



Colt B. Dodrill

Partner

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Colt Dodrill has significant litigation, trial and appellate experience in Arizona and Nevada, including three arguments before the Ninth Circuit Court of Appeals. He has successfully handled civil jury trials in state court and won countless motions for summary judgment in state and federal courts.

Prior to joining Wilson Elser, Colt was senior counsel at a regional firm, managing its Arizona office for nine years and routinely handling cases large and small within a variety of practice areas. He handled complex litigation following the 2008 housing crisis representing various lenders and loan services in the *In re Mortg. Elec. Registration Sys.* multidistrict litigation and various class actions, as well as numerous individual actions filed by homeowners. Colt also represented the interests of numerous mortgage lenders, loan servicers and government-sponsored enterprises in hundreds of cases following homeowners associations' foreclosures of delinquent assessment liens resulting in numerous favorable rulings, including a published decision from the Nevada Supreme Court. Colt augmented his banking practice with a variety of general liability cases, including wrongful death, catastrophic personal injury, slip and falls, and commercial trucking liability matters.

During law school, Colt drafted "Dicta," the official publication of the law school under the auspices of the Student Bar Association, earning him a Dean's Award for Outstanding Service. He second summered at the U.S. Attorney's Office, where he gained invaluable first-hand courtroom experience arguing cases before federal judges and drafting several Ninth Circuit appellate briefs.

Colt's contribution to the practice continues as a member of the faculty at Esquire CLE, which hosts his hour-long presentation on the art and science of hourly billing entries. Additional presentations are under development.

Services

- Complex Tort & General Casualty
- Transportation
- Toxic Tort

General Liability

Colt has extensive experience defending businesses of all sizes from various types of claims, and attends mediations, settlement conferences and arbitrations on behalf of insureds, insurance companies and self-insured entities. Colt represents commercial and personal line insureds in wrongful death, automobile accident, slip and falls, and other premises liability cases. Colt advises clients on settlement strategies, risk assessment and steps to avoid future claims. Working with experts in numerous fields, including the practice of medicine, applied physics and general safety, Colt understands both the needs of insureds and the thought processes of opposing counsel. Whether the extensive research is factual or legal in nature, Colt does whatever it takes to find the proverbial smoking gun that may serve as either a basis for summary judgment or the catalyst to drive settlement.

Mortgage Banking

Colt's representation of mortgage lenders, servicers and government-sponsored enterprises found him on both sides of the "v." Initially defending against foreclosure avoidance lawsuits filed by distressed homeowners, Colt later prosecuted claims against predatory investors purchasing properties sold by homeowner's associations. Colt also has successfully tendered title claims, defended adverse claims to title, and represented loan servicers in eminent domain (condemnation) and civil asset forfeiture proceedings. Colt's mortgage practice extended to judicial foreclosures and obtaining reliefs from bankruptcy stays. In addition, Colt successfully defended borrower claims brought under the Truth in Lending Act (TILA), Real Estate Practices Settlement Act (RESPA), Fair Debt Collection Practices Act (FDCPA), Fair Credit Reporting Act (FCRA) and Telephone Consumer Protection Act (TCPA).

Intellectual Property

Colt's intellectual property experience ranges from Digital Millennium Copyright Act (DMCA) take-down requests to trademark and patent defense.

Education

- Boyd School of Law, University of Nevada (J.D., *cum laude*, 2004)
 - CALI Awards in Criminal Procedure II, Advanced Contracts, Immigration Law
- Arizona State University (B.S., 1991)
 - Beta Gamma Sigma Honors

Bar Admissions

- Nevada
- Arizona

Court Admissions

- U.S. Court of Appeals, Ninth Circuit
- Nevada Supreme Court

- Supreme Court of Arizona
- Arizona Court of Appeals
- U.S. District Court, District of Nevada
- U.S. District Court, District of Arizona
- U.S. Bankruptcy Court, District of Nevada
- U.S. Bankruptcy Court, District of Arizona

Awards & Honors

- Peer Review Rated 4.9/5 by Martindale-Hubbell

Representative Matters

Obtained summary judgment in favor of mortgage loan servicer and against subsequent purchaser on issue of first impression that a homeowner's association foreclosure of a delinquent assessment lien held in violation of the automatic bankruptcy stay is void under state law. Successfully argued appeal before Nevada Supreme Court resulting in published decision.

Obtained summary judgment in favor of mortgage lender in plaintiffs' fraud, breach of contract and negligence claims for receiving a three-year adjustable rate mortgage (ARM) instead of alleged promised seven-year ARM by establishing plaintiffs had no legally cognizable damages because their interest rate decreased. Successfully defended plaintiffs' appeal, including oral argument before the Ninth Circuit Court of Appeals.

