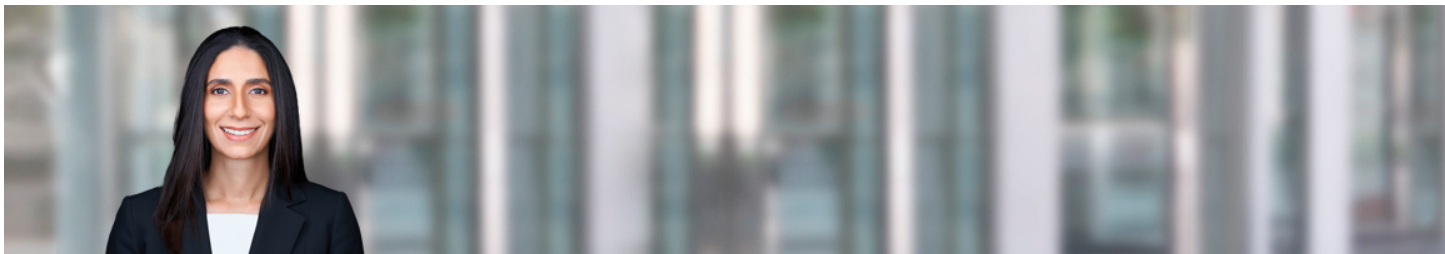


Andrea Nathan



Shareholder

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PRACTICE AREAS

Litigation & Dispute Resolution

Antitrust, Competition &

Consumer Protection

OVERVIEW

Andrea Nathan is a trial and appellate lawyer with significant experience representing clients in complex commercial disputes in state and federal courts throughout the country. Andrea's practice includes all areas of commercial litigation, with an emphasis on class actions, contract disputes, and securities and corporate litigation. She also routinely advises clients on compliance issues relating to marketing messages, advertisements, and other promotional communications.

REPRESENTATIVE EXPERIENCE

Represented national vacation ownership company and title company as defendants in a class action removed to the United States District Court for the Western District of Missouri alleging the unauthorized practice of law, which sought damages of over \$20 million. On every claim asserted, the District Court granted defendants' motion for summary judgment.

Represented national vacation ownership company as defendant in United States District Court for the Southern District of New York, where over 100 owners at The Manhattan Club had asserted various claims and touted damages of over \$100 million. The district court dismissed the single federal claim with prejudice and declined to exercise supplemental jurisdiction over the remaining claims.

Represented the vacation ownership company Bluegreen Vacations Unlimited, Inc. defending against a proposed class action filed in the United States District Court for the Southern District of Florida asserting claims under the Telephone Consumer Protection Act and seeking damages of over \$420 million. The district court denied class certification, and the Eleventh Circuit affirmed.

Represented national vacation ownership company defending against a proposed class action filed in the United States District Court for the Southern District of Florida asserting claims under the Military Lending Act and seeking to rescind

vacation ownership contracts entered into nationwide over at least the prior two years. After extensive discovery, the District Court affirmed the Magistrate's Report and Recommendation finding that the plaintiffs lacked Article III standing and dismissing the case. The Eleventh Circuit affirmed the dismissal.

Represented Bluegreen as plaintiff in Florida Circuit Court challenging a condominium board's refusal to hold free and fair owner elections for the condominium's board of directors. After years of litigation and discovery, the Circuit Court entered summary judgment and an injunction ordering a free and fair owner election. The Fifth District Court of Appeal affirmed that summary judgment order for Bluegreen.

Successfully obtained \$2.2 million final judgment on behalf of an aircraft charter company in breach of contract action by successfully arguing on summary judgment that liquidation clause was valid and enforceable.

Represented a publicly-traded holding company, BFC Financial Corporation, now BBX Capital Corporation, its subsidiaries, and certain officers and directors in 10 shareholder class actions, 8 of which were resolved with defendants paying no money to the plaintiffs. Included in those was the dismissal with prejudice of a complaint seeking to challenge the merger of BFC and BBX valued at over \$250 million because the Florida appraisal statute provided the exclusive remedy, which has since been affirmed by Florida's Fourth District Court of Appeal.

Represented Bluegreen defending against a proposed class action in the United States District Court for the Eastern District of Wisconsin alleging violations of the Wisconsin Timeshare Act and seeking to rescind about half of the vacation ownership contracts entered into in Wisconsin over about five years. The district court denied class certification.

