



APPELLATE

RCCB's Appellate team embodies a comprehensive approach to appellate advocacy, boasting decades of experience and having handled over 100 appellate matters. We engage in all facets of the appellate process, from complex and precedent-setting legal matters in state and federal courts nationwide, including the U.S. Supreme Court.

Appellate services require a specific skill set, and our lawyers possess the experience in legal analysis, oral advocacy, and strategic brief writing necessary to maximize your likelihood of success on appeal. We collaborate closely with clients and trial counsel, strategizing to present compelling arguments tailored to enhance the prospects of a favorable outcome.

Our appellate practice represents clients in a variety of appeals, including appeals of summary judgments, trial outcomes, motions to dismiss, challenges to government regulations, interlocutory appeals, collateral appeals, and administrative appeals.

Early Trial Proceedings

Alongside our role in managing appeals, we collaborate closely with trial teams to formulate effective legal strategies, oversee motions practice, and maintain meticulous records for potential appeals. Beyond the confines of the courtroom, we provide invaluable assistance to clients in navigating intricate legal challenges and proactively mitigating associated risks. Involving an appellate attorney during a trial provides several benefits, including shaping legal theories and preserving crucial points for potential appeals.

RELATED PRACTICES

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TEAM

Kevin F. Berry
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Matthew Faranda-Diedrich
S. David Fineman
Julie M. Latsko
Randi L. Rubin
Robert Toland II
Joshua Upin

Shaping the Law

We play a pivotal role in shaping the law through the appellate process. This involves several key activities that directly or indirectly contribute to the evolution and interpretation of legal standards, including setting precedents, interpreting legislation, advancing legal theories, influencing public policies, and drafting amicus curiae briefs.

MORE

Setting Precedents

We frequently handle cases that reach appellate courts, which have the authority to set legal precedents. These precedents guide lower courts and future rulings. When we win a case at the appellate level, that decision becomes part of the legal landscape, influencing how laws are applied in similar cases. This means that our successful arguments can lead to changes in legal interpretations or the establishment of new legal principles.

Interpreting Legislation

We often argue about the meaning and application of existing laws. Our skill in interpreting legislation can lead to appellate courts embracing a broader, more flexible, or entirely novel understanding of the law. This contributes to the dynamic nature of legal precedents and can even influence legislative changes if lawmakers decide to amend laws to clarify legislative intent or rectify issues highlighted through our cases.

Advancing Legal Theories

We are at the forefront of advancing legal theories. We bring innovative arguments to the courts that can broaden legal concepts or introduce new ideas into the legal system. These theories can be pivotal in cases where the law is outdated or ambiguous, providing courts with a rationale to expand or modify legal doctrines.

Influencing Public Policy

Our work in appellate courts often has wide-reaching implications, affecting not just the parties involved but also the general public. By influencing the outcome of appellate decisions, we can affect public policy, steering the direction of legal standards on issues like privacy, freedom of speech, or environmental regulation.

Participation by Briefs of Amicus Curiae

We sometimes participate in drafting briefs of amicus curiae (friend of the court) on behalf of third parties with a strong interest in the outcome of a case. These briefs can provide additional perspectives and expert knowledge to the court, influencing judicial thinking and potentially the outcome of decisions.

Preserving Victories, Pursuing Reversals, and Transitioning Cases

In essence, our appellate practice excels not only in preserving favorable verdicts but also in strategically pursuing reversals when necessary. Clients trust us to skillfully navigate the appellate process, whether handling appeals arising from our own trial representation or taking on cases transferred to us for specialized appellate advocacy.

MORE

Preserving Verdicts

We understand the significance of upholding favorable trial court decisions. Our team meticulously reviews trial records, identifies potential errors or issues, and crafts compelling appellate arguments aimed at preserving verdicts in our clients' favor. Whether defending against challenges to favorable rulings, we employ strategic legal tactics to safeguard hard-won victories.

Securing Reversals

In cases where trial outcomes are unfavorable, we leverage our expertise to pursue appellate remedies aimed at overturning adverse judgments. Through exhaustive legal research, persuasive brief writing, and effective oral advocacy, we strive to present compelling arguments to appellate courts, ultimately seeking reversals that align with our clients' objectives.

Shifting Cases to Us for Appellate Representation

Recognizing the critical importance of appellate advocacy, clients often entrust us with their cases specifically for appellate representation. Whether transitioning from trial counsel or seeking specialized appellate expertise from the outset, our appellate team offers comprehensive support and strategic guidance tailored to the specific demands of appellate proceedings. By entrusting us with their appeals, clients benefit from our depth of experience, nuanced understanding of appellate law, and track record of success in navigating complex appellate issues.

Practice Highlights

- Over 100 appellate matters handled.
- Represented the second-largest U.S.-based automaker.
- Represented an American corporation that is a leading producer of chemical, agricultural, and biochemical products.
- Appeared in all Pennsylvania appellate courts.
- Appeared in state courts coast to coast.
- Appeared in seven federal circuit courts.

