WILSON ELSER

Robert Cooper

Of Counsel

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Robert Cooper handles appeals, writs and post-trial motions for clients represented by various Wilson Elser offices. Robert is certified by the California State Bar Board of Legal Specialization in appellate law. He is personally responsible for developing and executing legal strategies on appeal, selecting the legal issues to be presented to the appellate court, drafting or supervising the brief and presenting oral argument.

Robert has represented various clients by seeking review in the U.S. Supreme Court in both pro bono and paid cases. He has also argued seven cases before the California Supreme Court on various issues in civil and criminal cases as the sole or lead appellate counsel. He has presented 61 oral arguments in federal and state appellate courts, ranging from real estate transaction disputes to class action certification rulings and ERISA matters. He has also prepared more than 40 writ petitions in state and federal courts.

Robert's appellate experience covers various substantive areas, including constitutional law, legal malpractice, attorneys' fee disputes, and punitive damages. In addition to successfully petitioning the California Supreme Court for review in civil and criminal cases, he has obtained dismissal of appeals filed by opposing counsel based on procedural grounds in intermediate appellate courts.

In a case that garnered national attention, Robert successfully represented on a pro bono basis an undocumented immigrant who was seeking admission to the bar in the California Supreme Court. After the enactment of new legislation and in response to the Supreme Court's order requesting appellate briefing, Robert prepared and filed appellate briefs addressing the intersection of the new state legislation in relation to federal immigration laws. Given the national publicity associated with the case, numerous amicus briefs were filed on behalf of both sides by more than two dozen law firms and institutions.

Services

- Appellate

Based on his extensive appellate experience in representing plaintiffs and defendants, Robert has delivered presentations on appellate and writ practice from both perspectives. He also has lectured and published an article on attorneys' fee disputes.

Education

- Pepperdine University School of Law (J.D., 2000)
- University of Southern California (B.A., 1996)
  - magna cum laude

Bar Admissions

- California

Court Admissions

- Supreme Court of the United States
- Supreme Court of California
- U.S. Court of Appeals, Third Circuit
- U.S. Court of Appeals, Fifth Circuit
- U.S. Court of Appeals, Sixth Circuit
- U.S. Court of Appeals, Ninth Circuit
- U.S. Court of Appeals, Eleventh Circuit

Professional Affiliations

- Member, California Academy of Appellate Lawyers
- Commissioner, State Bar's Appellate Law Advisory Commission (2015-2019)

Awards & Honors

- Selected for inclusion in *Rising Stars for Southern California Super Lawyers*, 2009-2015

Representative Matters

U.S. SUPREME COURT
Prepared cert petition challenging adverse 4-3 decision by the California Supreme Court in interpreting Section 8 regulations; following issuance of CVSG order, met with Solicitor General's office and the entire government team representing numerous federal agencies; opposed five-member team at Jones Day at the cert stage in addition to preparing extensive memos to the SG; prepared and filed two sets of additional briefs; conducted extensive amicus solicitation campaign and obtained amicus briefs from key industry players. Click here to view the briefs.

Represented prisoner in pro bono case challenging North Carolina prison policies under

RLUIPA and the Free Exercise Clause of the federal Constitution: *Ben-Levi v. Brown*, 136 S.Ct. 930 (2016) (Alito, J., dissenting from denial of certiorari and rejecting mootness defense, consistent with reply arguments presented on client's behalf).

Prepared cert petition challenging nineteenth century Supreme Court cases that had refused to incorporate the Seventh Amendment through the Fourteenth Amendment's Due Process Clause to apply to the States. Click here to view the cert petition.

Prepared cert petition on behalf of San Quentin inmate challenging constitutionality of California statutes governing civil rights claims for prisoner abuse. Click here to view the cert petition.

Prepared cert petition challenging statutory evidentiary presumptions based on the Due Process Clause in addition to challenging the California Supreme Court's decision interpreting the Confrontation Clause in the same criminal case.

Prepared cert petition in First Amendment case regarding the application of California's right-of-publicity statute to non-celebrity plaintiffs.

