Introduction

There are many terrific books and sources on how to appeal both criminal and civil matters. Strangely, books dedicated to the art and/or science of appellate practice for the family law advocate only do not exist. If this book were a legal issue, it would be one of first impression. It is designed to fill the void in family law materials.

As you are aware, family law raises unique concerns and issues differing from other areas of law practice. This guide assists you on the “nuts and bolts” of handling a family law appeal.

The pages ahead are specifically crafted as a “how to note” to the family law attorney, or a pro se litigant, who receives an adverse decision and wants to appeal the matter but requires some proper guidance.

The early chapters focus on the crucial decision to appeal and factors involved, including ethical considerations. We then examine the effective use of post-trial remedies, such as utilizing stays of judgments pending appeals, and creating, protecting, and reviewing the record of the trial court.

The middle chapters explore understanding appellate standards of review, appealing interlocutory issues, drafting and filing the notice of appeal and assembly of the record, learning the importance of the Record Appendix, preparing to write a brief, using authorities, drafting techniques and considerations, formatting a brief correctly, and using style effectively.

We then move to writing a persuasive brief, including the perspective of an appellant versus an appellee, and we look at the reply brief. We then begin our exploration of oral argument.

The last chapters focus on the expectations and importance of an oral argument. We cover preparing, presenting, and handling panel questions of the various types of jurists and end with the aftermath of an appellate decision.
Materials are adapted from civil law appellate practice books, guides, articles on various aspects of the appellate process, and federal and state statutes concerning appellate rules and procedures.

I liberally adapt source material specifically for the family law attorney and provide numerous examples when appropriate to emphasize issues on appeal in domestic relations. There are from the trenches a number of helpful practice pointers along the way. The first rule is:

**Practice Pointer**
You must know your local rules of appellate practice in your jurisdiction.

There is no substitute for understanding your own local rules. Use this guide to enable your application of those rules in your own jurisdiction. I strongly encourage you to read local briefs and watch family law appellate oral arguments.

As indicated, there are various considerations in appellate practice in the pages ahead, but I have specifically not provided a full brief, as I leave it to your own creation. However, the tools ahead enable you to file your own strong and hopefully successful brief.

You can certainly read this book cover to cover, but do not feel compelled to do so. Use the chapters on an “as needed basis” for a specific understanding of what you are facing when confronted with a family law appeal.

I hope it is helpful and enables you to produce excellent appellant submissions for your clients and reach greater heights in your own practice of family law.

*Excellence is never an accident. It is always the result of high intention, sincere effort, and intelligent execution; it represents the wise choice of many alternatives—choice, not chance determines your destiny.*

—Aristotle

*I know of no higher fortitude than stubbornness in the face of overwhelming odds.*

—Louis Nizer, Esq.