-stakes breaches of contract, breaches of fiduciary duty and other business torts, the California Invasion of Privacy Act (CIPA), California Consumer Privacy Act (CCPA), the California Privacy Rights Act (CPRA), Deceptive Trade Practices Act, Fair Credit Reporting Act (FCRA), FDCPA (Fair Debt Collection Practices Act), Florida Consumer Collection Practices Act (FCCPA), Telemarketing Sales Rule (TSR), the Telephone Consumer Protection Act (TCPA), and privacy and data breach litigation and class action defense. She also defends labor and employment and collective actions, including employment discrimination, harassment and retaliation lawsuits, wage and hour actions, and trade secret and restrictive covenant matters, and Americans with Disabilities Act (ADA) litigation concerning enforcement against public accommodations.

Ms. MacIvor is outside general counsel for several companies and regularly provides advice to her clients concerning corporate compliance, dispute resolution and diversity, including equity, and inclusion programs, environmental, social, and governance risks, and compliance with federal, state, and local laws. Ms. MacIvor conducts sensitive investigations and internal audits and assists clients with developing best-practices and corporate compliance policies. She has substantial experience in leading the defense of public and private companies facing government scrutiny and related litigation, including the Department of Justice, the Federal Trade Commission, and the state Attorneys General.

She has extensive experience in matters involving the design, implementation, and monitoring of effective policies, programs, procedures, and practices surrounding compliance by companies and their employees and other representatives with legal and regulatory requirements applicable to the organization's business activities as well as detection of potential violations of same, including privacy, cybersecurity, and incident response, telemarketing compliance, Title VII, the public accommodation provisions of the ADA, and avoidance of such claims. She also assists her clients in developing internal policies and procedures to minimize risks and facilitate compliant conduct to reduce her clients' exposure to any potential non-compliance with regulatory laws.

Clients value Ms. MacIvor's counsel on employment policy development, compliance audits, preventative measures as well as her success in administrative agency proceedings arising out of alleged labor and employment law violations, class and collective action litigation and appeals, including Title VII, Section 1981, FLSA, ADA, FMLA, and the Florida Civil Rights Act in state and federal courts. Ms. MacIvor also counsels, routinely advises and provides training to clients on issues involving hiring/firing, discrimination (including harassment), retaliation, diversity, Family and Medical Leave Act (FMLA), discrimination, and wage and hour compliance.

Ms. MacIvor knows how to win. With over three decades of experience representing clients in high-stakes litigation, she is skilled at relentlessly representing the interests of her clients. She understands the importance of defining a "win" based on business goals and she knows how to achieve them before judges, juries, administrative bodies, and with opposing parties. Because of this unique combination of skills, Ms. MacIvor's clients trust her with their most complex, high-stakes litigation, regulatory investigations and compliance issues.

Throughout her years representing clients, she has focused on obtaining results that advance clients' strategic business goals and maintained a winning track record defending business-related cases, regulatory compliance matters and class and collective actions. Ms. MacIvor is rated AV® Preeminent™ by Martindale Hubbell Peer Review Ratings, indicating her peers ranked her at the highest level of professional excellence in terms of both legal ability and ethical standards.

MS. MACIVOR'S EXPERIENCE INCLUDES:

Americans with Disabilities Act

Litigation

- Defended numerous individual and class actions brought against public accommodations for alleged breaches of the ADA in which plaintiffs sought to obtain policy changes and alterations of existing structures, which would have caused the public accommodations to incur millions of dollars for such alterations.
- Motion to dismiss with prejudice granted in personal injury action premised on purported violations of the ADA.
- Motion to dismiss with prejudice granted in ADA case requesting modifications of policies, procedures and alterations to fleet of vessels, which was affirmed by the Eleventh Circuit.

Compliance

- Designed numerous compliance programs for companies and regularly train corporate employees on ADA compliance and sensitivity.
- Draft policies, procedures and terms and conditions for companies to comply with the ADA.

Class Action Defense

- Summary judgment precluding class certification in favor of public hospitality company in class action brought by plaintiffs for alleged breach of contract.
- Dismissal of class action based on enforcement of contractual forum selection clause in which plaintiffs sought millions of dollars in damages relating to COVID-19 outbreak. Dismissal was affirmed by the Eleventh Circuit.
- Represented nationally renowned healthcare company in successful defense of class action alleging violation of the FCCPA and other statutes, resulting in dismissal of claims.
- Denial of class certification in class action brought by passengers against transportation company for personal injury claims after collision in the English Channel, which was later affirmed by the Eleventh Circuit, and individual action later resulted in defense verdict.
- Denial of class certification in maintenance and cure claim brought by plaintiffs seeking millions of dollars for unpaid living expenses and other damages.
- Denial of class certification in which plaintiffs sued public transportation company seeking millions of dollars in alleged breach of contract damages based on mechanical breakdown of vessel.
- Denial of class certification in maritime penalty wage case in which plaintiffs were seeking millions of dollars for unpaid wages.
- Dismissal of class action against hospitality company for emotional distress and personal injuries based upon vessel grounding.
- Represented two national public transportation corporations in one of the largest TCPA class action lawsuits in the U.S., resulting in favorable settlement.
- Successfully represented transportation company in class action seeking millions of dollars in damages for alleged unpaid wages and purported violations of other statutes, resulting in favorable settlement.
- Represented transportation company in successful defense of class action brought by consumers alleging violation of consumer protection and deceptive trade practices laws, resulting in favorable settlement.
- Successfully obtained decertification of existing class in Federal Court and existing class in state appellate court for alleged personal injuries sustained due to outbreak of infectious disease. The state court appellate reversal of the order granting class certification was later affirmed by the state supreme court.

