

Appellate

A successful outcome on appeal often requires an approach that differs from what is necessary to achieve success at the trial level. Not only do unique appellate rules and procedures demand special skills, strategy, and experience, the fresh look and insight provided by skilled appellate counsel often proves invaluable in determining how best to present a case to an appellate court. Our appellate lawyers - all of whom began their careers as law clerks to appellate judges - have the skills and expertise necessary to posture cases for success at the appellate level.

Our appellate lawyers offer unmatched experience and insight in connection with Arizona appeals. Unlike national "chain" law firms, all of our appellate lawyers make it their business to study the decisions (and the decision making process) of the Arizona Court of Appeals, Arizona Supreme Court, and Ninth Circuit. We also have substantial experience in the United States Supreme Court, other Federal Circuit courts, and other state appellate courts

We actively manage AZAPP, a blog devoted to Arizona's appellate courts, and our work on AZAPP provides the foundation for the civil case summaries published monthly by *Arizona Attorney* magazine. As recognized leaders among the appellate bar, our appellate attorneys serve on the Arizona State Bar Appellate Practice Executive Committee, the Arizona Appellate Handbook Committee, and are recognized as among the Best Lawyers in America® in Appellate Law. Over the years, several of those involved in our appellate practice have become appellate judges, and our former partners currently sit on both the Arizona Court of Appeals and the Arizona Supreme Court.

Representative Services:

- **Full Service Appellate Work:** In most cases, we take full responsibility for handling the appeal, including conducting the necessary record review, preparing the briefs, selecting and compiling the record excerpts for the appellate courts, and presenting the oral argument. Because we regularly work with trial counsel from other law firms, we have developed a systematic approach for managing the record that brings thoroughness and efficiency to the appeal process. In certain cases, we undertake appeals on a contingent-fee (or hybrid-fee) basis, meaning that our fees are tied to our



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client's success in the case.

- **Litigation Consulting and Support:** Prevailing on appeal often requires ensuring that the necessary legal issues and pertinent record issues are properly developed and preserved. We regularly work with trial lawyers in significant matters, and assist with preparing substantive summary judgment motions, motions in limine, jury instructions, post-trial motions, and other key aspects of a case to help properly preserve issues for appeal, while allowing trial counsel to focus on discovery, factual development, and trial strategy.
- **Special Actions and Extraordinary Writs:** In certain limited circumstances, appellate courts will review an intermediate trial court decision before a final judgment or other appealable order is entered. Clients and other lawyers consult with us in connection with whether to pursue these "special actions" and extraordinary writs, and we often prepare the briefing necessary for these interlocutory appeals when warranted.
- **Post-Trial Motion Work:** The period immediately following a verdict is often the most critical to any subsequent appeal. We often assist lawyers and their clients at this critical stage of the case in preparation for an expected appeal.
- **Appeal Evaluation:** Because of the time and expense involved with an appeal, we regularly consult with other attorneys and clients to help them assess whether to take an appeal, and if so, how best to balance the costs and benefits of involving appellate lawyers.

Representative Experience:

- We represented a developer before the Arizona Court of Appeals in helping to establish new precedent concerning the appraisal powers of The State Land Commission. *Northeast Phoenix Holdings, LLC v. Winkelman*, 219 Ariz. 82, 193 P.2d 776 (App. 2008).
- We represented an out-of-state attorney before the Arizona Supreme Court in a case that clarified the standard of review applicable to the State Bar Disciplinary Commission, specifically what it means to "knowingly" violate an ethical rule. *In re Van Dox*, 214 Ariz. 300, 152 P.3d 1183 (2007).



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- We represented a law firm before the Arizona Supreme Court in helping to establish new precedent concerning law firm governance. *Fearnow v. Ridenour, Swenson, Cleere and Evans, P.C.*, 213 Ariz. 24, 138 P.3d 723 (2006).
- We represented an automobile dealership before the Arizona Supreme Court in connection with new issues involving the Magnuson-Moss Act and implied warranties that raised implications for all sellers of goods. *Johnson v. Earnhardt*, 212 Ariz. 320, 131 P.3d 825 (2006).
- We represented Timothy Stuart Ring before the United States Supreme Court in a landmark case establishing that individuals sentenced to death are entitled to have a jury of their peers decide the facts necessary to subject them to the death penalty. *Ring v. Arizona*, 536 U.S. 584 (2002).
- We represented the Tourism and Sports Authority (TSA) before the Arizona Court of Appeals and the Arizona Supreme Court in an action challenging the constitutionality of the legislation creating and implementing the TSA. *Long v. Napolitano*, 203 Ariz. 247, 53 P.3d 172 (App. 2002).
- We represented an Indian tribe before the Ninth Circuit as an amicus curiae in an action brought by horse and dog tracks challenging the constitutionality and legality of Indian gaming. *American Greyhound Racing v. State of Arizona*, 305 F.3d 1015 (9th Cir. 2002).
- We represented a law firm before the Arizona Court of Appeals and the Arizona Supreme Court in an action involving the propriety of assigning legal malpractice claims. *Botma v. Huser*, 202 Ariz. 14, 39 P.3d 538 (App. 2002).

