



## Appellate & Critical Motions

Our nationally recognized Appellate & Critical Motions (ACM) Practice delivers sophisticated legal advocacy and analysis before trial, at trial, and on appeal. From state trial courts to the U.S. Supreme Court, our ACM attorneys identify, preserve, and present the critical legal issues that can make the difference between winning and losing.

Whether it is to defend a hard-won victory or to reverse a crushing loss, clients seek out our ACM lawyers for their strategic acumen, powerful briefs, and strong oral advocacy. But legal excellence is not enough. We pride ourselves on our sensitivity to clients' cost concerns and our collegial approach to working with other lawyers.

We have briefed and argued a diverse array of high-stakes appeals in the U.S. Supreme Court, every federal court of appeal, various state supreme courts, and many state appellate courts. Our ACM attorneys have won landmark decisions on behalf of clients as varied as medical-device manufacturers to student athletes.

Clients often call on us to represent them in cases that affect entire industries and business generally. From federal preemption and environmental regulation to personal jurisdiction and class certification, our ACM attorneys have helped shape the law that is important to the business community.

### Key Contacts

[Scott Glauber](#)

[Michael Kimberly](#)

### Areas of Focus

## Critical Motions

Critical motions are just that—critical. Whether it is a motion to dismiss, a motion to deny class certification, or a motion to exclude the plaintiffs' causation expert, a strategic motion often represents the fastest, most cost-effective way to resolve complex litigation. Our ACM attorneys are creative in developing legal theories and skilled in executing litigation strategies that maximize the likelihood of a successful resolution, be it the dismissal of a case or a settlement on favorable terms.

Sometimes, trial is unavoidable. One of the things that sets our ACM attorneys apart is their deep integration with trial teams, both within the firm and otherwise. We are frequently retained to serve as motions counsel in large litigation, where we work cooperatively with our trial lawyers and those from other firms to form a cohesive team. During trial, our ACM attorneys—working either on-site or remotely—help lay the groundwork for future appeals, including through motions in limine, proposed jury instructions, and motions for judgment as a matter of law.

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## National Coordinating Counsel

Our collaboration with lawyers from other law firms extends beyond individual cases. Clients represented by multiple firms but faced with important recurring issues have repeatedly called upon our ACM attorneys to serve as national coordinating counsel to ensure a consistent, strategic approach across their entire litigation portfolio. As coordinating counsel, our attorneys conceive legal arguments, develop litigation strategies, prepare model briefings, and serve as consultants to our clients' other outside counsel.

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## Federal Circuit Experience

Our Intellectual Property litigators have extensive experience handling appeals before the Federal Circuit. Over the past five years, our lawyers have handled more than 100 Federal Circuit appeals.

[Learn More](#)

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## Illinois Appellate Experience

We have a proven track record of success before the Illinois Appellate Court and the Supreme Court of Illinois. Whether it is a case we worked on in the circuit court or one we were retained to handle on appeal, our attorneys have the experience and know-how to win in the state's appellate courts.

Over the past 10 years, our attorneys have litigated more than 150 appeals in Illinois—including approximately 40 cases before the Supreme Court of Illinois—in both civil and criminal cases. The civil matters have ranged from complex commercial litigation and insurance-coverage disputes to product liability, employment litigation, and motions for consolidation in multi-district litigation.

In federal matters, our ACM attorneys have appeared before the U.S. Court of Appeals for the Seventh Circuit nearly 200 times over the past decade. Contributing to this success is our lawyers' experience as clerks on both the Supreme Court of Illinois and the Seventh Circuit.

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## Texas Appellate Experience

We have been a formidable appellate force in Texas for more than a decade. Since 2011, our lawyers have litigated more than 100 appeals in the Texas Court of Appeals and the Fifth Circuit. Our team handles some of the region's most high-profile and complex matters, including banking and finance, white-collar, intellectual property, employment, and environmental litigation, as well as civil-rights matters and pivotal pro bono cases.

