



B. Otis Felder

Partner

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Otis Felder has substantial trial and appellate experience in state and federal court, and has represented various London Market insurers in a variety of coverage disputes. From his role as a partner in a firm specializing in representing the cruise industry, Otis accepted a position managing litigation as in-house counsel for Princess Cruise and Cunard, focusing on crew and passenger cases. He acted as a 24-7 resource for legal advice to all departments, including ongoing ship operations in a variety of legal jurisdictions. He later was engaged as general counsel for a company forming various theme cruises involving commercial transactions in promoting well-known national brands.

Otis also served as a Los Angeles Deputy City Attorney, successfully prosecuting hundreds of criminal violations, from arraignment through jury trial. He clerked for the Honorable Wallace Douglass in the San Francisco Superior Court, Criminal Division while in law school, and subsequently took a year's sabbatical to volunteer to try cases, achieving a 98 percent conviction rate. In addition to advocating on behalf of crime victims, Otis volunteered to train cadets with the Los Angeles Police Department at the Ahmanson Recruiting Center in testifying for various court proceedings. He also volunteered with the Valor Citation Clinics for Veterans program, most recently at the Midnight Mission. Otis works with the Los Angeles Sheriff's Department in supporting its Threat Interdiction Unit (TIU) team in the annual Baker to Vegas relay.

Marine

Otis represents various cruise lines, vessel operators and owners as defense counsel in a wide range of assignments. His understanding of the costs of overseeing and managing claims has helped clients significantly reduce litigation expenses through engaging claimants in alternative dispute resolution. He also defends other matters involving marine employers, tugboat companies, commercial trucking, stevedores, commercial fishing vessel owners, and ports and terminals.

Otis has given presentations on a variety of marine environmental issues and other topics,

Services

- Admiralty & Marine
- Cannabis Law
- Complex Tort & General Casualty
- Government Investigations
- Insurance & Reinsurance Coverage
- National Trial Team

including as a guest lecturer at the Udayana University in Bali, Indonesia. He has spoken on employee disputes, marine safety and security, and given updates on marine legal developments at venues such as the ABA Annual Convention, the Lloyd's Maritime Academy in London, and the NPR radio show "Your Legal Rights," KALW 91.7 FM.

Insurance

Otis has advised various London Market insurers as to coverage and contribution in the resolution of hundreds of health hazard cases throughout Southern California. In addition, he represents insurers' interests in marine and shore-side pollution claims, including major coastal oil spills, terminal soil contamination and alleged noncompliance with the International Convention for the Prevention of Pollution from Ships, as amended (MARPOL). Otis served as an editor of the *Litigation Highlights* newsletter advising insurers on various coverage developments, and has authored articles for *The International Journal of Insurance Law*. In addition, Otis has chaired the Marine Insurance Section of the Pacific Admiralty Seminar held biannually in San Francisco.

Cannabis Law

As corporate counsel supervising brand protection and promotion, Otis brings to the emerging cannabis industry years of experience not only in overseeing transactional legal work but also in risk avoidance as to potential litigation. He has resolved business disputes among dispensary investors, assisted in defending against brand encroachment, counseled as to product development, and advised on insurance placement issues as well as corporate structuring to meet various local and state licensing requirements. Otis has been invited to speak on various topics involving the industry, including recently on protecting and promoting cannabis brands and employment issues. He also serves on various industry boards and panels, including the editorial board of the *Cannabis Law Journal*. He is the author of "Gram Shop Liability for On-Site Cannabis Consumption in California," examining potential liability arising from public cannabis consumption, as well as "Marijuana Impaired Driving: Proposed Updates to California's Vehicle Code," analyzing presumptions for driving under the influence of cannabis. As a former Los Angeles prosecutor whose experience included cases involving cannabis, Otis has successfully defended various criminal charges and continues to advise clients on how to comply with various cannabis-related rules and regulations.

