



Education and Professional Background

Suffolk University, Juris Doctor

Boston College, Bachelors of Arts

Admitted to Practice

Texas, 1977

U.S. District Court, Northern, Southern,
Eastern and Western Districts of Texas

U.S. Court of Appeals, Fifth Circuit

United States Tax Court

U.S. Supreme Court



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David M. Macdonald, Shareholder

David Macdonald is a founding and named partner of Macdonald Devin, P.C., specializing in products liability, toxic tort, pharmaceutical defense, intellectual property and patent litigation, construction and complex litigation. He serves as National Coordinating Defense Counsel for a chemical company in the national thimerosal/pharmaceutical litigation and acts as Statewide Trial Counsel in Texas.

David also serves as State Litigation Counsel for a neutraceutical manufacturer in the ephedra litigation and as Statewide Trial Counsel for a Defendant in silica and asbestos litigation. He has previously acted as National Defense Counsel in National Latex Litigation and has represented Defendants in the Multi-District Phen-Fen and PPA Litigation. He is presently serving as Coordinating Defense Counsel in 200 lawsuits alleging exposure to Hepatitis B and C in Las Vegas, Nevada.

He represents clients in construction, employment, environmental, insurance, oil and gas, patent, and other multi-party complex litigation.

Mr. Macdonald has tried over 100 jury trials.

Representative Experience

The following is a representative sample of areas of representation.

- Obtained Summary Judgement in Federal Court on behalf of a medical device manufacturer in a lawsuit in which the Plaintiffs claim that the medical device was the source of ignition in a house fire that caused the death of five individuals and injured three additional family members.
- Defeated Plaintiff's Application for Class Certification involving approximately 50,000 potential class members alleging exposure to Hepatitis B and Hepatitis C in Las Vegas, Nevada
- Serving as national defense counsel for a component distributor in a national vaccine litigation, obtained dismissals in favor of the client in numerous cases filed in Texas, Mississippi and California
- Obtained a dismissal of a publicly traded Defendant that allegedly distributed the chemicals including benzene.
- Obtained dismissals in favor of a component distributor named in national vaccine litigation in numerous cases filed in Texas, Mississippi and California. Serves as national defense counsel for the component distributor in pharmaceutical litigation pending in state and federal courts across the country.
- Retained as state-wide counsel in Texas for the National Pain Pump Litigation.
- Obtained a summary judgment for the manufacturer of a Spinal Implant, Class III, Medical Device. The Plaintiff had made allegations that the product was defectively designed, manufactured and marketed.
- Successfully defended aircraft manufacturer in a number of breach of contract cases: Plaintiffs' alleged failure of aircraft manufacturer to meet performance characteristics as represented in pre-flight sales literature.
- National Defense and Texas Trial Counsel for publicly traded medical device manufacturer: Numerous lawsuits alleging defective design and manufacturing allegations. Numerous deaths allegedly associated with use of product.
- Oil and Gas Litigation: Represented various sub-contractors in multi-million dollar personal injury litigation suit concerning welding accident

at well head site.

