

Dallas Brent Young

Utah Bar Number: 12405

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WORK EXPERIENCE:

UTAH COUNTY PUBLIC DEFENDER ASSOCIATION

Attorney, January 2019 – Present.

Exclusive focus on criminal defense in felony cases, representing indigent defendants. Involvement in drug cases, assault, domestic violence, sex abuse cases, as well as capital homicide. Extensive involvement in preliminary hearings, motions to suppress, 402 motions, orders to show cause, intensive negotiations, and significant trial experience (prior to the supreme court's pandemic response administrative order, and prior to being assigned full time to a capital homicide case). Exemplar cases include securing acquittal on of child sex abuse of a child following trial in juvenile court, jury acquittal on a felony check fraud case, secured dismissal of several drug cases through motions to suppress claiming search and seizure violations, secured a global, non-prison resolution for a client with 13 pending felony theft, burglary, vehicle burglary, etc... cases, secured dismissal of felony auto theft on double jeopardy grounds, domesticated subpoenas in foreign jurisdiction and overseeing litigation of subpoena enforcement, extensive use of private investigators and medical experts, DNA experts, digital forensics experts, medical examiner, forensic psychologists and psychiatrists, interrogation experts. Caseload is exclusively litigation, primarily in district court with some active appellate representation.

HOWARD, LEWIS & PETERSEN

Associate, March 2018 – December 2018.

Emphasis on personal injury and insurance law litigation. Also emphasis in felony and misdemeanor criminal defense cases in district and justice courts across the state. Involvement in medical malpractice, as well as continued involvement in real property litigation. Substantial motion practice caseload involving complex issues of boundary by acquiescence, first party insurance bad faith, motions to suppress. Exemplar cases include securing the release of client from custody and dismissal of his felony stalking injunction violation charges through analysis of forensic cellular and geolocation data that established an indisputable alibi defense for the client; jury trial in federal district court that resulted in voluntary dismissal of civil wiretapping claims before the case went to verdict in a case where the plaintiff originally claimed over \$2M in damages. Caseload was exclusively litigation in justice and district courts across the state.

PETRO & ASSOCIATES

Attorney at law, September 2014 – March 2018.

Emphasis on criminal defense, defending against felony and misdemeanor charges in district and justice courts across the state. Particular emphasis on DUI defense, with substantial volume in theft, burglary, possession, assault, domestic violence. Extensive civil practice involving personal injury litigation, real property litigation, insurance law, contracts litigation. Exemplar cases include jury acquittal on domestic violence charges, dismissal of DUI and drug charges after prevailing on motions to suppress, secured an arbitration award on a personal injury case that equaled the outer limit of a high/low agreement, successfully moving for summary judgment on a prescriptive easement claim. Caseload was exclusively litigation in justice courts, district courts, and several cases litigated on appeal.

IVIE & YOUNG

Attorney at law, August 2009 – December 2015.

Represented clients in civil litigation at trial court and appellate levels. Tried several personal injury cases, both plaintiff and defense, to juries as well as in arbitration proceedings pursuant to Utah Code Ann. § 31A-22-321. Emphasis on insurance defense, insurance law, insurance coverage, insurance bad faith. Experience in auto insurance, homeowner's insurance, professional liability insurance, title insurance. Experience in real property and contracts litigation. Case load was almost exclusively litigation. Also began working on an insurance bad faith case that lasted 11 years before the matter was resolved. Caseload was exclusively litigation, with f.

Judge David N. Mortensen, Fourth District Court

Law Clerk/Bailiff, August 2008-August 2009.

Prepared bench memoranda, researched substantive, procedural, and constitutional law, drafted rulings on motions before the court. Also responsible for courtroom security. POST certified as Special Functions Officer with certifications in arrest control tactics and use of OC spray (See <https://www.youtube.com/watch?v=45LpuFOHWIM>).

