



ERIK STONE

PARTNER

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Areas of Practice:

Commercial & Business Litigation
Construction Litigation
Dram Shop & Social Host Liability
General Civil Litigation
Insurance Coverage & Third-Party Liability
Intellectual Property
Patent
Trademark & Copyright Litigation
Unfair Competition & Infringement Litigation
Wrongful Death & Personal Injury Defense

Industries Served:

Construction
Homeowner Associations
Insurance
Manufacturers
Professional Service Providers
Retail & Hospitality

Erik Stone is included in the Complex Litigation Group. He is experienced handling a variety of general civil litigation matters, including commercial litigation, intellectual property, professional liability, wrongful death and personal injury claims, employment and discrimination, HOA matters, and construction defect. In addition, Erik has represented clients in Tribal Law matters, including tribes, casinos, and gaming enterprises. He represents clients in industries such as financial services, software and technology, health care, legal, manufacturing, real estate, construction, restaurant and hospitality, sales, and retail.

Prior to joining the firm, Erik served as a Judicial Clerk for the Honorable Patricia A. Orozco, of the Arizona Court of Appeals, Division I. Outside the firm, Erik enjoys hiking with his Australian Shepherd Max, boating on Arizona's many lakes, working on his golf game, and DIY home improvement projects.

REPRESENTATIVE CASES

- **[Obtained a directed verdict on all claims in a highly complex, two-week copyright infringement trial in the Federal District Court for the District of Arizona.](#)** The Plaintiff alleged our client infringed upon Plaintiff's various copyrights related to sales-training material. The allegedly infringing material was used over the course of nearly three years in various sales seminars throughout the country. The material was presented to hundreds of salespersons contracted by our client to market, sell, and install specialized geothermal HVAC systems for commercial and residential use. The Plaintiff argued that the alleged infringement resulted in several millions of dollars in increased revenue and positioned our client for the acquisition of more than \$400 million. At the close of Plaintiff's case, we moved for a directed verdict, arguing that Plaintiff failed to prove our client, as opposed to the co-defendant, played any part in the alleged infringement. We further argued that Plaintiff also failed to prove that the increase in revenue and company value was attributable to the alleged infringement. Following the Court's Order granting judgment in favor of our client, Plaintiff agreed to pay a large portion of our client's attorney fees and costs incurred during the course of the litigation. *The ACT Group v. WaterFurnace International, Inc., et al.*, November 2015. U.S. District Court for the District of Arizona.
- **[Obtain dismissal for school district in bus-vehicle accident.](#)** This case arose out of an accident between a school district bus and two other vehicles. The driver and passenger in one of the vehicles claimed severe injuries caused by the negligence of the school bus driver. The claims were denied and a lawsuit was subsequently filed. Defendant moved to dismiss, arguing the Notice of Claim Statute had been violated. Trial court agreed with Defense and ordered Plaintiff to pay attorneys' fees. Plaintiffs appealed, but the Arizona Court of Appeals affirmed the trial court's decision in favor of the Defendant. *Austin v. Peoria Unified School District*, March 2015.
- **[Obtained a unanimous jury verdict in favor of our client in a highly-contested civil assault trial.](#)** While attending a Phoenix Coyotes' hockey game on Valentine's Day 2009, our client, his wife, and their friends were harassed by another fan, the Plaintiff, throughout the game. Plaintiff's harassment became more obscene and vulgar as the game progressed. Eventually, the Plaintiff advanced toward our client, his wife, and friends – who were seated 25 feet away and two rows down – verbally threatening their lives and ultimately spitting on our client's wife. Our client took action in defense of his wife and others nearby, hitting the Plaintiff as he continued his violent approach. We argued that our client acted reasonably under the circumstances and blamed the Plaintiff for starting the altercation. Plaintiff alleged multiple injuries and lost wages in the subsequent years. It became apparent, however, that his allegations were either fabricated or highly exaggerated, in his attempt to "hit the lottery." Plaintiff's counsel asked the jury to award \$3.13 million. In closing, we argued that Plaintiff started the fight and was therefore 100% responsible for any and all injuries. Alternatively, we argued that the security personnel was also partially at fault for not ejecting the Plaintiff earlier in the game. After approximately 1 hour and 15 minutes of deliberation, the jury returned a unanimous verdict in favor of our client and awarded Plaintiff nothing. *Franklin v. Clemett*, et al., October 2014. Maricopa County Superior

Court. Selected as a "Top Ten Defense Verdict of 2014" by Arizona Attorney Magazine.

