



Michael Lowry

Partner

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Michael Lowry maintains an active litigation and defense practice, with clients among the country's largest and most recognizable brands. Michael practices solution-oriented law, squarely on the side of clients across industries such as retail, restaurant and hospitality, commercial transportation, and more. Whether preparing for trial or appeal, or searching for alternative dispute resolution options, the goal is to find a resolution to the dispute.

Michael's appellate practice is diverse. He has handled appeals in Nevada's state courts and the federal Ninth Circuit. Waiting until after a judgment is entered to call an appellate lawyer is often too late. Michael embeds with trial teams, helping to posture cases for success if an appeal is needed.

Thought Leadership

Michael is committed to sharing his knowledge with clients through publications on developments in the industry, presentations on issues affecting their interests, and articles and issue briefs on matters as they arise. He keeps clients informed and empowered with up-to-date briefings and complimentary educational seminars customized to their needs. Michael's numerous publications in various trade journals have explored best practices for favorable resolution of client matters. He has presented at numerous conferences across the country, including the Claims and Litigation Management (CLM) Alliance's Annual Conference and RIMS, the Risk Management Society.

From 2012 to 2020, Michael independently authored "Compelling Discovery," a blog on appropriate civil discovery that sought to contain rapidly rising discovery costs. The *ABA Journal* included Michael's blog as one of the Top 100 Legal Blogs in the country, and the United States Library of Congress chose to include the blog in a historic collection of internet materials related to the "Legal Blawgs" (Blogs on the Law) Web Archive.

Appeals

Services

- Appellate
- Complex Tort & General Casualty
- Hospitality
- National Trial Team
- Professional Liability & Services
- Transportation

Appellate law involves more than just appeals. It includes working with clients and trial teams to posture key legal issues as favorably as possible. This strategy is vital because an appeal is limited to the record presented to the trial court. Successful appeals turn on the record developed before the trial court, the applicable law, and an appellate lawyer's ability to identify and present favorable arguments. Michael's exceptional research, analytical, and writing skills were the foundation of his successful legal blog, "Compelling Discovery." Unlike some lawyers, Michael speaks in plain English, distilling complex concepts to make them understandable and persuasive to judges and juries.

Transportation

The firm's transportation cases include all types of first- and third-party liability matters, personal injury and accident claims, regulatory compliance issues, environmental concerns, cargo shortages, damages and theft, cargo securement and packaging claims, recovery of stolen trailers or containers, product and manufacturing claims and subrogation claims. As a member of the firm's emergency response team, when transportation clients face a catastrophic event, Michael and other members of Wilson Elser's 24/7 go-team arrive on the scene to help gather and preserve information that may be critical to the client's defense, as well as act as liaison at the scene with investigating authorities.

Education

- Drake University Law School (J.D., 2007)
 - Drake Journal of Agricultural Law
- Drake University (B.A., 2003)

Bar Admissions

- Nevada
- Oregon

Court Admissions

- U.S. Court of Appeals, Ninth Circuit
- U.S. District Court, District of Nevada
- U.S. District Court, District of Oregon

Professional Affiliations

- Las Vegas Defense Lawyers, President, 2024–present
- State Bar of Nevada, Standing Lawyer Advertising Advisory Committee for Southern Nevada, past chair
- American Inn of Courts
- Claims and Litigation Management Alliance (CLM)
- RIMS: The Risk Management Society

Awards & Honors

- Selected for inclusion in *The Best Lawyers in America*®, 2026
- DRI Nevada State Representative, 2025–2028
- DRI Fred H. Sievert Award, Outstanding Defense Bar Leader, 2025
- Selected for inclusion in Mountain States *Super Lawyers*, Rising Stars, 2015–2017
- AV® Preeminent Rated by Martindale-Hubbell
- Author, “Compelling Discovery,” selected by *ABA Journal*, Top 100 Legal Blogs, 2013–2014, 2016

Languages

- German

Client Wins

Lowry Wins Motion to Compel Arbitration

Michael Lowry (Partner-Las Vegas) succeeded on a motion to compel arbitration in the Eighth Judicial District Court, Clark County, Nevada, for Wilson Elser’s client, a regional gym. The plaintiff, a gym member, alleged she was injured after tripping and falling while approaching a row of exercise equipment. She filed suit asserting that her fall resulted from the gym’s negligence. However, her membership agreement contained an arbitration clause requiring the parties to resolve this dispute through arbitration. Michael moved to compel arbitration, and the court agreed, finding the arbitration clause enforceable as to the plaintiff’s claims and granting the motion.

Lowry Wins Dismissal with Forum Non Conveniens Motion

Michael Lowry (Partner-Las Vegas) prevailed on a motion to dismiss based on forum non conveniens for Wilson Elser’s client, a hotel on the East Coast. The plaintiffs brought suit in the Eighth Judicial District Court, Clark County, Nevada, alleging they were assaulted and battered at the hotel. Michael moved to dismiss based on forum non conveniens, so the case could be re-filed in the jurisdiction where the hotel is located. The guests and all the evidence relating to what had occurred were in that jurisdiction. The district court agreed that the plaintiffs’ choice of Nevada as the forum was entitled to less deference and that the balance of interests favored litigating the matter in the home jurisdiction. Wilson Elser’s motion was granted, and the case was dismissed without prejudice to be litigated in a different forum.