EDUCATION:**ALBANY LAW SCHOOL:**

Albany, NY

- Juris Doctorate, *Cum Laude*, May 2008
- Rank: 50 of 229, GPA: 3.24
- Member, Justinian Society
- Albany Government Law Review, founding Executive Editor, 2007-08
- Founders Scholarship, 2005-08
- Nairobi, Kenya Summer International Law Institute, Summer '06
- Dean's List, Fall 2006, Spring 2007, Fall 2007, Spring 2008

Brigham Young University

Provo, UT

- Bachelor of Science, Psychology, English Minor, August 2003
- GPA 3.37
- Teaching Assistant, Psychological Testing; Psychology History and Contemporary Issues
- Independent Semester Study Abroad, New Zealand, Fall 2000

NOTEWORTHY TRIALS:

- *State v. Nelson*, Case No. 181403057, Fourth District Court, Provo, Utah, Judge Kraig Powell. Jury Trial, May 1 – May 2, 2019. Defendant Derreke Nelson against two counts of Possession of a Forged Writing, and once count of Theft by Deception, all Third Degree Felonies. Defendant maintained that he negotiated the check in good faith, not knowing it was a forgery, which it was. Jury verdict of not guilty on all counts.
- *In re: M.G.*, Case No. 520119, Fourth District Juvenile Court, Spanish Fork, Utah, Judge F. Richards Smith. Bench Trial March 20, 2019. Defended M.G. against two allegations of Sexual Abuse of a Child – Victim Under 14, a Second Degree Felony. The case involved cross-examining a forensic child interviewer concerning breaches of child interview protocols resulting in pivotal details to the State's narrative being introduced by the interviewer, and not the alleged victim. Following the bench trial, the court dismissed both allegations against M.G.
- *Dahl v. Dahl*, Case 2:11-cv-00949, U.S. District Court of the District of Utah, Judge Robert J. Shelby. Jury trial September 10 – September 11, 2018. Defended Defendant Dahl against claims for alleged violations of state and federal wiretapping statutes. The case resolved on the second day of trial with an agreement from the plaintiff to dismiss all claims in exchange for an agreement from the defendant not to move for mistrial and seek attorney's fees as a sanction.
- *Stewart v. Adams*, Case No. 140401755, Fourth District Court, Provo, Utah, Judge Thomas Low. Bench Trial April 18, 2017. Defendant Scott Adams in a civil claim for unjust enrichment wherein his former fiancée sought judgment against him in the amount of \$254,700.82 for the cost of improvements she made to his home while the couple was preparing to marry. The case was decided based on the merger doctrine; after a dispute over Mr. Adams' responsibility to repay the amount spent improving his property, Ms. Stewart proposed a quitclaim deed to her as a cotenant. Mr. Adams signed and delivered the deed. The trial court ruled that an agreement to get married and owned the property jointly, but that the parties never performed that agreement. Rather, the quitclaim deed was signed, delivered, and recorded. These acts triggered the merger doctrine, and because an express oral contract existed, unjust enrichment was ruled unavailable as a cause of action. The court further ruled that unjust enrichment could not apply because the plaintiff was a 50% owner of the property she paid to improve. The complaint was dismissed with prejudice and on the merits.

