

---

# ENGINEERS AND THE LAW

---

A Look At The Seldom Discussed World Of Appellate Law

## So, What Happens If I Lose?

Lawsuits have been part of the business landscape for a long time. In the overwhelming number of cases, parties involved invariably believe they will be successful. But unless litigants can reach a settlement, there will be a winner and a loser.

Interestingly, there has been little focus on alternatives available to a lawsuit loser. One choice, of course, is to appeal the decision. Appellant strategy represents an intriguing option. For example, if a local engineering firm loses a decision, what are the odds and wisdom of pursuing its case in the Minnesota Court of Appeals and beyond?

Interestingly, that possibility is seldom mentioned by attorneys when generally discussing the work they do for engineers and engineering firms. The reason is understandable. As observed,

**Kathleen  
Ghreichi**



folks usually enter the legal arena because of a belief they have been treated unfairly and deserve a fair legal remedy. They think their cause is just and anticipate a positive outcome.

**MEAGHER & GEER**  
ATTORNEYS AT LAW PLLP

*Providing a full range of legal services to design professionals  
in Minnesota and nationwide.*

*Practice areas include liability defense, contract drafting and negotiation,  
payment claims, corporate law, employment, wills, trusts, estates and probate.*

Contact Mark Bloomquist • 612/337-9651 • mbloomquist@meagher.com  
Elizabeth S. Poeschl • 612/337-9655 • epoeschl@meagher.com

**MEAGHER.COM**

Follow us on    

The reality is odds are against opting to appeal a decision. Legal appeals are successful only about 20 percent of the time, according to Kathleen Ghreichi, an attorney with the Minneapolis-based law firm of Meagher & Geer. Ghreichi specializes in determining the likely success of an appeal, as well representing clients who pursue cases as part of the appeals process. Typically, she might consider only six cases annually for a possibility of an appeal and follow through on two.

"We give clients our best professional opinion regarding their chances for success," Ghreichi explained. "We tell them the odds for a successful appeal are against them because of the poor success rate." She notes legal experience and strategy are key factors in determining likelihood of victory. While the trial court may have made multiple errors, the appellant will only prevail if reversible error has occurred. In engineering cases, reversible error would most likely result from the judge improperly excluding key expert testimony, issuing jury instructions that misstate the law regarding evidence of the feasibility of an alternative design, or making an improper ruling as to whether the dispute is governed by the UCC or products liability law. In the Minnesota Court of Appeals process, attorneys are limited to 15 minutes for making a presentation before a three-judge panel. Ghreichi adds limited oral presentation time places increased importance on the ability of attorneys to write effective legal briefs presented to judges before proceedings begin. "The reality is that is where cases are often decided," she pointed out. "If your legal brief is convincing, your client's chances improve considerably." Ghreichi notes a key aspect for a winning appeal is the ability to be clear and concise in writing legal briefs. "I learned early on judges do not want to be inundated with a list of all the errors you think may have occurred in the previous trial when making your case," she observed. "The most effective approach is to focus one or two key -- and winning -- issues that really drive home your position."

Raised primarily in Michigan, Ghreichi comes to that conclusion from a curious background. As an undergraduate at the University of Toledo, Ghreichi never gave thought to becoming a lawyer. Instead her goal was to be a professor of French and teach at the college level. She obtained an undergraduate degree from the University of Toledo and a Master's degree in French from the University of Michigan in 1986. She initially taught at a Catholic prep school in Toledo. She loved teaching but, interestingly, found grading of student class work to be a mind-numbing experience. "That part of the work was very time consuming and boring," Ghreichi said, observing she was easily putting in about 60 hours of work a week. That was when she decided law school would be an attractive alternative. She won a scholarship to the University of Toledo law school, graduating in 1992. While at the university, Ghreichi met and married fellow student George Ghreichi, a native of Lebanon who earned a Master's degree in electrical and electronics engineering. "I figured that was as close to engineering as I was ever going to get," she reflected.

He went to work for the Minnesota-based Cargill Company and was eventually transferred to England. The couple lived in a village just outside greater London for five years before returning to the United States and the company's Minnesota corporate headquarters in 2002.

Attorney Ghreichi was a legal clerk for Minnesota Appeals Court Judge Jack Davies before joining the Hennepin County Attorney's office in 2004 where she began doing appellate work. The young attorney went on to work for the St. Louis Park-based law firm of Cousineau McGuire for three years. She joined the Minnetonka law firm of Morrison and Sund in 2007. That firm did considerable work in the area of real estate law and enabled Ghreichi to become more involved in construction and engineering related cases. "That experience whetted my appetite for the work I am doing now," she explained. Ghreichi joined the downtown Minneapolis law firm of Meagher Greer in 2011. "I was attracted to the variety of work and the quality of the attorneys at the firm," she explained.

"While in school, I never had interest in pursuing a career in engineering and I am certainly not mechanically inclined," Ghreichi admitted but also pointed out those factors have turned out to have a positive impact. "In addition to our experts, I rely on attorneys at our firm who have an engineering degree to clarify technical terminology and ideas to me," she observed. "My main asset is the ability to express complex technical concepts and projects in a clear and understandable way so that juries and even judges can easily understand. Interestingly, that ability has turned out to be a very valuable asset for me."

In her free time, the mother of two daughters volunteers as a legal representative for foster children over the age of 10. She is also active in a program for homeless people sponsored by St. Stephen's Men's Shelter in Minneapolis.

## HAMMARGREN & MEYER, P.A.

A unique combination of legal, engineering, surety and construction experience to assist contractors, subcontractors, engineers, owners, and sureties with construction-related legal issues.

- Contract Negotiation and Drafting
- Mechanics' Liens
- Delay and Disruption Claims
- Construction and Design Defect Claims
- Insurance and Bond Claims
- Bid Protests and Disputes
- Construction Mediations/Arbitrations
- Design Professional Liability

DAVE HAMMARGREN  
TIMOTHY COOK  
JENNIFER THOMPSON  
JAMES SANDER  
ELIZABETH REIN

PAUL MEYER\*  
PATRICK LEE-O'HALLORAN  
JASON TARASEK  
GARY FUCHS  
ROBERT SANDE

\*Also a Licensed Professional Engineer

3500 American Blvd W, Suite 450 • Minneapolis, MN 55431  
Phone: 952.844.9033 • Fax: 952.844.0114

[www.hammarlaw.com](http://www.hammarlaw.com)