Lowry Prevails in Ninth Circuit Appeal

Michael Lowry (Partner-Las Vegas) obtained a dismissal for lack of federal jurisdiction over a complaint filed against a unit owners’ association for a residential high-rise building near the Las Vegas Strip. The plaintiff’s complaint alleged that he sustained injuries after exposure to mold in the building. However, the plaintiff never pled facts supporting federal jurisdiction, even after being provided an opportunity to amend. The plaintiff appealed, but the U.S. Court of Appeals for the Ninth Circuit concluded that the complaint did not plead

facts that created either diversity or a federal question, affirming the dismissal.

Lowry Prevails in Subrogation Case

Michael Lowry (Partner-Las Vegas, NV) was retained to represent a manufacturer against a water loss subrogation claim at a luxury home near Lake Tahoe. The homeowner's insurer alleged the client's water system equipment was defective and caused extensive damage to the home. The subrogating insurer timely filed suit but failed to timely open discovery. The Second Judicial District Court, Washoe County, Nevada, agreed the subrogating insurer failed to present compelling and extraordinary circumstances to excuse the delay. Michael's motion to dismiss was granted.

Lowry & Brown Earn Voluntary Dismissal

Michael Lowry (Partner-Las Vegas) and Kevin Brown (Of Counsel-Las Vegas) obtained a voluntary dismissal of all claims against Wilson Elser's client, a flooring subcontractor, in the Eighth Judicial District Court, Las Vegas. The case involved a trip and fall incident that occurred during a renovation project. Michael and Kevin noted that the client's job file reflected that it did not start work on the project until two days after the alleged fall. After reviewing the job files from the general contractor and other subcontractors, the plaintiff agreed with that timeline and voluntarily dismissed all claims against our subcontractor client only.

Lowry & Pattillo Win Summary Judgment for Retailer

Michael Lowry (Partner-Las Vegas) and Jonathan Pattillo (Associate-Las Vegas) obtained summary judgment in the United States District Court, District of Nevada, for a retail client named in a slip and fall action. The plaintiff alleged that customers were frequently stealing food by eating it inside the client's store and then throwing the used containers on the floor, creating slip and fall hazards. However, there was no evidence that this alleged activity caused the hazard that the plaintiff found after her fall. The district court concluded that the plaintiff lacked evidence demonstrating the retailer had permitted a virtually continuous hazard to exist, granting Wilson Elser's motion for summary judgment.

Lowry Wins Summary Judgment for Fitness Club on Waiver

Michael Lowry (Partner-Las Vegas) won summary judgment in the Eighth Judicial District Court in Las Vegas for a fitness club client. The plaintiff, a club member, sued the client, alleging that he sustained injuries after slipping and falling while using the club's facilities. Michael determined that the plaintiff's membership agreement contained an assumption of risk regarding the use of the facility and a waiver of claims, prompting him to move for summary judgment at the outset of the case. The court concurred, granting Michael's summary judgment motion and saving Wilson Elser's client thousands of dollars in legal fees.

Lowry & Zurkan Earn Voluntary Dismissal

Michael Lowry (Partner-Las Vegas, NV) and Ashley Zurkan (Associate-Las Vegas, NV) worked with a luxury homeowners' association client to develop facts that led to a voluntary dismissal. A mobile dog groomer tripped on a sidewalk near a home, and it was initially unclear who controlled this part of the sidewalk. Michael and Ashley worked with the homeowners' association to begin developing facts supporting the HOA's position that the individual homeowner controlled this area. They then worked with the plaintiff to

confirm repairs had occurred in the area and the homeowner paid for the repairs. With control confirmed, the plaintiff voluntarily dismissed the HOA and instead pursued the homeowner. This collaborative approach ultimately saved the parties time and money.

Lowry & Tarzi Earn Defense Decision for Resort Hotel & Casino

Michael Lowry (Partner-Las Vegas, NV) and Patrick Tarzi (Associate-Las Vegas, NV) successfully defended a Las Vegas resort and casino against a property theft claim filed by a guest. The guest alleged certain items were stolen from his room. However, Patrick pointed out that the guest had not used the in-room safe nor did he attempt to deposit the items with the hotel for safekeeping. As a result, the Las Vegas Justice Court, Small Claims concluded the guest had not meet his burden of proof under NRS 651.010. A defense decision was entered.

Lowry Files Proposed Amicus Brief for Las Vegas Neuropsychologist

Michael Lowry (Partner-Las Vegas, NV) filed an amicus brief concerning a petition for a writ of mandamus pending before Nevada's Supreme Court. As background, a plaintiff in a personal injury case alleged a traumatic brain injury. The defense retained a Las Vegas neuropsychologist to perform neuropsychological testing and provide a report. After the report was disclosed, a discovery dispute arose about whether the testing materials and data generated could be disclosed to anyone other than the plaintiff's own neuropsychologist. The district court ordered the data be disclosed to the plaintiff's lawyers and neuropsychologist. The defendant petitioned the Supreme Court of Nevada to consider an interlocutory appeal of this order, arguing the neuropsychological community is obligated to safeguard the tests or risk the tests losing effectiveness. This obligation is now codified in NAC 641.234(3).

The neuropsychologist retained Michael to submit his own, separate amicus brief to emphasize how serious this issue is to both neuropsychology and litigants. NAC 641.234(3) attempts to balance the public interest in having access to valid neuropsychology measures against the private interests of civil litigants. The neuropsychologist urged the Supreme Court to follow NAC 641.234(3) and overturn the district court's order.

