



David W. McDowell

Shareholder

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David McDowell focuses his practice in tort litigation such as fraud, bad faith, product liability and personal injury/wrongful death cases, and advising clients in disputes involving insurance agreements.

Mr. McDowell has litigated cases in the Northern and Middle Districts of Alabama's Federal Courts, the Eastern District of Tennessee and almost all of Alabama's counties. He has tried, arbitrated and litigated several multi-million dollar disputes. Mr. McDowell has tried approximately 50 cases to a verdict.

Representative Matters

- Obtained a declaratory judgment on behalf of an insurance carrier that it had no duty to defend or indemnify a developer in a multimillion dollar condominium construction case, and that the carrier was entitled to reimbursement of approximately \$500,000 in expenses it incurred in the provision of a reservation-of-rights defense.
- Successfully obtained a writ of mandamus compelling a trial court judge to enforce the terms of an outbound forum selection clause, resulting in the dismissal of a breach of contract and fraud lawsuit.
- Defended a life insurance company sued for breach of contract, fraud and bad faith following the denial of a claim. Ultimately received ruling of no liability for the insurer following initial judgment in client's favor as a matter of law on the tort claims in the trial court, and obtained a reversal of an award of contract benefits on appeal.
- Following Hurricane Katrina, obtained summary judgment on behalf of property insurer against claims of breach of contract, fraud and bad faith claims resulting from insurer's refusal to accede to motel owner's demand for additional money and appraisal demand.
- Obtained summary judgment in favor of property insurer against breach of contract, fraud and bad faith claims following its denial of a water damage claim resulting from burst pipes at insured's rental property.
- Defended a medical insurance carrier against claims for fraud and bad faith, resulting in a jury verdict for the defendant.
- Defended an equipment manufacturer against a \$30 million claim for fraud based on the equipment's alleged failure to perform as represented, resulting in a jury verdict in favor of the defendant.
- Defended a waste hauling company in a wrongful death lawsuit arising from a fatal truck accident, resulting in a jury verdict in favor of the defendant.
- Obtained 12(b)(6) dismissal of lawsuit against life insurance company accused of accepting forged change of beneficiary documents.
- Obtained 12(b)(6) dismissal of lawsuit against life insurance company alleged to have wrongfully refused to pay benefits.
- Successfully obtained an order precluding plaintiff's "industry standards" expert from testifying in multiple fatality wrongful death case, facilitating favorable settlement.
- Obtained a declaratory judgment in favor of an Errors & Omissions insurance carrier, resulting in it being reimbursed for a \$900,000 settlement payment it had made under protest on behalf of one of its insureds. The Court ordered the underlying insured to return the full amount of the payment, plus interest, and attorney's fees. This was the first time an insurance company in Alabama ever succeeded in getting reimbursed for a payment made to facilitate a settlement.



Professional Honors & Activities

- Member – American Bar Association
- AV® Preeminent™ Peer Review Rated by Martindale-Hubbell
- Listed in *The Best Lawyers in America*® in Commercial Litigation, 2016 – 2022; Insurance Law, 2018 – 2022; Mass Tort Litigation / Class Actions - Defendants, 2021, 2022
- Member – Vestry, St. Stephen's Episcopal Church, 2001 – 2003
- Senior Warden – Vestry, St. Stephen's Episcopal Church, 2003
- Chairman – Rector Search Committee, St. Stephen's Episcopal Church, 2004 – 2006



Education

- Cumberland School of Law, J.D., 1995
- Washington & Lee University, B.A., 1989



Admissions

- Alabama, 1995
- U.S. District Court for the Middle and Northern Districts of Alabama, and the Eleventh Circuit, 1995
- U.S. Court of Appeals for the Sixth Circuit, 2006
- U.S. District Court for the Eastern District of Tennessee, 2006
- U.S. District Court for the Southern District of Alabama, 2007