



Partner

## Pat Lundvall

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Phone: 702.873.4100 | Direct: 702.257.4591

### Areas of Practice

Commercial & Complex Litigation

Employment & Labor Law

Appellate

Construction Law & Litigation

### Bar Admissions

Nevada

### Court Admissions

U.S. Court of Appeals, Ninth Circuit

U.S. Supreme Court

### Education

J.D., Valedictorian, with Great Distinction, Order of the Coif, University of the Pacific, McGeorge School of Law, 1989

M.S., Exercise Sciences, University of Nebraska at Lincoln, 1983

B.S., Exercise Sciences, University of Nebraska at Lincoln, 1980

### Offices

#### LAS VEGAS

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#### RENO

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### Professional Background

Pat Lundvall is a highly skilled litigator who serves as Chair of the Commercial & Complex Litigation Practice. In addition to ranking Pat in the highest Band I category, *Chambers USA: America's Leading Lawyers for Business* also ranks the Commercial & Complex Litigation Practice in the highest category of Band I. Pat is the only woman attorney ranked Band I in Commercial Litigation in the state of Nevada and she is the only woman attorney who chairs a Band I ranked Commercial Litigation practice in Nevada.

Pat's clients include local, state, national and international businesses of all sizes operating in nearly every sector of Nevada's economy. She represents them as their primary outside counsel in every phase of complex commercial litigation. Pat also serves as Nevada counsel in complex multiparty and multidistrict litigation, and out-of-state law firms regularly select Pat to represent their clients when suit is necessary in Nevada.

Pat has successfully represented clients in judge and jury trials in state and federal courts, as well as on appeal to the Nevada Supreme Court, the Ninth Circuit Court of Appeals, and the U.S. Supreme Court. She is particularly experienced in handling complex business disputes involving business entity disputes and dissolutions, healthcare, fraud including government fraud, unfair trade practices, unfair competition, RICO and antitrust violations, among others. Pat also handles matters involving employment law, defamation, deprivation of constitutional rights, and wrongful death.

In the *Chambers USA* ranking of the leading lawyers in Nevada Commercial Litigation, clients shared the following comments about Pat's expertise with Chambers researchers. "Pat is a zealous advocate and an excellent litigator." "She provides a clear understanding of the legal process every step of the way. She is extremely knowledgeable and an expert in her field." "Pat is one of the best trial lawyers I've ever seen, possessing perseverance, tenacity, good judgment and composure under intense pressure." "Pat is our partner on serious litigation matters and has provided outstanding client service. She has our best interests in mind at all times."

### Pro Bono

Pat continues to dedicate time and expertise to pro bono work, including her victory in March 2021 in a case that she successfully tried before Judge Joanna S. Kishner. The case was brought on behalf of a young female Navy recruiter who is also responsible for the care of her mother and young son. The recruiter purchased a home with a latent defect that was known to the seller but not disclosed at the

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time of sale. The judge awarded compensatory damages and then trebled them per the statute, and the statute also allowed for an award of fees. The case settled for the full amount of compensatory damages and costs. Ms. Lundvall accepted the case through the Office of Military Legal Assistance under the Attorney General's Office, which is a pro bono service program that McDonald Carano helped create.

### Representative Engagements

- *Fremont Emergency Services (Mandavia), et al. vs. UnitedHealth Group, Inc. et al.*, case number A-19-792978-B (December 7, 2021)
  - Pat served as lead Nevada trial counsel in a case that upended the national out-of-network healthcare reimbursement system with a jury verdict that awarded \$60 million in punitive damages and \$2.65 million in compensatory damages to three Nevada-based emergency room provider practice groups affiliated with Tennessee-based TeamHealth. The three groups filed suit in 2019 against UnitedHealthcare for underpaying out-of-network emergency room healthcare providers. After five days of jury selection, Pat presented opening statement before Eighth District Court Judge Nancy Alf in Las Vegas. Pat's team at McDonald Carano conceived and directed all discovery; drafted, argued and won all of their 55 substantive pretrial motions; successfully convinced the court to sanction UnitedHealthcare with an adverse inference in the form of a jury instruction that was critical in closing arguments; and drafted and successfully opposed UnitedHealthcare's two petitions for writ review and two motions to stay before the Nevada Supreme Court that UnitedHealthcare had attempted to use to prevent the case from being tried promptly. Pat and her team also drafted the briefs and Pat argued a critical case before the Ninth Circuit Court of Appeals that established new precedent on ERISA preemption (Employee Retirement Income Security Act of 1974). Without a victory in that case, all cases across the nation brought by TeamHealth against UnitedHealthcare and other insurance carriers were at risk of being dismissed.
- *Endo Health Solutions, Inc., et al. v. The Second Judicial District Court (Washoe), et al. and City of Reno (Real Party in Interest)* No. 81121, before the Supreme Court of the State of Nevada, En Banc. (Opinion dated July 29, 2021)
  - Pat led oral argument, representing her clients (Petitioners Endo Health Solutions, Inc. and Endo Pharmaceuticals, Inc.) as well as 25+ attorneys and their clients. The successful outcome involved the original petition for a writ of mandamus challenging a district court order denying in part a motion to dismiss in a tort action. The Supreme Court held that a city's power to maintain a lawsuit must be derived from an express grant of power or fall within a "matter of local concern" as defined in applicable statutory language. Though the district court found that the action involved a "matter of local concern," it used its own definition of that term and misapplied the statutory definition. Thus, the Supreme Court remanded, directing the district court to reconsider the motion to dismiss and strictly apply the definition of a "matter of local concern" (as set forth in NRS 268.003) to the City's claims.
- *California Franchise Tax Board v. Gilbert P. Hyatts*
  - After a complete defense victory, on April 6, 2022, the Clark County District Court awarded McDonald Carano's client \$2,262,815.56 in recoverable costs, representing a conclusion to more than 24 years of

