



## Issues and Appeals



Our firm pairs deep knowledge of the federal regulatory environment and commercial litigation with experienced appellate litigators who know what arguments will resonate with courts and best achieve our clients' business goals.

**Our Issues and Appeals Practice pairs our persuasive oral advocacy skills, strategic acumen, clear and concise writing, and innovative approaches to solving business needs with in-depth subject matter knowledge in core practices to consistently deliver outstanding results for our clients.**



Renowned for our advocacy skills and for our track record of innovation and versatility, we often represent entire industries in cases where the outcome can change the playing field for businesses in that sector. We are top-notch appellate attorneys who are adept at applying our abilities in each situation that impacts the final disposition of a matter. A Wiley brief, whether filed before the Supreme Court of the United States, a federal circuit court, a state court of appeals, or any other appellate decisionmaker, is thoughtful, crisp, well-written, and persuasive.

Our attorneys also recognize that arguments on appeal are only as powerful as the record before the lower court or federal agency where the matter originated. That is why our attorneys add value early in a representation – making sure that we preserve the most persuasive legal arguments and introduce the most compelling facts in building a record that will stand up on appeal.

**What we do.**

## Capabilities



- Class Actions and Complex Multi-Jurisdiction Litigation
- Enforcement of Arbitration Clauses
- Federal Preemption
- First Amendment/Commercial Speech
- Judicial Review of Agency Action
- Rights-of-Way Litigation and Counseling
- Tower Siting and Wireless Facilities Access
- Video Programming and Cable Franchising

Decades of experience and hundreds of cases have helped us create an appellate team whose quality and effectiveness are second to none. And as a Washington powerhouse firm, we have impressive capabilities in appeals of federal agency actions, whether in district or appellate courts.

Our attorneys:

- Successfully litigate against firms many times our size.
- Are careful thinkers, highly skilled writers, and talented oral advocates who make arguments that are lucid, precise, elegant, and effective.
- Are trusted advocates for our clients, with a tremendous record in courts at all levels throughout the country.
- Have clerked for many of the courts before which we're arguing, with significant experience in the federal appellate court system.

### **Why we are different.**

At the core of our appellate capabilities is a deep bench of former judicial clerks and appellate practitioners. Our litigators include more than 50 attorneys who have served as clerks in federal and state courts across the country and several former Supreme Court clerks, along with a broad range of lawyers with substantial appellate experience. Our group is headed by Claire J. Evans, a former law clerk to Associate Justice Clarence Thomas on the Supreme Court, Judge David B. Sentelle on the U.S. Court of Appeals for the District of Columbia Circuit, Judge Michael Chertoff on the U.S. Court of Appeals for the Third Circuit, and Judge Jerome B. Simandle on the U.S. District Court for the District of New Jersey, and Thomas M. Johnson, Jr., a former General Counsel for the Federal Communications Commission, Deputy Solicitor General for the State of West Virginia, and law clerk to Judge Jerry E. Smith on the U.S. Court of Appeals or the Fifth Circuit.

One of our team's differentiators is that our lawyers also add significant value to a wide range of matters at the outset, before an issue winds its way to appeal. By using our appellate knowledge strategically, we can help ensure that the appeal of a case is authoritative and convincing. For example, we:

- Draft comments before federal agencies that preserve the constitutional, statutory, and record-based (Administrative Procedure Act) arguments that will maximize the chance of success at the agency level and set the stage for a persuasive appeal.
- Work with trial teams in highly complex matters to identify, formulate, research, and brief legal arguments to shape and prepare them for appeal.
- Develop novel, cutting-edge theories for clients who anticipate high-stakes litigation, well before actual litigation begins.
- Are frequently called in to review, edit, and augment appellate briefs written by attorneys outside of the firm to add our own perspective and substantive expertise.
- Utilize our appellate capabilities in nontraditional, but highly effective, ways.

Our appellate team has an unmatched track record of combining subject matter and appellate expertise, drawing on the strength of our renowned International Trade, Insurance, Government Contracts, Election Law, Telecommunications, Media & Technology, and other practices, depending on the case. Our “elite cadre of appellate lawyers” (*Legal Times*) is frequently called upon for “bet the company case[s]” or to reverse a lower court, regulatory, or legislative defeat, as we have done many times. The group often takes the lead for an entire industry on a critical issue in litigation across the country. Wiley’s Appellate Practice also has extensive experience acting as a “private solicitor general” for its clients, moving issues across forums and finding the correct venue and timing for victory.

Effective appellate advocacy can make or break a “bet the company” issue for our clients. Described by *The Legal 500 US* as “hugely effective,” our team works to ensure that when it really counts, our clients’ potential is fully realized.

## Contact

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## Judicial Clerkships

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### Supreme Court of the United States

Claire J. Evans  
Honorable Clarence Thomas (2008-2009)  
Bert W. Rein  
Honorable John M. Harlan (1966)

### U.S. Court of Appeals for the Second Circuit

Thomas M. Johnson, Jr.  
Gary P. Seligman  
Honorable Ellsworth A. Van Graafeiland (2000-2001)

### U.S. Court of Appeals for the Third Circuit

Claire J. Evans  
Honorable Michael Chertoff (2004-2005)

**U.S. Court of Appeals for the Fourth Circuit**

Richard A. Simpson  
Honorable John D. Butzner, Jr. (1977-1978)  
Holly Wilson  
Honorable Stephanie D. Thacker (2017-2018)

