

LITIGATION

APPELLATE

Pursuing or defending an appeal from a trial court requires different knowledge and skill than what is needed for a trial. Attorneys at Gallagher & Kennedy have handled many successful appeals dealing with a variety of subjects, including:

- Contracts
- Torts
- Tax issues
- Environmental issues
- Election law
- Professional liability
- Regulatory issues
- Civil Rights
- Constitutional issues

Some of our attorneys have also served as judges (pro tem) on the court of appeals. The firm handles appeals not only when we have assisted in the trial of a case, but also on referral from outside clients or attorneys looking to bring in new counsel on appeal for a fresh perspective.

While lawyers at the firm have substantial experience pursuing or defending appeals in Arizona courts, our lawyers have also handled appeals in several other states and in most of the federal courts of appeal, including the United States Supreme Court and the Federal Circuit Courts of Appeal for the 3rd, 4th, 5th, 7th, 8th, 9th and 10th Circuits, as well as the District of Columbia Circuit.

Appellate courts typically decide cases based only on a set of written “briefs” and a relatively short oral argument to a panel of judges. In addition to mastering the appellate rules, the Gallagher & Kennedy appellate team’s superior analytical skills and talent for writing clear, persuasive legal prose help the court understand the strength of a client’s position.

Our appellate lawyers offer many services related to appeals, including:

- Working with trial counsel to put the case in the best posture for an appeal should one be necessary
- Advising clients who are evaluating settlement about the time, cost and risks involved in the appellate process
- During trial, advising about the possibility of bringing a “special action” directly to an appellate court to correct a trial court error
- Handling appeals from administrative bodies, such as tax appeals from the Department of Revenue and rulemaking challenges to federal agencies
- Preparation of “friend of the court” or “amicus” briefs, on behalf of clients and public interest groups on issues that affect their business and public policy

Appellate successes of Gallagher & Kennedy lawyers include:

- Securing a reversal by the Arizona Court of Appeals of a trial court’s determination that the Arizona Adult Protective Services Act did not apply to hospitals
- Persuading the Arizona Court of Appeals to uphold a trial court’s dismissal of a class action lawsuit brought against the State of Arizona that claimed hundreds of millions of dollars in damages stemming from the “alternative fuel” legislation
- Convincing the 9th Circuit Court of Appeals not only to affirm the trial court’s dismissal of a commercial lawsuit against our client, but also to order the plaintiff not to make any further filings in the case
- Persuading the Arizona Court of Appeals to stay a trial court order during an appeal in order to allow a state-wide election to proceed under a redistricting plan that the trial court had rejected
- Convincing the 10th Circuit Court of Appeals to reinstate the clients’ federal securities fraud action after a federal district judge had dismissed the claim

- In the 8th Circuit Court of Appeals, successfully defending a multimillion-dollar judgment in a dispute over sales proceeds from hotels in Minnesota and Iowa