Lowry and Brown Achieve Nuisance Settlement

Michael Lowry (Partner-Las Vegas, NV) and Kevin Brown (Of Counsel-Las Vegas, NV) worked to develop facts leading to a nuisance-value settlement in a case in which a high-school student attempted to cross six lanes of traffic on a main thoroughfare. His alleged actions were much like a real-life game of Frogger. When the plaintiff tried to cross the sixth lane, he was struck by a car owned by a pre-owned vehicle dealer and driven by a vendor who was taking it to his shop to prepare it for sale. The teen sued the driver alleging significant injuries. He also sued the dealer alleging negligent entrustment. An entrustment clearly occurred, but Michael and Kevin worked with the dealer to develop facts demonstrating the entrustment was not negligent. Once these facts were developed, the teen accepted a nuisance value settlement rather than litigate summary judgment.

Lowry and Nelson Secure Voluntary Dismissal for National Restaurant Chain

Las Vegas partner Michael Lowry and associate Kimberly Nelson earned a voluntary

dismissal for their national restaurant chain client sued in Las Vegas. Two guests were dining when their table collapsed on them. The restaurant was being renovated at the time but there were problems identifying the applicable contractor and contract. Michael and Kimberly used the discovery process to identify the contractor and locate the contract, and then persuaded the plaintiffs to add the contractor as a defendant. This led to a global settlement that the contractor funded. The case was ultimately dismissed without any indemnity from the firm's client.

Lowry and Pattillo Earn Defense Decision in Protracted Binding Arbitration

Michael Lowry (Partner-Las Vegas) and Jonathan Pattillo (Associate-Las Vegas) earned a defense decision following a 16-day binding arbitration for Wilson Elser's client, a landscaping subcontractor. The dispute arose during the construction of a large mobile home park. The general contractor and the owner had a falling out prior to the project's completion, leading to litigation that expanded to include various subcontractors. After the protracted arbitration hearing, the arbitrator agreed with the owner's assertion that our client breached its subcontract. However, the arbitrator also concurred with Michael and Jonathan's arguments that no damages were incurred as a result of the breach. This decision resulted in a net win for Wilson Elser's client.

Lowry Obtains Affirmation in Nevada Supreme Court

Michael Lowry (Partner-Las Vegas) prevailed on a motion to dismiss based on forum non conveniens for Wilson Elser's client, a national trucking company. The plaintiffs brought suit in the Eighth Judicial District Court, Clark County, Nevada, on behalf of the deceased, the driver of a vehicle that collided with our client's truck on a Texas roadway. The plaintiffs appealed the decision, and the Supreme Court of Nevada remanded for further facts. Upon remand, Michael provided the requested additional information, and the district court was again persuaded to grant dismissal. The plaintiffs subsequently appealed again, but this time the Supreme Court affirmed the decision, concluding the district court did not abuse its discretion by concluding the case should be litigated in a different forum.

Lowry Parachutes in for Trial, Settles for Less than Specials

Michael Lowry (Partner-Las Vegas, NV) was brought in to try a slip-and-fall case against a janitorial company in the Eighth Judicial District Court, Las Vegas after the original defense firm was unable to fully staff the file. The case involved disputed liability based on the multiple caution cones the plaintiff walked past before falling. The plaintiff had never given a demand before Michael joined the case. After Michael's motions in limine were filed, the plaintiff started negotiating and eventually settled for less than the specials he would present at trial.

Lowry and Pattillo Achieve Affirmance in Mold Exposure Case

Michael Lowry (Partner-Las Vegas, NV) and Jonathan Pattillo (Associate-Las Vegas, NV) obtained summary judgment for a unit owners association for a residential building near the Las Vegas Strip. The plaintiff alleged he sustained injuries after exposure to mold in the building. However, the plaintiff never responded to requests for admission regarding key elements of his claim. As a result, the requests were deemed admitted and the district court agreed with Michael and Jonathan's assertion that the plaintiff's responses were inadequate and failed to address the substance of the requests, and that summary judgment was proper. The plaintiff then appealed, arguing summary judgment was

improper for a variety of reasons. Nevada's Court of Appeals rejected these arguments and affirmed summary judgment. It noted the plaintiff had not preserved many of his arguments and those that he had preserved did not support reversal.

Lowry and Pattillo Obtain Summary Judgment for Grocer Defeating Slip/Trip and Fall Claim

Michael Lowry (Partner-Las Vegas) and Jonathan Pattillo (Associate-Las Vegas) obtained summary judgment in Nevada's Eighth Judicial District Court on behalf of a regional grocer. The plaintiff alleged she was injured after slipping and falling in one of the client's Las Vegas stores. At the close of discovery, Michael and Jonathan moved for summary judgment because no evidence was shown indicating how or why the alleged hazard was created. The court concurred, determining the plaintiff failed to show that our client created the hazard that caused her to slip, was unable to produce admissible evidence that our client received actual notice of the hazard before the slip occurred and failed to produce sufficient evidence to create a genuine dispute as to any material facts in relation to breach of duty and causation. The court then granted Wilson Elser's summary judgment motion in favor of the grocer client.

Lowry and Pattillo's Discovery Strategy Leads to Voluntary Dismissal

Michael Lowry (Partner-Las Vegas, NV) and Jonathan Pattillo (Associate-Las Vegas, NV) proposed and executed a discovery strategy that eventually led to a voluntary dismissal. The firm's client was named in a slip-and-fall case where the claimant alleged a complex fracture resulted in medical bills exceeding \$350,000. The client was suspicious that the fall did not happen within an area the client controlled. Over the course of months, Michael and Jonathan were able to gather facts from the plaintiff and other defendants that eventually confirmed the client's suspicions. The plaintiff later agreed to voluntarily dismiss as to the firm's client without indemnity.