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litigation in a case that also overturned U.S. Supreme Court precedent dating back to 1979. Pat led a litigation and appellate team representing the California Franchise Tax Board since 1998 in a matter adverse to inventor Gilbert P. Hyatt which went before the U.S. Supreme Court three times and the Nevada Supreme Court numerous times. The case was closely watched throughout the country as it evolved from a simple state income tax dispute to a broader constitutional concern about state sovereignty and whether a private party may sue a non-consenting state in another state's courts. Hyatt, who had moved to Nevada from California, complained the FTB had committed torts while auditing him. In the first case, he won hundreds of millions of dollars in Nevada state courts, but the FTB appealed. In 2016, the second time the parties appeared at the Supreme Court, Hyatt's award was greatly reduced, but on the constitutional matter of whether *Hall* should be overturned, the court split 4-4 in the wake of Justice Antonin Scalia's death, spurring the FTB to come back in another attempt to overturn *Nevada v. Hall*. In a 5-4 decision from Justice Clarence Thomas, the justices overturned their 1979 precedent in *Nevada v. Hall* that had allowed such suits and handed a victory to the FTB. For California and more than 40 states that joined as amici, the decision is significant as a resident of one state will no longer be able to sue another state except in its own courts. *Law360* reported on the May 2019 SCOTUS ruling in an article titled "States Can't Be Sued In Other States' Courts, Justices Say."

- *Pardee Homes of Nevada v. Wolfram et. al.*, Before the Southern Nevada Panel, Justice Hardesty Presiding
- *John B. Quinn, Michael T. Zeller, Michael I. Fazio, Ian S. Shelton, Elaine P. Wynn v. The Eighth Judicial District Court of the State of Nevada*, in and for the County of Clark; and The Honorable Elizabeth Gonzalez, District Judge, Nevada Supreme Court Case No. 74519
- *Governor James Gibbons in Chrissy Mazzeo v. James Gibbons et. al.*, a case alleging assault and deprivation of constitutional rights
- *Amerco, the parent company of U-Haul International, in Paul Shoen v. Amerco et. al.*, a shareholder derivative case alleging insider dealing
- *Bristol-Myers Squibb in State of Nevada v. Bristol-Myers Squibb et. al.*, a case alleging price fixing
- D.R. Horton, Inc., in multiple homeowner cases alleging mortgage fraud
- *Pardee Homes of Nevada v. A.D. Seeno Construction*, a case concerning development of Coyote Springs
- *Five Mile Capital v. Jeff and Jackie Soffer* in a dispute over development to Town Square Lifestyle Center

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## Publications

- Author, *The Rise and Fall of the Antitrust Exemption for the Business of Insurance*, John Stauffer Memorial published by the University of the Pacific McGeorge School of Law, June 1989
- Chapter on Pretrial Conferences, Nevada Civil Practice Manual
- Numerous publications for professional seminars

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### Professional Certifications

- Board Certified in Civil Trial Law and Civil Practice Advocacy by the National Board of Trial Advocacy (since 2001)
- Board Certified as Civil Trial Advocacy Specialist by the State Bar of Nevada (first attorney certified in the State)



### Awards and Recognition

- *Vegas Inc./Las Vegas Weekly* “Women Inspiring Nevada” award (2022)
- *Chambers USA Guide* – Commercial Litigation (2017-2021)
- *Martindale-Hubbell AV* Peer Review Rated (since 2001)
- *The Best Lawyers in America*® – Commercial Litigation (2006-2022), Labor and Employment Litigation (2011-2022)
- *Super Lawyers Magazine* “Mountain States Super Lawyer” – Business Litigation (2007-2021)
- *Super Lawyers Magazine* “Top 50 Women” Mountain States Super Lawyers (2010-2021)
- *Vegas Magazine* “Vegas Gives Honoree” (2019)
- *Nevada Business Magazine* “Legal Elite” (2009, 2011, 2015, 2017)
- *Las Vegas Business Press* – “Female Business Leaders”
- “Distinguished Nevadan” Award presented by the Nevada System of Higher Education Board of Regents (2012)
- “New Thinking About Thinking” Award from Keep Memory Alive/The Cleveland Clinic Lou Ruvo Center for Brain Health (2011)
- *Las Vegas Sun* “Women to Watch” (2010)



### Professional Affiliations

- Senior Fellow, Litigation Counsel of America
- Co-Founder and Advisory Board member, Complex Commercial Litigation Institute
- Nevada Fellow, American Bar Foundation
- Former Commissioner and Past Chair, Nevada State Athletic Commission (2007-2016)
- Member, Public Private Partnership Advisory Panel to the Nevada Department of Transportation (2007)



### Community Engagement

- Board Member: Secretary, Friends of the Nevada Mansion
- Board Member: Vice President, Nevada Military Support Alliance

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