They’re a plaintiff’s worst nightmare.
Before the ink dries on a jury’s decision awarding big damages to a plaintiff, defendants often place a phone call to the San Fernando Valley. There, Ellis Horvitz or one of his colleagues is likely to answer the plea to overturn the judgment, or at least get a reduction in damages.

An indication of the dominance of Horvitz & Levy in the appellate field is provided by looking at the 10 largest state court judgments in California in the past two years. The firm is handling half of the appeals – and already it has obtained reversals or hefty reductions in the judgment leveled against six of its 10 clients.

In June, Horvitz and company succeeded in overturning a $174.9 million jury award over genetically engineered cornseed against Monsanto in Mycogen Corp. v. Monsanto Co. The firm also spoiled Francis Ford Coppola’s fun by whittling an $80 million verdict against Warner Bros. to $20 million, in a dispute over Coppola’s “Pinnochio” movie.

And, it seems, the bigger the verdict, the better the chances that Horvitz & Levy will be asked to draft an appeal. This is particularly true in the area of punitive damages where, in the last decade or so, the firm has kept a lid on the increased number of punitive damage claims.

Founding partner Ellis Horvitz describes the firm’s clients as “corporate America,” which is regularly found to have injured, infringed or otherwise harmed plaintiffs.

It didn’t start out that way, however. Up until about 20 years ago, Horvitz’s specialty was representing plaintiffs on appeal.

“The defense started calling,” recalls Horvitz, “and I must say the pay was more regular.”

Fees from litigation-plagued companies have made Horvitz & Levy the largest appellate boutique in the state. And, with a success rate of 75 percent, it’s clearly one of the most successful. (In the past 10 years, the firm has helped get favorable results for its clients in 24 of 29 cases taken to decision in the California Supreme Court, 448 of the 605 cases it handled to decision in the California Courts of Appeal and 40 of 52 cases it handled before the 9th U.S. Circuit Court of Appeals.)

Typically, appellate lawyers have been brought in after the trial. That’s changing, however, as Horvitz attorneys are beginning to be consulted during the trial itself, with an eye to an appeal.

“There are some cases where everybody will have a pretty good idea that no matter how it comes out, whoever loses is going to take it up on appeal,” says partner David Ettinger. “Increasingly we’ve found clients are wanting an appellate specialist involved at an early state to make sure that the case is as well ready for appeal as can possibly be.”

According to Horvitz lawyers, increased punitive damage awards have made the appeals process more central to civil litigation.

“Our juries, God bless them, tend to be very generous,” says Horvitz. Horvitz has watched damage awards skyrocket since 1957, when he founded the firm. “I’m astonished at the size of it. I don’t tell people in the office because they look at me as if I must be as old as Methuselah, but I remember in the mid-’60s I got a $50,000 appeal, and I said to myself, ’Wow, Ellis, you have arrived,” says Horvitz.

Their specialty has made Horvitz & Levy lawyers experts in reversing Small Firms Katherine Gaidos

Award Busters
When a company finds itself saddled with a costly verdict, who do they call? Horvitz & Levy, the state’s biggest appellate boutique, with a 75-percent success rate.

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Reversal of Fortunes

Horvitz & Levy has proven a major player in the appellate field, handling some of California’s largest appeals. In the last two years, the firm has obtained reversals of hefty reductions in judgments leveled against six of these 10 clients.

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<tr>
<th>VERDICT</th>
<th>CASE</th>
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<tr>
<td>$225 million</td>
<td>Piccietti v. Friedenberg</td>
<td>Pending Case No. 708762 (San Diego Sup. Ct. 1998)</td>
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<td>$175 million</td>
<td>Mycogen Plant Sciences v. Monsanto</td>
<td>Reversed Case No. 698882 (San Diego Sup. Ct. 1998)</td>
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<td>$80 million</td>
<td>Coppola v. Warner Bros.</td>
<td>Reduced to $20 million Case No. BC135198 (Los Angeles Sup. Ct. 1998)</td>
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<td>$31 million</td>
<td>Caballanas v. Thrifty Payless</td>
<td>Confidential settlement Case No. 780749 (Orange County Sup. Ct. 1999)</td>
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<td>$40 million</td>
<td>Howard v. Roman Catholic Bishop for the Diocese of Stockton</td>
<td>Reduced to $9 million Case No. 28768/2752237 (San Joaquin Sup. Ct. 1998)</td>
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<td>$27 million</td>
<td>Kolodzey v. Kmart</td>
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<td>$22 million</td>
<td>Vasquez v. Lin</td>
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<td>$17.2 million</td>
<td>Balla v. Loma Linda University Medical Center</td>
<td>Reduced to $8.7 million Case No. SCV.201631 (San Bernardino Sup. Ct. 1999)</td>
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We have sort of gotten this reputation for filing briefs in the U.S. Supreme Court, but particularly with these two cases, in the area of women’s rights,” says Sungaila, the ringleader of the firm’s pro bono efforts. NOW and other organizations will bring cases to Sungaila’s doorstep and ask for assistance in swaying the Supreme Court. Amicus activities are not the only sign of community involvement in the firm, however. Ettinger is also on the board of directors for the Harriet Buhai Center, and Perrochet helps North Hills’ Monroe High School students set up mock trials through the Constitutional Rights Foundation. Whether they are representing corporations or institutions or doing pro bono work, Horvitz & Levy lawyers try to keep an emphasis on staying civil. “We really try to avoid the kind of nastiness that goes on, that sours a client’s heart,” says Horvitz, who maintains that “the best lawyers are the ones who behave like ladies and gentlemen.” Horvitz & Levy lawyers suggest that the nature of appellate work also helps kindle the practice. “It’s a smaller pool of people that you’re dealing with regularly, and maybe there’s a certain sense that if you’re too much of a jerk it really gets around,” says Perrochet. Between the friendly practice environment and fighting to correct errors against their institutional clients, Horvitz & Levy lawyers seem content with their lot. “I sleep at night,” says Perrochet.