REPRESENTATIVE EXPERIENCE

NOTEWORTHY REVERSALS

U.S. Supreme Court Victory for International Manufacturer on Patent Infringement Defense

We successfully represented an international timber, pulp, and paper manufacturer before the U.S. Supreme Court, which vacated, in part, the prior federal circuit ruling and found that the equitable defense of laches cannot be invoked as a defense against damages for patent infringement where the infringement occurred within the Patent Act's six-year limitations period.

Interlocutory Appeal Success: Privileged Documents Protected in Product Liability Case

In a product liability action, the district court ordered a car manufacturer to produce documents it claimed were privileged. We filed an interlocutory appeal on behalf of the manufacturer under the collateral-order doctrine and the Third Circuit reversed, finding that the documents were privileged and that the order compelling their production was a collateral order that could be immediately appealed as of right.

Third Circuit Reversal: Nationwide Personal Jurisdiction Established in Civil RICO Case

In a civil RICO case, the district court dismissed claims against certain defendants finding a lack of personal jurisdiction. We filed an appeal, and the Third Circuit reversed, recognizing that the scope of service of process and personal jurisdiction in a RICO case is nationwide.

Appellate Victory: \$5.4 Million Malpractice Verdict Reversed in Favor of Medical Center

In a medical malpractice case, the jury awarded \$5.4 million against a medical center for complications that arose during a surgical procedure. We represented the medical center on appeal resulting in the court reversing and remanding the case, with instructions to enter judgment notwithstanding the verdict in favor of the medical center.

Supreme Court Reversal Leads to New Trial in \$3.5 Million Forklift Defect Case

In a product liability case, the jury awarded the plaintiff \$3.5 million for injuries sustained in an accident allegedly caused by a design defect in a forklift. The appellate court affirmed the award based on the alleged waiver of a proposed jury instruction on crashworthiness elements. As counsel for the manufacturer, we petitioned for allowance of appeal, arguing that the finding of waiver was so erroneous that the Supreme Court could reverse based on the petition alone, without formal briefing. The Supreme Court agreed, reversed the decision, and remanded the case to the intermediate appellate court to consider the merits of the challenge to the jury instructions. On remand, the intermediate appellate court reversed the jury's verdict and ordered a new trial.

Appellate Court Reversal: Correct Spousal Support Calculation Based on Annual True-Up

In a spousal support case, the trial court failed to apply the parties' agreed-upon formula for calculating spousal support, ordering the husband to pay the maximum monthly amount under their agreement. We represented the husband on appeal and the court reversed the decision, finding that the parties had agreed to an annual true-up that reduced the spousal support obligation based on the husband's actual earnings each year.

Appellate and Supreme Court Victory: \$1 Million Malpractice Award Reversed in Delayed Diagnosis Case

In a medical malpractice case, the jury awarded the plaintiff \$1 million for a delayed diagnosis of lymphoma. We represented the doctor on appeal, resulting in the intermediate court reversing and remanding the decision. The Pennsylvania Supreme Court later affirmed the intermediate court's ruling on further appeal.

\$8 Million Verdict Overturned in Pickup Truck Injury Case

In a product liability case, the jury awarded the plaintiffs over \$8 million for injuries their minor sustained in an accident while riding in the back of a pickup truck. We represented the manufacturer on appeal and the court reversed the decision based on the trial court's error in directing a verdict in the plaintiffs' favor on a factual question that had left the jury deadlocked.

Summary Judgment Overturned, Leading to \$2 Million Verdict for Plaintiff

The trial court granted summary judgment against the plaintiff on claims of breach of contract, promissory estoppel, negligent and fraudulent misrepresentation, and breach of fiduciary duty. We represented the plaintiff on appeal and the Third Circuit reversed and remanded the case for trial, which subsequently resulted in a \$2 million verdict in the plaintiff's favor.

\$11.8 Million Verdict Overturned in Swimming Goggles Defect Case, New Trial Found Manufacturer Not Liable

In a product liability case, the jury awarded the plaintiff \$11.8 million, claiming that defective swimming goggles fogged up while he was water skiing, leading him to hit a log and become paraplegic. We represented the manufacturer on appeal, resulting in the court reversing and remanding for a new trial. On retrial, the manufacturer was found not liable.

Appellate Court Reverses \$300,000 Emotional Distress Award in Autopsy Report Malpractice Case

The jury awarded the plaintiff \$300,000 for emotional distress due to alleged malpractice in making incorrect notations in an autopsy report. We represented the doctor on appeal and the intermediate appellate court reversed the decision directing that judgment notwithstanding the verdict be entered in favor of the defendants on remand.

NOTEWORTHY AFFIRMANCES**Unconstitutional New Jersey Regulations: Victory for National Trucking Company Affirmed on Appeal**

We represented a national trucking company challenging New Jersey regulations as unconstitutional, arguing that they violated the dormant/negative aspects of the Commerce Clause. The district court held that the challenged regulations were unconstitutional and the Third Circuit affirmed.

