



Effective Appellate Litigation: Improving Your Practice in State and Federal Courts of Appeals

2021 Appellate Practice Section Program

Thursday–Friday, June 3–4, 2021
Live Webcast

North Carolina: 6.00 MCLE Hours

Includes:

1.00 Substance Abuse/Mental Health

1.00 Technology Training

Qualifies for NC State Bar Appellate Practice Specialization credit

Planned by the NCBA Appellate Practice Section

When done well, the practice of appellate litigation is the art of constantly learning. Even the most experienced appellate litigator can learn from colleagues of the bench and the bar more effective ways to frame an argument, supervise junior attorneys and navigate the rules to best serve one's clients and the courts. Amidst it all, appellate litigators must continue to learn how to deal with the demands and stress of the profession. During this program, superstars of the North Carolina bench and bar cover these topics and more to help you become a better and more effective appellate attorney.

Effective Appellate Litigation

Thursday–Friday
June 3–4, 2021

Thursday, June 3, 2021 | 8:55 AM–12:20 PM

8:55 Welcome and Introductions

9:00 The Nuts and Bolts of Appellate Litigation in North Carolina Courts[†]

Judge Collins, Judge Dietz and Judge Gore

The past year has been a year of change for appellate practice in the North Carolina courts and there are more exciting changes to come. In this session, three Court of Appeals judges bring you up to speed on the recent and upcoming changes in practice, procedure, and technology at the appellate courts. They describe how to use technology to improve the quality of written and oral presentations, discuss the future of remote oral arguments, explore the shift to e-filing in the trial courts and its ramifications for appellate practice, explain North Carolina's new universal citation system, and preview some appellate rule changes that are likely to arrive soon.

10:00 Break

10:10 Hidden Gems: The Surprising Stories Behind Some of North Carolina's Appellate Practices
Leerberg and Scherer

Over a span of several years, Matt Leerberg and Beth Scherer researched and wrote a comprehensive treatise on North Carolina appellate practice and procedure. As they did so, they discovered that many modern appellate practices have a fascinating historical pedigree. Why are so many mistakes at the notice-of-appeal stage considered “jurisdictional”? Why are orders entered after a final judgment appealable at all? How did the Appellate Rules come to take their current form? Join us as we explore these and many other questions through the lens of history.

11:10 Break

11:20 Strategies and Resources for Addressing the Risks of Remote Work for Mental Health and Professionalism[†]

Judge Inman, Harrington and Hicks

The shift to a remote working environment over the past year has serious implications for lawyers' mental health and standards of professionalism. Remote work and accompanying strains on mental health can enhance feelings of isolation, heighten the risk of depression and substance abuse, and lead to unprofessional behavior as lawyers in their communication and work product. Appellate lawyers can be especially prone to these risks given the sometimes-isolating nature of appellate work. In this session, presenters draw on their experience to discuss these issues, advise attorneys on how to recognize situations in which they or their colleagues might benefit from intervention, and make lawyers aware of strategies and resources that are available to help them get back on track.

12:20 Adjourn

Friday, June 4, 2021 | 8:55 AM–12:30 PM

8:55 Welcome and Introductions

9:00 From the Private Bar to the Federal Bench: What I Know Now That I Wish I Knew Then
Judge Rushing and Narasimhan

In March 2019, after spending nearly a decade practicing appellate litigation, the Honorable Allison Jones Rushing moved from the private bar to the federal bench. Despite many years at the height of the practice, the transition to the bench has brought a host of insights that Judge Rushing wishes she had known when she was writing briefs and crafting oral arguments to convince her now-judicial colleagues. In this session, Sripriya Narasimhan interviews Judge Rushing about those insights and other lessons learned over the last two years.

9:30 Break

9:40 Issue Framing

Hiller and Lendino

How do you turn a dry legal argument into a compelling story that grabs the judge's attention? What does it mean for your argument to have a "theme"? This session focuses on the elusive yet critical skill of issue framing, offering practical guidance. While often referred to in the context of appellate brief writing, issue framing can strengthen your written and oral advocacy in any court, and even outside the courtroom.

10:40 Break

10:50 Cross-Appeals: What, Why, When and How in State and Federal Courts

Doggett and Liguori

Cross-appeals are not everyday affairs in appellate litigation, but when necessary, they can be vital to protecting your clients' interests. In this session, Jim Doggett and Michelle Liguori draw on their significant experience to explain what a cross-appeal is, why you may want or need to file a cross-appeal, and the procedures to be followed for briefing and arguing cross-appeals under both the North Carolina and federal rules. The state-law portion includes a discussion of cross-appeals in the North Carolina Supreme Court, including dissent-based appeals and cases heard on discretionary review. The presenters also survey data about recent cross-appeals in the North Carolina appellate courts and the Fourth Circuit and discuss a few landmark cross-appeals that highlight the governing rules and pitfalls to avoid.

11:50 Break

12:00 The Lighting of a Fire: Lessons Learned in Supervising Appellate Clinic Students

Andrussier and Korzen

It has been said that "education is not the filling of a pail, but the lighting of a fire." In this session, the presenters discuss lessons learned from supervising 3Ls in the appellate clinics they have directed for more than 25 combined years. With advice appropriate for young appellate attorneys, those who supervise young appellate attorneys and everybody in between, they share thoughts on the "lighting of a fire" in appellate counsel.

12:30 Adjourn

Speakers

- Judge Allison J. Rushing, U.S. Court of Appeals for the Fourth Circuit, Asheville
- Judge Allegra Collins, North Carolina Court of Appeals, Raleigh
- Judge Richard D. Dietz, North Carolina Court of Appeals, Raleigh
- Judge Fred Gore, North Carolina Court of Appeals, Raleigh
- Judge Lucy N. Inman, North Carolina Court of Appeals, Raleigh
- Sean E. Andrussier, Duke University School of Law, Durham
- James W. Doggett, North Carolina Department of Justice, Raleigh
- Robert E. Harrington, Robinson Bradshaw & Hinson PA, Charlotte
- Richard E. Hicks, Ph.D., HRC Behavioral Health & Psychiatry PA, Chapel Hill
- Mark A. Hiller, Robinson Bradshaw & Hinson PA, Raleigh
- John J. Korzen, Wake Forest University School of Law, Winston-Salem
- Matthew N. Leerberg, Fox Rothschild LLP, Raleigh
- Timothy P. Lendino, Compass Group North America, Charlotte
- Michelle A. Liguori, Ellis & Winters LLP, Raleigh
- Sripriya Narasimhan, North Carolina Department of Justice, Raleigh
- Elizabeth Brooks Scherer, Fox Rothschild LLP, Raleigh

Planners

- Jonathan Y. Ellis, U.S. Department of Justice, Washington, DC
- Erik R. Zimmerman, Robinson Bradshaw, Chapel Hill

† Indicates portion providing Substance Abuse/Mental Health credit

‡ Indicates portion providing Technology Training credit