Obtained dismissal of borrower's amended complaint by establishing that the Truth in Lending Act (TILA) in effect prior to Dodd-Frank Amendments did not require the loan servicer to disclose the owner of the note. Affirmed on appeal by Ninth Circuit Court of Appeals.

Successfully defended appeal to Ninth Circuit Court of Appeals of summary judgment holding that mortgage loan servicer owed the plaintiff no obligation to modify her loan.

Obtained judgment as a matter of law in favor of a casino at the close of plaintiff's case-in-chief in a catastrophic personal injury trial by establishing that the casino employee's alleged conduct was not in the course and scope of their employment. Plaintiff had alleged in amended pleadings that post-injury treatment resulted in her quadriplegia. By successfully trifurcating the trial into liability, damages and punitive damages stages, prevented the jury from ever receiving evidence of plaintiff's alleged injuries.

Obtained summary judgment in favor of governmental entity in flood case by establishing that downstream landowner was not third-party beneficiary of county's indemnity agreement with upstream landowner. Affirmed on appeal.

Obtained partial summary judgment on a punitive damages claim against parents of a

child alleged to have shot another child with a pebble from a slingshot.

Obtained dismissal of a property owner's claim against a title insurance carrier following an alleged forged conveyance to the carrier's insured.

Obtained summary judgment in favor of mortgage servicer and government-sponsored enterprise against borrower who claimed new mortgage servicer did not hold the note. Summary judgment included counterclaim for judicial foreclosure against borrower.

Successfully negotiated and obtained favorable settlement at mediation in plaintiff's negligence, strict liability and premises liability claims against gun show promoter following accidental shooting.

Successfully negotiated and obtained court-approved settlement in wrongful death claims against apartment owner following alleged heat stroke due to purportedly inoperable air conditioner.

Successfully negotiated and obtained favorable settlement at judicial settlement conference in wrongful death claim against commercial driver by establishing that decedent bicyclist was at least comparatively negligent by riding through intersection in bicycle lane to the right of right-turning vehicles.

Successfully issued DMCA takedown request causing webhosting service to remove competitor's website infringing on client's intellectual property.

Client Wins

Dodrill, Stewart, and Ordorica Convince Various Opposing Counsel to Drop Recent Suits Against Firm Clients

Colt Dodrill (Partner-Phoenix), Katherine Stewart (Of Counsel-Phoenix), and Jake Ordorica (Associate-Las Vegas) have obtained voluntary dismissals of the firm's car-sharing platform client and various vehicle owners without having to file motions to dismiss. Colt, Katie, and Jake have called and educated multiple plaintiffs' counsel in Arizona and Nevada on their states' respective peer-to-peer car-sharing statutes, explaining the facts of various cases and how clients are immune from suit under those statutes. They also forwarded favorable rulings to opposing counsel from prior cases, holding that no negligent entrustment claim will stand when the shared-vehicle driver has a valid driver's license, and finding clients are not vicariously liable for each driver's negligence. This wave of voluntary dismissals by separate plaintiffs' firms in two states has saved Wilson Elser clients substantial defense costs and allowed carriers to close files quickly.

Dodrill and Ordorica Obtain Dismissal in Hit-and-Run

Colt Dodrill (Partner-Phoenix) and Jake Ordorica (Associate-Las Vegas) successfully moved in Nevada's Clark County District Court to dismiss negligence claims against Wilson Elser's clients – a car-sharing platform and the vehicle owner. The plaintiff alleged that the clients negligently entrusted the car to a "Doe" driver who hit her vehicle and fled

the scene. After opposing counsel refused to voluntarily dismiss our clients, Colt and Jake argued that the shared vehicle driver's valid license belied the negligent entrustment claim and that such liability does not extend to successive entrustments. Colt and Jake further argued that, under state peer-to-peer car sharing statutes, federal law bars vicarious liability claims. The Court agreed, granting Wilson Elser's motion two days before the scheduled hearing.

Dodrill Obtains Summary Judgment on Negligent Hiring, Training, and Supervision Claims in Catastrophic Trucking

Colt Dodrill (Of Counsel-Phoenix, AZ/Las Vegas, NV) obtained summary judgment in Elko, Nevada District Court on negligent hiring, training, and supervision claims against the firm's client trucking company. When plaintiff sought to conduct discovery into our client's policies and procedures in an accident case Colt moved for summary judgment arguing the negligent hiring, training, supervision claims were redundant and irrelevant because the driver's course and scope were admitted. At oral argument, Colt challenged plaintiff's reliance on intentional tort cases where course and scope were disputed. The court agreed and entered summary judgment on plaintiff's redundant claims. This rendered moot the plaintiff's proposed 30(b)(6) deposition of our client, and will shave one or two days off the trial allowing the jury to focus on the client's defenses.

