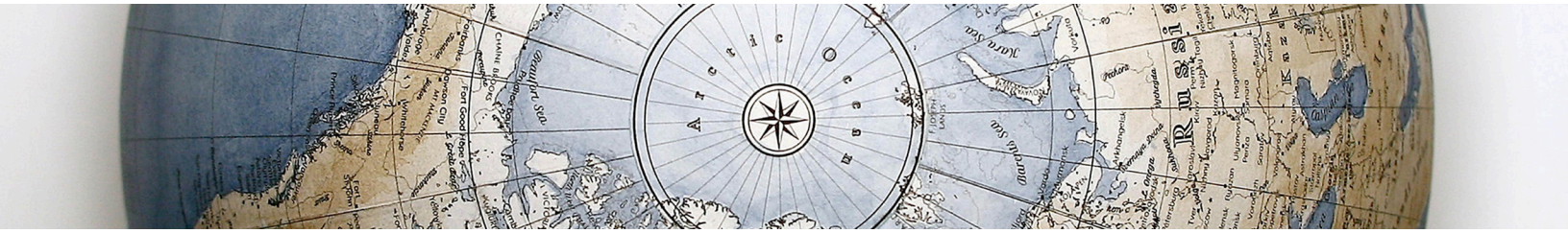
HOLWELL SHUSTER & GOLDBERG LLP



APPELLATE

We regularly handle matters before federal and state appellate courts throughout the nation, including the U.S. Supreme Court, informed by an intimate knowledge of the decision-making process at the highest appellate levels. In addition to the experience of Judge Holwell, who sat by designation on multiple federal circuit courts, Justice McGuire, who served as an associate justice in the First Judicial Department of the Appellate Division (New York's intermediate appellate court), and former U.S. Supreme Court clerks Vincent Levy, Daniel Sullivan, Gregory Dubinsky, and Jack Millman, our lawyers have held numerous clerkships on federal circuit courts as well as the Supreme Courts of Canada and Israel.

We bring insight from those experiences, our extensive previous appellate advocacy, and our constant focus on effective writing and argumentation to appeals involving a wide range of subject matters, including class certification, securities, antitrust, contracts, civil and criminal procedure, immigration, foreign-sovereign immunity, administrative and constitutional law, and arbitration.

Our partners have an extraordinary complexity of experience, including arguments before the U.S. Supreme Court, before federal circuit courts of appeal, and state appellate courts.

The firm recently secured a unanimous win at the U.S. Supreme Court in favor of the petitioner in *Waetzig v. Halliburton Energy Services, Inc.*, concerning the meaning and application of FRCP 60(b), reversing a decision from the Tenth Circuit. Adam Feldman, author of the Empirical SCOTUS, identified the brief in *Waetzig* as the top merits brief filed in the first 10 decisions of the October 2024-2025 Term, calling it a "tour de force in advocacy" and a "masterclass" that "balanced doctrinal precision with rhythmic narrative."

REPRESENTATIVE MATTERS

- Petitioner in a unanimous win at the U.S. Supreme Court in *Waetzig v. Halliburton Energy Services, Inc.*, concerning the meaning and application of FRCP 60(b).
- Former Governor Andrew Cuomo in a separation-of-powers challenge to the Commission on Ethics and Lobbying in Government related to the proceeds of a $5 million book deal. Secured rulings at both the New York Supreme Court and the Appellate Division, Third Department declaring the Commission unconstitutional.
- Individual in a Second Circuit appeal from an insider-trading conviction arising out of alleged tipping of Medicare reimbursement rules, raising novel issues of the meaning and scope of the wire-fraud and conversion-of-government-property statutes.
- TIG Insurance Company in a Second Circuit appeal against ExxonMobil Oil Corp. addressing when an ADR provision requires subsequent agreement to use arbitration in order to be enforceable.

- Supreme Court *amicus* brief regarding political gerrymandering on behalf of a bipartisan group of state legislators, which was quoted by Justice Kagan in two separate opinions.
- Insurer in successful appeal to the First Department overturning a $250 million judgment on the question of whether public policy permits coverage for amounts paid to the U.S. Securities and Exchange Commission as disgorgement for securities-law violations.
- Appointment by the U.S. Court of Appeals for the First Circuit to defend a district court decision implicating the extent to which the First Amendment permits protections for juror privacy in high-profile criminal cases.
- Trustees of residential mortgage loan securitization trusts in successful appeals in New York State appellate courts raising novel issues of contract interpretation.
- Settling bondholders in the Second Circuit in high-profile appeal brought by holdout bondholders to challenge the decision of the Southern District of New York lifting the *pari passu* injunction it had entered against the Republic of Argentina in the wake of its default. HSG successfully argued in support of affirmance, which paved the way for a historic settlement between Argentina and its bondholders of more than $6 billion.
- Auto parts manufacturer Hilite International, Inc. in a successful post-trial appeal in the Federal Circuit of patent claims involving variable valve timing in automobile cam phasers. Obtained reversal of trial judgment against Hilite by convincing the Federal Circuit that the patent was invalid because it embraced the prior art.
- Westchester County, in an advisory role, regarding legal and constitutional issues in federal appellate proceedings arising out of the settlement of a Qui Tam action against the County.
- Çukurova Holding, a Turkish industrial and commercial conglomerate, in post-judgment and appellate proceedings before the Southern District of New York and the Second Circuit, respectively, relating to the enforcement of a $932 million arbitral award against Çukurova. In its first decision applying new U.S. Supreme Court precedent on personal jurisdiction, the Second Circuit reversed the lower court's confirmation of the award and vacated an injunction against our client.
- Individual plaintiffs in the D.C. Circuit against the Hungarian government seeking the return of artworks looted during World War II, exceeding $100 million in value.
- Human-rights and international-law jurists as *amici* in the Second Circuit, in support of a historic trial judgment in favor of Chevron in a RICO and fraud action in the Southern District of New York.
- New York tech companies (including Tumblr, Kickstarter, Foursquare, Meetup, and Vimeo) as *amici* in the First Department and New York Court of Appeals in a closely watched appeal involving bulk search warrants to Facebook.
- Second Circuit appeal of a decision enjoining hostile takeover on securities and antitrust grounds.
- Third Circuit interlocutory review under Rule 23(f) of the FRCP of certification of a class of two million cable subscribers.
- An appeal successfully challenging a class certification order in Georgia Supreme Court in a case applying class action law to toxic torts.
- Fourth Circuit appeal of denial of motion to enjoin a merger in the supermarket industry.
- An appeal to the New York State Court of Appeals challenging Governor's use of superseder power to remove sitting district attorney.
- Second Circuit appeal of a decision enjoining station closings by the NYC Metropolitan Transportation Authority.
- Various appeals to the Delaware Supreme Court regarding breach of fiduciary duty and contract claims.
- Second Circuit appeal of denial of motion for preliminary injunction in a Title VII class action.
- Expedited appeal in the Seventh Circuit of dismissal of Clayton Act claims in connection with a hostile tender offer.