



✉ amm@scmlaw.com ☎ 801.322.9183

PRACTICE AREAS

- Arbitration and Mediation
- Government Defense
- Governments
- Insurance Defense
- Personal Injury Defense
- Product Liability Defense
- SnowTrial Consulting
- Transportation
- Trials

EDUCATION

- J.D., Vermont Law School, 1984
- B.S., University of Vermont, Political Science, 1977

ADMISSION

- Utah State Bar
- Wyoming State Bar
- Tenth Circuit Court of Appeals
- Second Circuit Court of Appeals
- U.S. Supreme Court
- U.S. District Court, District of Utah
- U.S. District Court, District of Wyoming

ABOUT

Andrew M. Morse serves as a mediator, arbitrator and trial lawyer. He serves on the firm's SnowTrial™ Consulting group. He is a Fellow of the American College of Trial Lawyers and a Fellow of the International Academy of Trial Lawyers. He represents both plaintiffs and defendants, including government entities, trucking companies, and healthcare providers.

Andrew defends governments and their employees – especially police departments and officers – against complaints involving deprivation of civil rights. He created and led the bipartisan working group that drafted the Reenacted 2004 Governmental Immunity Act, which clarified this law following a Utah Supreme Court case that had restricted governmental immunity. In addition, Andrew defends businesses in the transportation industry (including the nation's largest trucking company) against personal injury lawsuits involving their drivers and vehicles.

Andrew is a highly experienced trial lawyer. For 38 years, he has tried plaintiffs' and defendants' wrongful death and catastrophic injury cases. He has tried excessive force claims resulting in death and serious bodily injury. He has also tried cases involving products liability, truck accidents, medical malpractice, wrongful death, automobile crashes, premises liability, employment, food safety, fire and property loss claims, and many others.

Andrew served as President of SCM from 2011-2019. He is also a State Bar Commissioner for the Third District.

Outside of the office, Andrew is an avid golfer. He enjoys spending time with his family cross-country skiing, camping and traveling to remote locations.

HONORS / AWARDS / UNIQUE RECOGNITION

- Listed in Best Lawyers in America® for Civil Rights Law and Personal Injury Litigation – Defendants.
- Recognized as a Utah Super Lawyer by Super Lawyers Magazine for Civil Rights.
- Recognized as a Utah Legal Elite by Utah Business Magazine.
- Named the Best Lawyers® 2017 Land Use and Zoning Law.
- "Lawyer of the Year" in Salt Lake City.
- Received the Outstanding Mentor Award, Utah State Bar in 2016, and was awarded Attorney of the Year by the Construction Defect and Dispute Conference.
- Andrew is also rated by Martindale-Hubbell® Peer review as AV® Preeminent™ 4.5 out of 5.

PROFESSIONAL AND CIVIC INVOLVEMENT

- American College of Trial Lawyers, Fellow
- International Academy of Trial Lawyers, Fellow
- Trucking Industry Defense Association, Member
- American Board of Trial Advocates, President, Utah Chapter, 2013–2019
- Utah Bar Association: Co-Chair, Committee on Character & Fitness; Admissions Committee
- Big Brothers & Big Sisters of Utah, Past President – Member Board of Directors
- Ronald McDonald House – Utah Chapter Board Member, Past President
- Legislative Initiatives: Created and led bipartisan working group that drafted the Reenacted 2004 Governmental Immunity Act
- Wyoming Bar Association
- American Bar Association
- Defense Research Institute
- Utah Defense Lawyers Association

REPRESENTATIVE MATTERS

Cost of annuity determines present value of trucking-accident long-term care costs. A loaded semi-trailer truck was going too fast around a corner on a Utah mountain highway. It tipped over and slammed into a car – killing a mother and a six-year-old, and inflicting serious brain injuries requiring a lifetime of care on an eight-year-old. Liability was admitted by Andrew’s client, the trucking company. Based on the driver’s record of five prior accidents, representatives of the injured child sought punitive damages – but this claim was dismissed on summary judgment. After a two-week trial, the jury returned a verdict for \$16.4 million. We appealed on the basis that evidence excluded by the trial court should have been admitted. The Utah Court of Appeals agreed, reversing the decision and calling for a new trial. The trial court held that evidence of the cost of a single premium lifetime annuity could be used to prove the present value of long-term care costs. The case settled for \$13 million.