Dodrill and Vance Put Brakes on Wrongful Death Action Against Car-Sharing Platform

Colt Dodrill (Of Counsel-Phoenix, AZ) and Jenna Vance (Associate-Phoenix, AZ) prevailed on summary judgment in Maricopa County Superior Court in \$4 million wrongful death suit against clients car sharing platform and vehicle owner. Following a fatal single-vehicle rollover accident, parents of a deceased passenger filed suit against our clients and driver claiming vicarious liability, negligent entrustment, and negligent maintenance of the vehicle. Colt successfully argued, as an issue of first impression, that Arizona's car sharing statutes immunize platforms from vicarious liability. Colt also argued that the plaintiffs' negligent entrustment claim failed because the age of a licensed driver is not relevant, nor is the clients' young driver surcharge an admission of the drivers' incompetence. Colt refuted the plaintiffs' speculative spoliation claims by reminding the court there was no suggestion of mechanical failure in the record, nor had the plaintiffs proffered an expert opinion. After taking the matter under advisement and reviewing the vehicle's maintenance records, the court entered summary judgment in favor of our clients, finding driver error the sole cause of the accident, obviating the need for contentious client depositions, a costly trial, and extensive exposure.

Dodrill and Carlston Kick Out Negligent Entrustment Claim Against Car-Sharing Platform

Colt Dodrill (Of Counsel-Phoenix, AZ) and Jon Carlston (Of Counsel-Las Vegas, NV) prevailed on summary judgment for a client car-sharing platform in Nevada's Eighth Judicial District Court. Through our client, a non-party vehicle owner agreed to share his vehicle with a co-defendant who let the defendant driver operate the vehicle, which later stuck the plaintiff's vehicle. Colt and Jon argued that our client could not entrust a vehicle it, as a car-sharing program, did not control. Colt and Jon also argued that the law of negligent entrustment was not strict liability and did not extend to successive entrustments to unauthorized drivers. When the plaintiff argued Nevada's car rental statutes required

our client to insure the vehicle as to all operators, Jon pointed the court to Nevada's new car-sharing statutes that except car-sharing programs from that rule. The court agreed and entered summary judgment in favor of our client, sparing them from burdensome discovery and substantial exposure for the plaintiff's personal injuries.

Dodrill and Young Set Aside Year-old Quarter-Million Default Judgment

Colt B. Dodrill (Of Counsel-Phoenix) and Monique Young (Of Counsel-Phoenix) prevailed in Maricopa County Superior Court on behalf of Wilson Elser's carrier client's insured driver. Colt and Monique successfully moved to intervene and set aside a year-old default judgment of more than a quarter-million dollars levied against the insured driver. The plaintiff's counsel maintains that our carrier client was long aware of the plaintiff's claim against its insured, who was duly served. Colt and Monique directed the court to the opposing counsel's failure to notify the carrier of the suit, which, although not required for service, provides the equitable basis for the blindsided carrier to intervene and set aside the default judgment. Colt and Monique successfully argued the distinction between a carrier's notice of claim and notice of suit, defeating the plaintiff's untimeliness argument by emphasizing that our client was not notified of the suit until nine months after the default judgment was entered. Relying on the public policy favoring settlement, Colt and Monique convinced the court that settlement discussions between notice of the suit and the motion filing did not constitute undue delay. They also maintained that the reported absence of contact between the insured's vehicle and the plaintiff's vehicle and the comparative fault of settling non-parties in the multi-vehicle accident not alleged in the plaintiff's complaint provides a meritorious defense warranting setting the default aside. The court agreed and set aside the default judgment, saving the client substantial post-judgment interest and allowing it to defend the insured driver and negotiate a favorable resolution under the facts related to the accident, which were not presented in the plaintiff's application for default judgment.

Dodrill and Carlston Obtain Dismissal Under New Peer-to-Peer Car-Sharing Statutes

Colt B. Dodrill (Of Counsel-Phoenix, AZ) and Jon Carlston (Of Counsel-Las Vegas, NV) prevailed on a motion to dismiss in Nevada state court in a negligent entrustment action against Wilson Elser's clients, a peer-to-peer car-sharing program and the shared vehicle's owners. The plaintiff's luxury tour bus suffered extensive property damage after a hit-and-run accident with the shared vehicle. Although it was unclear whether an authorized driver or car thief was behind the wheel, Colt and Jon argued that common law does not recognize successive entrustments. In an issue of first impression, Colt successfully navigated Nevada's recently enacted car-sharing statutes to convince the court that the clients need not investigate whether a license displayed by the authorized driver was valid. Colt also convinced the court that the client's insurance required by the new statutes was not the plaintiff's ticket to impose vicarious liability. Colt also argued that joint and several liability under the old car rental statutes took a backseat to the new peer-to-peer car-sharing statutes. In addition, Colt argued that amending the complaint and allowing discovery would be futile. The court agreed and dismissed all claims against the client. This decision saved the client from significant exposure, burdensome discovery, and substantial costs and legal fees.