Education

- Harvard University (M.A. Psychology, 2024)
- University of San Francisco School of Law (J.D., 1994)
 - editor in chief, Maritime Law Journal
- University of San Diego (M.A., 1991)
- University of Michigan (A.B., 1989)
 - Pi Sigma Alpha, Sigma Iota Rho
- United States Naval Academy (Presidential Appointment, 1985)
 - Pi Sigma Alpha, Sigma Iota Rho

Bar Admissions

- California
- Hawaii
- District of Columbia
- Alaska
- Washington
- Oregon

Court Admissions

- Supreme Court of the United States
- U.S. Court of Appeals, Third Circuit
- U.S. Court of Appeals, Ninth Circuit
- U.S. Court of Appeals, Eleventh Circuit
- U.S. District Court, District of Alaska
- U.S. District Court, Northern District of California
- U.S. District Court, Central District of California
- U.S. District Court, Southern District of California
- U.S. District Court, District of Hawaii
- U.S. District Court, District of Oregon
- U.S. District Court, District of Washington

Professional Affiliations

- Maritime Law Association of the United States, Proctor
- Association of Corporate Counsel
- Inter-Pacific Bar Association
- ABA Admiralty & General Maritime Law Committee, Tort, Trial & Insurance Practice Section
- Hispanic National Bar Association
- Long Beach Bar Association
- California District Attorneys Association
- California Bar Association Board of Legal Specialization, Commission Chair / Commissioner, 2012–2013
- Los Angeles County Bar Association

Awards & Honors

- Selected for inclusion in The Legal 50 – Shipping Litigation & Regulation Tier 3, 2023
- Los Angeles Superior Court, Special Master
- Board Certified Admiralty & Maritime Law Specialist, State Bar of California Board of

Legal Specialization

- USF Maritime Law Journal, Board of Advisors, 1994–present
- Selected for inclusion in *Rising Stars, California Super Lawyers*, 2004–2007

Representative Matters

Prevailed in dismissal of a case brought by a passenger who claimed to have developed a blood clot following his fall from a power scooter aboard a coach transporting him during the land portion of an Alaskan vacation package.

Obtained dismissal in federal court action against London Market insurers based on the insured not making a *prima facie* showing that the underwriters' contacts with Hawaii satisfied the purposeful availment prong of the specific personal jurisdiction analysis, such that they should have reasonably anticipated being haled into court there.

Conceived and developed procedure for recognizing anti-suit injunction by Bermuda court and enforcing arbitration agreement of security guard seaman suing employer for alleged sexual assault by a crewmember.

Coordinated mass tort action involving passenger personal injury cases arising from cruise ship listing off the coast of Florida.

Successfully obtained demurrer and dismissal of matter brought by Californian Jones Act seaman based on *forum non conveniens* where seaman employer was primarily based in Seattle and the injury occurred in Alaska.

Prevailed on appeal in showing amendment to Cal. Bus. & Prof. Code § 17204 – which had changed California's Unfair Competition Law (UCL) standing requirements to require an allegation of injury in fact – was applicable even though the case was filed before passage of the amendment.

Consolidated and subsequently resolved civil collection matters involving claims for breach of contract, foreclosure on mechanic's liens, open book accounts, account stated, *quantum meruit*, and unfair competition against defendant developers of a condominium project in Woodside, California.

Oversaw defense of cruise line in seeking dismissal based on *forum non conveniens* in case brought by security guard alleging injury due to pirate attack off coast of Somalia.

Quashed federal court subpoena *duces tecum* for production of third party's tanker for inspection based on showing burdens outweighed needs for inspection.

