

# Thomas M. Karr

## Shareholder

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## Practice & Industry Areas

- Private Wealth Services
- Probate, Trust & Guardianship Litigation
- Fiduciary Risk Management

## Education

- University of Miami School of Law, J.D., cum laude, 1982
- University of Miami, B.A., cum laude, 1979

## Bar & Court Admissions

- Florida, 1982
- U.S. District Court
  - Southern District of Florida
  - Middle District of Florida
  - Northern District of Florida
- 11th Circuit Court of Appeals

## Overview

Tom Karr practices exclusively in the area of probate, trust and fiduciary litigation. He represents fiduciaries and individuals in complex and disputed estates and trusts, including representation in will and trust contests, actions to construe, modify and reform wills and trusts, breach of fiduciary duty claims, as well as proceedings to remove and surcharge fiduciaries.

During the first two decades of Tom's career, his practice also included complex commercial litigation. This experience involved serving as trial counsel in cases involving securities fraud claims, product liability, lender liability, the valuation of nuclear power plants for ad valorem tax purposes, as well as in representing the Secretary of State of Florida in the landmark case of *Gore v. Bush*.

Tom employs a practical and results driven approach to litigation. He is highly analytical in order to devise the best possible strategy for each matter. In addition, Tom believes that the

course of action for any dispute is also grounded in the individual client's often specific and tangible goals. Clients appreciate that Tom is all about positive outcomes and what they need specifically, which is why they continue to retain him again and again.

Tom is a fellow of the American College of Trust and Estate Counsel and a member of both the Fiduciary Litigation and Asset Protection Committees. He is the past chair of the Probate and Trust Litigation Committee of the Real Property Probate and Trust Law Section of the Florida Bar, and serves as an Executive Council member and a member of the Trust Law and Probate Law Committees.

A charismatic speaker, Tom is frequently asked to address topics related to probate, trust and fiduciary litigation.

## **Representative Matters**

- Surviving spouse in will and trust controversy culminating in modification of marital trust and lump sum payments
- Representation of fiduciaries in their capacities as shareholders in various corporate entities
- Representation of beneficiaries of long term trust in trust construction and reformation action
- Defense of individual trustee and personal representative in action for surcharge and removal based on claims of mismanagement of investment portfolio
- Trust beneficiary claim to modify trust
- Prosecution of claim on behalf of corporate trustee to determine title and ownership of retirement account involving issues of undue influence and lack of capacity
- Corporate fiduciary's claim for return of estate assets conveyed during decedent's lifetime as a result of fraud and undue influence
- Representation of trust beneficiary in proceeding to amend trust regarding trustee succession
- Representation of beneficiary to estate investigating identity, nature and value of estate assets
- Representation of personal representative in action seeking determination of homestead and defending against charges of maladministration and surcharge
- Defense of private individual serving as personal representative and trustee from claims seeking removal and surcharge
- Action to preserve estate assets including a determination of beneficiary status due to beneficiary's alleged murder of the decedent
- Claimant in action against estate for breach of contract claim
- Defense of a large national charitable institution as residuary beneficiary
- Private individual in action to revoke probate of lost or destroyed will

- Citicorp Trust and private individual as co-trustees of irrevocable trust in litigation attacking validity of trust and elective share claim
- Private individual serving as personal representative of estate in litigation arising out of elective share claim
- Private individuals as intestate heirs of estate in injunctive relief action to obtain return of wrongful distributions
- Two large national charitable institutions as residuary beneficiaries of a trust in a litigated dispute with the trustee over trust administration and professional fees
- Ex-spouse of a decedent enforcing multiple claims against the decedent's estate arising out of a property settlement agreement
- WCI Communities, Inc., one of the largest real estate developers in Florida, in a complex inverse condemnation and substantive due process action arising out of the City of Coral Springs' imposition of a moratorium on multi-family housing
- A private individual in a probate action involving proceedings for a will contest, tax apportionment and accounting of trust assets
- FPL Group, Inc. in two shareholder derivative actions arising out of the payment of certain employment benefits resulting from a single trigger change of control provision in connection with shareholder approval of a merger
- A private owner of a piece of real property valued by the Miami-Dade County Property Appraiser in excess of \$34 million in a proceeding to obtain an agricultural classification of the property
- Former Secretary of State of Florida, Katherine Harris, in multiple actions throughout Florida arising out of the 2000 Presidential Election; direct involvement in trial of main action and subsequent appeals to the United States and Florida Supreme Courts
- OLDE Discount Corporation, now known as H&R Block Financial Advisors, Inc., in a class action for alleged securities fraud, consumer fraud and common law fraud in the Superior Court of Maricopa County, Arizona
- Morgan Stanley Dean Witter & Company, Discover Card Financial Services, Inc. and Greenwood Trust Company in a putative class action for alleged consumer collection practice violations and unfair trade practices in the U.S. District Court for the Southern District of Florida
- Cap Gemini America, Inc., one of the nation's largest information technology consulting companies, in a complex breach of contract action arising out of the development and installation of specialized software to improve the manufacture of glass containers
- Nissho Corporation, a Japanese manufacturer of medical devices and its U.S. subsidiary, Nipro Medical Corporation, in a dispute with its distributor and the Federal Food and Drug Administration arising out of allegedly defectively designed dialysis devices
- Florida Power & Light Company in an action arising out of administrative proceeding to enforce rules promulgated by Florida Public Service Commission
- FPL Group, Inc. in several actions throughout Florida, including Dade, St. Lucie, Putnam and Duval counties, contesting the ad valorem assessments of its tangible personal and

