



# Appeals and Advocacy Group Attorney Guide

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## Appeals & Advocacy Practice Group

Dickinson Wright's [Appeals & Advocacy attorneys](#) excel in representing clients in appellate courts across the nation, and also in working with trial counsel in developing and preserving issues in anticipation of appeal. We handle appeals and writ proceedings in a variety of venues and jurisdictions, including state supreme and intermediate appellate courts, federal courts of appeals, the U.S. Supreme Court, Canadian appellate courts, and the U.S. Patent Trademark Office's Trademark Trial and Appeal Board. In each instance, we bring together finely honed skills in written and oral advocacy with deep experience in our clients' industries and areas of interest. Our goal is always to advance our client's interests by achieving the optimal result in the immediate case while helping the client shape the longer-term development of the law.

### On Appeal

We understand that appellate work requires the ability to either defend a victory at trial, overcome a loss, and in some occasions, a little of both. We work closely with clients to advise them whether, when, and how to seek appellate review, in light of the available procedural alternatives, applicable standards of review, and makeup of the appellate court. In addition to representing parties, we regularly prepare briefs on behalf of amici curiae ("friends of the court"), whether they are interested individuals, companies, or trade associations, to inform the courts of the factual and legal contexts and policy ramifications of the issues before them.

Our approach to advocacy involves telling a story that will resonate with appellate judges who are new to the case and have a small window for appreciating it. To do this, we identify, analyze, and distill technically complicated facts and complex legal questions and present them in a straightforward, engaging, and understandable fashion.

Beyond strong writing, effective advocacy requires knowing the industry and the relevant law. We have extensive experience in industries ranging from insurance, telecommunications, and health law to land use, state and municipal governance, and development of tribal lands. We also have extensive knowledge of fields that concern individual clients, from family law and criminal defense to personal injury. We focus on evolving areas of the law, such as patents and other intellectual property, federal and state taxation, constitutional jurisprudence, director and officer coverage, white collar defense, ERISA, and environmental law. And we have practical experience with the kinds of make-or-break issues that affect numerous areas, including class actions, statutory damages caps, punitive damages, and jurisdictional and preemption disputes.

### In the Trial Courts

The trial process often goes forward in the shadow of what may happen at the next level, particularly when the case involves matters of first impression, unsettled law, and complex facts. Our Appeals & Advocacy attorneys collaborate harmoniously with trial counsel, whether they are at Dickinson Wright or other firms, in devising and implementing the case strategy. At the trial level, we prepare and argue dispositive and procedural pretrial motions, motions in limine, trial briefs, jury instructions, and post-trial motions; we may be called on to be in the courtroom to monitor and advise on trials. We ensure that key legal issues are persuasively presented and fully preserved: the right evidence is admitted, the right objections are made, and the right arguments are advanced. In that setting, our goal is to offer the client and trial counsel an independent, fresh perspective and evaluation of the merits, the proposed strategies and tactics, and the client's prospects.

## Practice Group Co-Chairs



### **Bennett Evan Cooper** | MEMBER

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Ben Cooper advocates for clients in high-stakes appeals and writ proceedings in the U.S. Supreme Court, federal circuit courts, and state supreme and intermediate appellate courts from coast to coast. He argued before the U.S. Supreme Court in 2023 in *Jack Daniel's Properties v. VIP Products*, a trademark parody case. Admitted in Arizona and California, Ben emphasizes such fields as insurance coverage and bad faith, intellectual property, taxation, Native American law, and other complex civil and constitutional litigation.

Ben is the author of the 1,000-page treatise *Federal Appellate Practice: Ninth Circuit* (Thomson Reuters 2023-2024), and the lead author of the 800-page treatise *Arizona Trial Handbook* (Thomson Reuters 2023-24). He currently serves on the Ninth Circuit's Advisory Committee on Rules of Practice and Internal Operating Procedures, and has served as Chair of the American Bar Association's Council of Appellate Lawyers, the inaugural court-appointed Chair of the Appellate Lawyer Representatives to the Ninth Circuit Judicial Conference, and Chair of the State Bar of Arizona's Appellate Practice Section. A former judicial clerk for Ninth Circuit Judge Alex Kozinski, Ben is ranked in appellate practice by Chambers USA, Best Lawyers in America, and Southwest Super Lawyers.



