Tom Buchanan obtains Nevada Supreme Court Order which severely limits damage exposure for engineering consulting firm

On March 26, 2009, McDowell, Rice attorney Tom Buchanan obtained a landmark ruling from the Supreme Court of Nevada. In turn, the ruling led to an extremely favorable settlement of a major case for his client, a national engineering firm. In this case, The Mandalay Resort Group sued for negligence and breach of contract arising out of the design and construction of the Mandalay Bay Hotel and Casino in Las Vegas, Nevada. Mandalay ultimately claimed damages of approximately $32 million alleged to have resulted from the settlement or subsidence of the structure.

Mr. Buchanan filed in the United States District Court of Nevada a motion for summary judgment asserting that the negligence claims were barred by Nevada's economic loss doctrine and that breach of contract was the only potential remedy. The question was crucial because the contract, which Mandalay had not signed, included a limitation of liability clause of $50,000. The federal court certified the question to the Nevada Supreme Court, which agreed with Mr. Buchanan that the economic loss doctrine bars negligence-based claims against design professionals who provide services in commercial property development, when plaintiffs attempt to recover purely economic losses. The ruling precluded Mandalay Resort Group from pursuing a negligence claim. The focuses after remand were (1) the terms of the contract between the parties and (2) whether the contract with the limitation-of-liability clause was the operative agreement. By severely limiting the potential damages, Mr. Buchanan was able to reach a satisfactory settlement at essentially the cost of defense for all claims in the lawsuit and avoid a lengthy and expensive trial. Mr. Buchanan worked with McDowell, Rice attorney Linda McFee in the briefing and he made the oral argument before the Nevada Supreme Court on this case.