Lowry and Pattillo Obtain Summary Judgment for Retailer in Slip-and-Fall Case

Michael Lowry (Partner-Las Vegas, NV) and Jonathan Pattillo (Associate-Las Vegas, NV) obtained summary judgment in the U.S. District Court, District of Nevada for a national discount retailer. The plaintiff alleged she was injured after slipping and falling on a spill in one of our retailer client's Las Vegas stores. However, Michael and Jonathan obtained video that documented the spill was created just seven minutes before the fall. While the parties disputed whether Nevada law considers the length of time a spill existed as an element of notice, the court concluded even if that was considered, summary judgment was appropriate given the factual circumstances of the spill's creation.

Lowry Beats Offer of Judgment at Trial

Michael Lowry (Partner-Las Vegas, NV) obtained a jury award in the Eighth Judicial District Court, Las Vegas that was less than the defense offer of judgment in an admitted liability, damages-only trial. Michael represented a well-known restaurant chain concerning a slip and fall. Video captured the relevant events and liability was admitted. The trial was limited to the extent of plaintiff's injuries.

Lowry and Pattillo Secure Summary Judgment for RV Dealership

Michael Lowry (Partner-Las Vegas) and Jonathan Pattillo (Associate-Las Vegas) were granted summary judgment in the Eighth Judicial District Court in Las Vegas on behalf of

an RV dealership client against a warranty claim. After purchasing an RV, the plaintiffs alleged they immediately began experiencing problems, and filed suit seeking to unwind the purchase and consequential damages. The court granted Michael and Jonathan summary judgment at the end of discovery, as the plaintiffs had not designated an expert witness to explain how the RV's systems worked and why the system was allegedly defective. Also, the losses plaintiffs alleged were economic losses, and finally, plaintiffs had not preserved the RV in a way that provided the dealership meaningful access to assess its condition. The plaintiffs did not dispute these points, instead arguing dismissal without prejudice was appropriate per Rule 41(a)(2). As the statute of limitations on the contract had not yet expired, that would have allowed them to re-file the case. The court rejected that argument, noting it came just 48 days before the start of the trial stack to which the case was assigned. The customer later dismissed in lieu of appealing in exchange for a waiver of costs.

Lowry and Brown Earn Summary Judgment via Physical Facts Rule

Michael Lowry (Partner-Las Vegas) and Kevin Brown (Of Counsel-Las Vegas) obtained summary judgment for a resort on the Las Vegas Strip in a case where a guest alleged she was injured, claiming that as she approached an elevator, the doors suddenly closed and struck her. She then fell and was injured. Her last computation of damages alleged more than \$422,000 in past medical specials alone. The resort had video in the elevator car from an hour before and after the fall. It showed the elevator doors opening normally and opening and closing in the same time period when the plaintiff fell. The video also showed the doors' sensors appropriately responded when objects were placed in their way. The Eighth Judicial District Court, Las Vegas granted summary judgment based on the physical facts rule. The objective evidence shown on the video could not be overcome by other evidence speculating about whether the elevator was not properly maintained.

Lowry & Richardson Obtain Summary Judgment in Malicious Prosecution Case

Michael Lowry (Partner-Las Vegas) and Chris Richardson (Of Counsel-Las Vegas) obtained summary judgment in the Eighth Judicial District Court, Las Vegas, in a malicious prosecution case against Wilson Elser's client, a security services provider contracted to work in a hospital. The plaintiff is a hospital nurse whom our client's employees observed interacting with a patient they believed the nurse physically abused. The employees reported their observations to superiors resulting in a police investigation, a grand jury hearing, and criminal charges against the nurse. The charges were dismissed, however, due to an error in the grand jury hearing, and the plaintiff sued our client and its employees for malicious prosecution and other related causes of action.

After significant discovery, Michael and Chris moved for summary judgment, arguing that the malicious prosecution cause of action failed as a matter of law because the dismissal of criminal charges didn't prevent the state from re-filing them. The court concurred that dismissal with prejudice is required to support malicious prosecution. It also concluded that the security personnel had probable cause to report their observations, a defense defeating a malicious prosecution claim.

The court further agreed that our client's security personnel are immune from suit and qualify for statutory immunity under NRS 200.5096. The statute creates mandatory and permissive reporting obligations for certain persons and immunizes them from civil liability

arising from their reporting. This ruling is thought to be among the first where the statute has been applied to security personnel working in a hospital. The plaintiff later voluntarily dismissed his case in lieu of an appeal.

Lowry & Pattillo Obtain Summary Judgment for UOA

Michael Lowry (Partner-Las Vegas) and Jonathan Pattillo (Associate-Las Vegas) obtained summary judgment in the Eighth Judicial District Court, Las Vegas, for Wilson Elser's client, a unit owners association for a residential building near the Las Vegas Strip. The plaintiff alleges he sustained injuries after exposure to mold in the building. However, the plaintiff never responded to requests for admission regarding key elements of his claim. As a result, the requests were deemed admitted. The court agreed with Michael and Jonathan's assertion that the plaintiff's responses were inadequate and failed to address the substance of the requests and that summary judgment was proper.