When life is threatened, children can be treated against the will of their parents. A child in Utah was diagnosed with Ewing Sarcoma, a rare disease in which cancer cells are found in the bone or in soft tissue. When the child’s parents refused to treat him, the State of Utah brought medical neglect proceedings against them in Juvenile Court – which ordered the treatment. The parents left the State with their son. The State dropped the case. Then, the plaintiffs sued the State-employed pediatric oncologists who had sought the order for deprivation of their civil rights. Andrew represented the oncologists in this matter. After lengthy discovery, summary judgment was granted. When the plaintiffs appealed, the Tenth Circuit Court of Appeals affirmed the decision and sent the case back to state court, where it was dismissed once again on a summary judgment that was affirmed by the Utah Supreme Court. These important cases established that in life-threatening cases the State of Utah has the duty and power to use the Juvenile Courts to obtain orders to treat children against the will of their parents.

Medical center prevails against wrongful discharge lawsuit. A 26-year-old patient with a complicated medical history had surgery to repair a fractured Achilles tendon. After two days of recovery, the patient was discharged. After the two-hour trip to her home in Wyoming, the patient went into cardiac arrest and died. Her family filed a lawsuit against the medical center, claiming that the young woman had pneumonia and had therefore been wrongfully discharged. The week-long trial in 2013 ended in a verdict for Andrew’s client, the medical center.

Orem police officers justified in killing of car thief. A police officer was in pursuit of a car thief. After a lengthy chase on a winter’s night, the man abandoned the stolen car and began to run away. The officer chased him. When the officer was within six feet of him, the car thief turned and assumed a three-point shooter’s stance with what appeared to be a pistol in his hand. While backing up to seek cover, the officer fired two shots – one of which hit the car thief in the hip. In the meantime, another officer had arrived on the scene. This officer shot the car thief two times – killing him. A wrongful death claim was filed against the officers and Andrew undertook their defense. A two-week jury trial resulted in a defense verdict for both officers.

Jury assesses 80 percent of fault for trucking fatality to third party. The driver of a truck for an excavating company was involved in a fatal accident in which a man burned to death – leaving behind a wife and two daughters. Twelve hours before the accident, the truck driver had taken methamphetamine. He was charged with various

methamphetamine-related offenses, including driving under the influence. Andrew's defense of the driver was that the accident was started by a third party (with whom the plaintiffs had already settled). After a seven-day trial in 2013, the court directed a verdict against the truck driver. The plaintiff had asked the jury for \$6 million, but Andrew proposed that the jury assess the third party with 80 percent of the fault, the driver (our client) with 15 percent of the fault and the deceased plaintiff with five percent of the fault. The jury accepted this suggestion. As a result, the net verdict was for \$411,000.

