



MACDONALD DEVIN
MADDEN  KENEFICK
HARRIS

David M. Macdonald

Shareholder

Contact

214.651.3300
dmacdonald@macdonalddevin.com



Areas of Practice

- Business Litigation
- Construction Litigation
- Food, Drug, and Medical Device
- Health Law
- Premises Liability
- Products Liability
- Professional Liability
- Toxic Tort and Environment
- Transportation



David M. Macdonald



Overview

With a wealth of experience and a well-earned reputation for strategic and successful advocacy, Macdonald Devin, P.C. founding partner David Macdonald provides robust litigation defense to clients in a wide range of industries. From serving as lead defense counsel in nationwide, multi-district litigation to defending religious organizations from tort claims, David practices law with a skill and professionalism that has made him one of the most sought-after litigators in the state. He is consistently recognized by his peers for his achievements, earning him an AV-Preeminent® rating from Martindale-Hubbell® as well as regular inclusion on lists of the best lawyers in Texas.

David's diverse litigation practice includes defense of products liability, toxic tort, pharmaceutical, intellectual property and patent, construction, and other complex claims. He served as nationwide or statewide counsel in numerous matters, including his engagement as national coordinating defense counsel and Texas trial counsel for a defendant in the National Thimerosal/ Pharmaceutical Pediatric Vaccine Litigation as well as his role state Litigation Counsel for a nutraceutical manufacturer in the Ephedra Litigation.

David has also represented defendants in the multi-district Phen-Fen Litigation, PPA Litigation, Surgical Mesh Litigation and served as coordinating defense counsel in 200 lawsuits alleging exposure to Hepatitis B and C in Las Vegas, Nevada. Additionally, David served as statewide litigation counsel for a one of the defendants in the National Pain Pump Litigation and served as national defense counsel for two Fortune 500 Medical Device Manufacturers on certain product lines.

In addition to a number of various medical devices cases he is defending, at this time, David is also acting as co-national defense counsel for a manufacturer in the Electroconvulsive Therapy Litigation throughout the United States.

With over 100 jury trials under his belt, David also brings his litigation acumen to employment, environmental, insurance, and oil and gas litigation. He provides counsel and defense to various religious organizations across the Southwest which have been sued for sexual abuse and negligent hiring and supervision

An active member in numerous professional associations and a frequent speaker on defense topics, David attended Boston College before earning his law degree from Suffolk University.

David is admitted to practice law in all Texas state and federal courts as well as the U.S. Tax Court, the U.S. Court of Appeals for the First, Fifth, and Ninth Circuits, and the U.S. Supreme Court. He has also been admitted as lead counsel, pro hac vice in Alabama, Illinois, Oklahoma, Maryland, Nevada, North Carolina, Missouri, and California.

3800 Renaissance Tower
1201 Elm Street
Dallas, Texas 75270
214.744.3300
214.747.0942 Fax

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Representative Experience

- Successfully defended a medical device manufacturer in class action in Federal Court In the Southern District of California and won a Motion to Dismiss in 2018.
- Retained by various religious organizations sued for sexual abuse, negligent hiring and supervision, throughout the Southwest.
- Retained as statewide local counsel for New England Compounding Corporation in the national Meningitis Litigation.
- Obtained a dismissal of a publicly traded defendant that allegedly distributed 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.
- 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 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.
- 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.
- Represents 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.

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- 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.
- 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: Assumed the defense of a manufacturer/distributor of blast medium; Defendant named in 215 lawsuits for 2500+ defendants pending in various state courts throughout the State of Texas. 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.
- Retained by a publicly traded medical device manufacturer to investigate multiple fatality loss.
- 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

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- Defense Research Institute
- Texas Surplus Lines Association
- Board of Directors for Eagle International Associates, Inc.
- Briefing Clerk, Middlesex District Court of Appeals, Massachusetts

Honors & 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.
- Selected to the Texas Super Lawyers list, published by *Texas Monthly Magazine*, Civil Litigation Defense, 2006–2019
- Selected to the Texas Super Lawyers list, published by *Texas Monthly Magazine*, Civil Litigation Defense, Top 100, 2009–2019
- Selected to the Texas Super Lawyers list, published by *Texas Monthly Magazine*, Civil Litigation Defense, Top 100 DFW, 2009–2019
- Recognized as an Outstanding Lawyer of America
- AV Rated for 25 years, a Martindale Hubble peer-review rating

Publications/Presentations

- Featured Speaker for Eagle International Conference – *Effective Use of Experts in Sexual Assaults Cases*, Hartford, CT, October 2018
- Featured Panel Speaker of Church Mutual Insurance Company Seminar – *Effective Mediation Strategies*, June 2019
- Featured speaker at Council on Litigation Management – Defense Strategies National Defense Counsel, New Orleans, Louisiana, March 2011
- Featured panel speaker at Medmarc’s 24th Annual Medical Device Seminar – *Application of Social Media When Defending and Cross-Examining Experts*, Hot Springs, Virginia, June 2008
- Featured Speaker at LexisNexis Conference, Dana Point, California, January 2006
- Featured Speaker at Eagle International Conference – *Update: Texas Good Faith Insurance Issues*, Las Vegas, Nevada, May 2006
- 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, CA, September 2006
- Featured panel speaker presenting a Bad Faith Litigation and Claims Handling seminar at Church Mutual Insurance Company, May 2007

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Educational/Professional Background

Suffolk University, Juris Doctor

Boston College, Bachelor of Arts

Civic and Volunteerism

Mock Trial Committee and the Community Involvement Committee of the Dallas Bar Association

Court Admissions

Texas

U.S. District Courts for the Northern, Southern, Eastern, and Western Districts of Texas

U.S. Court of Appeals for the First Circuit

U.S. Court of Appeals for the Fifth Circuit

U.S. Court of Appeals for the Ninth Circuit

U.S. Supreme Court