Lowry and Pattillo Obtain Summary Judgment Due to Lack of Expert Testimony

Michael Lowry (Partner-Las Vegas) and Jonathan Pattillo (Associate-Las Vegas) obtained summary judgment in Nevada's federal court for a regional grocer client. The plaintiff alleged he was injured after slipping and falling in one of the client's Las Vegas stores. As a rule, Nevada requires medical expert testimony to satisfy the causation element in a negligence claim. An "obvious injury" exception exists, but did not apply to the injuries alleged. The district court concluded that the plaintiff had not met his obligation under FRCP 26(a)(2) to disclose medical expert testimony regarding medical causation and granted summary judgment.

Lowry & Lee Secure Summary Judgment in Key West

Michael Lowry (Partner-Las Vegas) and Christopher Lee (Associate-Miami) obtained summary judgment from the Circuit Court, Monroe County, FL, in a personal injury claim against Wilson Elser's client, an integrated facilities maintenance provider. The plaintiff, an employee of our client, was injured while working at the direction of the resort. The plaintiff received workers' compensation benefits but proceeded to sue our client and the resort. Regarding our client's liability, the plaintiff argued that an intentional tort exception applied to worker's compensation immunity in this case. The district court disagreed, concluding that the evidence presented by the plaintiff failed to demonstrate an intentional tort. The plaintiff later agreed to dismiss the case in lieu of an appeal after four years of litigation.

Lowry's Amicus Brief Disputes Ruling Allowing Audio Recording of Neuropsychological Examinations

Michael Lowry (Partner-Las Vegas) was retained by an alliance of neuropsychological governing boards and trade associations to file an amicus brief on their behalf in a case pending before the Supreme Court of Nevada. The case is significant for neuropsychologists because the district court ruled that the neuropsychological examination had to be audio recorded. Repeated neuropsychological studies have shown that any recording of such an examination invalidates the data gathered and defeats the purpose of its being conducted. Further, various neuropsychological associations have published ethical guidance expressly counseling against allowing audio recording. The groups involved with this amicus brief are concerned that if an audio recording of the examination is permitted, it could severely limit or perhaps even eliminate the ability of neuropsychologists to provide testing for litigants.

Lowry Gets Case Dismissed ... Again

Michael Lowry (Partner-Las Vegas, NV) was hired to defend a local trucking company in a case concerning one of its vehicles involved in a tip-over accident with another commercial truck. Michael obtained dismissal of the first case because the plaintiff failed to timely meet court deadlines for opening of discovery. The plaintiff then re-filed the suit, after the statute of limitations expired, arguing that COVID-19 pandemic orders had extended his statute of limitations period. Michael moved to dismiss, arguing the orders did not extend the statute of limitations as far as the plaintiff would have needed and, alternatively, that such orders were unconstitutional as applied to statutes of limitation. The Second Judicial District Court in Reno agreed with Michael on both points and dismissed the case.

Lowry Granted Key Point by Nevada Supreme Court on Appeal – Case Remanded for Further Factual Development

Michael Lowry (Partner-Las Vegas) won a dismissal based on forum non conveniens for a national trucking company, which the plaintiffs appealed to the Supreme Court of Nevada. In a published decision, the Supreme Court rejected plaintiffs' argument that the forum non conveniens doctrine applied only to plaintiffs based outside the United States. The Court concluded that for forum non conveniens purposes, sister-state plaintiffs are considered foreign and thus their choice of forum does not automatically receive deference. While the Supreme Court remanded the case for further factual development, the deference argument was a key part of the plaintiffs' arguments why forum non conveniens should not apply at all.

Lowry and McLeod Win Dismissal for Landlord

Michael Lowry (Partner-Las Vegas) and Alexandra McLeod (Of Counsel-Las Vegas) had their motion to dismiss granted in the Eighth Judicial District Court, Las Vegas, in a landlord/tenant dispute against Wilson Elser's client, an apartment complex. The plaintiff is a tenant alleging harassment by the landlord in an effort to avoid eviction. The district court granted Michael and Alex's motion to dismiss based on the pleadings. With motions to dismiss based on the pleadings rarely granted, the court noted that no eviction had yet occurred, nor was the plaintiff harmed or damaged yet. Further, another local court has exclusive jurisdiction over eviction proceedings.

Lowry Teams with Co-Defendants to Secure Jury Defense Verdict

Michael Lowry (Partner-Las Vegas, NV) was retained to represent a shuttle van driver four years after a complaint was filed, after discovery closed and just months before trial. The plaintiff alleged she was injured because another passenger bumped into her while she was attempting to de-board, resulting in shoulder injuries. The driver's employment status was disputed, with two different defendants disputing whether he was their employee. Michael was able to work with the defendants at trial to present a united argument that, regardless of who he worked for, the driver was not negligent. The joint arguments were successful, resulting in a defense verdict in the Eighth Judicial District Court, Las Vegas.

Lowry Files Amicus Brief for Las Vegas Defense Lawyers Regarding Observers at Rule 35 Examinations

Michael Lowry (Partner-Las Vegas) filed an amicus brief on behalf of the Las Vegas Defense Lawyers regarding Nevada's 2019 changes to its Rules of Civil Procedure that,

for the first time, allowed observers at Rule 35 examinations. This change spawns disputes about who may or may not be the observer, which in turn delays the examinations and frequently delays the case. Michael Lowry and the Las Vegas Defense Lawyers learned of a writ petition pending with the Supreme Court of Nevada on this point. The plaintiff, armed with an amicus brief from the local plaintiffs' bar, argued for an expansive definition of an "observer." Michael prepared and filed the brief for Las Vegas Defense Lawyers, noting how these expansive definitions would hinder a defendant's ability to obtain an examination and that they are inconsistent with Rule 35's language.