- *State v. Bird*, Case No. 155101801, Utah County Justice Court, Provo, Utah, Judge Cullimore. Jury Trial, September 24, 2015. Defended Jeffrey Bird against one count of DUI. The case involved whether the State's expert could give retrograde extrapolation testimony to establish defendant's BAC at the time of driving, several hours prior to breath analysis by an intoxilyzer machine. The opinion was successfully excluded, although the jury returned a guilty verdict. Defendant waived his right to de novo trial.
- *Provo City v. Bills*, Case No. 141001483, Provo City Justice Court, Provo, Utah, Judge Vernon Romney. Jury Trial, March 3, 2015. Defended Douglas Bills against charges of domestic violence assault and false report to a police officer. Trial involved several hearsay issues, and resulted in a verdict of not guilty on the domestic violence charge, and guilty on the false report to a police officer charge.
- *State v. Christensen*, Case No. 131600001, Fourth District Court, Nephi, Utah, Judge Bill Bennett, Sr. Judge. Jury trial, August 4 – 7, 2014. Defended Hadley Christensen against one count of aggravated sex abuse of a child. Trial included evidentiary question of highly complex Y-STR DNA testing. All DNA evidence was ultimately excluded on a motion in limine based on rule 403 grounds. Trial resulted in a jury verdict of not guilty.
- *State Farm v. Metler et al.*, Civil No. 118003181, Provo Justice Court, Provo, Utah. Bench trial, May 11, 2012. Represented State Farm Mutual Insurance Co. in an interpleader filed to resolve an otherwise intractable dispute between an injured party and her attorney, where the client had fired her personal injury attorney and resolved her claim *pro se* with State Farm. A fee dispute developed between her and her former lawyer concerning a contingency fee on the amount of an offer that was conveyed during the representation.
- *American Family v. Kemp*, Civil No. 0906000263, Sixth District Court, Manti, Utah, Judge Wallace Lee. Bench trial April 23-24, October 9-10, 2013. Defended Greg and Emery Kemp in a declaratory judgment action brought by their insurer to invalidate coverage for a total loss of a home and its contents following a catastrophic fire. American Family alleged the insured committed arson, thereby voiding coverage. Trial involved dozens of evidentiary issues, including relevance, character evidence by way of opinion and reputation, hearsay, Fifth Amendment privilege against self-incrimination, attorney/client privilege, attorney work product, *State v. Rimmasch*, admission of evidence subject to subsequent proof, best evidence rule, proper use of deposition testimony during trial, hypothetical questions with expert witnesses, among others. Trial resulted in a verdict in favor of the Kemps, and spawned a bad faith case that took 9 years to resolve, and involved more than 20 motions for partial summary judgment, discovery disputes, motions in limine over expert witness and discovery disputes, etc...
- *Jensen v. Barron*, Civil No. 090402444, Fourth District Court, Provo, Utah, Judge Fred Howard. Jury trial March 21, 2011 – March 30, 2011. Defended Paul Barron in a personal injury case with risk of exposure in excess of his liability insurance coverage. This case involved pre-trial motions, including approximately 20 different motions in limine. Trial resulted in a jury verdict within policy limits.

LICENSURE AND PROFESSIONAL ORGANIZATIONS:

- Utah State Bar, May 15, 2009
- United States Court of Appeals, 10th Cir., March 18, 2013
- United States Supreme Court, January 19, 2016
- Utah Association of Criminal Defense Lawyers, January 2017
- Rapid Response Subcommittee of the Evidence Advisory Committee, January 2019 – present
- A. Sherman Christensen American Inns of Court, January 2014 - present
- United States District Court, Central District of Utah, May 15, 2009
- President, Central Utah Bar Association, June 2015 – May 2016
- Utah Supreme Court Advisory Committee on the Rules of Evidence, October 2017 – present
- Litigation Section of the Utah State Bar, Executive Committee, November 2016 – December 2018
- Utah Appellate Roster, September 2018 - present

APPELLATE APPEARANCES:

