



Gary C. Shockley

Shareholder

Nashville | 615.726.5704 | gshockley@bakerdonelson.com

Gary Shockley is a former leader of Baker Donelson's Government Regulatory Actions Group (2008 – 2014) and has tried a wide variety of complex cases to judges and juries in more than 25 state and federal courts, as well as before administrative agencies and arbitrators.

Gary has been certified as a Civil Trial Specialist by the National Board of Trial Advocacy (2012 – present). His experience includes environmental, personal injury, class action, antitrust, health care and construction cases. In addition, he has represented businesses and individuals in white collar criminal investigations and prosecutions and conducted numerous internal investigations.

Gary's practice has included representing health care payors and providers in disputes, arbitration, and litigation for more than 15 years. This experience includes par provider contract disputes, prepayment review, CPT coding, managed Medicaid reimbursement, post-pay audits, out-of-network rates, and vendor disputes. Claims asserted or defended include breach of express contract, breach of implied contract, unjust enrichment, ERISA, state consumer protection act, fraud, recoupment, and False Claims Act. His courtroom experience in these cases includes trials, multi-week arbitration hearings, class certification, and appeals.

His extensive pro bono work has included representation of inmates on Tennessee's death row, veterans, battered women, children and immigrants. He has served in various leadership positions in the Tennessee Bar Association, including on its Board of Governors and as chair of its Litigation and Environmental Law Sections, and as a character and fitness investigator for the Tennessee Board of Law Examiners and a District Hearing Committee officer for the Board of Professional Responsibility. A frequent speaker and author, Gary has published more than 35 articles on evidence, civil and criminal procedure, legal history and related topics.



Representative Matters

- Successfully defended a professional services firm and its new owner in a bench trial on breach of contract and declaratory judgment claims, including securing judgment against a prior owner on counterclaims for violation of Uniform Trade Secrets Act, breach of employment agreement, promissory fraud, and declaratory judgment as to governing agreements.
- Secured dismissal on standing grounds (absence of concrete injury) of a putative nationwide class action for RICO violations, unjust enrichment, and related claims arising out of alleged health care fraud.
- Defended a food processing facility in a Clean Water Act (CWA) citizen suit and common law nuisance action by 45 neighbors complaining of alleged odors and overflow from discharge to a city sewer system, resulting in a jury awarding no damages against the client after a three-week federal trial and a favorable post-trial settlement on the remaining CWA claims.
- Represented a quarry operator in an action alleging nuisance from quarry operations, including property damage, noise and dust from controlled blasting, resulting in a defense verdict following a two-week jury trial.
- Represented a TVA engineering contractor in a putative class action arising out of the collapse of the Kingston Fossil Plant ash pond, successfully opposing certification of a proposed class of 5,000 property owners seeking over \$900 million in alleged lost property value from the spill, and subsequently secured dismissal of the action on derivative immunity grounds.

- Defended pesticide manufacturer in opposing certification of proposed class of property owners affected by historic wastewater discharges to creek. Following Rule 23 certification hearing, class certification was denied by U.S. Magistrate Judge and, on appeal, by U.S. District Court Judge (federal court).
- Represented a health insurer in putative class action on behalf of state medical association member-physicians, alleging breach of contract, unjust enrichment, and violation of Tennessee Consumer Protection Act; secured order compelling arbitration from trial court and affirmance on appeal (state court).
- Represented a convenience store chain in state and federal civil litigation arising out of alleged improper sales of discounted and untaxed cigarettes; successfully defended federal RICO action and motion for preliminary injunction and secured favorable settlement (state and federal court).
- Represented Tennessee Death Row inmate in twelve years of state post-conviction and federal habeas corpus actions, including multi-day evidentiary hearing in U.S. District Court; secured reversal of death sentence in Sixth Circuit Court of Appeals and favorable plea agreement on remand to state court.
- Conducted numerous internal investigations for manufacturers and private correctional facilities
- Secured the dismissal of \$50 million tort and punitive damages claims for malicious prosecution against health insurer by former network provider, resolving issue of first impression under Tennessee statute. Following remand, represented insurer in twelve-day jury trial on remaining breach of contract claim, resulting in jury verdict of zero.
- Represented a purchaser under long-term output agreement in breach of contract claim against operator of zinc mines in Bankruptcy Court for the Southern District of Texas. Secured multi-million dollar settlement shortly before trial.
- Successfully defended a physician outsourcing company in a jury trial alleging breach of privacy. Obtained a directed verdict at close of evidence and complete dismissal of the case.