Commercial Litigation & Appeals

- Successfully defended investment company in action brought by former investor for contract, tort and statutory claims and sought damages in excess of \$5 million, which resulted in favorable settlement.

- Successfully defended a public transportation company in defending claims seeking tens of millions of dollars for alleged unpaid fees pursuant to a contract, which resulted in a favorable settlement.
- Successfully defended hospitality company against vendor and supplier seeking millions of dollars in a breach of contract and countersuit for sale of defective products, which resulted in a favorable settlement.
- Successfully defended hospitality and transportation companies for multiple lawsuits based on contractual disputes, fraud and fraudulent misrepresentation, resulting in dismissal of lawsuits.
- Successfully obtained dismissal of suit brought against hospitality company in breach of settlement agreement in which the enforcing party sought in excess of \$5 million action.
- Eleventh Circuit affirmed summary judgment in favor of hospitality company concerning contractual limitations period.
- Eleventh Circuit affirmed summary judgment in favor of transportation company concerning contractual limitations period and rejected equitable tolling.

Government Investigations and Litigation

- Successful defense of regulatory investigations by state Attorney General concerning deceptive and unfair trade practices, securities laws and other statutory laws, which resulted in favorable settlement.
- Successfully defended hospitality company in investigation and subsequent lawsuit brought by the Department of Justice concerning purported ADA violations, which resulted in favorable consent decree.
- Successfully represented transportation and hospitality companies in response to civil investigative demands from the Department of Justice, Federal Trade Commission and state Attorney General.
- Successfully defended Department of Justice's attempt to enforce Consent Decree for purported breach of settlement agreement.
- Represented transportation company in investigation of data breach by state Attorney General in which the company avoided penalties.

Labor and Employment

Litigation

- Successful defense of Fair Labor Standards Act collective action brought against nationally recognized mortgage corporation, resulting in favorable settlement.
- Successful defense of sexual harassment claim brought against national company and senior manager resulting in highly favorable pre-suit settlement.

- Successfully represented transportation company in Family Medical Leave Act litigation.
- Represented numerous companies in ADA employment litigation by obtaining dismissals and summary judgments.

Compliance, Policies and Procedure

- Draft employee handbooks, policies and procedures to comply with federal and state laws and regulations.

PRACTICES

Americans with Disabilities Act Compliance, Risk Management
 Americans with Disabilities Act Litigation
 Class and Collective Action Defense and Arbitrations
 Complex Commercial Litigation Defense and Arbitrations
 Complex Litigation Defense and Arbitrations
 Consumer Protection Compliance, Risk Management
 Consumer Protection Litigation
 Employment Litigation
 Employment Administrative Claims Defense
 Employment Training and Compliance
 Labor and Employment
 Trade Secrets, Restrictive Covenants, and Unfair Competition
 Wage and Hour

EDUCATION

J.D., University of Miami School of Law
 B.A., Boston University, *magna cum laude*, English Literature

ADMISSIONS

Bars

Florida

Courts

United States District Court for the Southern and Middle Districts of Florida

United States District Court for the Northern District of Illinois

United States Court of Appeals for the First Circuit

United States Court of Appeals for the Fifth Circuit

United States Court of Appeals for the Seventh Circuit

United States Court of Appeals for the Ninth Circuit

United States Court of Appeals for the Eleventh Circuit

United States Supreme Court

Honors and Distinctions

Rated AV® Preeminent™ by Martindale Hubbell Peer Review Ratings

Presentations And Corporate Training

Legal and Insurance Seminar, International Council of Cruise Lines, Ninth Annual Leadership Forum, presentation on emotional injury developments in the Eleventh Circuit.

Presentation to South Florida risk managers on effective social media policies.

Corporate compliance training and development of complaint policies, procedures and manuals on a wide range of statutes, laws and regulations, including the Telephone Consumer Protection Act and Telemarketing Sales Rule, the Americans with Disabilities Act, Title VII, sexual harassment and assault, wage and hour laws and PCI-DSS compliance.