**U.S. Court of Appeals for the Fifth Circuit**

Megan L. Brown  
Honorable E. Grady Jolly (2002-2003)  
John E. Howell  
Honorable E. Grady Jolly (2007-2008)  
Thomas M. Johnson, Jr.  
Honorable Jerry E. Smith (2005-2006)  
Gregory M. Williams  
Honorable Jacques L. Wiener (1998-1999)

**U.S. Court of Appeals for the Sixth Circuit**

Nicholas P. Peterson  
Honorable Eugene E. Siler (2015-2016)  
Krystal B. Swendsboe  
Honorable Alice M. Batchelder (2016-2017)  
Roderick L. Thomas  
Honorable Albert J. Engel, Chief Judge (1989-1990)

**U.S. Court of Appeals for the Eighth Circuit**

Joel S. Nolette \*  
Enbar Toledano  
Honorable Kermit E. Bye (2012-2013)

**U.S. Court of Appeals for the Ninth Circuit**

William K. Lane III  
Honorable Diarmuid F. O'Scannlain (2015-2016)  
Tatiana Sainati  
Honorable M. Margaret McKeown (2015-2016)  
Wesley E. Weeks  
Honorable Andrew J. Kleinfeld (2013-2014)

**U.S. Court of Appeals for the Eleventh Circuit**

William Turner  
Honorable Barbara Lagoa (2020-2021)

**U.S. Court of Appeals for the Federal Circuit**

Lukman S. Azeez  
Honorable Evan J. Wallach (2014-2016)

Scott M. McCaleb  
Honorable Haldane Robert Mayer  
Lawrence M. Sung  
Honorable Raymond C. Clevenger III (1993-1995)  
Mary Sylvia  
Honorable Raymond C. Clevenger III (1995)  
Brian Walsh  
Honorable Daniel M. Friedman (2006-2007)

**U.S. Court of Appeals for the District of Columbia Circuit**

Jeremy J. Broggi  
Honorable Gregory G. Katsas (2018)  
Claire J. Evans  
Honorable David B. Sentelle (2007-2008)  
Elizabeth Fisher  
Honorable David B. Sentelle (2019-2020)  
William K. Lane III  
Honorable Gregory G. Katsas (2018)  
Stephen J. Obermeier  
Honorable Karen LeCraft Henderson (2006-2007)  
David H. Topol  
Honorable A. Raymond Randolph (1992-1993)

**U.S. District Court for the District of Arizona**

Duane C. Pozza  
Honorable Roslyn O. Silver (2002-2003)  
William Turner  
Honorable Michael T. Liburdi (2019-2020)

**U.S. District Court for the District of Columbia**

Amanda Blain  
Honorable Magistrate Judges (2019-2021)  
Jeremy J. Broggi  
Honorable Richard J. Leon (2016-2017)  
Rebecca J. Fiebig  
Honorable John M. Facciola (2008-2009)  
Kevin B. Muhlendorf  
Honorable John M. Facciola (1999-2000)  
Joel S. Nolette \*

**U.S. District Court for the District of Maryland**

Kimberly A. Ashmore  
Honorable Deborah K. Chasanow (2005-2006)

Ashley E. Eiler  
Honorable Deborah K. Chasanow (2012-2013)  
Eve Klindera Reed  
Honorable Marvin J. Garbis (1999-2000)

**U.S. District Court for the District of New Jersey**

Claire J. Evans  
Honorable Jerome B. Simandle (2002-2004)

**U.S. District Court for the District of South Carolina**

Antonio J. Reynolds  
Honorable Margaret B. Seymour

**U.S. District Court for the Eastern District of Pennsylvania**

J. Ryan Frazee  
Honorable Edward G. Smith (2016)  
Nicholas P. Peterson  
Honorable Eduardo C. Robreno (2014-2015)  
Frank Scaduto  
Honorable Cynthia M. Rufe

**U.S. District Court for the Eastern District of Virginia**

Attison L. Barnes, III  
Honorable W. Curtis Sewell (1989-1990)  
Rebecca L. Saitta  
Honorable Barry R. Poretz (2003-2004)  
Krystal B. Swendsboe  
Honorable Mark S. Davis (2015-2016)  
Christopher J. White

**U.S. District Court for the Northern District of Illinois**

Philip J. Davis  
Honorable Bernard M. Decker (1973-1974)  
Enbar Toledano  
Honorable Edmond E. Chang (2014-2015)

**U.S. District Court for the Southern District of Texas**

Cara Tseng Duffield  
Honorable Nancy F. Atlas (2000-2001)  
Scott M. McCaleb  
Hannah J. Miller  
Honorable J. Scott Hacker (2019)

**U.S. District Court for the Southern District of West Virginia**

Richard W. Smith  
Honorable Joseph R. Goodwin (1998-1999)  
Holly Wilson  
Honorable Joseph R. Goodwin (2016-2017)

**U.S. District Court for the Western District of North Carolina**

Richard P. Leissner, Jr.  
Honorable Graham C. Mullen (2000)

**U.S. Bankruptcy Court for the Southern District of New York**

Aldel M. L. Brown  
Honorable Cecelia G. Morris (2019-2020)

**U.S. Court of Federal Claims**

Jon W. Burd  
Honorable Lawrence J. Block (2004-2006)  
Tracye Winfrey Howard  
Honorable Lawrence S. Margolis (2006-2007)  
Adrienne J. Kosak  
Honorable Mary Ellen Coster Williams (2014-2015)  
Kevin J. Maynard  
Honorable Lawrence S. Margolis (1996-1997)  
Alan H. Price  
Honorable Lewis Specter, Senior Judge (1983-1984)

**U.S. Court of International Trade**

Maureen E. Thorson  
Honorable Donald C. Pogue (2003-2005)

**Contacts**

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