- *EBF v. Kay*, 2011 UT 71, 270 P.3d 430. Represented appellant Steve Kay in a property boundary dispute over the doctrine of boundary by acquiescence. Challenged district court's conclusion that the burden of proof in boundary by acquiescence is a preponderance of the evidence. Also challenged the application as to the facts of that case. The trial court was reversed as to the burden of proof, affirmed as to application of the facts in that case.
- *Anderson v. Anderson*, 2010 UT App 392. Represented Appellee Kelly Anderson against Appellant's challenge to the district court's holding appellant in contempt and other factual findings. Appellant failed to marshal the evidence. Extensive briefing on the marshaling requirement. District court affirmed.
- *Schmanski v. Nielson et al.*, Appellate No. 20090522-CA, for appellants Nielsons (appellees settled underlying claim prior to completing briefing). Represented appellants the Nielsens. The Nielsens were defendants in an anoxic brain injury case arising out of an automobile accident where their minor son was the driver of a vehicle they owned. Challenged the district court's failure to give a jury instruction where both parties requested differing instructions regarding a negligent entrustment liability theory. The district court allowed counsel to argue their theories to the jury and let the jury decide the legal issue. Appellees never filed their brief because the case resolved shortly the Brief of Appellant was filed.
- *FDIC v. Taylor et al.*, 2011 UT App 416, 267 P.3d 416. Represented Appellee FDIC (successor in interest to a failed bank). This case involved the doctrine of after-acquired title and the doctrine of scrivener's error. Appellants challenged the court's application of the doctrine of after-acquired title. FDIC defended the district court. Court of Appeals reversed, overlooking a crucial affidavit that established an essential element the Court of Appeals said had no record evidentiary support.
- *Poll v. Poll*, 2011 UT App 307, 263 P.3d 534. Represented Appellee Sandra Straub (f/k/a Poll) in an appeal of a bench trial. Appellant challenged the district court's factual finding that a \$2.5 million property was pre-marital property. Extensive briefing on the marshaling requirement and standard of review for factual challenges.
- *Woodward v. LaFranca*, 2013 UT App 147, 305 P.3d 181. Represented Appellee Julie LaFranca defending the District Court's denial of a petition to modify an award of custody. Extensive briefing on the standard of review for factual challenges. Trial court reversed.
- *Peterson v. Armstrong*, 2014 UT App 247, 337 P.3d 1058. Represented Appellant Drew Armstrong appealing the District Court's granting a 3-year stalking injunction. At issue was whether a First District Court judge's denial of an ex parte civil stalking injunction request amounted to res judicata when the same applicant later requested an ex parte civil stalking injunction in the Fourth District Court based on the same allegations that the First District Court judge ruled did not constitute stalking. Trial Court was reversed on grounds of claim preclusion.
- *Woodward v. LaFranca II*, 2016 UT App 141, 381 P.3d 1125. Represented Appellee Julie LaFranca defending the District Court's denial of a petition to modify an award of custody following its prior order reaching the same result being reversed in *Woodward v. LaFranca*, 2013 UT App 147, 305 P.3d 181. Extensive re-briefing of the facts in an intensive analysis of the trial court's factual findings. Held that the trial court substantially complied with the remand order following *Woodward I*. Trial court affirmed.
- *Zeller v. Nixon*, Case No. 2015 UT 57, 355 P.3d 991. Represented Appellant Nixon in the Supreme Court appealing District Court's ruling that Utah R. Civ. Pro. 15 gives the court discretion to allow a plaintiff in a personal injury lawsuit where the plaintiff had elected to arbitrate pursuant to Utah Code Ann. § 31A-22-321 and had not properly rescinded that election. The court concluded that the trial court erred in relying on Utah R. Civ. Pro. 15.
- *MacFarlane v. Applebee's Restaurant*, 2016 UT App 158, 378 P.3d 1286. Represented Appellant MacFarlane in an appeal of the trial court's ruling that a business owner who contracts with a third party for snow and ice removal in

its parking lot owes no duty of care to a business patron who slipped and fell on an icy parking lot. Trial court was affirmed.

