

An appellate lawyer before the appeal?

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Stages of Litigation

- ◉ Investigation
- ◉ Pleadings
- ◉ Discovery
- ◉ Dispositive Motions
- ◉ Pre-Trial
- ◉ Trial
- ◉ Post-Trial
- ◉ Appeal

Investigation

- ◎ Evaluate the Facts
- ◎ Research the Causes of Action
- ◎ Review Potential Defenses

Pleadings

- ◎ Drafting the Complaint
- ◎ Drafting the Answer
- ◎ Affirmative Defenses
- ◎ Motion to Dismiss
- ◎ Motion for Judgment on the Pleadings
- ◎ Non-final Appeals, Certiorari Review
- ◎ Punitive Damages

Discovery

- ◉ Limiting the Scope
- ◉ Reduces Time/Effort
- ◉ Evaluating Discoverability vs. Admissibility
- ◉ Appellate Review:
Petition for Writ of Certiorari

Dispositive Motions

- ◎ Reduce/Eliminate Claims through Partial Motion for Summary Judgment
- ◎ Motion for Summary Judgment
- ◎ Timing and Strategy

Pre-Trial

- ◎ Motions in Limine
 - > Daubert/Frye Motions
 - > Omnibus Motions
 - > Rulings on Testimony/Exhibits
- ◎ Jury Instructions/Verdict Form
- ◎ Trial Strategy
 - > Trial Research
 - > Bench Briefs
 - > Motions for Directed Verdict

Trial

- ◎ Preserving Error
- ◎ Proffering Evidence
- ◎ Directed Verdicts
- ◎ Voir Dire
- ◎ Trial Research
- ◎ Charge Conference

Post-Trial

- ◎ Motions for JNOV
- ◎ Motions for New Trial
 - > What issues **MUST** be raised?
 - > What issues **MAY** be raised?
- ◎ Additur/Remittitur
- ◎ Juror Interviews
- ◎ Trial Materials

Appeal

- ◉ Timing:
Which motions toll the time for filing a notice of appeal?
- ◉ Evaluating the likelihood of success:
What is the standard of review?
- ◉ Posting Bond, Enforcing Judgment
- ◉ Continuing Jurisdiction (Fees/Costs)

Benefits of Appellate Perspective

- ◎ Assess complex cases from the outset
- ◎ Strategize:
 - › What legal issues are headed your way?
 - › What information do you need to gather?
 - › When is the best time to raise the arguments?
- ◎ Pre-trial, high-level motion practice pushes to earlier resolution.
- ◎ Get a different perspective. Team approach.

Handling the Appeal

- Appellate Practice is a specialty
- The rules/procedures are unique to each court
- Trial counsel personally invested
- Fresh perspective