Fourth Circuit Affirms: Judgment for Car Manufacturer in Failure-to-Warn Claim

In a product liability action, the district court entered judgment as a matter of law in favor of a car manufacturer on the plaintiffs' failure-to-warn claim. The court found that the driver could not have heeded a warning because he acted reflexively, not reflectively. We represented the manufacturer on appeal and the Fourth Circuit affirmed the decision.

Victory for Vessels in Longshoremen Injury Case Based on LHWCA

The district court directed verdicts against two longshoremen and in favor of the vessels for injuries that occurred during unloading. We represented the vessels on appeal and the Third Circuit affirmed the decision based on the Longshoremen's and Harbor Workers' Compensation Act and the Supreme Court's interpretation of it.

Supreme Court Reversal: Judgment Entered for Manufacturer in Product Liability Case

In a product liability case, the jury found that the automobile driven by the plaintiff-wife was not defective due to excessive intrusion by the striking vehicle. The intermediate appellate court reversed and remanded the case based on the jury instructions. We represented the manufacturer in the Supreme Court, which granted allowance of appeal, reversed the intermediate appellate court, and directed that judgment be entered in favor of the manufacturer.

Eleventh Circuit Affirms Dismissal: Manufacturer's Removal to Federal Court Upheld in Vehicle Defect Case

The plaintiffs claimed a vehicle was defective due to its rollover propensity and sued the manufacturer and dealership in state court. The manufacturer removed the case to federal court based on diversity, arguing that the dealership's citizenship was irrelevant under the fraudulent-joinder doctrine. The district court agreed and dismissed the dealership. We represented the manufacturer on appeal and the Eleventh Circuit affirmed.

Qualified Immunity Denied: Third Circuit Affirms Plaintiffs' Civil Rights Claims

The trial court denied the defendants' motion for summary judgment based on qualified immunity and the defendants appealed. We represented the plaintiffs on appeal and the Third Circuit affirmed, holding that the qualified immunity challenge did not bar the plaintiffs' claims under the Civil Rights Act.

Economic-Loss Doctrine Upheld: Third Circuit Affirms Dismissal of Transmission Defect Class Action

In a class action, the plaintiffs claimed that the transmissions in their vehicles were defective. The district court dismissed the claim under the economic-loss doctrine because the only damages were to the product itself. We represented the manufacturer on appeal and the Third Circuit affirmed.

Manufacturer Cleared in Lawn Mower Defect Case

In a product liability case, the jury found in favor of the manufacturer of a commercial walk-behind lawnmower that was alleged to be defective because it did not stop instantly upon the release of a presence lever, severely injuring the plaintiffs' minor. We represented the manufacturer on appeal and the appellate court affirmed.

POST-TRIAL REPRESENTATION

\$100 Million Medical Malpractice Case Settled

We were retained post-trial in a medical malpractice case to represent a regional hospital after the plaintiff was awarded \$100 million for alleged medical malpractice. The case was settled after post-trial motions were filed.

\$2+ Million Product Liability Case Settled After Argument

We were retained in a product liability action to represent a car manufacturer on appeal after the plaintiff was awarded over \$2 million following her husband's fatal car accident. The jury found the vehicle defective due to a lack of adequate warning on handling the vehicle at high speeds. The case was settled after oral argument on appeal.

En Banc Rehearing: Judgment Reinstated in Favor of Doctor and Hospital in Birth Defects Case

We were retained to represent a doctor and hospital post-trial in a medical malpractice action where the jury found in favor of the defendants regarding certain birth defects. The plaintiffs appealed, and the intermediate appellate court reversed and remanded for a new trial. However, upon rehearing en banc, the court reversed the panel decision and reinstated the judgment in favor of the doctor and hospital.

AMICUS BRIEFS

Advocating *Frye* Test for Determining the Admissibility of Expert Testimony in Pennsylvania Supreme Court

We were retained to represent an amicus in the Pennsylvania Supreme Court, advocating for the continued viability of the general acceptance test for the admissibility of expert testimony under *Frye v. United States*, 293 F. 1013 (D.C. Cir. 1923).

Supporting Preclusion of Plaintiffs' Expert Testimony in Medical Malpractice Case

We were retained to represent an amicus in support of the preclusion of plaintiffs' proffered expert testimony in support of their medical malpractice claim.

Supporting Local Firearm Regulations in Pennsylvania Supreme Court

We were retained to represent two associations as amici in support of local firearm regulations in the Pennsylvania Supreme Court.

Briefing the Concurrent-Cause Doctrine in Tennessee Supreme Court

We were retained to represent an amicus to brief the concurrent-cause doctrine in the Tennessee Supreme Court.

Opposing Medical Monitoring Recovery in Toxic Tort Cases in Pennsylvania Supreme Court

We were retained to represent an amicus in the Pennsylvania Supreme Court, supporting the manufacturer's argument against allowing recovery for medical monitoring in toxic tort cases.

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