Reported Decisions

Abed v. Mubanda (United States Court of Appeals for the Ninth Circuit, 2020) 2020 U.S. App. LEXIS 1951

Powell N Around LLC v. Parson (United States District Court, District of Arizona, 2019)

2019 U.S. Dist. LEXIS 209769

Kabogoza v. Blue Water Boating (United States District Court, Eastern District of California, 2019) 2019 U.S. Dist. LEXIS 60346

Gilmer v. Symetra Life Ins. Health & Welfare Plan (United States District Court, Western District of Washington, 2019) 2019 U.S. Dist. LEXIS 138390

In re Complaint & Petition of Blue Water Boating, Inc. (United States Court of Appeals for the Ninth Circuit, 2019) 786 Fed. Appx. 703

In re Bountiful Oceans, Inc. (United States District Court, Northern District of California, 2018) 2018 U.S. Dist. LEXIS 95491

Russul v. Zim Am. Integrated Shipping Servs. Co. (United States Court of Appeals for the Ninth Circuit, 2007) 2007 U.S. App. LEXIS 25264.

Thornton v. Career Training Center, Inc. (California Court of Appeal, 2005) 128 Cal. App. 4th 116, 26 Cal. Rptr. 3d 723.

Holland America v. Wartsila North America, Inc. (United States District Court, Western District of Washington, 2005) 2005 American Maritime Cases (AMC) 1769.

Paradise Cruise, Ltd. v. Michael Else & Co. (United States District Court, District of Hawaii, 2005) 2005 American Maritime Cases (AMC) 1572.

In re Air Crash at Taipei (United States District Court, Central District of California 2004) 2004 U.S. Dist. LEXIS 31075.

Fitzpatrick v. Arco Marine (United States District Court, Central District of California, 2001) 199 F.R.D. 663, 2001 American Maritime Cases (AMC) 1390.

Keith Whiteman v. Grand Wailea Resort (United States District Court, Northern District of California, 1999) 1999 U.S. Dist. LEXIS 3594.

Ross v. F/V MELANIE (United States Court of Appeals for the Ninth Circuit, 1998) 1998 U.S. App. LEXIS 577.

Chan v. Society Expeditions, Inc. (United States Court of Appeals for the Ninth Circuit, 1997) 1997 AMC 2713.

Boykin v. Boeing (United States Court of Appeals for the Ninth Circuit, 1997) 128 F.3d 1279.

Hunt v. Shipowner's Mut. Protection & Indem. (United States Court of Appeals for the Ninth Circuit, 1997) 119 F.3d 6, 1997 U.S. App. LEXIS 26074.

Long v. M/V Melanie (United States District Court, Western District of Washington 1996) 918 F. Supp. 323, 1996 American Maritime Cases (AMC) 1341.

Johnston v. M/V Dieu Si Bon (United States District Court, Western District of Washington 1996) 1996 U.S. Dist. LEXIS 21522, 1997 American Maritime Cases (AMC) 14.

Chan v. Society Expeditions, Inc. (United States District Court, Western District of Washington, 1995) 1995 American Maritime Cases (AMC) 2625.

Publications

February 7, 2022

Cannabis Consumption Lounges Present a Unique Risk Management Challenge

July 17, 2020

LA Court Dismisses Cases Alleging Fear of Exposure to COVID-19 Aboard Ship

Recreational Boating Remedies

Damages Recoverable in Maritime Matters (2d ed. 2019); General Committee on Admiralty & Maritime Law, Torts and Insurance Practice Section of the American Bar Association

April 2019

The Hub: Transportation News & Insights

Client Wins

Felder and Granata Prevail for Property Owner Against Commercial Tenant's Contribution Claims in Subrogation Suit

Los Angeles partners Otis Felder and Valeria Granata obtained a good faith settlement order from the Los Angeles County Superior Court on behalf of a property owner and its property manager involved in a property damage subrogation lawsuit. The plaintiff, a subrogated insurer, sued a tenant, who then sued our clients along with their maintenance company for contribution, to recover the \$5.4 million in damages the plaintiff insurer paid to its insured, a medical office. The plaintiff sought reimbursement for water damages caused by another tenant in our client's building. Pursuant to the service agreement between our clients and the maintenance company, which contained an indemnity provision, the maintenance company accepted our clients' tenders and, after years of litigation, agreed to pay the plaintiff its \$1 million policy limits coverage contingent upon the court granting a good faith settlement motion barring all claims against it and our clients. The tenant defendant seeking contribution objected to the settlement and maintained that the court should consider our clients' excess policies. The court disagreed, finding no evidence of any duty owed by our clients directly to the tenants considering anti-subrogation waivers in their leases and a failure to preserve evidence. The court further found that our clients' excess policies were not material to the determination. Otis and Valeria's arguments and skillful representation emphasize the significance of successful use of tenders, anti-subrogation waivers and indemnification provisions in resolving claims against Wilson Elser's clients without their having to contribute to the settlement.

