



Nicholas Merritt

Associate

nicholas.merritt@wilsonelser.com

Phoenix, AZ – 480.790.9454

Nicholas Merritt represents individuals and businesses in all aspects of civil litigation. His practice focuses on the defense of claims related to general liability matters.

Prior to joining Wilson Elser, Nicholas worked at a boutique litigation firm in Phoenix, handling civil litigation and criminal defense. Previously, he served as an Assistant Attorney General in the Arizona Attorney General's Office, where his practice focused on child welfare law and the protection of children. In that role, Nicholas gained extensive trial experience, acting as first-chair in over 100 bench trials and contested evidentiary hearings.

During law school, Nicholas gained diverse experience through internships with various legal organizations in Arizona, including the Cochise County Attorney's Office, the Office of the Federal Public Defender, the Maricopa County Office of the Legal Advocate, and Arizona Municipal Strategies, as well as a transactional real estate firm in Los Angeles, California. Notably, Nicholas won his first jury trial as a Rule 39(c) limited practice attorney during his internship with the Cochise County Attorney's Office. He was also awarded highest honors for his generous pro bono contributions throughout his law school career.

Education

- Arizona State University Sandra Day O'Connor College of Law (J.D., 2022)
 - Pro Bono Honors with Highest Distinction
 - CALI Award for Excellence in Special Topics in Water Law
 - Student Bar Association Representative
- Gettysburg College (B.A., 2019)

Services

- General Liability

- Presidential Scholarship

Bar Admissions

- Arizona

Court Admissions

- U.S. District Court, District of Arizona

Client Wins

Allin and Merritt Prevail in Construction Defect Arbitration

Taylor Allin (Partner-Phoenix) and Nicholas Merritt (Associate-Phoenix) successfully defended their client, a national home improvement store, in an arbitration involving construction defect and breach of contract allegations. The client contractually arranged for a general contractor and a supplier of roofing materials to replace a private homeowner's roof. During the delivery of materials, the roof was damaged. While waiting for an assessment of repairs, the roof was further damaged by a rainstorm. The house was not repaired and eventually declared a total loss due to exposure to the elements over a long period of time.

The homeowners' insurer also brought a subrogation action seeking damages for the cost of the entire home for over \$400,000. The homeowners sought damages over \$1,000,000. The arbitrator agreed with the mitigation-of-damages argument advanced by Taylor and Nicholas, limiting damages to the original incident and the first rainstorm only. Fault was allocated equally between the delivery company and the general contractor. Additionally, Plaintiffs were not awarded attorneys' fees as they were not the prevailing party.

Cieniawski, Pompeo, Merritt & Martinez Prevail on Inapplicability of Fictitious Defendant Practice to an Out of Time Party Addition

Brian Cieniawski (Of Counsel-Phoenix, AZ), Celeena Pompeo (Partner-Orange County | Los Angeles, CA), and Phoenix, Arizona, associates Nicholas Merritt and Marcus Martinez defended a major transportation client regarding a tractor-trailer incident in Mohave County, Arizona, in which plaintiff alleged that multiple driver side wheels separated from a trailer hauling freight. The plaintiff attempted to add our client as a defendant more than five months after the two year limitations period expired. Our defense focused on a straightforward statute of limitations bar under A.R.S. § 12 542 and the inapplicability of fictitious defendant practice to an out of time party addition; we also emphasized the absence of timely notice or any "mistake" in identity to satisfy Rule 15(c)'s relation back requirements, and the availability of public information that would have identified the trailer's owner earlier. The court granted our motion and dismissed all claims with prejudice.