Marin Housing Authority v. Reilly (No. 20-1046)

Hamilton v. Cabral (No. 17-389)

Ben-Levi v. Brown (No. 14-10186)

Goldsmith v. California (No. 14-495)

Siry Investments, L.P. v. Neman (No. 12-1446)

Ingerson v. Twentieth Century Fox Film Corp. (No. 02-1868)

STATE AND FEDERAL APPELLATE COURTS

Successfully sought interlocutory, discretionary appellate review by the Ninth Circuit regarding the constitutionality of a federal agency's structure based on the Consumer Financial Protection Bureau's creation in violation of the Appointments Clause (one of two such petitions granted by any appellate court; case subsequently settled on appeal after motion for withdrawal granted). Click here to read the appellate court's order, the petition, the motion for interlocutory appeal and the reply.

Successfully represented lender in the California Supreme Court in complex anti-deficiency case and convinced the high court to overrule 27 years of precedent (retained after review was granted to prepare merits briefing).

Obtained reinstatement of pro bono client's dismissed lawsuit after preparing merits briefs in the California Supreme Court on behalf of appellant challenging prison conditions in Pleasant Valley State Prison.

Obtained $16 million judgment against real estate tycoons in connection with securities fraud on remand after reversal of client's original $1.8 million judgment in 17-year-old partnership lawsuit; judgment affirmed while modified by intermediate court; cross-appeal pending.

Obtained reversal of $7.8 million jury verdict awarding well-known plaintiff/attorney $5,000 hourly rate in quantum meruit action against his former client; retained after entry of verdict to prepare post-trial motions and prosecute appeal.

Obtained writ of mandate in the first instance after trial court denied summary judgment motion in major personal injury case where plaintiffs had demanded $25 million.

Represented CGL carrier on appeal where putative insured sued various insurers for recovery of remediation costs of nearly $700 million; handled appeal after jury awarded seven-figure judgment against former client by preparing cross-appellant's opening brief; judgment reversed by court of appeal (subsequently review granted by California Supreme Court on other issues).

Prepared petition for review challenging $10 million jury verdict upheld by appellate court in product liability case.

Represented equipment lessor as the plaintiff/respondent on appeal and successfully defended terminating sanctions awarded in client's favor.

Successfully defended various law firms in unrelated malicious prosecution cases.

PUBLISHED CASES

California Supreme Court proceedings as counsel of record: *Reilly v. Marin Housing Auth.* (2020) 10 Cal.5th 583; *Black Sky Capital v. Cobb* (2019) 7 Cal.5th 156; *Voris v. Lampert* (2019) 7 Cal.5th 1141; *Dr. Leevil, LLC v. Westlake Health Care Center* (2018) 6 Cal.5th 474; *DisputeSuite.com, LLC v. Scoreinc.com* (2017) 2 Cal.5th 968; *Ryan v. Rosenfeld* (2017) 3 Cal.5th 124; *In re Garcia on Admission* (2014) 58 Cal.4th 440; *People v. Gray* (2014) 58 Cal.4th 901; *People v. Goldsmith* (2014) 59 Cal.4th 258.

Court of Appeal proceedings as counsel of record: *Siry Investment v. Farkhondehpour* (2020) 45 Cal.App.5th 1098; *Gray v. Superior Court (*2016) 247 Cal.App.4th 1159; *Calvo Fisher & Jacob LLP v. Lujan* (2015) 234 Cal.App.4th 608; *Siry Investment v. Farkhondehpour* (2015) 238 Cal.App.4th 725; *Chodos v. Borman* (2014) 227 Cal.App.4th 76; *Chodos v. Cole* (2012) 210 Cal.App.4th 692; *Michel v. Palos Verdes Network Group, Inc*. (2007) 156 Cal.App.4th 756; *Business to Business Markets, Inc. v. Zurich Specialties London Limited* (2005) 135 Cal.App.4th 165; *Watts Industries, Inc. v. Zurich American Ins. Co*. (2004) 121 Cal.App.4th 1029; *People v. Acevedo* (2003) 105 Cal.App.4th 195 (client's conviction reversed).

POST-TRIAL MOTIONS

Prepared and argued post-trial motions after entry of adverse $8.3 million judgment;

prepared and argued opposition to post-trial motions challenging $16 million judgment rendered in client's favor; prepared and argued post-trial motions to challenge seven-figure jury verdict based on 21-day San Francisco trial; prepared post-trial motions to challenge seven-figure verdict in legal malpractice case; prepared and argued post-trial motions to challenge seven-figure judgment in product liability case.