### **Phillip J. DeRosier** | MEMBER

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Phil DeRosier has more than 20 years' experience representing industry-leading corporations, banks, insurance companies, and individuals in the Michigan Supreme Court, Michigan Court of Appeals, and U.S. Courts of Appeals. Phil has briefed and argued a wide variety of appeals, ranging from commercial contracts to insurance to business torts. He also devotes a significant part of his practice to briefing dispositive motions and working with trial counsel on pre- and post-trial motions, jury instructions, and preserving issues for appeal.

Phil is a past Chair of the Governing Council of the State Bar of Michigan's Appellate Practice Section, and is consistently recognized in Best Lawyers and Michigan Super Lawyers in the area of appellate practice. Phil is co-chair of the Michigan Appellate Bench Bar Conference and a contributing author to the Institute for Continuing Legal Education's *Michigan Appellate Handbook*. Before joining the firm, Phil served as a law clerk for former Michigan Supreme Court Chief Justice Robert P. Young, Jr., and was a staff attorney at the Michigan Court of Appeals.

## Practice Group Attorneys



### **Justin J. Bustos** | MEMBER

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Justin J. Bustos represents clients in the United States Supreme Court, the Ninth Circuit Court of Appeals, and the Nevada Supreme Court. Justin has extensive experience writing briefs and arguing complex appeals in the areas of commercial litigation, constitutional law, class actions, civil rights, intellectual property, and criminal defense. He is a member of the Criminal Justice Act Appellate Panel for the unofficial Northern District of Nevada, which is a panel of court-approved attorneys authorized to represent indigent defendants in federal appeals to the Ninth Circuit. Justin has successfully argued a number of precedent-setting appeals in both state and federal court. He is routinely acknowledged by Mountain States Super Lawyers and Nevada Legal Elite.



### **Vail C. Cloar** | MEMBER

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Vail has litigated in appellate courts at the highest levels, including appeals before the Arizona Court of Appeals, the Arizona Supreme Court, the Bankruptcy Appellate Panel of the Ninth Circuit, the U.S. Courts of Appeals for the Ninth, Tenth, and Eleventh Circuits, and the U.S. Supreme Court. Before entering private practice, Vail served as a clerk for Justice Robert Brutinel (Ret.) of the Arizona Supreme Court, and received the highest score on the Arizona Bar Examination. Vail has significant appellate experience in professional liability matters, eminent domain matters, municipal litigation, legal malpractice defense litigation, and complex commercial litigation.



### **Scot L. Claus** | MEMBER

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Scot Claus is the Chair of the firm's Constitutional Law Practice Group. However, his appellate practice is wide-ranging and varied, including the following areas: Constitutional Law and Defense of Governmental Entities, Complex Commercial Litigation, Class-Action Litigation, Securities Fraud Litigation, Professional Liability Defense, Real Property Litigation (including commercial leasing disputes, easement and boundary disputes, and condemnation matters), Product Liability, and Intellectual Property. He regularly argues cases before the federal and state courts of appeal, and also argues appeals before the Trademark Trial and Appeal Board. Scot routinely argues appeals in the Ninth Circuit, but has also appeared as lead appellate counsel in the Tenth Circuit, Sixth Circuit, Fifth Circuit, and the Supreme Court of the Iowa Tribe of Oklahoma. In addition to his practice, Scot is an Adjunct Faculty member at the Sandra Day O'Connor College of Law at Arizona State University where he teaches three classes: Private Property Rights, Real Estate and Business Valuation, and Trademark Prosecution.



## Alexandra Crandall | MEMBER

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Alex appears in appellate courts across the country, including in the U.S. Supreme Court, federal circuit courts, and Arizona appellate courts. A former clerk for the Honorable Jennifer B. Campbell at the Arizona Court of Appeals, Division One, Alex has appellate experience in constitutional law, commercial disputes, tribal law, domestic relations, employment discrimination, insurance law, tax, municipal law, and eminent domain. Alex serves as an adjunct professor at Arizona State University's Sandra Day O'Connor College of Law, and was named a Rising Star in appellate practice by Southwest Super Lawyers and a Leader to Watch by AZ Business Leaders Magazine.



## John P. Desmond | MEMBER

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John P. Desmond practices in the area of complex commercial litigation – primarily significant business disputes. Over the years, he has also had significant experience in the areas of product liability, class actions, and appellate work. He has argued several issues of first impression before the Nevada Supreme court.



