

# STATE AND LOCAL LEGAL CENTER

---

Supreme Court Advocacy for State and Local Government

## Why Hire a Supreme Court Specialist?

If the U.S. Supreme Court has just granted a *certiorari* petition in a case involving your state, city, or county or you are thinking about filing a petition for *certiorari*, you should consider hiring a Supreme Court specialist.



### Who is a Supreme Court specialist?

Professor Richard Lazarus' definition is widely accepted: someone who has argued at least five cases in the Court or is affiliated with a practice whose current members have argued at least 10 cases.

### Why should you hire a Supreme Court specialist?

Most Supreme Court specialists are former Supreme Court clerks who may have previously worked for the Solicitor General, who represents the federal government before the Court. Specialists are known by the Justices and know how the Justices think, which positions them well to make the most effective arguments before the Court.

You wouldn't go into a bankruptcy court without someone on your team who is an expert on bankruptcy law and how bankruptcy courts operate. The same is true of the Supreme Court. It has its own customs, rules, traditions, practices, etc. that only someone who regularly does Supreme Court work knows.

A number of studies indicate that specialists achieve better outcomes at the Court. A recent study of 356 cases found that when a specialist represented a criminal defendant, civil plaintiff, or immigrant, that party won 53% of the time versus 30% of the time when represented by a non-specialist. Specialists represented parties 44% of the time and non-specialists represented parties 56% of the time.

A Supreme Court specialist is likely to represent the other side. A 2014 Reuters survey found that in 53 percent of cases the Court heard the previous term a specialist represented at least one party.

By the time a case gets to the Court, local counsel may have worked on it for a decade. A Supreme Court specialist may provide a fresh, unbiased perspective.

The 2014 Reuters Special Report about Supreme Court specialists quoted Justice Sotomayor as saying: "I think it's malpractice for any lawyer who thinks this is my one shot before the Supreme Court and I have to take it."

### Do state and local governments typically hire Supreme Court specialists?

The practice varies from case to case. It is not unusual for a specialist to represent a local government in the Supreme Court. Attorneys general and state solicitors general usually represent states at the Supreme Court. In some cases states also hire Supreme Court specialists.

### Can a state or local government afford a Supreme Court specialist?

Yes. Supreme Court specialists and their law firms charge state and local governments reasonable rates. Even the most experienced Supreme Court specialists covet merits work. A number of law school Supreme Court clinics run by Supreme Court specialists represent clients without charging.

### May local counsel continue to work on a case with a Supreme Court specialist?

Yes. Local counsel and a Supreme Court specialist may work together in any mutually agreed upon arrangement.

### How do I find a Supreme Court specialist?

A starting place is the 2014 Reuters Special Report about Supreme Court specialists which identifies 66 lawyers who have been at least six times more likely to have their *certiorari* petitions granted than other private attorneys. According to the report, more than 500 attorneys in Washington D.C. say they have Supreme Court expertise on firm websites.

### Is it important to hire a Supreme Court specialist for *certiorari* petitions too?

Yes because, as described above, evidence indicates that *certiorari* petitions written by Supreme Court specialists are much more likely to be granted. This is likely because specialists are able to identify which cases are worthy of Supreme Court review.



444 North Capitol Street, N.W., Suite 515  
Washington, D.C. 20001

Phone: (202) 434-4845 Fax: (202) 737-1069

[www.statelocalllc.org](http://www.statelocalllc.org)

 @SLLCSCOTUS