- **Obtained summary judgment in trademark infringement and unfair competition case.** This case involved two tour companies offering Grand Canyon tours. Plaintiff's tour company, Angel's Gate, offered day tours of the Grand Canyon. Defendant's competing tour company, All-Star Grand Canyon Tours, offered private, overnight trips to the Grand Canyon, but later expanded its operation to include day trips.

Plaintiff claimed that Defendant infringed upon Plaintiff's trademark and trade dress by designing a similar logo and attaching that logo to its shuttles and vans in the same manner as Plaintiff. Plaintiff further argued that Defendant engaged in unfair competition by using a nearly identical "tour ticket" as a form of a receipt for local hotel concierge who booked tours on behalf of guests. Finally, Plaintiff also argued that Defendant breached an alleged non-competition agreement by expanding its operation to include day tours.

Defense filed a motion for summary judgment, arguing that there was no likelihood of confusion between the two logos. Although both logos included depictions of the Grand Canyon, the depictions were of different rock formations, and both logos included the parties' respective names on them. Defense also argued that the use of the "tour ticket" was functional and thus did not fall under the Lanham Act's protections. Lastly, Defense argued that the parties never consummated an agreement not to compete and thus our client should not be precluded from offering day tours.

The Court agreed on all issues and granted summary judgment in Defense's favor on all claims. *Angel's Gate, Inc. v. All-Star Grand Canyon Tours, Inc.*, September 2013. U.S. District Court for the District of Arizona.

PROFESSIONAL ASSOCIATIONS & MEMBERSHIPS

- State Bar of Arizona, Board of Governors, 2014-2015
- State Bar of Arizona, Young Lawyers Division, President, 2014-2015; President-Elect, 2013-2014; Executive Board, 2011-2013
- Arizona Association of Defense Counsel, Young Lawyers Division, Executive Board, 2011-Present; Softball Committee, 2011-Present

PROFESSIONAL RECOGNITION & AWARDS

- *Southwest Super Lawyers Rising Stars*, 2014-2020
- "Top Ten Defense Verdict of 2014," *Arizona Attorney Magazine*, *Franklin v. Clemett*, Maricopa County, October 2014

PRESENTATIONS & PUBLICATIONS

- "[Model Behavior: Misappropriation of Likeness](#)," USLAW NETWORK Worldwide Virtual Retreat, Presenter, October 2020
- "[Defenses to Non-Performance of Contracts Due to COVID-19](#)," Co-Author, June 2020
- "[Force Majeure Compendium of Law: State of Arizona \(during COVID-19 pandemic\)](#)," Author, USLAW NETWORK, June 2020
- "[State Judicial Profiles by County 2019-2020](#)," Contributor, USLAW NETWORK, September 2019
- "From The Trenches: What Your Defense Attorneys Want You To Know," Presenter, CapSpecialty Underwriting Workshop, June 2017
- "Jury Trial Demonstration," Presenter, LYFE Foundation Conference, February 2017
- "I've Fallen and Can't Get Up: Personal Injury Strategies for Plaintiff and Defense Paralegals," Co-Presenter, 2015 MCBA Paralegal Conference, October 2015
- "Defending The Questionable Traumatic Brain Injury Claim: A Live Neurological Independent Medical Examination," Presenter, JSH Annual Seminar: It's All Fun and Games Until Someone Gets Hurt, November 2014
- "Live IME," Presenter, JSH Seminar, October 2013

EDUCATION

Boston University School of Law, J.D., 2009

Arizona State University, B.A., *cum laude*, 2006

BAR ADMISSIONS

Arizona, 2010

California (Inactive), 2010

U.S. District Court, District of Arizona

U.S. Court of Appeals, Ninth Circuit

White Mountain Apache Tribal Court, 2015