Appellate Mediation and Preservation Issues

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Preservation is the Key

• General Rule

• Exception

• General Principles
Standards of Review

• Fact Issues

• Legal Issues

• Procedural/Evidentiary Issues
Pretrial – MTD/MSJ

- Failure to State a Cause of Action
- Party(ies) Completely Out
- Fact Issues/Dueling Motions
Pretrial – Motions in Limine

- Preservation/Definitive Ruling

- During Trial
Trial – Jury Selection

• Preservation

• Neil Challenges
Trial – Witnesses/Evidence

• Objections/Renewing Objections

• Offers of Proof
Trial – Motions for Directed Verdict

• When To Make Them

• Why Make Them
Trial – Motions for Mistrial

• When Required

• Preservation
Trial – Jury Instructions

• Written or Not

• Preserving Requested Instructions

• Preserving Objected to Instructions

• When the Instructions are Read
Trial – Verdict Form

• Preservation

• General v. Interrogatory Verdict Forms
Trial – Argument of Counsel

• Preservation

• Closing Argument

• Fundamental Error
Trial - Verdicts

• Inconsistent

• Inadequate

• Two Issue Rule
Post Trial – Motions for Judgment in Accordance with MDV

• What Must be Done First

• Why MDV Needs to be Made at Close of all the Evidence

• When Due
Post Trial – Motion for New Trial

• When Required

• When Not Required

• When Due