Lowry and Brown Secure Voluntary Dismissal in Construction Site Motor Vehicle Accident

Michael Lowry (Partner-Las Vegas) and Kevin Brown (Of Counsel-Las Vegas) represented a concrete-cutting and excavation subcontractor concerning a motor vehicle accident that occurred in an active construction zone. Two vehicles collided after one or both failed to follow roadway signage. A lawsuit was filed in the Eighth Judicial District Court, Las Vegas that included the client, who happened to be in the work zone that night. Michael and Kevin worked with the client to identify its minimal job file and scope of work, and then were able to use targeted discovery to gather documentation from other defendants that confirmed the client had no role or responsibility for traffic control. Plaintiffs agreed to voluntarily dismiss while a motion for summary judgment was pending.

Lowry and Brown Secure Motion for Summary Judgment in Auto Accident Case

Michael Lowry (Partner-Las Vegas) and Kevin Brown (Of Counsel-Las Vegas) were retained to defend a driver who was involved in a side-swipe motor vehicle accident. During discovery, a witness and both drivers were deposed. All gave testimony indicating that our client had maintained his lane and the collision occurred only because the other driver had improperly merged lanes. Based on that testimony, the Eighth Judicial District Court, Las Vegas ruled there was no genuine issue of material fact as to who caused the accident. Our client won summary judgment and the adverse parties agreed to waive an appeal in exchange for a waiver of costs.

Lowry & Pattillo Help Property Owner Prevail in Title Dispute

Michael Lowry (Partner-Las Vegas) and Jonathan Pattillo (Associate-Las Vegas) achieved summary judgment in the Las Vegas Eighth Judicial District Court on behalf of a Homeowners Association (HOA) in a mixed-use tower. The HOA sued a ground-level commercial tenant in a dispute involving ownership and possession of a particular space. The tenant then counterclaimed against the HOA and Michael and Jonathan were retained to defend against the counterclaim. At the end of discovery, the district court granted summary judgment to the HOA, concluding the tenant lacked the facts required to prove any of its counterclaims. The tenant then agreed to dismiss the counterclaim with prejudice rather than pursue an appeal.

Lowry & Richardson Win Summary Judgment for Equipment Rental Client

A Las Vegas district court granted summary judgment to a client that rents traffic control devices after the plaintiffs failed to correctly add the client to the case. Michael Lowry (Partner-Las Vegas) and Chris Richardson (Of Counsel-Las Vegas) were hired to defend the client, who rented devices to a festival that were allegedly involved in an accident. The plaintiffs sued numerous other parties who could have been responsible but initially did not

sue the client. As discovery commenced, the other parties disclosed documentation expressly identifying the client and its role with the devices at issue. However, the plaintiffs did not try to add the client as a party for months, long after the statute of limitations expired. The only way for the plaintiffs to get around the statute of limitations was if their amended complaint "related back" to the original, timely complaint utilizing one of two alternative methods. The judge granted the motion because the plaintiffs failed to satisfy either option.

Lowry and Brown Win Motion to Dismiss in Reno

Michael Lowry (Partner-Las Vegas) and Kevin Brown (Of Counsel-Las Vegas) won a motion to dismiss in Second Judicial District Court in Reno, having been retained by a local trucking company whose vehicle was involved in a tip-over accident with another commercial truck. Upon filing the suit, Plaintiff completed all required preliminary procedures with one critical exception: the timely opening of discovery. This failure to act, despite reminders from Brown seeking the opening of discovery, resulted in the district court granting a motion to dismiss on behalf of the defendant after finding no extraordinary circumstances to justify the delay.

Lowry's Rapid-Response Avoids Larger Claim

Michael Lowry (Partner-Las Vegas, NV) helped a paving and aggregate company avoid costly litigation in Eighth Judicial District Court. A man trespassed into an opening mining area during the night and fell to his death. Though federal and state investigators found no violations that caused or contributed to the fall, a the man's family pursued a claim against the company. Michael was able to help the company gather information about the fall and the circumstances leading up to the fall. Through investigation, it was learned that the decedent had a history of mental illness that had led to a police call earlier that night. Michael and the company decided engaging with the family's lawyer to help them understand what happened would be better in the long term than simply denying the claim. The family appreciated it and eventually resolved by establishing a fund for the decedent's minor child, saving the family and company years of litigation and expenses.

Lowry & Richardson Achieve Nuisance Settlement for National Private Security Contractor

Michael Lowry (Partner-Las Vegas, NV) and Chris Richardson (Of Counsel-Las Vegas, NV) achieved a favorable settlement before the Eighth Judicial District Court on behalf of a national private security contractor providing services for a hospital. . During an intake, a patient became violent, injured her mother and assaulted a nurse. The mother sued, alleging the security contractor should have better protected her from her daughter. Michael and Chris collaborated with the hospital to identify video obtained through the discovery process that recorded the event showing the mother trying to intervene when the daughter injured her. The mother's case then collapsed and she accepted a nuisance settlement.