- *State v. Outzen*, 2017 UT 30. Represented defendant Wyatt Outzen appealing the District Court's ruling that Utah Code Ann. § 41-6a-517 contemplates only driving with impairing metabolites of a controlled substance in the driver's system, and does not criminalize driving with non-impairing metabolites of controlled substances in the driver's system. Also challenging the trial court's ruling that its interpretation of § 41-6a-517 did not violate Utah Const'n Art. I, § 24, the Uniform Operation of Law provision. The case was originally poured over the Court of Appeals, but on a suggestion for certification to the Court of Appeals, the matter was certified to the Supreme Court pursuant to Utah R. App. Pro. 43(b)(1). Trial court was affirmed.
- *Christensen v. Juab School District*, 2017 UT 47. Represented Hadley Christensen in his claim to recover attorney's fees and costs pursuant to Utah Code Ann. § 52-6-201 following his acquittal on a 1-count Information accusing him of Aggravated Sex Abuse of a Child, a First-Degree Felony. At issue was whether the State's allegation that Christensen's status as the alleged victim's former school teacher was an allegation that he committed an offense under color of authority within the meaning of Utah Code Ann. § 52-6-201(1), and whether his subsequent acquittal required Juab School District to pay reasonable attorney's fees and costs incurred in the defense against the charge. The case was originally assigned to the court of appeals, but was recalled by the supreme court for decision. The trial court was affirmed, ruling that Christensen was entitled to recover his attorney's fees from his employer due to the nature of the allegations in the criminal Information.
- *Lancer Insurance Co. v. Lake Shore Motor Coach Lines, Inc. et al.*, 2017 UT 8, 391 P.3d 218. Appeal on certified questions from the federal district court. Represented 4 individuals who were injured when the commercial bus in which they were passengers went off the roadway, following the sudden incapacity of the bus driver due to an unforeseeable medical condition. The case turned on whether Utah Code Ann. § 31A-22-303(1)(a)(v) creates strict liability for drivers who experience an unforeseeable medically incapacitating event and injure others as a result of the incapacity. The case also involved whether that liability was limited to the driver's policy limits, or whether it was limited to the statutory minimum liability insurance requirements. The case reached the Utah Supreme Court by way of certified questions from the United States District Court, District of Utah. The court ruled that § 31A-22-303(1)(a)(v) creates strict liability, subject to applicable policy limits.
- *State v. Akers*, Case No. 20170713-CA. Represented Jason Akers on a claim of ineffective assistance of counsel due to counsel's failure to object to unproven allegations contained in a PSI prior to imposition of sentence, and challenging the court's reliance on unproven and impertinent allegations in the PSI when imposing sentence. Trial court was affirmed in an unpublished opinion.
- *State v. Wolsey*, Case No. 20161020-CA. Represented Ronald Wolsey on a claim that probation sanctions were imposed on the basis of facts never alleged or stated in the affidavit in support of a probation order to show cause. The appeal also involves a claim of ineffective assistance of counsel. Trial court was affirmed in an unpublished opinion.
- *State v. Willis*, Case No. 20190274-CA. Represent Wade Willis in a constitutional challenge to Utah's Plea Withdrawal Statute. At issue is whether the Plea Withdrawal Statute violates the Sixth Amendment as interpreted by *Strickland v. Washington*, 466 U.S. 668 (1984) by purporting to deprive the district court of jurisdiction to hear a motion to withdraw a guilty plea after sentence was imposed when the plea was entered and sentence imposed without receiving effective assistance of counsel. Briefing is currently stayed following a *sua sponte* order staying the case.
- *State v. Nielson*, Case No. 20190272-SC. Represented Darin Nielsen in an interlocutory order appealing the district court's granting of the State's motion to quash a subpoena. Supreme court sustained the district court's order quashing a subpoena to the alleged victim to testify at a preliminary hearing. In the process it articulated procedures not previously identified for a preliminary bind over decision, following which the proponent of the alleged victim's testimony must proffer how the testimony would change the probable cause determination.

- *State v. Baum*, 20200859-SC. Represent Defendant Jerrod Baum on a petition for leave to appeal the district court's interlocutory discovery order. Defendant contended that the work product doctrine as enshrined in Utah R. Crim. Pro. 16 does not require a defendant to disclose his work product to the State, irrespective of whether the State shows substantial need and an inability to obtain comparable materials without undue hardship, as allowed by Utah R Civ. Pro. 26. Petition is currently pending.