Represented Bluegreen in putative class action brought in the United States District Court for the Southern District of Florida alleging claims of fraud and deceptive practices over the prior four years in selling well over \$1 billion in vacation ownership interests to purchasers nationwide. After filing a motion to dismiss on behalf of Bluegreen, the district court dismissed three of the four claims with prejudice. After the close of fact discovery and the completion of briefing on the plaintiffs' motion for class certification, plaintiffs withdrew their motion for class certification, abandoning the argument that Bluegreen's policies and procedures were fraudulent or deceptive, and took the position that doing so eliminated subject matter jurisdiction under the Class Action Fairness Act. After considering Eleventh Circuit precedent requiring dismissal for lack of subject matter jurisdiction if the case never should have been brought as a class action in the first place, the district court then dismissed the case for lack of subject matter jurisdiction.

Represented Bluegreen in putative class action brought in federal court under the Telephone Consumer Protection Act. After filing a motion to dismiss on behalf of Bluegreen, the named plaintiff voluntarily dismissed his claims with prejudice.

Represented vacation ownership company in an action brought under the Ohio Consumer Sales Practices Act and the Telephone Consumer Protection Act. After preparing a motion to dismiss on behalf of the company and notifying the plaintiff of the central arguments in support of the motion, the plaintiff voluntarily dismissed his claims with prejudice.

Obtained judgment in federal court trial for excess completion cost damages, attorneys' fees and costs, on behalf of municipality against surety arising from surety's breach of performance bond involving two components of \$120 million public works project.

Successfully defended Benihana, Inc., which owns and operates approximately 70 restaurants in the United States, the Caribbean, and Latin America, in more than 10 cases and appeals brought by Benihana of Tokyo (BOT) from 2012 through 2017. Also prevailed in numerous counterclaims and contempt proceedings against BOT, and collected more than \$1.2 million in attorneys' fees to date for the client.

Obtained dismissal of all claims in a securities class action against Erba Diagnostics, Inc. and certain of its officers and directors for failure to establish liability under Rule 10b-5.

Defended local real estate company in a fraudulent transfer action in state court that resulted in a favorable settlement and a dismissal of all claims with prejudice.

Member of defense team that represented a Florida-based bank in several simultaneous civil suits in federal and state court with respect to the bank's alleged involvement in a \$1.2 billion Ponzi scheme. Each of the cases ultimately settled upon favorable terms.

Member of trial and appellate teams that defended a public company and certain of its officers in a securities class action jury trial in federal court. Trial team successfully obtained judgment as a matter of law in favor of all defendants on all claims following a mixed jury verdict. The Eleventh Circuit Court of Appeals affirmed the judgment in favor of the defendants.

Member of litigation team that represented a Florida-based homebuilder in a securities class action in federal court and obtained a favorable settlement.

Member of litigation team that successfully defended a public company in an ERISA action in federal court by defeating a motion for class certification and eventually obtaining a dismissal of all claims with prejudice.

Member of litigation team that represented class of Exxon dealers in a contract-based class action lawsuit against Exxon Corporation that resulted in the recovery of more than one billion dollars.

PUBLICATIONS & PRESENTATIONS

Publications: [Florida Adopts its Own Version of the TCPA](#)

Stearns Weaver Miller News Update | July 2021

NEWSROOM

In the Media: [Florida TCPA Class Cert. Denied Over 'Deceptive' Retiree](#)

Law360 | | September 2021

In the Media: [Timeshare Co. Can't Dodge TCPA Class Suit](#)

Law360 | | July 2021

In the Media: [Fla.'s Largest Pot Co. Calls Robocall Ban Unconstitutional](#)

Law360 | | January 2020

In the Media: [BBX Defeats Shareholder Lawsuit in Case That Could Trim Merger Litigation](#)

Daily Business Review | | March 2018

In the Media: [Alan Levan gets back to work](#)

Miami Herald Business Monday | | August 2017

In the Media: [Levan, BBX cleared of SEC charges](#)

South Florida Business Journal | | May 2017

In the Media: [Jury Clears BankAtlantic, CEO Of SEC Disclosure Claims](#)

Law360 | | May 2017

In the Media: [Federal Jury Clears Levan and BBX on All SEC Claims](#)

Daily Business Review | | May 2017

EDUCATION

J.D., *cum laude*, University of Miami School of Law, 2005

Dean's List

Moot Court Board

B.A., University of Wisconsin-Madison, 2000

ADMISSIONS

Florida

United States District Courts for the Southern and Northern Districts of Florida

United States Court of Appeals for the Second, Ninth and Eleventh Circuits

United States District Court for the Eastern District of Wisconsin