

Bennett L. Cohen

COUNSEL

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Bennett Cohen focuses his practice on appellate litigation and litigation strategy, helping clients navigate matters that are on appeal, may involve an appeal, or require careful management to avoid appellate risk. Clients rely on Ben for thoughtful analysis and advocacy at every stage of the appellate process.

Ben has handled appeals and appellate matters across state and federal courts, including cases before the U.S. Supreme Court and multiple federal circuits. He also advises trial teams on preserving issues for appeal and structuring litigation strategies to strengthen outcomes at both trial and appellate levels.

His experience spans commercial litigation, energy-related disputes and real estate matters. Ben works closely with clients to assess appellate risk, develop persuasive briefing and present complex legal issues clearly and effectively.

By combining deep appellate experience with a strategic perspective on litigation, Ben helps clients protect favorable outcomes and pursue reversals when necessary.

Education

- University of Pittsburgh (J.D., *magna cum laude*)
 - Order of the Coif; University of Pittsburgh Law Review, Executive Editor
- Oberlin College (B.A.)
 - Mathematics, with minors in Computer Science and Philosophy

Bar Admissions

- Colorado

Court Admissions

- U.S. Court of Appeals, First Circuit
- U.S. Supreme Court
- U.S. Court of Appeals, Third Circuit
- U.S. Court of Appeals, Fourth Circuit

Capabilities

- Appellate
- Litigation
- Real Estate Litigation

- U.S. Court of Appeals, Ninth Circuit
- U.S. Court of Appeals, Tenth Circuit
- U.S. Court of Appeals, Eleventh Circuit
- U.S. District Court, District of Colorado

Memberships

- Denver Bar Association
- Colorado Bar Association
- Foundation for Natural Resources and Energy Law

Recognition

- Named to *5280 Magazine's* "Denver's Top Lawyers" list for Appellate Law, 2026
- Selected for inclusion in *Best Lawyers in America®* for Commercial Litigation, 2026
- Nominee for Colorado Lawyers Committee's 2018 Individual Lawyer of the Year award for pro bono service
- Amicus Service Award: International Municipal Lawyers Association

Matters

Appellate

- Successfully represented two U.S. Secret Service agents in the appellate stages of a civil rights lawsuit, including U.S. Supreme Court representation and briefing leading to a unanimous decision by the U.S. Supreme Court that the agents enjoyed qualified immunity.
- Successfully represented a healthcare trade association in litigation and appeal of a multi-billion dollar TABOR challenge to a Colorado healthcare funding mechanism.
- Represented a "gig economy" company in an unemployment compensation audit, culminating in a decision by the Colorado Court of Appeals reversing the state agency's determinations that the company's workers were not independent contractors but employees.
- Successfully represented numerous employers in appeals of lawsuits by former employees based on federal and state discrimination laws, qui tam, FMLA and other theories.

Energy Litigation

- Represented two rural landowners in the appellate stages of a lawsuit brought by a petroleum company to condemn a high pressure gasoline pipeline across land that the owners were developing. Unearthed detailed 19th century legislative history from the state archives that convinced the Colorado Supreme Court that petroleum companies lacked statutory authority for certain pipeline condemnations.
- Successfully represented an oil and gas developer in litigation and appeal of a local government's attempt to shut down its operations through enactment of a targeted criminal ordinance.
- Successfully represented an oil and gas developer in litigation and appeal of an activist group's challenge to its operating agreement with city and permitting.
- Successfully represented an oil and gas developer in appeal of an administrative challenge to site permitting.

Real Estate Litigation

- Led pro bono appellate counsel representing descendants of Hispanic settlers in continuing Lobato v. Taylor (Taylor Ranch) litigation.
- Represented a homeowner in expansive soil construction defect litigation, where coverage turned on principles of equitable subrogation. Obtained appellate reversal of an adverse judgment, leading to a favorable settlement with the builder's insurer.
- Obtained judicial reformation of a condominium's outdated declarations, which could not be amended through ordinary member voting due to lender consent requirements.
- Represented excavation contractor in spurious lien action and appeal, including obtaining appellate reversal of the trial court's ruling that the client's disputed mechanic's lien could be summarily removed as a spurious lien.

Publications

December 27, 2022

Colorado Supreme Court to Revisit Standing of Counties to Sue the State

Co-Author, Law Week Colorado

September 23, 2022

ITR Americas Tax Awards 2022: The winners

Mentioned, International Tax Review

July 18, 2022

Denver Attorneys Provide Insight into Major Rulings From Colorado Supreme Court

Quoted, Law Week Colorado