Our attorneys have clerked for justices of the Supreme Court of Texas and judges on the Fifth Circuit. This firsthand experience with the courts informs our approach to arguing appeals before them.

## U.S. Supreme Court Experience

Our ACM Practice is led by Supreme Court practitioner and former Supreme Court law clerk [Linda Coberly](#). We regularly brief and argue cases on the merits in the Supreme Court, seek and oppose certiorari, and prepare amicus briefs. Among our recent wins, we secured a unanimous Supreme Court victory for classes of college athletes in their antitrust challenge to the NCAA's no-compensation policy. In addition to our client and pro bono representations, Winston attorneys closely follow and provide critical analysis on key Supreme Court decisions that impact the business community.

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## Related Capabilities

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Litigation/Trials

Intellectual Property

Commercial Litigation & Disputes

Class Actions & Group Litigation

Product Liability & Mass Torts

Securities, M&A & Corporate Governance Litigation

Antitrust/Competition

Copyright-Infringement Litigation

Financial Services Litigation

White Collar & Government Investigations

Patent Litigation

## Recent Experience

Triumphed for Relevant Sports Before Second Circuit, Reviving Antitrust Suit Against FIFA, USSF

Prevailed in Fifth Circuit for Prominent Real Estate Developer, Vacating Bribery and Conspiracy Convictions

Secured High-Profile Fifth Circuit Dismissal for Avanci of Closely Watched Technology-Antitrust Case

Secured Headline-Grabbing Win Blocking Enforcement of Texas Governor's Order Prohibiting Masks in Schools During Pandemic

Seminal § 101 Win Secured for SAP in Patent Suit

Won Rare Denial of Class Certification for Medtronic in Securities Fraud Litigation

Supreme Court of Illinois Unanimously Affirmed Win for Atlantic Richfield

Winston Proves Hospitals Are Immune From Damages for Dismissal of Medical Staff When Motivated by the Improvement of Patient Care

Supreme Court of Illinois Decision has Implications on Use of Expert Witness

Prevailed before Supreme Court for Omnicare in Landmark Securities Act Case

## Related Insights & News

### RECOGNITIONS

#### Winston & Strawn Recognized in *The Legal 500 U.S.* 2025

JUNE 12, 2025

### IN THE MEDIA

#### Michael Kimberly Joins Winston & Strawn in Washington, D.C.

JUNE 3, 2025

### PRESS RELEASE

#### Winston & Strawn Welcomes Michael Kimberly as Co-Chair of the Appellate & Critical Motions Practice

MAY 27, 2025

### ARTICLE

#### Justices' Labcorp Questions Explore Class Cert. Tensions

MAY 8, 2025

### RECOGNITIONS

#### Winston Team Featured in Litigator of the Week Column

APRIL 25, 2025

### RECOGNITIONS

#### Linda Coberly Named to the 2025 *Lawdragon* Legends List

MARCH 6, 2025

### BLOG

#### The "Master of the Complaint": The Supreme Court Gives Plaintiffs a New Avenue to Avoid Federal Court

FEBRUARY 21, 2025

### RECOGNITIONS

#### Winston Attorneys Featured on the 2025 *Lawdragon* 500 Leading Lawyers in America List

JANUARY 14, 2025

### RECOGNITIONS

#### Winston Merits 98 Tier 1 Rankings in the 2025 Edition of Best Law Firms®

NOVEMBER 7, 2024

### SPEAKING ENGAGEMENT

## Jonathan Brightbill Moderates Federalist Society Panel on What To Expect in a Post-Chevron World

OCTOBER 29, 2024

### RECOGNITIONS

## Winston Attorneys Named to *Benchmark Litigation's* 2024 List of the Top 250 Women in Litigation

AUGUST 15, 2024

### BLOG

## Supreme Court Holds that *Chevron* Deference Violates the Administrative Procedure Act

JULY 3, 2024