Lowry & Richardson's Discovery Strategies Net Nuisance Settlement for National Private Security Contractor

Michael Lowry (Partner-Las Vegas, NV) and Chris Richardson (Of Counsel-Las Vegas, NV) achieved a favorable settlement on behalf of a national private security contractor before the Eighth Judicial District Court. The client was one of several security contractors

hired to work at a large, outdoor festival in Las Vegas, Nevada, where two people were injured. The plaintiffs sued all of the security companies because they were unable to identify the correct one. Michael and Chris used the security contractor's own documents to pursue targeted discovery from other vendors involved with the festival, which eventually confirmed that the client was not even assigned to the area of the festival where the injuries occurred. The plaintiffs accepted a nuisance settlement in lieu of a motion for summary judgment.

Lowry and Pattillo Achieve Favorable Settlement for Las Vegas Resort

Michael Lowry (Partner-Las Vegas, NV) and Jonathan Pattillo (Associate-Las Vegas, NV) obtained a favorable settlement in the Eighth Judicial District Court on behalf of a resort on the Las Vegas strip. The general liability case involved a plaintiff who was on the premises working for a florist at a wedding. A separate vendor installed a chuppah, which collapsed on the plaintiff, who then alleged a mild traumatic brain injury and sought nearly \$60,000 in medical bills and loss of income. During discovery Michael and Jonathan obtained post-event emails from the plaintiff's employer that documented the resort had no involvement with the chuppah and that the employer had expressed concerns to the vendor about the chuppah's integrity. After these facts were confirmed via the employers' depositions, the resort moved for summary judgment and the plaintiff accepted a de minimis settlement before the motion could be heard.

Lowry and Pattillo Obtain Favorable Settlement for Mass Transit Provider

Michael Lowry (Partner-Las Vegas, NV) and Jonathan Pattillo (Associate-Las Vegas, NV) obtained a favorable settlement on behalf of a mass transit provider in the Las Vegas Eighth Judicial District Court for a case where a passenger alleged he was injured in a rear-end collision. The passenger claimed the accident re-aggravated a healing break in his left arm and resulted in medical bills exceeding \$100,000. He testified the injury happened because he braced for the rear-end collision with his left arm, causing him severe pain at the scene. Michael and Jonathan used the bus's onboard surveillance video to demonstrate that the man never braced with his left arm. He was also walking and talking amicably after the rear-end collision occurred. The plaintiff also gave medical testimony that contradicted his own medical records. Michael and Jonathan obtained a settlement for the firm's client of less than \$5,000.

Lowry and Pattillo Obtain Summary Judgment on Lack of Expert Testimony

Michael Lowry (Partner-Las Vegas, NV) and Jonathan Pattillo (Associate-Las Vegas, NV) obtained summary judgment in Eighth Judicial District Court on behalf of a client that provides mass transit services. A tractor-trailer turned in front of a bus and a passenger on the bus alleged injury and filed suit. After discovery closed, Michael and Jonathan moved for summary judgment, arguing the plaintiff had not produced the medical experts required under the circumstances to prove damages. The plaintiff argued his injuries were obvious and did not require medical experts. The district court agreed with Michael and Jonathan, noting the injuries required expert testimony to prove causation and the plaintiff lacked expert testimony to meet that burden. Without any provable damages, summary judgment was entered against the plaintiff.

Lowry Obtains Dismissal for Sports Bar in Food Poisoning Case

Michael Lowry (Partner-Las Vegas, NV) obtained a dismissal in the Eighth Judicial District

Court on behalf of a national sports bar restaurant with a flagship store on the Las Vegas Strip. Two customers alleged they were served drinks spiked with illicit drugs, causing both of them to become impaired, with one asserting he had been hospitalized as a result. The customers filed suit, but did not complete in a timely manner the process to open the discovery period. Michael moved to dismiss, noting the long delay, and the district court dismissed the case over the customers' objection.

Lowry Secures Dismissal Based on Forum Non Conveniens

Michael Lowry (Partner-Las Vegas, NV) obtained a dismissal based on the court's discretionary use of forum non conveniens in a car accident case for a trucking company in Eighth Judicial District Court of Nevada. A car rear-ended a stopped tractor-trailer in Texas, and the plaintiff filed the lawsuit in Las Vegas, Nevada, where the truck driver lived. Michael filed a motion for the Nevada court to apply forum non conveniens and dismiss the case so it could be re-filed in Texas. During oral argument on the motion, the plaintiffs noted one of the reasons the case was filed in Nevada was to avoid the effects of Texas House Bill 19, which was enacted to protect truckers. Nonetheless, the Nevada court agreed Texas was the more appropriate forum for the case, and dismissed it without prejudice.

Lowry and Pattillo Granted Summary Judgment for Department Store Client in Civil Rights, Defamation Case

Las Vegas partner Michael Lowry and associate Jonathan Pattillo were granted summary judgment for the firm's department store retail chain client in United States District Court, District of Nevada. The plaintiff alleged that the store had cooperated with police and other stores in an investigation of an organized retail theft group, which violated his civil rights under color of state law per 42 USC 1983, defamed him by identifying him as being involved in the crime and resulted in his false imprisonment. The charges stemming from the investigation were dropped when the plaintiff noted he was incarcerated for unrelated convictions when the retail thefts occurred. Michael and Jonathan argued that someone who is already incarcerated cannot be falsely imprisoned by someone else and that there were no strong indicators of a conspiracy present. In granting summary judgment to the firm's client, the judge also concluded there is a limited privilege to defame for people reporting crimes and cooperating with police. The limits of that privilege were not breached here.