Professional Honors & Activities

- Certified Civil Trial Specialist by the National Board of Trial Advocacy
- Listed since 1995 in *The Best Lawyers in America*® for Environmental Law (since 2003); Commercial Litigation (since 2009); Bet-the-Company Litigation (since 2010); Mass Tort Litigation/Class Actions, Construction Litigation, Antitrust Litigation, and Environmental Litigation (since 2011); White-Collar Criminal Defense (since 2105); Health Care Litigation (since 2024)
- Named the Best Lawyers® 2024 and 2022 Litigation - Antitrust "Lawyer of the Year" in Nashville; 2024 and 2012 Litigation - Environmental Law "Lawyer of the Year" in Nashville; 2019 Criminal Defense: White-Collar "Lawyer of the Year" in Nashville; 2013 and 2010 Environmental Law "Lawyer of the Year" in Nashville; only a single lawyer in each specialty in each community is honored
- Selected to Mid-South Super Lawyers (since 2006); listed as one of the top 100 attorneys in Tennessee (2011 – 2017, 2020 – 2024); listed as one of the top 50 Nashville attorneys (2012 – 2017, 2020 – 2024)
- Listed in *Chambers USA* as a leading Environment and Commercial Litigation lawyer in Tennessee (since 2010)
- Named "Best of the Bar," *Nashville Business Journal* (2011, 2012)
- Fellow – American Bar Foundation
- Fellow – Nashville Bar Foundation
- Recipient – Howard H. Baker Award for Service to the Profession (2011)
- Tennessee Bar Association Board of Governors, Middle Tennessee Grand Division (2013 – 2015)
- Chair – TBA Litigation Section (2005 – 2006)
- Member – American (member Litigation, Environmental and Antitrust Sections), Tennessee (Chair, Litigation Section (2004 – 2005), Chair, Environmental Law Section (1994 – 1995); House of Delegates, 1987 – 1996) and Nashville Bar Associations

- Recipient – Nashville Bar Association's President's Award for Service (2010)
- Member – American Health Law Association
- Recipient – Baker Donelson's 2009 Nashville Office Pro Bono Award
- Member – District 5 Investigating Committee, Tennessee Board of Law Examiners (2002 – 2008)
- Member – Tennessee Department of Environment and Conservation Committee on Environmental Permitting (1996 – 1997)
- Member – Phi Beta Kappa
- Member – Order of the Coif
- Student Materials Editor – *Tennessee Law Review*
- Seminar speaker for American and Tennessee Bar Associations, Tennessee Association of Business and others



Publications

- Book Review – "Simple Justice," 59 *Tennessee Bar Journal* 5 (September/October 2023)
- "Baker's Dozen – Tips and Insights on Partnering to Advance Women," *Women's Initiative Newsletter* (October 2021)
- "The Supreme Court Answers a Call for Clarity Under the TCPA" (December 2020)
- Book Review – "Say Nothing: A True Story of Murder and Memory in Northern Ireland," *Tennessee Bar Association Journal* (November 2019)
- Book Review – "Days of Rage: America's Radical Underground, the FBI, and the Forgotten Age of Revolutionary Violence," 51 *Tennessee Bar Journal* 31 (October 2015)
- Book Review – "The Other Fellow May be Right: The Civility of Howard Baker," 51 *Tennessee Bar Journal* 32 (January 2015)
- Book Review – "The Nixon Defense: What He Knew and When He Knew It," 50 *Tennessee Bar Journal* 32 (December 2014)
- Book Review – "The Snowden Files: The Inside Story of the World's Most Wanted Man," 50 *Tennessee Bar Journal* 9 (September 2014)
- "Grand Jury Subpoenas and The Crime-Fraud Exception," *Law360* (February 2013)
- Book Review – "The Years of Lyndon Johnson: The Passage of Power," 48 *Tennessee Bar Journal* 23 (November 2012)
- "Case Study: US V. Kernell," White Collar Section, *Law360* (March 2012)
- "Facing The Music: Luthiers And The Lacey Act," Environmental Section, *Law360* (November 2011)
- "Family, Fraud And Forfeiture: US V. Warshak," White Collar Section, *Law360* (February 2011)
- "Snake Oil And Search Warrants," White Collar Section, *Law360* (January 2011)
- "Counsel for the Children: Defending Freedom in the Nashville Sit-in Trials," 10 *Nashville Bar Journal* 6 (April 2010); *Nashville Bar Journal* Article of the Year Award (2010)
- "Sixth Circuit Straddles Rapanos Split," TBA *Environmental Law Section E-News* (April 2009)
- "Railroaded by Superfund? Supreme Court to Review CERCLA Liability Cases in 2008 Term," TBA *Environmental Law Section E-News* (November 2008)
- "Why Should Lawyers be Involved in Politics?," 8 *Nashville Bar Journal* 18 (October 2008)
- Book Review – Tim Weiner, "Legacy of Ashes: The History of the CIA" (2007), 44 *Tennessee Bar Journal* 33 (July 2008)
- Book Review – Jeffrey Toobin, "The Nine: Inside the Secret World of the Supreme Court" (2007), 44 *Tennessee Bar Journal* 32 (June 2008)
- "The Union Legal Response to Hood's Invasion of Tennessee," LXVI *Tennessee Historical Quarterly* Q.20 (2007)
- "Confidentiality and Choice: The Attorney-Client Privilege and Work Product Doctrine in the Sixth Circuit," *BDBC Litigation Newsletter* (December 2006)
- Book Review – Doris Kearns Goodwin, "Team of Rivals: The Political Genius of Abraham Lincoln" (2005), 42 *Tennessee Bar Journal* 36 (September 2006)