Dodrill and Vance Muzzle Dog Attack Suit against Apartment Client

Colt Dodrill (Of Counsel-Phoenix, AZ) and Jenna Vance (Associate-Phoenix, AZ) obtained

summary judgment for client apartment in dog attack case in Superior Court of the State of Arizona in and for the County of Maricopa. The plaintiff sued a tenant and our client for personal injuries sustained when the tenant's Pit Bull leapt out of their apartment to attack him. The plaintiff claimed our client breached its non-delegable duty to keep inherently vicious animals off its premises. Jenna's discovery confirmed the tenant's dog was an emotional support animal under the Americans with Disabilities Act. Colt and Jenna moved for summary judgment, arguing the Federal Fair Housing Act barred our client from discriminating against the plaintiff, preempting the plaintiff's state law negligence claims against our client. Colt and Jenna also argued as an issue of first impression that new Arizona statutes render no breed of dog per se vicious. Unable to reasonably oppose it, the plaintiff rolled over, allowing Colt and Jenna's motion to be granted as unopposed.

Dodrill and Foster Convince Nevada Court to Adopt McHaffie Rule to Void Redundant Claims Against Trucking Client

Colt Dodrill (Of Counsel-Las Vegas) and Shirley Foster (Associate-Las Vegas) obtained partial summary judgment of a plaintiff's negligent hiring, training and supervision claims against our client trucking company. The plaintiff alleged both direct and vicarious liability claims against our client for reptile purposes, including propounding burdensome and harassing discovery into the client's business records and seeking adverse inferences for any missing documents. In an issue of first impression in Nevada, the trial judge found the Nevada Supreme Court would adopt the McHaffie rule, which renders direct liability claims redundant when the defendant admits the driver was in the course and scope of employment at the time of the accident. The judge initially denied Colt's motion by carving out an exception for punitive damages cases. On reconsideration, Colt convinced the court there were no facts supporting a punitive damages claim and maintenance records were not relevant absent a negligent maintenance claim.

Del Gatto, Dodrill and Vance Secure Summary Judgment on No Duty of Care

Brian Del Gatto (Partner-Phoenix), Colt Dodrill (Of Counsel-Phoenix) and Jenna Vance (Associate-Phoenix) obtained summary judgment in Maricopa County Superior Court for Wilson Elser's clients, a peer-to-peer car sharing program and a shared vehicle's owner. The plaintiff sought damages from our clients under the theory of negligent entrustment. Colt and Jenna established that of the co-defendants mother and daughter, only the mother was authorized to operate the shared vehicle, whereas her daughter who was operating it at the time of the accident, was not authorized to do so. The plaintiff argued that the mother's prior return of a shared vehicle with a "weed smell" imposed on our clients a duty to remove her from client's program and the breach of that duty caused the accident. Colt and Jenna successfully argued no causal link existed between the mother's purported marijuana use and the daughter's accident. Finding no duty of care owed to the plaintiff, the court entered summary judgment in favor of the peer-to-peer car-sharing program. Finding no proximate cause, the court entered summary judgment in favor of the shared vehicle's owner.

Bashor and Dodrill Achieve Summary Judgment for Client in Staged Accident Case

Karen L. Bashor (Partner-Las Vegas, NV) and Colt Dodrill (Of Counsel-Las Vegas, NV) obtained summary judgment in favor a petroleum transportation company in Clark County District Court. The plaintiffs alleged the client's tractor-trailer negligently rear-ended their vehicle, causing significant bodily injuries and totaling the vehicle. Suspecting this was a

staged accident, Karen and Colt propounded extensive discovery, including requests to admit the accident was staged. Their investigation revealed that a witness had been a defendant in a separate action filed by the same plaintiffs' counsel regarding a similar accident that occurred just a half hour before. That witness's deposition testimony confirmed the first accident was staged by the same individuals in the same vehicles involved in the client's accident. Shortly thereafter, the plaintiffs' counsel withdrew, and Karen and Colt moved for summary judgment based on the witness's testimony, accident photographs, the client's statement and the plaintiffs' failure to respond to discovery. The plaintiffs elected not to oppose the motion, which the court granted, finding that by staging the accident, the plaintiffs consented to and assumed the risk of injury as a matter of law.

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Publications

April 2024

CLM Magazine's Cover Story Features Bashor/Dodrill Article on Preserving Undermined Tripartite Defense Relationships

CLM Magazine