TRIALS

- Government Entity – *Stoedter v. Unified Police Department, Ken Gates and Kenneth Madsen* – Defended police department in excessive force claim – wrongful arrest. Obtained favorable outcome: directed verdict on liability, but no damages found by jury. \$450,000 asked for in closing.
- Medical Malpractice – *Herd v. Davis Behavioral Health, Inc.* – Favorably settled medical malpractice case for mental health facility after plaintiff rested.
- *Jones v. University of Utah Hospital* – Obtained defense verdict in a medical malpractice claim of wrongful death. Plaintiff suffered cardiac arrest 6 hours after discharge from heel and achilles operation. Plaintiff asked for \$2 million at closing.
- *Wagstaff v. Ogilvie & Roundy* – Obtained defense verdict in a six-week medical malpractice claim for two medical doctors' treatment of psychotic and very ill woman.
- Personal Injury – *Ballilf v. Cardon* – Obtained defense verdict in brain injury case from automobile crash.
- *Favero v. Werner Transportation* – Won a \$6 million verdict net of client's comparative fault for plaintiff. Serious
- Traumatic Brain Injury and Personal Injury Claim / Consortium Plaintiff's case arising from multi-vehicle automobile crash in foggy conditions.
- *Jones v. Sysco* – Obtained defense verdict in a personal injury claim arising from an auto-pedestrian accident.
- Tort Action – *Alpine Cleaning & Restoration Specialists, Inc. v. Brian and Letitia Durant* – Won plaintiff verdict in contract and tort action over fire repair to plaintiff's home.
- *Armed Forces Insurance Exchange v. C.W. Reece, Inc.* – Obtained \$400,000 for plaintiff in tort and contract action against insurance agent for hiring an unethical contractor.
- *Stapley v. Cedar City* – Obtained defense verdict in property damage and tort against City arising from subsidence.
- Wrongful Arrest – *Jimenez v. Murray City* – Obtained defense verdict in excessive force – wrongful arrest under 42 USC § 1983.
- *Olsen v. Layton City* – Obtained defense verdict in excessive force – wrongful arrest under 42 USC § 1983.
- *Petrokavitz v. Orem City* – Obtained defense verdict in excessive force – wrongful arrest under 42 USC § 1983.
- Wrongful Death – *Aguilar v. Morgan Excavation* – In face of directed verdict on liability, jury placed only 15% of fault on Andrew's client. This was a wrongful death case involving a semi-truck driver on methamphetamine who crashed into another vehicle and killed the driver. Plaintiff's counsel asked for \$5 million at closing against truck driver.
- *Gallegos v. Dick Simon Trucking* – Admitted liability case. Lost \$16.5 million in face of closing argument pleas for \$30 million. Reversed and remanded on appeal; settled for \$10 million. Wrongful death and serious brain injury including serious traumatic brain injury against trucking company for killing a mother and her six-year-old son and injuring her eight-year-old son.
- *Teller v. Huff Trucking* – Obtained a \$2 million verdict for a young mother and her four-year-old daughter in a wrongful death claim against a trucking company.
- Appeals – 42 USC § 1983 Claim by parents who refused cancer treatment for child. Established limits to parents' right to control child's medical care when child is diagnosed with fatal but treatable disease.
- *Walker v. Orem City* – Obtained defense verdict in a wrongful death/excessive force claim under 42 USC § 1983.
- *Cache County v. Beus, Court of Appeals of Utah* – REAL PROPERTY – Attorney Fees. Lessee was entitled to attorney fees attributable to the successful vindication of its contractual rights.
- *Gallegos ex rel. Rynes v. Dick Simon Trucking, Inc., Court of Appeals of Utah* – TRANSPORTATION – Evidence. Expert testimony regarding annuity calculations and cost was admissible in action arising from automobile accident.
- *Jensen ex rel. Jensen v. Cunningham, Supreme Court of Utah* – Litigation – Judgment – Federal Court's dismissal of § 1983 claim did not collaterally estop plaintiffs from litigating state constitutional claims in state court
- *P.J. ex rel. Jensen v. Wagner, United States Court of Appeals, Tenth Circuit* – Civil Rights – Immunity. Parents did not have a clearly established constitutional right to direct child's medical care.

PRESENTATIONS AND PUBLICATIONS

- Author, What Judges Expect from Trial Lawyers, Utah Bar Journal, Vol. 34 No. 4, July/August 2021
- Speaker, Use of Lawful and Unlawful Force, Utah Bar Convention, Sun Valley, Idaho, July 29, 2021
- Sponsor, Utah Bar Commission, Use of Lawful and Unlawful Force, April 13-15, 2021
- Sponsor, American College of Trial Lawyers Trial Boot Camp, Salt Lake City, Utah, January 12-15, 2021
- Speaker, Cracking the Stress Code & Building Resilience Through Caring & Connection, Utah State Bar Virtual CLE Webinar, November 2020
- Speaker, Functional Magnetic Resonance Imaging, SCM Tort and Insurance Seminar, October 2018
- Speaker, Protecting Children While Protecting Yourself, Sixteenth International Conference on Shaken Baby Syndrome/Abusive Head Trauma, September 2018, Orlando, FL
- Speaker, The Loss of Consortium Claim and Defending It, Utah Association for Justice Brain Injury Conference, February 2018
- Speaker, The Reptile Theory at Trial, The Harmonie Group, Vancouver, September 2017
- Speaker, Implicit Bias in the Courtroom (panel discussion), S.J. Quinney College of Law, May 2017
- Speaker, The Reptile Theory at Trial, The Harmonie Group, Boston, May 2017
- Speaker, Benefit of Using Trial Prep Consulting Services for Significant Cases, Utah State Bar Summer Convention, July 2016
- Speaker, Brady v. Maryland: Criminal Procedural Rights and Civil Causes of Action, Lorman Education Services, 2015
- Speaker, Meth and a Death: The Anatomy of a Trial, American Board of Trial Advocates, Utah Chapter, February 2015
- Author, The New Respect for George Sutherland, Utah Bar Journal, Sept/Oct. 2012
- Author, Name Federal Courthouse for George Sutherland, Salt Lake Tribune, Op. Ed., July 15, 2012
- Author, Gallegos ex rel Rynes v. Dick Simon Trucking – Using Annuity Cost to Prove Present Value of Future Damages, Utah Bar Journal, April 2006
- Author, Spoliation of Evidence: A Trap for the Unwary, Fidelity and Surety Law Committee Magazine, Spring 2002