



# APPELLATE

## LITIGATION DIVISION

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Our attorneys have successfully argued hundreds of appeals and original writ proceedings before the Florida Supreme Court, all Florida District Courts of Appeal, the appellate divisions of the circuit courts, as well as U.S. Courts of Appeals in multiple circuits, including the Eleventh. Because our lawyers are true experts, board certified in appellate law with decades of experience, we are able to analyze and efficiently handle any appellate matter, regardless of complexity. Not only do we handle dozens of appeals generated each year by the firm's own trial practice, but we are frequently called upon to serve as appellate counsel for our peers. We are also frequently retained by some of the largest corporations in the U.S. to serve as regular appellate and trial support counsel, and to provide guidance in the development of substantive law through careful appellate advocacy.

In one example of our work, we defended dozens of Florida local governments against challenges to their red light camera programs throughout Florida. When a Fourth District Court of Appeal decision essentially brought all red light camera programs to a halt statewide, our team devised a strategy to overturn that ruling before the Florida Supreme Court. After more than four years of litigation through various proceedings in different courts, the Florida Supreme Court unanimously agreed that the programs were being operated lawfully. Shortly after the ruling, a federal class action seeking a refund of more than \$200 million in collected red light camera fines, in which we also served as lead counsel for dozens of local governments, was dismissed.

Because the law is constantly evolving through the issuance of appellate decisions, you need an appellate attorney who is highly sensitive not only to what the cutting edge issues are, but also to how particular cases can potentially (and oftentimes, adversely) affect your business interests. In bet-the-company litigation, we pride ourselves on being able to understand your business and operational concerns and incorporate those needs into the appellate strategy. For example, we represented CMI, Inc., a Kentucky-based manufacturer of the breath-alcohol testing instrument used in Florida when the company was targeted by the criminal defense bar, which sought to obtain access to the source code for the instrument. The trial courts seemed unwilling to adequately protect CMI's interests, so our lawyers devised a successful statewide strategy in an effort to obtain Florida Supreme Court review of an adverse existing precedent. After several years of litigation throughout the state, the Florida Supreme Court ruled unanimously that our interpretation of the law was correct and overturned the existing, inconsistent precedents.

With insight into appellate procedures and the current state of the law on many procedural and substantive

issues, our team also provides invaluable trial support on a daily basis to our seasoned trial attorneys, as well as to litigators at other firms, who trust us to provide effective pleadings, pre-trial motions, jury instructions and witness preparation.

## ADVOCATES FOR “FRIENDS OF THE COURT”

Successful appellate advocacy requires determining which battles are worth fighting, and which ones create the potential for adverse consequences to a client or industry. This is particularly the case when representing individuals and entities who seek to participate in appellate proceedings as amicus curiae or “friends of the court.” In such situations, our clients often feel their interests might be adversely affected by ongoing appellate proceedings to which they are not formal parties. We provide a candid assessment of the impact the client’s involvement might have on a pending appellate proceeding. We also consult with counsel for the parties engaged in litigation, as well as other potential amici, to develop a strategy for amicus participation and carefully select the issues to be advocated to maximize the influence and persuasiveness of the client’s amicus position.

## OUR INSIGHT

Involving appellate counsel early in the litigation, well before appellate proceedings are underway, makes sense in order to preserve issues for later review and to posture a case in a way that maximizes the chances for success on appeal. Also, knowing when *not* to take an appeal is often as important as taking the appeal.