

Appellate Remedies: Render, Remand, or Retreat?

Hon. Sarah Beth Landau,
First Court of Appeals

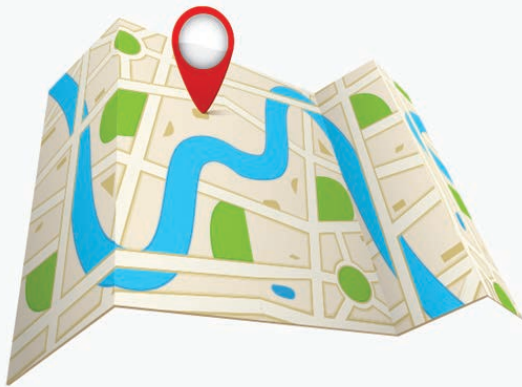
UT Law CLE:
State & Federal Appeals 2022

Amanda G. Taylor,
Butler Snow LLP

1

Why Remedy Matters:

- A win isn't a win unless the judgment correctly spells it out.
- Remedial error can be difficult to fix.
- It doesn't have to be like this.



2

2

Topics for Today:

Confusion about appellate remedies

Overview of appellate remedies

Court preferences on briefing remedies

Preservation at trial and on appeal

Focus on render vs. remand

Ethics in seeking remedies

3

3

Confusion about remedies:

- Not a focus for law students, judges, or staff attorneys.
- Rules are not overly specific.
- Rules provide no onramp for parties to suggest judgment language or offramp to fix it.
- Parties are not usually focused on remedy until there's a problem.
- Problems arise when the opinion is about to issue.



4

Overview of Appellate Remedies:

- TRAP 42-43:
Intermediate
Courts of Appeal
- TRAP 46:
Remittitur
- TRAP 56, 60:
Supreme Court



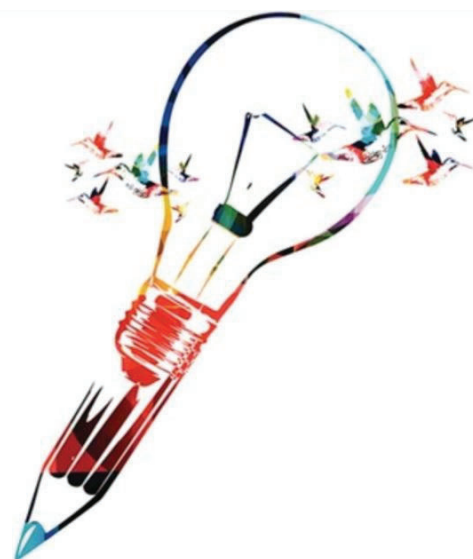
- Affirm
- Modify
- Reverse and Render
- Reverse and Remand
- Vacate
- Dismiss
- + “Other appropriate”
- + Remittitur
- + Costs
- + Sanctions?

5

5

Style Tips to Elevate Your Remedy Practice:

- Use your desired relief as a roadmap for your brief.
- If asking for something unusual, find a rule or case to support the request.
- Weave the remedy through your brief so the prayer reads as the inevitable destination.
- Remedy is an excellent topic for oral argument.



6

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Appellate Remedies: Remand, Render, or Retreat?

Also available as part of the eCourse

[Hooked on CLE: November 2022](#)

First appeared as part of the conference materials for the
32nd Annual Conference on State and Federal Appeals session
"Remedy: Remand, Render, or Retreat?"