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August 28, 2008

APPELLATE LAW

NEWSLETTER OF THE APPELLATE PRACTICE GROUP OF MANATT, PHELPS & PHILLIPS, LLP

Volume IV, Issue 5

This article was originally e-published in the August 12, 2008 issue of *Appellate Tips for Trial Lawyers*, An E-Publication of the Los Angeles County Bar Association.

Working with Appellate Court Clerks: Call Today! Don't Delay!

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Who says, "We don't give legal advice. Read the rules of court and local rules."? The answer, of course—as just about any litigator knows—is that this is a court clerk answering the telephone. You gain bonus points for noticing that this phrase is typically relayed in hushed tones, accompanied by the explanation, "The judge is on the bench."

But guess what? This unhelpful response comes almost exclusively from court clerks in *trial* courts. Those clerks witness bad behavior by attorneys on a daily basis. Moreover, they are so busy helping to run an overwhelmed trial courtroom that they simply have no time to provide real assistance, even if they wanted to.

Clerks at the *appellate* level, however, are entirely different. Fortunately for litigators, more often than not, they are friendly and helpful in answering both routine and tricky questions.

Appellate Court Clerks

Appellate court clerks recognize that most lawyers are unfamiliar with the intricacies of appellate procedure. Moreover, they do not have the sort of daily interaction with lawyers that may sour a helpful disposition. Indeed, these clerks understand that their job will be easier—and appeals

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will proceed more smoothly—if lawyers do things right, rather than make mistakes that prompt default notices and require corrective action. Furthermore, the administrative attitude at most appellate courts emphasizes customer service.

How to Make the Call

Joesph Lane, the clerk of the California Court of Appeal in Los Angeles, has made clear in many public pronouncements, that he cares deeply about how lawyers view the court and expects court personnel to be both courteous and helpful when members of the bar or public seek assistance. Clerks at the Ninth Circuit Court of Appeals have echoed this sentiment.

So How Can You Enlist the Help of an Appellate Court Clerk?

- First, a clerk is more likely to help you when you explain that you've already exhausted the obvious sources for an answer to your question. If the answer you seek is posted plainly on the court's Web site (check the FAQ link), or appears in a relevant rule or appellate practice guide, you may end up feeling pretty silly for calling.
- Second, have the case docket number handy. For calls to the California Court of Appeal, if you know the relevant division, try calling that division directly.
- Third, carefully consider beforehand how best to clearly and concisely state your inquiry. Understand that however much clerks may want to help, they are both busy and bound by rules of professionalism. Appropriate questions should be designed to resolve procedural quandaries, not to delve into substantive law or confidential aspects of case status.
- Fourth, be scrupulously polite. Calls made at 9:00 a.m., 4:30 p.m., or during the lunch hour, are less likely to be successful, as the clerks will have other priorities at these times.

On the off chance that something goes wrong with a call—say, a clerk is rude without provocation or provides an answer that seems simply wrong or otherwise suspicious—you have two options. Consider calling again later; a different clerk may answer and provide a more satisfactory response. Or consider asking to speak to the clerk's supervisor.

The public phone list for the Ninth Circuit Court of Appeals is available [online](http://www.ca9.uscourts.gov/ca9/courtinfo.nsf/main/page) at: <http://www.ca9.uscourts.gov/ca9/courtinfo.nsf/main/page>

Phone numbers are available.

For the California Supreme Court:

<http://www.courtinfo.ca.gov/courts/supreme/>

For the Courts of Appeal:

<http://www.courtinfo.ca.gov/courts/courtssofarpeal/contact.htm>

When it comes to a tricky question of procedure—*appellate* procedure, that is—the most useful tool on your desk may be the phone.

FOR ADDITIONAL INFORMATION ON THIS ISSUE, CONTACT:



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