



APPELLATE LAW STRATEGIES

Riker Danzig's Appellate Law Strategies Group provides a full range of services in both state and federal courts. We have particular expertise in handling appeals in New Jersey. Our attorneys regularly appear before the Appellate Division, the New Jersey Supreme Court, and the United States Court of Appeals for the Third Circuit. Heading the group is a former New Jersey Supreme Court Justice and several skilled appellate attorneys. Members of the firm collaborated in writing the leading text on appellate law practice in New Jersey: *New Jersey Practice, Appellate Practice and Procedure* (West Group).

Our Appellate Strategies Group grew naturally from our general litigation practice. More than half of our lawyers are full-time litigators, concentrating in **commercial litigation**. The group has worked with corporate counsel, other law firms, and their clients in evaluating and managing appeals. We advise on appellate law strategy and handle appeals-including writing briefs and making oral arguments. We also assist litigants and their counsel in writing briefs and preparing for oral argument. Whether defending or challenging a lower court ruling, our appellate attorneys have extensive experience representing clients before state and federal appellate courts.

Our areas of appellate law practice include:

- **General corporate**, commercial, and business
- **Products liability**
- Personal injury
- Toxic torts and environmental
- **Employment**
- Unfair competition and protection of **intellectual property**
- **Public utilities**
- **Banking**
- **Insurance**
- **Securities**
- **Real estate**

- Trusts and estates
- Construction
- Family law

We have argued precedent-setting decisions in cases involving employment discrimination, public utilities, environmental law, condemnation, lender liability, and creditor rights.

Representative Cases:

- *City Check Cashing v. Manufacturers Hanover Trust Company*, in which we obtained a reversal from the New Jersey Supreme Court of a judgment that had imposed a duty on the defendant bank to cash a counterfeit certified check for a non-customer.
- *Gaydos v. National Consumer Insurance Company*, in which the New Jersey Supreme Court held that New Jersey automobile insurance law did not afford a broker an implied right of action against an automobile insurer for termination of their relationship.
- *United Water Resources, Inc., et al. v. North Jersey District Water Supply Commission, et al.*, in which the New Jersey Supreme Court affirmed the judgment of the Appellate Division and adopted our interpretation that the Interlocal Services Act was not intended to allow powers of local governments to delegate authority to private businesses.
- *Fisher Scientific Co. and National Starch & Chemical Co. v. Passaic Valley Sewerage Commissioners*, in which the Appellate Division upheld a lower court decision eliminating an unfair fee imposed by the Passaic Valley Sewerage Commissioners on our clients, Fisher Scientific Company and National Starch & Chemical Company.
- Our successful defense in the New Jersey Supreme Court of the right of Collective Bank to charge loan recipients for attorneys' fees generated by the review of documents in *Iverson vs. Collective Bank*.
- *In Re: United Healthcare System, Inc.*, in which we won a unanimous decision for the Unsecured Creditors' Committee in United Healthcare System's Chapter 11 bankruptcy proceedings defending the committee from accusations that it had violated the Worker Adjustment and Retraining Act.
- *Gordon vs. Witco*, an appeal in which we successfully helped Witco Corporation overturn on appeal a multimillion dollar punitive damages verdict in an age discrimination case. The Appellate Division threw out the punitive damages award and ordered a new trial, at which the jury returned a unanimous verdict in favor of Witco.

- Participation in the successful argument by tobacco manufacturers in the Third Circuit Court of Appeals and the United States Supreme Court that the Federal Cigarette and Labeling Act preempts certain state common-law claims that consumers were not adequately warned of the risks of smoking.
- A successful interlocutory appeal in the Appellate Division on behalf of the New Jersey Turnpike Authority. We argued that the NJTA need not pay a contested land estimate in a condemnation proceeding.
- The defense of the siting of a waste-to-energy facility in Gloucester County, N.J., that began in trial court and continued to a successful conclusion through the Appellate Division and Supreme Court of New Jersey.
- Riker Danzig has served as trial and appellate counsel in a number of complex environmental litigation matters in New Jersey. In a landmark decision by the New Jersey Supreme Court, we obtained a judgment of absolute liability in favor of a current industrial landowner against a remote prior owner who had contaminated a factory site with radium tailings. The Supreme Court awarded reimbursement for previous remediation costs, indemnification for future remediation costs, as well as recovery of consequential economic damages to the plaintiff's business operations. The case has received widespread national publicity. In U.S. District Court, we previously obtained a partial summary judgment against the same prior owner in an important CERCLA holding.
- We were counsel in the New Jersey Supreme Court of the American Bankers Association and the New Jersey Bankers Association as amici curiae in a case having extensive ramifications for the securities industry. The action concerned a corporate indenture trustee's duties prior to a default under an indenture. The court held that, to the extent that the provisions of an indenture are unfair, a trustee must look beyond the requirements of the documents and act in a manner reasonably designed to protect the interests of the holders of the securities.
- We successfully defended a biotechnology company in U.S. District Court for the District of New Jersey in a securities fraud action in which we obtained a dismissal of the complaint. The Third U.S. Circuit Court of Appeals affirmed the dismissal.
- We completed 12 years of litigation in the Law Division, Appellate Division and Supreme Court of New Jersey in which we defended a corporate trustee against surcharge claims in excess of \$7,000,000. The issue raised on appeal was whether to apply the business judgment rule or the prudent person standard to certain actions of a corporate trustee, the directors of which simultaneously served as officers and directors of a corporation, the shares of which constituted the corpus of the trust.
- We represent employers before all state and federal administrative agencies and handle appeals to the state

and federal appellate courts.

On appeal, as in litigation generally, there is no substitute for knowledge, experience, and a proven record of success. If you require advice on appellate strategy, our Appellate Strategies Practice Group stands ready to assist you.