Lowry and Pattillo Obtain Summary Judgment in Slip and Fall Case for Retail Client

Las Vegas partner Michael Lowry and associate Jonathan Pattillo obtained summary judgment for a national big box retailer on a slip and fall claim, filed in United States District Court, District of Nevada. Plaintiff, a customer of the store, alleged she fell due to wet conditions on the retail floor. Michael and Jonathan argued the plaintiff's claims conflicted even with the testimony of her own husband as to whether there was any wet substance present. Even assuming there was something wet on the floor though, the federal judge granted summary judgment for the firm's client because the customer lacked evidence indicating the store had actual or constructive notice it was there.

Lowry and Rowan Find Eyewitness to ER Incident, Win MSJ

Michael Lowry (Partner-Las Vegas, NV) and Douglas Rowan (Of Counsel-Las Vegas, NV) won summary judgment at the Eighth Judicial District Court after claimants' counsel

withdrew because a pivotal eyewitness was found. A woman who presented at a Las Vegas area emergency room was acting erratically, was dissatisfied with the staff, and decided to leave. While the on-site security contractor was walking the woman out, she smeared her blood on his uniform. She then hired a lawyer, claiming that the security officer had beat up her and her adult son, who was with her. While there was no video of what happened, Michael and Doug pursued various hospital witnesses and found a highly credible independent witness who had been sitting in the emergency room and saw what happened. The witness's testimony supported the security contractor and the claimants' lawyer then withdrew. Plaintiffs shopped the claim to at least one other lawyer, who declined the case based in part on the witness's testimony. The court later granted summary judgment because the now pro se plaintiffs did not disclose any medical experts to prove their case.

Lowry and Pattillo Obtain Dismissal of Case in Which Claimant Never Completed the Process to Open Discovery

Michael Lowry (Partner-Las Vegas, NV) and Jonathan Pattillo (Associate-Las Vegas, NV) were retained by a national department store to defend against a lawsuit alleging store security had falsely imprisoned and injured a customer. The customer was criminally convicted of shoplifting at the store, but still insisted that he had been wrongly detained and falsely imprisoned by store security. The claimant filed multiple motions with the Eighth Judicial District Court seeking to expand the store's liability, but never completed the process to open discovery. When confronted with a motion to dismiss for not timely opening discovery, the claimant blamed delays due to COVID-19, but the court pointed to the multiple motions he had been able to file despite the pandemic. The court then granted the motion to dismiss.

Lowry Secures Summary Judgment in Double Fatality Case

Michael Lowry (Partner-Las Vegas) was hired by an American restaurant and entertainment business concerning an incident where a customer was served, continued drinking at an unrelated bar and later drove his car. Within two miles, he struck a car stopped at a red light, killing two people in the car.

The decedents' families filed a wrongful death claim against the restaurant, the bar and the driver. They argued NRS 41.1395, the Nevada statute that specifically places responsibility on the person who drank not the person who served them, is unconstitutional. Michael moved to dismiss the entire complaint, and the Eighth Judicial District Court agreed, stating that NRS 41.1395 is constitutional. The court created a narrow exception, concluding NRS 41.1395 would not protect someone who assisted the driver to his car. Michael then subpoenaed the police investigation, which proved the person who assisted the driver to his car was an employee of the bar, not the restaurant. Michael then moved for summary judgment and the court granted it.

Lowry and Pattillo Obtain Summary Judgment – Plaintiffs Unable to Prove Damages

Michael Lowry (Partner-Las Vegas) and Jonathan Pattillo (Associate-Las Vegas) represented a client that provides mass transit services in Las Vegas in a case before the Eighth Judicial District Court. A vehicle struck the client's bus and two passengers on the bus asserted the collision injured them. After discovery closed, Michael and Jonathan moved for summary judgment, arguing the plaintiffs had not disclosed the medical experts

required under the circumstances to prove damages. The district court agreed, concluding the disclosures the plaintiffs served did not comply with the substantive requirements for designating non-retained experts. Without any provable damages, summary judgment was entered against the plaintiffs.

Lowry and Pattillo Defend Subcontractor Payment Claim

Michael Lowry (Partner-Las Vegas) and Jonathan Pattillo (Associate-Las Vegas) obtained a defense judgment from a Las Vegas court after a bench trial in Las Vegas. The trial involved a retailer that hired a building services vendor that in turn hired a subcontractor to provide HVAC services to Las Vegas properties. The subcontractor performed the services and billed the vendor. The vendor was paid by the retailer, but then did not pay the subcontractor. The vendor's business collapsed, disappeared and was not a party at trial. The trial was about whether the retailer should be forced to pay twice for the subcontractor's work. Under Nevada mechanic's lien law that would be the result, but the subcontractor admittedly never recorded a mechanic's lien. The subcontractor instead argued either the retailer was bound by the vendor's contract or was alternatively unjustly enriched. Weeks after the bench trial, the Eighth Judicial District Court entered judgment for the retailer. It concluded there was no contract binding the retailer to the subcontractor. It also concluded there was no unjust enrichment under these circumstances because the subcontractor's payment rights were restricted under its contract with the vendor.

Lowry Successfully Defends Summary Judgment before Ninth Circuit

Michael Lowry (Partner-Las Vegas) defended a casual steakhouse with locations across the country from a slip-and-fall lawsuit in Las Vegas. The guest alleged the restaurant negligently maintained its floor, causing her injuries. The local federal court granted summary judgment, and the plaintiff appealed. The Ninth Circuit affirmed the decision, agreeing with Michael that the guest "failed to raise a genuine dispute of material fact as to whether the restaurant caused the foreign substance to be on the floor or whether it had actual or constructive notice of a hazardous condition and failed to remedy it."

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