real property, including the valuations of its nuclear power plants as affected by recent changes in the regulation of the power industry

- McDonald's Corporation in franchise territorial dispute in U.S. District Court for the Southern District of Florida
- FPL Group, Inc. in U.S. District Court for the Southern District of Florida defending action for damages arising out of alleged exposure to nuclear radiation; motion to dismiss granted, affirmed on appeal to the Eleventh Circuit Court and certiorari denied by the U.S. Supreme Court
- Price Waterhouse in the U.S. District Court for the Southern District of Florida in action for securities fraud and accounting malpractice action seeking damages in excess of \$100 million
- Miami-Dade Community College, a two year, state-supported community college that serves more than 120,000 students each year from five campuses and numerous outreach centers, in action against the contractor and architect for construction delay and defects and architectural malpractice
- K-Mart Corporation in a construction delay action in the U.S. District Court for the Southern District of Florida
- NCL Corp. in superfund cost recovery claim of approximately \$10 million in the U.S. District Court for the Southern District of Florida
- Carner Mason Associates, Ltd. in a breach of contract suit against the City of Miami Beach and its redevelopment agency over the development of one of the largest marina projects in the Southeastern United States
- FPL Group, Inc. in U.S. District Court for the Middle District of Florida in complex RICO and breach of contract action Mitsubishi Motor Sales of America, Inc. (MMSA) and Value Rent A Car, Inc. in a complex fraud and breach of contract action arising out of MMSA's acquisition of Value Rent A Car, Inc.
- Southeast Bank in a complex lender liability action
- Alumax, Mitsubishi Motor Sales of America, Inc., Nissan Motors, Motorola Corp. and several other major corporations in a complex fidelity bond action in the Federal District Court for the Central District of California
- Alumax Extrusions, Inc. in Benton, Indiana in complex breach of contract

## Honors

- *The Best Lawyers in America*®, Trusts & Estates Litigation, 2016-24
- *The Best Lawyers in America*® Business Edition: The Litigation Issue, 2021
- *South Florida Legal Guide*, "Top South Florida Lawyer," 2007-13
- *Florida Super Lawyers*, 2007-23
  - "Top 100 Miami Lawyers," 2013
- *Florida Trend Magazine*, "Legal Elite," 2007-13, 2021