Felder and Chu Obtain Summary Judgment under the Trivial Defect Doctrine

Otis Felder (Partner-Los Angeles, CA) and Peter Chu (Associate-Los Angeles, CA) obtained summary judgment on behalf of a property owner and short-term property management company in a premises liability case where the plaintiff claimed \$1.5 million in damages after tripping and falling on a concrete pathway in the property backyard. The plaintiff, an invitee on a rented property, filed a lawsuit claiming the owners were negligent in failing to properly maintain their vacation rental property. She had walked on the premises including the backyard when she arrived, and after returning from a boating trip while there was still light outside, she tripped and fell on her way toward the jacuzzi. The San Bernardino Superior Court granted summary judgment on the trivial defect doctrine, finding that the alleged dangerous defect was not significant given the differential in the height between two slabs in the backyard and other factors concerning the walkway. Alternatively, the court found that there was not a dispute in the evidence with respect to the two concrete slabs in the backyard, such that it was open and obvious to those who used the walkway.

Felder Aids in Overturning Limitation to Use of Liability Waivers in Hawai'i

Otis Felder (Partner-Los Angeles, CA), representing a nonprofit association of marina owners and operators as Amicus Curiae before the Ninth Circuit Court of Appeals, assisted in obtaining a ruling overturning a prohibition against vessel owners' use of liability waivers in Hawai'i. The case arose from the plaintiff's wife's presumed death during a scuba and snorkeling tour off the coast of Maui, Hawai'i. Before the tour, the plaintiff and his wife signed a waiver releasing the vessel owner and operator from liability during the excursion. The federal district court in Honolulu struck the waiver as a defense by the vessel owners as to claims based on negligence as being void under section 30527(a) of Title 46, which prohibits certain liability waivers by owners regarding "vessel[s] transporting passengers between ports in the United States, or between a port in the United States and a port in a foreign country." In a 49-page opinion, the Ninth Circuit overruled the district court in deciding that vessel owners may use liability waivers, including in matters arising from a wrongful death admiralty action in Hawai'i. After finding it had appellate jurisdiction because the district court's order determined the rights and liabilities of parties in an admiralty proceeding, the Ninth Circuit held that the plain meaning of section 30527(a) does not apply to liability waivers as to vessels that transport passengers away from and back to a single port without stopping at any other port. The decision is highly significant to members of our client's association in permitting liability waivers, cruise lines and other marine operators around the country where their vessel leaves and returns to the same port.

Felder Prevails before Ninth Circuit on behalf of Jet Ski Rental Company in Drowning Case

Otis Felder (Partner-San Francisco, CA) prevailed in representing a jet ski rental company before the U.S. Court of Appeals for the Ninth Circuit, which affirmed the U.S. District Court for the Eastern District of California in Sacramento was correct in resuming its exclusive admiralty jurisdiction with respect to negligent entrustment claims made by the mother of a rider who drowned. In this case, after the rental company, which owned the jet ski, initiated the federal limitation proceedings, the district court, pursuant to Admiralty Rule F, enjoined all other lawsuits arising from the accident. Initially, only the decedent's mother filed a claim in the limitation proceedings. She also filed a wrongful death lawsuit against the renters in California state court and asked the district court for permission to also proceed against the rental company. Initially, the district court lifted the stay but when

