

# CARLTON FIELDS

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## **Appellate Practice Pointer**

Unitherm Food Systems, Inc. v. Swift-Eckrich, Inc.

The United States Supreme Court, in Unitherm Food Systems, Inc. v. Swift-Eckrich, Inc., 546 U.S. \_\_\_, case No. 04-597 (Jan. 23, 2006), has confirmed the need to file a motion under Federal Rule of Civil Procedure 50(b) in order to preserve an argument regarding the insufficiency of the evidence for appellate review. The Court addressed and eliminated the confused belief that a court of appeals may be able to grant a new trial based upon insufficiency of the evidence, even in the absence of a Rule 50(b) motion having been filed, in order to avoid a manifest injustice.

For more information, please contact Joseph H. Lang, Jr. at 813.229.4253 or visit [www.carltonfields.com](http://www.carltonfields.com).

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