

APPELLATE PRESERVATION

Overview

With a nationwide team of more than 30 experienced appellate preservation lawyers, BCLP offers unmatched depth, coordination, and expertise at the intersection of trial strategy and appellate success. We help clients defend today's trials while winning tomorrow's appeals.

Our Role

As appellate preservation counsel, BCLP provides continuity of strategy and service on the important legal issues you face before trial, at trial, and on appeal.

Working hand in glove and collaboratively with trial counsel, we are a strategic voice on every legal issue that comes before the judge. This allows trial counsel to focus on what they do best—winning at trial—while we protect your best arguments to defend them on appeal.

As a practical matter, this means we:

- (1) brief key legal issues before and during trial (*Daubert* motions, motions in limine, summary judgment motions, class certification motions, bench briefs, jury instructions, mistrial motions, JMOL motions, post-trial motions, and anything else trial requires);
- (2) sit through trial and consult with trial counsel daily, as an integrated part of the trial team, to ensure objections are timely and appropriately raised (and argue legal issues to the judge that arise during trial, including emergency briefing on case-dispositive legal issues);
- (3) at the close of trial, prepare and file all directed verdict/JMOL/post-trial/ new trial motions;
- (4) brief and argue the appeal.

Our Track Record of Success

Over the past five years, BCLP has served as lead briefing, legal issues, and appellate preservation counsel in more than **30** high stakes trials nationwide, spanning approximately **170** trial weeks.

Notable Results from our Appellate Group Firmwide:

- \$332M dollar verdict reduced by \$304M

- \$1.561B in damages reduced by \$1B
- \$2.25B in damages reduced by \$1.85B
- \$185M lead case reversed potentially eliminating \$8B in verdicts in follow-on cases
- Reversal of \$92M punitive damages verdict.
- Briefed and argued a post-trial motion securing a \$420 million remittitur of the judgment
- Contributions to 12 defense verdicts, one directed verdict, one voluntary dismissal at trial, and three mistrials over the past five years
- Drafted and filed 402 expert motions, 801 motions in limine, 3 post-trial motions, and more than 25 directed verdict motions for a single client in a mass tort in 2024
- Drafted or contributed to 18 appellate briefs on the merits for a single client in a mass tort in 2024 and 2025
- Created a federal circuit split out of an MDL to facilitate Supreme Court review on a dispositive legal issue

Our Approach

As appellate preservation counsel, we focus on strategic alignment rather than task replication, working in close partnership with trial teams to integrate trial and appellate strategy from the outset. Our approach includes:

- Establishing an early, case-specific legal issues roadmap to guide decision-making throughout trial and appeal
- Aligning factual development with long-term appellate objectives
- Making deliberate issue-preservation decisions that maximize appellate options, not just trial outcomes
- Positioning cases to advance favorable law through precedent-setting appeals and interlocutory review when appropriate

Our goal is not only to defend individual cases, but to shape outcomes across broader litigation landscapes through disciplined, forward-looking legal strategy.

Why Engage Separate Briefing, Legal Issues, and Appellate Preservation Counsel?

In today's litigation environment, a trial victory alone is not enough. High-stakes and mass tort matters demand careful management of legal risk beyond the verdict, including preserving critical issues, building a defensible record, and maintaining consistency across cases.

Engaging dedicated appellate preservation counsel provides focused legal oversight and long-term strategic continuity that trial teams often do not have the bandwidth to maintain. This "Virtual Firm" approach, bringing together specialized teams alongside trial counsel, is widely recognized as a best practice for:

- Cutting-edge mass tort matters, where legal rulings may shape thousands of future claims
- Large portfolios of cases requiring consistency, efficiency, and the opportunity to create favorable precedent
- Single, high-stakes trials with significant financial or operational exposure

The Value We Add

Our value lies in disciplined focus and continuity of strategy. By owning legal issue development and preservation throughout the lifecycle of a case, we safeguard appellate outcomes while allowing trial counsel to focus squarely on winning at trial.

Meet The Team



Liz Blackwell

Partner, St. Louis

liz.blackwell@bclplaw.com

[+1 314 259 2513](tel:+13142592513)



Lee Marshall

Global Department Leader – Litigation
& Investigations, San Francisco

lee.marshall@bclplaw.com

[+1 415 675 3444](tel:+14156753444)



Jean-Claude André

Partner and Co-Chair, Appellate and
Supreme Court Group, Los Angeles

jc.andre@bclplaw.com

+1 310 576 2148



Barbara A. Smith Tyson

Partner and Co-Chair, Appellate and
Supreme Court Group, St. Louis

barbara.smith@bclplaw.com

+1 314 259 2367

Related Capabilities

- Appellate
- Litigation & Dispute Resolution
- Class Actions & Mass Torts

Experience

Proven Results at the Highest Stakes

Our appellate preservation work has delivered exceptional outcomes for clients facing significant financial and precedential risk:

- Identified and developed writ strategy that resulted in halting a multi-million dollar trial during jury selection and ultimately resulted in transferring thousands of cases out of a plaintiff-friendly jurisdiction.
- Partnered closely with trial counsel in Missouri circuit court to develop and execute a record-focused defense strategy designed from the outset to support appellate review. Worked in real time during the plaintiff's case-in-chief to identify, elicit, and preserve critical evidentiary deficiencies, particularly the absence of reliable, admissible causation evidence resulting in the trial court granting Monsanto's Rule 72.01 motion for directed verdict at the

close of plaintiff's evidence. Building on the record carefully developed and preserved at trial, led appellate briefing and presented oral argument before the Missouri Court of Appeals, successfully defending the verdict in a published decision, *McCostlin v. Monsanto Co.*, 718 S.W.3d 435 (Mo. Ct. App. 2025). This remains the only Roundup trial in which a directed verdict has been upheld on appeal, underscoring the decisive role of early strategy, disciplined trial-level execution, and rigorous preservation.

- Led appellate defense of preserved evidentiary rulings in Roundup litigation. As lead appellate counsel in *Gordon v. Monsanto Co.*, 702 S.W.3d 506 (Mo. App. E.D. 2024), successfully defended a jury verdict for Monsanto by briefing and arguing issues carefully preserved at trial, including the trial court's exclusion of critical plaintiff evidence offered to rebut Roundup's safety. The published decision affirming the defense verdict underscores the firm's integrated approach to trial-level issue development and preservation, coupled with rigorous appellate advocacy.

Related Insights

Awards

Jul 08, 2026

Lee Marshall recognized among Law.com's Litigators of the Week

News

Jun 26, 2026

BCLP advises on Supreme Court ruling reshaping Roundup litigation landscape

News

Mar 03, 2026

Federal Court Grants Monsanto Full Win in East St. Louis PCB Case