



About two-thirds of litigants in civil cases are unhappy with their outcomes, a study has shown. The skill and experience of trial counsel makes no difference.

What makes the difference is knowing what is most likely to work – both at trial and on appeal. An independent Appellate Specialist, working closely with trial counsel, will not only set your case up for success on a future appeal, but will also improve your odds of success without an appeal.

WHO NEEDS AN APPELLATE LAW SPECIALIST?

Anyone who wants to succeed in litigation.

Timothy Kowal and the Appellate Specialists at Thomas Vogele & Associates work with:

- Trial Attorneys -Trustees/Fiduciaries
- Corporations -Business Owners -Developers
- Lenders & Borrowers -Individuals

If your case involves high-stakes, multi-party, or protracted civil litigation, it is critical to talk to an Appellate Specialist immediately.

HOW CAN AN APPELLATE SPECIALIST HELP ME WIN MY CASE?

1. Only 2 in 10 appeals are successful; Our success rate is better than 5 in 10.
2. 1 in 20 appeals is dismissed for technical reasons – due to non-specialists’ lack of familiarity with appellate procedure.
3. Reduced odds of attorney error: according to the ABA, failing to file documents – such as a notice of appeal – accounts for nearly 10% of legal malpractice.



“I did not get justice at my trial after I was taken advantage of by a lender. I think the judge made up his mind whom he wanted to believe. When Tim took my case up on appeal, he focused the case on the contract. The appeal saved my retirement.”

–Susan Peterson, client

Testimonials

“I worked with Tim and Tom on an appeal after a five-week jury trial – and over a year of post-trial motions – resulted in a multi-million dollar judgment against our client. Tim and Tom listened to my ideas and the client’s ideas, and worked cooperatively with us to develop the appellate strategy that won our appeal.”

–Greg Page, trial attorney

“After a bad result from our judge, we did not immediately appeal the judgment. Instead, Tim filed several motions bringing the various defects in the ruling to the judge’s attention. We then appealed. The judgment was reversed because of Tim’s efforts in the trial court highlighting its defects.”

–William Dohr, client

“After a devastating loss at trial, I decided to hire an appellate specialist for a fresh approach. Tim meticulously researched our case, which turned on the opposing CPA expert’s cleverly manipulated accounting. Tim and Tom anticipated the opposing arguments, exposed the expert’s sleight of hand, and persuaded the Court of Appeal to reverse the judgment against me.”

–Dave Chamberlain, client

A DIFFERENT APPROACH TO APPEALS

Many Appellate Specialists handle appeals exclusively, and rarely set foot inside a trial court. Our approach is different. An appeal is usually won or lost before it gets to the appellate court: raising arguments to be used on appeal; adding missing evidence to the record; and giving the trial court the chance to fix its errors are all necessary to succeed on appeal.

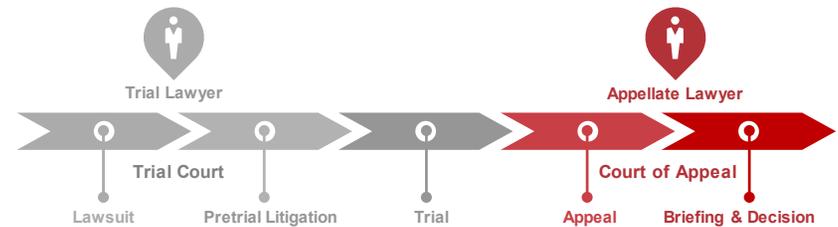


This is the most effective, challenging, and interesting part of any appeal. We know of no other firm with the same unique approach and skillset.

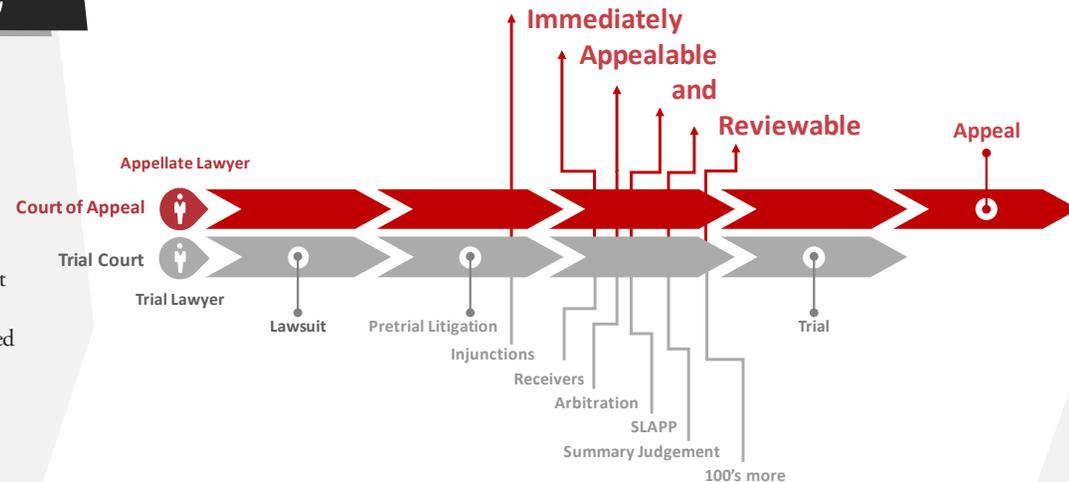
TIPS AND TRAPS ON APPEAL

1. The Court of Appeal applies the most appellant-friendly standard of review (highest chance of reversal) where an appeal involves: anti-SLAPP orders; dismissal after demurrer or MJOP; summary judgment; jury instruction issues; nonsuit, directed verdict, or JNOV. These are good issues to raise on appeal.
2. Did you successfully defeat a cause of action on demurrer? Be sure the court issues an Order of Dismissal. This triggers plaintiff's deadline to appeal.
3. If the judge refuses to let in evidence, be sure to make a proffer by explaining, on the record, what the evidence is and why it is relevant. Refusing to allow a proffer is reversible error.
4. After a bench (judge) trial, be sure to request a Statement of Decision, and to object to defects in it. Defective Statements of Decision often lead to reversal.
5. If you file a motion for reconsideration prior to appealing, be sure to include a declaration. The extension of time to appeal an order does not apply without the required declaration.
6. Always consider filing a protective cross-appeal after orders granting a new trial, JNOV, or mixed-bag family court orders.
7. Appealability in question? File both an appeal and a writ petition (e.g., orders disqualifying counsel).
8. Unsure whether to appeal? File a notice of appeal immediately: you have 15 days to post the filing fee – time enough to consult an Appellate Specialist.
9. Where an attorneys-fee and costs award is ordered separate from the judgment, appeal both.
10. Is the appellant using only part of the record on appeal? If so, insist the appellant file a statement of the issues it will raise on appeal; the appellant will then be limited to arguing only those issues.
11. Enforcement of an award of costs and fees is automatically stayed on appeal (except in family court).
12. Need to stay enforcement of the judgment pending appeal? Consider filing a personal surety bond instead of an expensive bond from an institutional surety.
13. The Court never grants relief unless it thinks you deserve it.

Typical Litigation is Linear and Narrow



Appellate Litigation Resolves Strategic Issues Earlier for Better Outcomes



Timothy Kowal
THOMAS VOGELE & ASSOCIATES, APC

Trial & Appellate Litigation
 129 W. Wilson St. Suite 200
 Costa Mesa, CA 92627
 (714) 641-1232
 tkowal@tvalaw.com
 www.tvalaw.com

