

### Court of Appeal Affirms Demurrer Rulings on All Tort Claims

07.14.2022

In a published decision of the Court of Appeal, Sheppard Mullin associate Meghan McCormick persuaded the Court to affirm a demurrer by Sheppard Mullin client Sotheby's, Inc. to tort claims, while the Court (not unexpectedly) reversed the demurrer as to the breach of contract claim). In the trial court, Meghan had a novel argument that led to successive victories on demurrers to all claims.

#### Background on the Case

In the case, plaintiff M&L Financial, Inc. ("M&L") and Jadelle Jewelry tendered millions of dollars of diamonds to Sotheby's, Inc. for appraisal. Sotheby's later returned the diamonds, on request by Jadelle, to its principal, Jona Rechnitz. He fled with the diamonds. As it turns out, Rechnitz is a notorious criminal pursued by Interpol and the FBI. When M&L found out, it sued Sotheby's, alleging breach of contract, negligence, breach of fiduciary duty and conversion. Sheppard Mullin successfully demurred to all claims, and most notably, relied on an obscure banking statute contained in the Civil Code, which provides that when a deposit is made in the name of two or more persons, payable or deliverable to either, the property can be returned to either.

The Court of Appeal found Sheppard Mullin's reliance on the banking statute novel and demanded two rounds of supplemental briefing in the weeks leading up to argument. The novelty of that argument no doubt led to the Court's decision to publish. A much narrower case now heads back on remand to the trial court.

Meghan led the trial team with assistance from associate Bryan Wittlin and trial partners Adam Streisand and Todd Lundell.

[Click here to read the Court's decision.](#)

#### Attorneys

Todd E. Lundell

Meghan K. McCormick

Adam F. Streisand

Bryan M. Wittlin

#### Practice Areas

Litigation

Private Wealth and Fiduciary Litigation

## Industries

Retail, Fashion & Beauty