- Oil and Gas Litigation: Represented manufacturer of casing joint which allegedly malfunctioned after well was completed; resulting in total loss of well, with claims in excess of \$75 million.
- National Counsel and Trial Counsel for publicly traded convenience store chain with 850 store locations. Handled 25 personal injury lawsuits - claiming damages in excess of \$1 million.
- Texas Counsel for publicly traded large retail chain handling personal injury, employment agreements, allegations of discrimination based on religion, national origin and wrongful termination; tried 31 separate lawsuits for this client.
- Representation of soil engineering firm in litigation with allegations based on professional negligence, Plaintiff claiming structural damage to regional campus headquarters of Fortune 500 company with damages in excess of \$25 million.
- Defense of medical device manufacturer of fetal monitor devices in 15 wrongful death, catastrophic brain and spinal cord injury cases.
- Insurance: Texas Trial Counsel for Texas managing general agency.
- Recently retained to assume the defense of an ongoing wrongful death suit. Plaintiffs made allegations against publicly traded medical device manufacturer based on breach of contract, negligent design and negligent manufacturing: Demand of over \$12 million. Case successfully mediated and settled for \$175,000.
- Represent International Hotel Chain in litigation, contractual and labor disputes.
- Fen-Phen diet drug litigation: Represented healthcare professionals named as defendants in Fen-Phen litigation throughout the State of Texas.
- Ephedra Litigation: Texas Trial Counsel for National Nutraceutical company in over 30 ephedra lawsuits in the State of Texas.
- Represented computer company and employees in connection with litigation, temporary restraining order and permanent injunction hearings concerning allegations of theft of intellectual property, trade secrets and other proprietary information.
- Drugs Litigation: Presently represents a client in the United States District Court in Seattle, Washington in Multi-District Litigation: PPA.
- Diet Drug Litigation: Presently represents client in United States District Court in Arkansas in Multi-District litigation: Prempro.
- Asbestos: Recently obtained summary judgment for publicly traded chemical company named as a Defendant in Texas State Asbestos litigation.
- Vaccine Litigation: National Defense Counsel and State of Texas Trial Counsel for chemical company named as Co-Defendant in excess of 300 Thimerosal Vaccine lawsuits in Texas and throughout the country.
- Real Estate Commercial Litigation: Recently represented large real estate developer from Atlanta, Georgia sued by Texas Bank concerning allegations of fraud and breach of contract with original claims in excess of \$3.5 million – case settled for \$145,000.
- Asbestos Litigation: Presently represents four Defendants named in ongoing asbestos litigation in State District Court and State Asbestos MDL procedures.
- Silica Litigation: Recently assumed the defense of a manufacturer/distributor of blast medium; Defendant named in 215 lawsuits pending in various state courts throughout the State of Texas. Created database for 2562 Plaintiffs. Continues to represent Defendant in MDL Litigation.
- Recently retained by two publicly traded companies to defend Plaintiffs' claims of alleged toxic exposure to Benzene; pending in the State Court.
- Successfully co-prosecuted two separate lawsuits against New Mexico, Defendant resulting in the collection of over \$7 million in damages.

- Recently retained by a publicly traded medical device manufacturer to investigate multiple fatality loss.
- Trial Counsel for Texas publicly traded Nutraceutical company handling personal injury and commercial litigation.
- Patent litigation; radio chip technology; was retained to represent a group of companies to investigate and prosecute a commercial dispute involving the manufacturer and delivery of radio chip technology and patent related issues. After a year of legal analysis and extensive investigation including interviews of employees and third parties throughout the state of Texas, suit was subsequently filed. At Defendant's request, mediation was scheduled soon after discovery was initiated and was resolved approximately 90 days later at mediation for a confidential amount. The damage model was in excess of \$45 million dollars.

Professional Affiliations

American Bar Association
 International Association of Defense Counsel
 Member of Drug Device and Biotech Committee
 Products Liability Subcommittee
 State Bar of Texas
 Dallas Bar Association
 Committee for Qualified Judiciary
 Texas Association of Defense Counsel
 Dallas Association of Defense Counsel
 Defense Research Institute
 Texas Surplus Lines Association
 Board of Directors for Eagle International Associates, Inc.

Recent Selected Publications and Speeches

This is not a comprehensive list of speeches, presentations, and publications. It is only a representative sample of recent and upcoming events.

Featured panel speaker presenting a Bad Faith Litigation and Claims Handling seminar at Church Mutual Insurance Company. Merrill, Wisconsin - May 2007.

Featured Speaker at Defense Research Institute's (DRI) Construction Law Seminar - *When Personal Injury Becomes Personal – "Understanding the Role of OSHA in Personal Injury Cases"*. San Francisco, California - September 2006

Featured Speaker at Eagle International Conference - Update Texas "Good Faith Insurance Issues". Las Vegas, Nevada - May 2006

Featured Speaker at LexisNexis Conference - *Defense Strategies and Pharmaceutical Litigation; "Responding Effectively to Industry Under Attack"*. Dana Point, California - January 2006

Honors and Recognitions

Chairman and member of the Board of Directors of Eagle International Associates, Inc., an international network of independent law firms, adjusters and claims related service providers.

Named to the Civil Litigation Defense practice area of *Corporate Counsel*,

Super Lawyers, 2008 and 2009

Named *Texas Monthly* Super Lawyer, 2006, 2007, 2008, 2009

Recognized as an Outstanding Lawyer of America

Briefing Clerk, Middlesex District Court of Appeals, Massachusetts, 1976

Practice Areas

Aviation

Business Litigation

Commercial Disputes

Directors and Officers

Food, Drug and Medical Device

Health Law

Insurance Defense

Products Liability

Professional Liability

Oil and Gas Litigation

Toxic Tort and Environment