

*Jesse is a litigator in the firm's Missoula, Montana office, where he splits his time between state and federal courts. His practice focuses on real estate-related litigation; commercial litigation, including consumer-side class actions in state and federal court; and complex insurance issues. He also has extensive experience litigating and is a recognized authority on public road, easement and access issues throughout Montana.*



## Jesse C. Kodadek

### Of Counsel | Missoula

### Biography

Jesse C. Kodadek is a member of Parsons' litigation team. Jesse litigates in both trial and appellate courts, where he represents clients in a wide variety of matters, particularly in real estate-related litigation; in property rights cases involving public roads, easements and other access issues; in general commercial litigation; in insurance disputes, including complex coverage issues; and in class actions.

Jesse has spent time in state and federal courtrooms from one end of Montana to the other and has successfully presented many appeals to the Montana Supreme Court and the Ninth Circuit Court of Appeals.

### Experience

#### **Montanans Against Irresponsible Densification, LLC v. State, 2024 MT 200, 418 Mont. 78, 555 P.3d 759.**

Represented amicus Shelter WF, Inc. on appeal at the Montana Supreme Court, which successfully supported reversal of a district court decision enjoining "The Montana Miracle," a set of pro-housing and anti-NIMBY reforms passed by the Montana Legislature in 2023 which gained national attention. Because of that reversal, property owners in most Montana cities are now permitted to build accessory dwelling units and duplexes on almost every residentially zoned lot. On remand, the district court permitted Shelter WF to intervene, and the case is ongoing.

### Contact information

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### Capabilities

Appeals

Real Estate Litigation

Insurance Litigation

Plaintiffs Litigation

Business & Commercial Litigation

### Licensed/Admitted

Montana

U.S. Dist. Court, Dist. of Montana

U.S. Court of Appeals, 9th Circuit

U.S. Supreme Court

**LH Residential v. Allied Waste Services of North America d/b/a Republic Services, DV-22-1172 (Nov. 28, 2023, Mont. Fourth Judicial Dist. Ct.)**

Obtained class certification and appointment as lead counsel in favor of class of over 1000 Missoula customers of Republic Services, which knowingly provided dumpsters measuring just 2.5 cubic yards to customers who selected and paid for 3-yard dumpsters for decades. The case is ongoing and an appeal is currently pending before the Montana Supreme Court.

**Dow v. Safeco Insurance Co. of America, 2021 WL 2187288 (D. Mont. 2021).**

Obtained class certification and appointment as lead counsel in favor of a state-wide class of Montana insureds to determine whether Safeco breached its obligations to its insureds and violated Montana's Unfair Trade Practices Act for the way it handles roof-related general contractor overhead and profit on storm claims. The case is ongoing and an appeal is currently pending before the Ninth Circuit.

**Kramer v. Fergus Farm Mut. Ins. Co., 2020 MT 258, 401 Mont. 489, 474 P.3d 310.**

Obtained class certification and appointment as lead counsel in favor of a state-wide class of Montana insureds alleging that Fergus wrongfully withheld general contractor overhead and profit on storm damage claims. The order was affirmed on appeal. The case is ongoing.

**LL Liquor, Inc. v. State of Montana, 835 Fed.Appx. 917 (9th Cir. 2020); 912 F.3d 533 (9th Cir. 2018); and 757 Fed.Appx. 591 (9th Cir. 2018).**

Represented a liquor franchisee in a breach of contract action against the state. The case went to the Ninth Circuit three times and ultimately resulted in a judgment of nearly \$6 million. One of the Ninth Circuit arguments resulted in published decision affirming the district court's Contracts Clause decision and a concurrently filed memorandum decision concluding the state breached the contract. The last trip to the Ninth Circuit resulted in a decision reversing the district court and concluding that LL Liquor was entitled to 10% post-judgment interest on a \$5 million stipulated judgment.

**Huckins v. United Services Automobile Association, 2017 MT 143, 387 Mont. 514, 396 P.3d 121.**

This case started out as a basic tort case against a prior owner of a home for allegedly failing to disclose water damage and a flood-prone basement. It soon turned into a confessed judgment and an assignment of claims against the insurance company, where the client ultimately prevailed in a claim that USSA breached its duty to defend its insureds in the underlying case. On remand, after a series of favorable decisions including that a six-figure stipulated judgment was reasonable and that the client was entitled to attorney fees from the insurer, the case settled on favorable terms just before trial.

**Mandich v. French, 2022 MT 88, 408 Mont. 296, 509 P.3d 6.**

Represented a client in a dispute related to a shared well agreement and associated easements, and the opposing party's attempts to convert their use of the well to substantial commercial use. The client prevailed in district court and the Montana Supreme Court affirmed.

**Sieben Ranch Company v. Adams, 2021 MT 172A, 404 Mont. 510, 494 P.3d 307.**

Represented an historic ranch that brought a declaratory judgment action asserting that the neighboring property owners (of multiple sections) had no legal access over the ranch, despite their claims that there was a private easement, a county road, and access by virtue of a conservation easement over the ranch's property. The ranch prevailed in both district court and on appeal.

**Estate of McClure, 2016 MT 253, 385 Mont. 130, 381 P.3d 566.**

Obtained a reversal of the district court's conclusion on the interpretation of a trust that essentially disinherited our client, and holding that an ambiguous trust agreement must be construed to require the creation of two trusts upon the death of the first co-grantor, which re-inherited our client.

**Flora v. Clearman, 2016 MT 290, 385 Mont. 341, 384 P.3d 448.**

Represented clients in a complicated access dispute after the title insurance company paid policy limits and walked away. The published decision was the Montana Supreme Court affirming the grant of a preliminary injunction in favor of our clients while vacating unnecessary conditions on that injunction. The district court ultimately concluded that our clients had an express easement and the case settled before a damages trial.

**Letica Land Company v. Anaconda-Deer Lodge County, 2015 MT 323, 381 Mont. 389, 362 P.3d 614.**

This was a long-running case where we represented a private landowner versus a Montana county. It involved two separate roads, one of which the County claimed was a county road, and the other, which was of more concern to our client, was an alleged public prescriptive easement. On appeal, we obtained a reversal of the trial court's decision that there was a public prescriptive easement crossing the clients' private property.

## Accomplishments

**Professional**

Executive Editor, *Montana Law Review*

Super Lawyers Rising Star, 2023

**Academic**

University of Montana School of Law, Missoula, Montana J.D. – 2013

University of Montana B.A. Major: English Literature

## Associations

**Professional**

State Bar of Montana

Western Montana Bar Association