the rental company was added to the state court action, the renters filed cross-complaints, which the district court then enjoined because it would interfere with its exclusive jurisdiction to determine the potential liability of the rental company. On appeal, the Ninth Circuit held, in general, that a district court has broad discretion to dissolve and reinstate its injunction issued under Rule F and the Limitation of Liability Act (LOLA), but it must allow the mother to proceed in state court against other defendants who are not entitled to protection under the LOLA. It found that the federal Anti-Injunction Act, which prohibits a federal court from staying state court proceedings, except as authorized by Congress or where necessary to aid or protect its jurisdiction, prohibited the district court from enjoining the decedent's mother from proceeding against anyone other than the vessel owner, which is protected by the LOLA. In addition, the renters did not seek protection of the LOLA as charterers, to which the LOLA also applied, and did not participate in the appeal.

Felder Secures Exoneration For Sports Rental Company Denying \$20 Million Demand

Otis Felder (Partner-San Francisco) secured exoneration and the dismissal of all claims in the United States District Court for the Eastern District of California, Sacramento, for Wilson Elser's client, a sports equipment rental company. The plaintiff was injured while attempting to board an inboard ski boat after tubing when her future relative engaged the throttle, resulting in a severe foot injury for which the doctors recommended amputation. The vessel was owned and rented out by our client's company.

Otis petitioned the federal court to limit our client's liability to the value of the vessel or for exoneration from liability. The plaintiff, her daughter, her fiancé who rented the boat, and his daughter filed claims in the federal LOLA proceedings and claimed damages in a companion state court filing, which the federal court stayed. Otis pursued enforcement of the indemnity provisions in the rental contract against the renter, including the express duty by the renter to defend. The federal court approved the dismissal of all the claims and issued an order exonerating the rental company. The state court claims were also dismissed, with Wilson Elser's client avoiding a last demand of \$20 million.

Felder and Turner Obtain Summary Judgment in Premises Liability Suit

Otis Felder (Partner-Los Angeles, CA) and Vladyslava Turner (Associate-Los Angeles, CA) obtained summary judgment in a case where the plaintiff/workman fell from a roof and sued our client property owner and property manager claiming an unsafe condition. Following his five-story fall, the workman was hospitalized for months and, although he received workers' compensation benefits, claimed millions of dollars in medical expenses, loss of income, and pain and suffering. The case was originally removed to federal court then voluntarily dismissed only to be re-filed in state court, adding defendants, to prevent federal jurisdiction. After filing for summary judgment based on the Privette Doctrine, a judicially created prohibition against suing a property owner when an employee of an independent contractor suffers an injury during the course and scope of work, Vlada and Otis convinced the LA Superior Court that the plaintiff could not meet his burden in this case as the uncontroverted testimony showed that the edges of the roof had no protective parapet and presented an open and obvious risk of which the plaintiff's supervisor and employer should have been aware. The court agreed finding there was no evidence supporting the plaintiff's claims. The Court noted that when a person or organization hires an independent contractor, the hirer presumptively delegates to the contractor the responsibility to do the work safely. Once the presumption arises, the burden shifts to the

plaintiff to raise a triable issue of fact as to whether one of the exceptions to the Privette Doctrine applies, and if it cannot, the defendant is entitled to summary judgment.

Felder and Granata Demurrer Sustained without Leave and Motion to Strike Granted

Otis Felder (Partner-Los Angeles | San Diego) and Valeria Granata (Of Counsel-Los Angeles) defended a golf course management company against allegations it was negligent as well as strictly liable for trespass and nuisance in allowing water, silt and soil to cause a flood on the plaintiffs' property. The state court granted the plaintiffs trial preference based on their advanced age but sustained a demurrer on the basis that they failed to make a proper showing of a "taking" required as part of an elder abuse claim that would have entitled them to recovery of attorney fees. While the San Diego Superior Court found that the plaintiffs were correct that the right to use their property is contained in the "bundle" of property rights that can be taken, they did not allege the *existence* of a taking. The court also struck allegations against the property owner as to the same causes of action and found that they had improperly tried to add them as defendants without seeking leave to amend. Upon the court finding plaintiffs could not recover attorney fees under the elder abuse statute, the case was resolved.