## Publications & Presentations

- “Evidentiary Presumptions in Undue Influence Cases.” American College of Trust and Estate Council, Washington, D.C., June 2023
- “Case Law Update,” 2019 RPPTL Probate Law Seminar, Fort Lauderdale, Florida, November 15, 2019
- “Tortious Interference with an Expectancy,” Litigation and Trust Law Symposium, Fort Lauderdale, Florida, March 29, 2019
- “From Privilege to Conflicts to Malpractice and a Few Things In-Between- Deep Thoughts for Fiduciaries,” Estate Planning Council of Greater Miami, Florida, March 15, 2018
- “Case Law Update,” 2016 Wills, Trusts, & Estates Certification Review Course, April 8, 2016
- “Case Law Update,” Estate Planning Council of Greater Miami, Miami, Florida, April 16, 2015
- “Case Law Update,” 2015 Wills, Trusts & Estates Certification Review Course & Advanced Practice Update, Orlando, Florida, April 9, 2015
- “Fiduciary Litigation Issues,” Litigation and Trust Law Symposium, Fort Lauderdale, Florida, February 20, 2015
- “Cautionary Tales... Recent Case Law on Fiduciary Liability,” 33rd Annual Attorney/Trust Officer Liaison Conference, Naples, Florida, June 13, 2014
- “Case Law Update,” Collier County Bar Association Trusts and Estates Section, Florida Probate, Trust & Estate Case Law Update, Naples, Florida, May 1, 2014
- “Don’t Repeat What I Say Unless . . . (Hearsay in Probate and Trust Litigation),” Litigation and Trust Law Symposium, Tampa, Florida, April 25, 2014
- “Case Law Update,” 2014 Wills, Trusts & Estates Certification Review Course & Advanced Practice Update, Orlando, Florida, April 4, 2014
- “Legislative Developments Impacting Litigation and Arbitration,” RPPTL 2013 Legislative Update & Executive Council Meeting, Palm Beach, Florida, July 26, 2013
- “Case Law Update,” 2013 Wills, Trusts & Estates Certification Review Course & Advanced Practice Update, Orlando, Florida, April 5, 2013
- “2012 Estate & Trust Litigation Update,” 47th Annual Heckerling Institute on Estate Planning, Orlando, Florida, January 17, 2013
- “There’s a New Appellate Rule in Town — Rule 9.170 Appeal Proceeding in Probate and Guardianship,” Legislative and Case Law Update, Palm Beach, Florida, July 27, 2012
- Florida College of Advanced Judicial Studies, faculty member and lecturer, Naples, Florida, June 7, 2012
- “Case Law Update,” 2012 Wills, Trusts & Estates Certification Review Course & Advanced Practice Update, Orlando, Florida, March 9, 2012
- “Fiduciary Litigation,” Community Foundation of Collier County 9th Annual Professional Advisors Conference, Naples Florida, November 10, 2011

- “Serving Outside the Lines: Personal Jurisdiction Over Nonresident Trustees and Beneficiaries,” The Florida Bar Trust and Estate Symposium 2011, Tampa, Florida, May 12, 2011; Fort Lauderdale, Florida, May 13, 2011
- “We’re Warmer than Alaska! Should Florida Adopt Self-Settled Asset Protection Trusts?” The Florida Bar Trust and Estate Litigation Symposium 2010, Fort Lauderdale, Florida, February 10, 2010; Tampa, Florida, February 11, 2010
- “Appeals of Probate Actions,” Florida Legal Education Association — The Probate Team 2009, Tampa, Florida, October 2, 2009
- “Florida’s Proposed Domestic Asset Protection Trust Statute-Panacea or Pandora’s Box,” Florida American College of Trust and Estate Counsel Annual Meeting, Orlando, Florida, September 12, 2009
- “Current Litigation Topics of Elective Share,” Sarasota Bar Association, Estate Planning and Probate Section, Sarasota, Florida, May 27, 2009
- “The Best Laid Plans — A Showdown Between the Drafters and the Litigators,” The Florida Bar Trust and Estate Litigation Symposium 2009, Tampa, Florida, February 12, 2009; Fort Lauderdale, Florida, February 13, 2009
- “Trustee Surcharge Actions,” Attorney Trust Officer Liaison Conference, June 19, 2008
- “Removing the Trustee or Modifying the Trust: Just How Difficult or Easy Is It?” The Florida Bar Trust and Estate Symposium 2008, Tampa, Florida, February 8, 2008; Fort Lauderdale, Florida, February 18, 2008
- “Two Sides to the Trustee Dilemma: Who Pays While Defending Fiduciary Liability Litigation?” The Florida Bar Trust & Estate Symposium 2007, Tampa, Florida, May 17, 2007; Fort Lauderdale, Florida, May 25, 2007
- Multiple speeches to members of the Miami-Dade and Collier County Bar Associations and the Corporate Fiduciaries of Southwest Florida on current litigation topics

## **Professional Associations & Memberships**

- Florida Bar, Real Property Probate and Trust Law Section
  - Physician Order for Life Sustaining Treatment (“POLST”) Committee, Co-Chair
  - Legislative Update Committee, Chair
  - Probate and Trust Litigation Committee, Past Chair
  - Probate Law Committee
  - Trust Law Committee
- Florida Bar
  - Grievance Committee 11th Circuit
    - Former Member
    - Chair
- American College of Trust and Estate Counsel (ACTEC), Fellow
  - Fiduciary Litigation Committee
  - Asset Protection Committee

- The Estate Planning Council of Greater Miami
- American Bar Association
- Dade County Bar Association
- Phi Alpha Delta

## **Civic & Community Service**

- Lawyers for Children Task Force
  - Member and Guardian
  - *Ad Litem*
- Domestic Violence Task Force
- U.S. Selective Service Board, appointed by President of the United States, Retired, 1993-13
- Haitian Asylum Task Force
- Hurricane Andrew Crisis Task Force
- Coral Gables War Memorial Youth Center
  - Board of Directors
  - Scholarship Committee