- "Letter from the Chair: Learning the Unwritten Rules," *TBA Litigation Newsletter* (Spring 2006)
- "Estoppel and Empty Chairs: Comparing Fault with Dismissed Defendants," *TBA Litigation Newsletter* (Spring 2006)
- "Environmental Consultants and the Work Product Doctrine: Dual Roles or Rolling the Dice," *TBA Environmental Law Newsletter* (July 2004)
- "The Attorney Work Product Doctrine and Trial Consultants: Discovering Dr. Phil," *TBA Litigation Newsletter* (Spring 2004)
- "Sixth Circuit Reverses Lenient Sentence in Environmental Crimes Case," *TBA Environmental Law Newsletter* (November 2003)
- Book Review – John Keegan, "Winston Churchill" (2002), *39 Tennessee Bar Journal* 23 (October 2003)
- Book Review – Ken Auletta, "World War 3.0: Microsoft and its Enemies" (2001), and Joel Brinkley and Steve Lohr, "U.S. v. Microsoft" (2001), *37 Tennessee Bar Journal* 22 (June 2001)
- "Sixth Circuit Rejects Superfund Challenges," *BDBC Litigation News* (Spring 2001)
- Book Review – Kurt Eichenwald, "The Informant" (2000), *37 Tennessee Bar Journal* 28 (February 2001)
- Book Review – James Stewart, "Blood Sport: The President and His Adversaries" (1996), *32 Tennessee Bar Journal* 34 (July/August 1996)
- Book Review – Helen Prejean, "Dead Man Walking" (1993), and Stephen Trombley, "The Execution Protocol" (1992), *30 Tennessee Bar Journal* 26 (March/April 1994)
- "The OSHA Hazard Communication Standard," *25 Tennessee Bar Journal* 22 (1989)
- "A History of the Incarceration of Juveniles in Tennessee," *43 Tennessee Historical Quarterly* 229 (1984)
- "New Evidence and New Trials," *19 Tennessee Bar Journal* 23 (1983)
- "Defining Interrogation for Miranda Purposes," *48 Tennessee Law Review* 785 (1981)



Speaking Engagements

- "All the President's Papers: Trump's Taxes, Subpoenas, and Separation of Powers in the Supreme Court," Nashville Bar Association CLE (July 2020)
- "Mock Trial of Disciplinary Hearing," Tennessee Board of Professional Responsibility 2019 Ethics Workshop (October 2019)
- "The Mueller Report: Bombshell or Dud?," Nashville Bar Association CLE (May 2019)



Education

- University of Tennessee, J.D., with high honors (1982)
- University of Tennessee, B.A., with highest honors (1979)



Admissions

- Tennessee (1982)
- United States District Courts for the Eastern, Middle, and Western Districts of Tennessee
- United States Court of Appeals for the Third, Sixth, and Seventh Circuits