

SPECIAL REPORT

Top Litigation Shops

Laden with talent, these small but dynamic firms have earned distinction with an array of impressive courtroom victories

The South Florida legal community has a lot of talent in small places. While large, full-service firms often steal the big headlines, smaller litigation boutiques score more than their share of big courtroom victories.

What follows is a look at some of the legal work done by a handful of South Florida's "Top Litigation Shops."

The law firms and legal work in this section are a sampling and this special report is in no way meant to be all-inclusive or definitive.

The editors made selections for this section based on the impact of the cases, details of the litigation, and with an eye toward representing the vast array of litigation work handled by South Florida boutiques.

— The Editors

Coffey Burlington on winning side of veteran judge's toughest decision

The firm: Coffey Burlington

The lawyers: Paul J. Schwiep, Kendall B. Coffey, Robert K. Burlington

The case: Sierra Club v. Army Corps of Engineers, Rinker Group, Tarmac America, Florida Rock Industries, APAC-Florida and Miami-Dade Limestone Products Association.

In 2003, the Sierra Club and a coalition of organizations devoted to environmental protection sued the Army Corps of Engineers in federal court in the District of Columbia, charging the Army had issued permits to conduct rock mining in the Everglades without conducting proper studies of the environmental impact.

When several of Florida's largest rock mining companies intervened, the case was transferred to U.S. District Court for the Southern District of Florida. Although the case originally focused on threats to wildlife, the environmental groups later argued the blasting material used by the miners to break up limestone deposits in the rock pits produces benzene, a known carcinogen, and this could pollute wells that furnish much of the drinking water of Miami-Dade County residents.

The plaintiffs, led by the Coffey Burlington team, asked Senior Judge William M. Hoeveler to shut down the county's rock mining industry, which provides 40 percent of the limestone used throughout Florida. The defendants insisted their operations were safe and warned that imposing a ban on mining would be an economic disaster for the state.

When an evidentiary hearing finally began in June 2006, the mining companies and the Army deployed an array of attorneys that included partners from half a dozen of Florida's leading law firms, plus high-ranking litigators from the U.S. Department of Justice.

On an average trial day, according to Coffey Burlington, the defendants had 17 lawyers in the courtroom.



From left, Robert K. Burlington, Kendall B. Coffey and Paul J. Schwiep stopped a mining operation in the Everglades.

Proceedings extended over six months, including 36 days of actual argument. Dozens of experts testified, and nearly 500 exhibits were offered by the opposing sides.

In an August interview with the Daily Business Review, Judge Hoeveler said the case presented the most difficult decision he has ever made in his 30-year career.

The outcome/impact: Last July, Judge Hoeveler issued a 200-page opinion that found the mining may pose a serious threat to public safety and compelled three of the defendant companies — which account for almost half of total production — to cease all mining in the Miami Lake Belt quarries until

the Corps of Engineers completes a study and certifies that such operations pose no threat to public health and safety. The defendants appealed and asked the 11th U.S. Circuit Court of Appeals to stay Judge Hoeveler's decision until the appellate court reviewed the case. Immediate enforcement of the ruling, they asserted, would cause "billions of dollars of economic output to be lost." A panel of the 11th Circuit denied the request for an injunction and the ban went into effect. Oral arguments on the appeal are scheduled for Nov. 28.

Other cases: Coffey Burlington partners prevailed on behalf of plaintiffs and defendants in a pair of noteworthy cases this year, although both have appeals pending. Partner Susan E. Mortensen successfully defended Miami's Sieger Suarez Architectural Partnership against charges it had plagiarized copyrighted designs, using them to build two luxury condominiums — the Trump Palace and the Trump Royale — in Sunny Isles Beach.

Plaintiff Paul Oravec, represented by Chicago's powerhouse law firm Kirkland & Ellis, had demanded \$120 million in damages and accused the Miami architects of professional malpractice. After a bench trial, U.S. District Court Judge Patricia A. Seitz dismissed all of the charges and damage claims.

As plaintiffs, the firm won a \$2 million judgment for a Panamanian firm, L'Arbalete Inc., against the owners of the Miami Merchandise Mart, Georgi and Lourdes Zaczac. The defendants argued that under Florida law, money that had been advanced to them by L'Arbalete was a usurious loan. But U.S. District Judge Paul C. Huck ruled the financial transaction was made under Delaware law, which has no limit on interest that can be charged on loans over \$100,000. Besides, Judge Huck said, the deal was structured as an investment, not a loan, so that even under Florida law the Zaczac's had no case.

— Dan Cordtz