

# Appellate

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## RELATED SERVICES

- Antitrust
- Class Action Defense
- Commercial Litigation
- Construction
- Directors & Officers and Shareholder Litigation
- Employment
- Environmental & Toxic Tort
- Insurance
- Intellectual Property Litigation
- Labor
- Product Liability
- Professional Liability Defense
- Securities
- Trial Practice

## CONTACTS

**Don Willenburg**

Partner

**Jacob C. Cohn**

Partner

**Gretchen H. Sperry**

Partner

## OVERVIEW

Whether the goal is to reverse an adverse ruling or protect a favorable one from reversal, the Appellate Practice Group at GRSM has the experience, dedication, and talent to win clients the best possible results in appellate courts. Our appellate lawyers have extensive experience in state and federal courts of appeal throughout the country, including the U.S. Supreme Court.

The group's substantive expertise includes a wide variety of areas:

- Admiralty/Maritime
- Bankruptcy

- Class actions
- Commercial
- Construction defect
- Discrimination and harassment
- Eminent domain and inverse condemnation
- Employment
- Environmental and toxic tort
- ERISA
- Government contracts
- Insurance coverage and extra-contractual disputes
- Product liability
- Professional liability
- Real property and land use
- Tort litigation
- Trademark

## **THE DIFFERENCES BETWEEN WINNING AT TRIAL AND WINNING ON AN APPEAL**

Appellate courts are different than trial courts and require a different kind of lawyering. As one California appellate court has observed: “Appellate work is most assuredly not the recycling of trial level points and authorities.” GRSM appellate lawyers offer the necessary specific appellate focus and experience. We also offer experience that appellate-only firms do not, such as deep knowledge of the substantive areas in which the firm practices.

Trial attorneys are experts at developing facts, examining witnesses, and persuading juries. Appellate attorneys develop legal arguments to persuade judges based on the record in the trial court. Our appellate attorneys are skilled in the essential task of selecting from among the many issues presented at trial those that present the best chance of success in the different forum of appellate courts. Appellate judges and justices focus on uniformity of the law, questions of law, the application of law to facts, and how the result in one case might impact future cases. Understanding and applying the distinct standards of review applied by appellate courts is different from convincing a fact-finder at trial. Appellate courts generally do not weigh the evidence that may carry the day at trial.

## **QUALIFICATIONS AND FOCUS TAILORED TO APPELLATE PRACTICE, BOTH ON AND BEFORE APPEAL**

Our attorneys have published and lectured on key appellate matters such as brief writing, oral argument, the growing role of technology in the appellate process, and the many unique procedural rules for handling

writs and appeals. A number of our attorneys have served as judicial clerks or research attorneys for state and federal appellate courts.

Our understanding of appellate courts has led to our proven record with successful appeals, petitions for review, merits briefs, and oral arguments. We regularly conduct mock oral arguments in advance of actual argument at the appellate court, to which we invite in-house counsel, client representatives, and sometimes retired judges or justices, to hone the most effective oral presentation and responses to likely questions from the bench.

Our appellate attorneys regularly work with trial counsel, both in and outside the firm, to prepare significant pre-trial motions (e.g., summary judgment), trial filings (e.g., evidentiary motions or jury instructions), and post-trial motions, all with the aim of building the best possible record and framing issues for appeal. Our appellate counsel often attend trial to help preserve the appeal issues. We also provide candid and objective advice to clients on the important initial question of whether to pursue an appeal or writ petition, and often propose a budget for that determination separate and apart from a budget for the appeal itself.

Finally, our attorneys have worked with teams of lawyers throughout the country to draft appellate and trial briefs, to be filed by the client's counsel in other jurisdictions. This gives the client the benefit of the depth of our appellate attorneys' experience and skill, while the client can retain its local counsel, perhaps better known in the jurisdiction. This practice of behind-the-scenes briefing has given our attorneys even more experience in preparing appeals all around the country.