## K. Scott Hamilton | MEMBER

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K. Scott Hamilton has 30 years of experience representing clients in the U.S. Supreme Court, the U.S. Courts of Appeals for the Second, Sixth, Seventh, Eighth and Tenth Circuits, the Michigan Supreme Court and Court of Appeals, and several other state courts of appeals, resulting in dozens of published opinions. Scott was Editor-in-Chief of *The Wayne Law Review* and law clerk to Judge Cornelia G. Kennedy of the U.S. Court of Appeals for the Sixth Circuit. He is a Life Member of the Sixth Circuit Judicial Conference, past Co-Chair of the Appellate Practice Committee of the Federal Bar Association for the E.D. Mich., member of the Sixth Circuit Practice Institute, and served as an adjunct professor of law at Michigan State Law School teaching Appellate Procedure.



## Vanessa A. Kubota | ASSOCIATE

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Vanessa Kubota is a former law clerk to the Honorable David D. Weinzweig, Vice Chief Judge on the Arizona Court of Appeals, she participated in panel conferences and drafted numerous opinions and memorandum decisions spanning a multitude of civil, administrative, and criminal issues. Before joining the firm as a civil litigator, Vanessa served as an Assistant United States Attorney in the criminal division of the U.S. Attorney's Office, where she successfully argued numerous Ninth Circuit appeals. She is admitted to practice in the U.S. Supreme Court, the Ninth Circuit, the Arizona and Colorado district courts, and is licensed to practice law in Arizona and Washington. An avid writer, Vanessa has published over 200 translations of Tibetan literature, as well as several law review articles and journal pieces, writing for the University of Arizona's Journal of Appellate Practice and Process, Georgetown Journal of Legal Ethics, the Arizona State Law Journal, ABA Journal, Arizona Attorney Magazine, Law360, Penn State Arbitration Law Review, the DOJ Journal of Law and Policy, and many others.



## Ashley S. Miller | OF COUNSEL

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Ashley S. Miller has represented clients in state and federal appellate courts across multiple jurisdictions, including New York, New Jersey, and Washington State appellate courts, and the Second and Third Circuits. Her appellate practice includes a wide range of civil and commercial litigation disputes, including in the area of consumer finance. Before entering private practice, she was a clerk for the Arkansas Supreme Court.



## Thomas J. Philbrick | ASSOCIATE

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Thomas Philbrick has significant experience supporting complex civil and criminal matters at both the trial and appellate levels. Admitted to practice in Michigan, he has drafted briefs in commercial litigation, constitutional law, municipal litigation, civil rights, intellectual property, real estate, bankruptcy, and other areas. He has also worked on appellate matters as amicus counsel, representing political parties and interest groups in both state and federal courts.



### **Mackenzie E. Robinson** | ASSOCIATE

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Mackenzie has assisted in various appellate matters at Dickinson Wright and before joining the firm, as she clerked for two years at the Nevada Supreme Court. Her clerkship experience has given her an intimate look at the “ins and outs” of the appeal process.



### **Allison Sluga** | ASSOCIATE

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Allison Sluga is an associate in Dickinson Wright’s Phoenix office, focusing on commercial and business litigation, appeals, and constitutional law. Prior to joining the firm, Allison served as a Judicial Law Clerk to the Honorable Andrew M. Jacobs at the Arizona Court of Appeals, Division One and has experience in criminal, civil, family, and constitutional appeals and statutory interpretation.



### **Jeffery V. Stuckey** | MEMBER

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Jeff has served as appellate counsel on numerous matters for nearly 35 years. He has extensive appellate experience representing regulated entities, commercial interests, trade associations, universities, ballot question committees and political candidates in the areas of administrative law, gaming, insurance, telecommunications, receiverships, energy, elections, tax, and constitutional litigation. In addition, he has considerable experience in administrative and complex trial court proceedings in anticipation of appeal. He is recognized for appellate practice by Best Lawyers of America and Super Lawyers.



## **Daniel C. Ziegler** | ASSOCIATE

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As appellate counsel Dan has briefed a wide variety of appeals in the Michigan Supreme Court, Michigan Court of Appeals, and U.S. Courts of Appeals, appealing issues that range from jurisdictional to constitutional to interlocutory evidentiary disputes to § 1983 claims. Dan has also participated in appellate work as amicus counsel, representing the Michigan Defense Trial Counsel, Inc. before the Michigan Supreme Court. Dan has experience inside the federal and state appellate courts, serving as a clerk for Michigan Supreme Court Justice Brian K. Zahra and for Judge Stephen J. Murphy, III (U.S. District Court for the Eastern District of Michigan), who sits by designation on the U.S. Court of Appeals for the Ninth Circuit twice yearly.