



## TRACY A. DIFILLIPPO

### PARTNER

Las Vegas, NV

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Tracy DiFillippo practices in the area of commercial litigation and appellate work. She regularly represents clients in commercial and business litigation matters involving contracts, construction, insurance and directors and officers (D&O) liability.

### Construction

Serving contractors and subcontractors, Tracy handles matters relating to construction defects, mechanic's liens and breach of contract. She also helps contractors obtain insurance coverage.

### Insurance

Assisting clients with insurance coverage and claim process issues, Tracy manages technical matters involving commercial general liability and D&O insurance. In addition, she works with surety companies and bail agents by assisting them in terminating their liabilities and protecting their licenses with the regulatory boards. Further, Tracy has experience drafting insurance coverage opinions and reservation of rights letters, answering coverage questions, and has handled numerous insurance bad faith lawsuits.

### Class Actions

In another area, Tracy defends business clients facing consumer class action lawsuits. Many of the cases involve allegations of fraud, false advertising, unfair trade practices and breaches of state and federal consumer protection laws.

### Directors and Officers Litigation

Tracy handles complex litigation matters involving the conduct of corporate officers and directors. She is highly experienced to handle matters involving corporate governance disputes, breach of fiduciary duties, bad faith and negligence.

### Appeals

Tracy's representation of clients includes several matters before the Nevada Appellate Courts. In her representation, Tracy has extensive experience arguing before both the Nevada Court of Appeals and the Nevada Supreme Court.

### EDUCATION

- Gonzaga University School of Law (J.D., *cum laude*, 2001)
  - American Jurisprudence in Legal Writing III
- University of Nevada, Las Vegas (B.A., 1998)

### SERVICES AND INDUSTRIES

Appellate

Litigation

Product Liability

Consumer Products and Services

Real Estate, Development, Construction

Corporate

Alternative Dispute Resolution

Class Action Litigation

Insurance Coverage Litigation

### ADMISSIONS

U.S. Supreme Court

U.S. Court of Appeals, Ninth Circuit

U.S. District Court, District of Nevada

Nevada

## PROFESSIONAL ACTIVITIES

- American Bar Association (House of Delegates; Litigation Section, Pretrial Practice & Discovery Committee Co-Chair)
- State Bar of Nevada (Founder and Chair, Litigation Section; Member, Appellate Litigation Section)
- Clark County Bar Association
- Southern Nevada Association of Woman Attorneys
- Nevada Civil Practice Manual (Editor)

## CHARITABLE AND CIVIC INVOLVEMENT

- Chiropractic Physicians' Board of Nevada
- Communities In School of Nevada (Board of Directors, Secretary)

## ACCOLADES

- *The Best Lawyers in America*<sup>®</sup>; Commercial Litigation (2019-present)
- Named to VEGAS INC's "Women to Watch" (2017)
- Recipient, Volunteer of the Year Award, State Bar of Nevada (2016)
- Recipient, ABA Litigation Section - Outstanding Subcommittee Chair for Pretrial Practice & Discovery Committee 2015-2016
- Named to Nevada Business Magazine's "Legal Elite" (2014, 2016)
- Named to *Las Vegas Business Press* Rising Stars (2015)
- Recipient, Vince A. Consul Memorial Pro Bono Award, Legal Aid Center of Southern Nevada (2014)
- Named to *Mountain States Super Lawyers*<sup>®</sup> (2019), *Rising Stars* (2014-2015)
- AV<sup>®</sup> Peer Review Rated, *Martindale-Hubbell*

## BACKGROUND

Prior to joining the firm, Tracy was in private practice at another area firm. After graduation from law school, she completed a two-year clerkship with Justice Robert R. Rose of the Nevada Supreme Court.

## EXPERIENCE

### Summary Judgment for Client in Wrongful Death Case

Won summary judgment for a government entity in a wrongful death case. At issue was whether the government entity was liable for the death of child crossing in a crosswalk where the lights were not working. The Eighth Judicial District Court ruled that the statute of repose and immunity statute precluded liability against the government entity.

### **Successful Appeal in Nevada Supreme Court Public Records Case**

Prevailed in an appeal before the Nevada Supreme Court. At issue was whether inmate phone calls from Clark County Detention Center were public records. The Nevada Supreme Court issued an opinion affirming the Clark County District Court's order to produce the documents under Nevada's Public Records Act. In addition, the state Supreme Court reversed the District Court's denial of the client's motion for attorney's fees and cost, remanding the order to District Court for an order requiring the detention center to pay reasonable attorney's fees and cost.

### **Dismissal for Dental Company in Malpractice Complaint**

Obtained a dismissal for a dental company on a dental malpractice claim because the plaintiff failed to comply with the expert affidavit requirement. The plaintiff later refiled the complaint, alleging negligence and fraud claims and seeking punitive damages. Obtained another dismissal with prejudice, completely barring the plaintiff from bringing further claims against the client.

### **\$8 Million Verdict for Physician in Medical Malpractice Case**

Secured a unanimous verdict for a physician in an \$8 million jury trial after his patient died from stage 4 bladder cancer. The claim alleged that the physician perforated the bladder during surgery causing the cancer to spread.

## **THOUGHT LEADERSHIP**

June 5, 2017

### **Lien Claimants Should Always Serve Pre-Lien Notices, Especially for Offsite Work**

November 2016

### **How to Make Objections to Discovery Under the Amended Rules?**

Litigation, ABA Section of Litigation Pretrial Practice and Discovery Newsletter

October 11, 2016

### **Nevada Supreme Court Ruling Means Additional Liability for Owners, Contractors and Subcontractors**

November 3, 2015

### **Las Vegas Attorneys Authored Article Featured in ABA's Litigation Journal**

ABA's Litigation Journal

October 2015

### **Practical Considerations When Enforcing Judgments**

Litigation, ABA Section of Litigation Journal

November 2014

### **Avoiding the Pitfalls of Summary Judgment Practice**

ABA Section of Litigation