

## Marie Tomassi

President/Managing Shareholder

**St. Petersburg**  
200 Central Avenue  
Suite 1600  
St. Petersburg FL 33701

Direct Line: (727) 820-3952  
Fax: (727) 820-3972  
Email: [MTomassi@trenam.com](mailto:MTomassi@trenam.com)

### Overview

Marie Tomassi joined the firm in 1988 and has been a Shareholder since 1995. She is Florida Bar Board Certified in Appellate Practice and has more than 25 years of experience in ERISA litigation and other complex matters.

Marie leads the firm's Appellate Practice and serves on the firm's Executive Board as President and Managing Shareholder.

### Representative Matters

- Secured affirmances of judgment holding claim is excepted from chapter 13 discharge where the loan is current on the petition date, there is no default to be cured and the debtor proposes to maintain monthly contractual payments directly to lender. *Dukes v. Suncoast Credit Union (In re Dukes)*, 2016 WL 5390948 (M.D. Fla. Sept. 27, 2016); *Dukes v. Suncoast Credit Union (In re Dukes)*, 909 F. 3d 1306 (11th Cir. 2018). In affirming, the Eleventh Circuit decided - as a matter of first impression - the meaning of "provided for" in 11 U.S.C. § 1328(a). The Eleventh Circuit held that a Chapter 13 plan that states mortgage payments would continue to be made directly to the creditor outside of the plan does not "provide for" the mortgage debt and therefore that debt is not discharged by the successful completion of the plan.
- Secured affirmances of (a) settlement agreement reached by chapter 7 trustee with primary creditor over debtor's objection and (b) denial of debtor's motion to convert chapter 7 case to one under chapter 11. *Daughtrey v. Rivera (In re Daughtrey)*, 2015 WL 5604764 (M.D. Fla. 2015); *Daughtrey v. Rivera (In re Daughtrey)*, 896 F. 3d 1255 (11th Cir. 2018). In affirming, the Eleventh Circuit determined, as a matter of apparent first impression in the circuit, the "abuse of discretion" standard of review applies to a bankruptcy court's denial of a motion to convert a Chapter 7 case to one under chapter 11.
- Secured an affirmance in the Eleventh Circuit of a district court's summary judgment holding that a financial institution was not liable to the receiver plaintiff for claims of negligence or under the Florida Uniform Fraudulent Transfers Act in a case where the receiver alleged damages in excess of \$100 million.
- Successfully preserved for construction company client a judgment in excess of \$400,000 and the right to recover attorneys' fees against a sub-contractor on counterclaims, by winning an appeal in the Eleventh Circuit.
- Secured reversal of federal court injunction enjoining state court action.



### Alternate Contact

Sheri Lord  
Secretary  
(727) 820-3989  
[slord@trenam.com](mailto:slord@trenam.com)

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### Practice Areas

Appellate  
Commercial Litigation  
ERISA Employee Benefits and  
Compensation

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### Education

J.D., *summa cum laude*, Stetson  
University College of Law, 1988

Graduated first in her class

B.A., *summa cum laude*,  
English, University of South  
Florida, 1985

King-O'Neal Award Winner

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### Admissions

Florida

United States Supreme Court

United States Court of Appeals,  
Second and Eleventh Circuits

Federal Circuit Court of Appeals

United States District Court,  
Middle and Southern Districts of  
Florida

- Secured affirmance of judgment in excess of \$40 million in complex business contract litigation.
- Secured reversal of judgments exceeding \$10 million against an individual in a partnership dispute.
- Set the law in the Second District regarding obtaining billing records of a party seeking fee award.
- Set the law in the Second District on an issue regarding temporary attorneys' fee awards in family law.
- Set the law in the Eleventh Circuit on the statute of limitations applicable to criminal bankruptcy fraud, securing reversal of a guilty verdict.
- Secured affirmance of judgment in excess of \$22 million in a family business dispute.
- Secured rehearing en banc that reversed panel opinion in case regarding easement rights.
- Secured reversal of final judgment in excess of \$1 million and fee award in whistleblower case.
- Secured reversal of several million dollar judgments entered against two individuals for a failed development deal.
- Successfully preserved for our construction company client a judgment in excess of \$400,000 and the right to recover attorneys' fees against a sub-contractor on counterclaims, by winning an appeal in the Eleventh Circuit.

## Honors and Distinctions

- Florida Bar Board Certified in Appellate Practice
- AV Preeminent Peer Review Rated by Martindale-Hubbell
- *Tampa Magazine's* Top Lawyers List, 2018, 2020
- *The Best Lawyers in America* (Appellate Practice), 2013-2020
  - Lawyer of the Year (Appellate Practice), 2016, 2018, 2020
- *Florida Super Lawyers*, 2008-2019 (10+ year recognition)

## Professional Involvement

- American Bar Association, Judicial Division
  - Appellate Judges Conference, Council of Appellate Lawyers
  - Member since its inception
  - Executive Committee member, 2006-2012
- The Florida Bar, Appellate Advocacy Section
- The St. Petersburg Bar Association, Appellate Practice Section

## Community Involvement

- Leadership Tampa Bay, 1998
- Mahaffey Theater Foundation, former member of the Board of Directors

## Thought Leadership

- "[Here's what Tampa law firms are looking for in recruits](#)," Interview for *Tampa Bay Business Journal*, May 2020.
- "Building Consensus: Engaging Partners Around Change," Panelist, 27th Annual Marketing Partner Forum, January 2020.
- "Staying in the Game: Getting to the Top," Panelist, Tampa Bay Chapter of the Federal Bar Association, April 2017.
- Author of "The Insider's Guide to the United States Court of Appeals for the Eleventh Circuit" for the Council of Appellate Lawyers, December 2011.
- "Professionalism in the Second District," (part of advanced level CLE course), Florida Bar Continuing Legal Education Committee and the Appellate Practice Section, May 2011.

- “Practice in The Second District: A Seminar for Trial and Appellate Lawyers,” St. Petersburg Bar Association Appellate Practice Section, 2011 - 2014.
- Author/editor of Chapter 4 of the Florida Bar Civil Trial Practice Manual titled “Trial Notebook,” October 2011 and thereafter.