

# OUR PRACTICE

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## Commercial/Business Litigation

**Baker Donelson's commercial litigation attorneys advise clients regarding disputes encompassing business arrangements across a broad spectrum of local, regional, and national industry sectors. Our attorneys have handled and tried high profile lawsuits spanning the BP oil spill, multi-state water rights cases, and class actions and related complex cases arising from Hurricane Katrina and other recent natural disasters, in addition to handling appellate matters all the way to the U.S. Supreme Court.**

**Our team.** Our team is composed of nearly 200 trial lawyers, including former judges and state and federal prosecutors. We have deep connections to the business, regulatory, legal, and judicial communities in which we live and work across the southeastern United States and beyond, and we have tried cases in state and federal courts throughout the country.

**Trial practice.** Our experience and willingness to try cases informs our advice concerning every dispute we help to resolve, helping to strengthen our client's position throughout the course of dispute resolution procedures. When a trial is necessary, we bring deep experience to the courtroom. Lawyers on our team have tried hundreds of cases in local, state and federal courts and know how to try a case using themes and language which are understandable and persuasive to juries, judges, and arbitrators. We are proud of our courtroom capabilities and our record of winning cases early, which minimizes trial costs.

**Negotiated resolution and litigation prevention.** We know that the definition of a successful outcome varies from situation to situation and client to client, and we seek to resolve every matter consistent with our client's business and legal objectives. Where a negotiated settlement is desirable, we work for the most efficient and effective resolution possible. Given our excellent record at trial, we are well positioned to resolve matters and to prevent litigation on the front end. More, we bring equal experience to alternative dispute procedures, mediations, and other structured settlement vehicles.

**Industries.** The successful resolution of business disputes requires both a solid understanding of our clients' businesses and solid industry knowledge. Our lawyers have both. We have represented clients operating a wide range of industries covering myriad iterations of technological sophistication, regulatory oversight, and resource management, developing particularly deep knowledge in the information technology, hospitality, financial services, energy, manufacturing, gaming, higher education, and health care sectors prominent within our Southeastern U.S. footprint.

**Leaders in the field.** We are recognized for our effective, goal-oriented representation of clients' interests across the nation. *Best Lawyers in America*®, *Chambers USA* and *Super Lawyers* consistently rank us among the top in our fields. *Corporate Counsel* magazine and American Lawyer Media name us a "Go-To Law Firm," and we are recommended by *Benchmark: Litigation*.



## Case Studies

- [Verdict of More than \\$1 Million in Fee Dispute Case for Professional Services Firm - Fee Dispute Litigation](#)
- [Jury Trial Victory for Investor in Breach of Contract Litigation - Breach of Contract Litigation](#)
- [Trial Victory Secures Leverage in Negotiation with Opponents Involving a \\$100 Million Portfolio of Assets - Bankruptcy Litigation](#)
- [Successfully Defended Energy Client in Breach of Contract Trial - Breach of Contract Litigation](#)

- [Baker Donelson Helps Client Achieve Operational Excellence](#) - Innovation
- [Supreme Court Rules in Favor of Memphis and Memphis, Light, Gas & Water in Water-Rights Fight](#) - Governmental Entities
- [Trial Victory for LIHTC Investors](#) - Litigation
- [Victory in Santa Fe: A Landmark Defense Against 911 Surcharge Claims](#) - Telecommunications



## Representative Trials

- Defended a gas utility in a two-week jury trial in Louisiana state court against claims by an individual who survived a residential gas explosion with second and third degree burns over more than 80 percent of his body.
- Lead trial counsel in a bellwether case in a multi-district litigation comprising tens of thousands of individual lawsuits alleging injuries due to formaldehyde exposure while living in FEMA trailers following the devastation from Hurricane Katrina. After two-week federal jury trial, won a unanimous verdict in favor of our client dismissing all claims and removing them from third bellwether case.
- Successfully defended a national bond insurer before the U.S. District Court for the Eastern District of Louisiana and the U.S. Fifth Circuit Court of Appeals against claims brought by a Louisiana hospital over a \$350 million bond issuance alleging bad faith breach of contract, negligent misrepresentation, abuse of right, and related business torts, ultimately prevailing on appeal pursuant to a unanimous three-judge decision affirming the trial court's dismissal of the entirety of the plaintiff hospital's suit with prejudice.
- Represented an international driller in a four-month trial involving one of our nation's largest environmental disasters, in which thousands of plaintiffs, federal, state and local governments were seeking damages under the Clean Water Act and Oil Pollution Act, with the result that the driller was found not grossly negligent under the Clean Water Act, and that the operator of the well was obligated to indemnify the driller for all Oil Pollution Act Damages.
- Obtained a favorable judgment after a bench trial in a multimillion-dollar check fraud suit in Louisiana federal court.
- Successfully defended a client in an \$18 million lawsuit filed in federal court alleging violations of federal securities laws, state law fraud and intentional misrepresentation concerning the client's purchase of the plaintiffs' interest in a company formed after the Deepwater Horizon explosion in 2010 to employ unique centrifuge technology to separate oil from water to assist oil spill remediation efforts in the Gulf.



## Representative Matters

- Handled dispute between parking vendor and airport related to force majeure in the wake of the September 11 terrorist attacks.
- Represented an oil and gas company before the Louisiana Department of Natural Resources relating to force majeure and lease maintenance issues.
- Represented pipeline general contractor regarding changed site conditions and force majeure claims associated with two separate pipeline construction projects.
- Successfully defended a leading international bond insurer in a suit before the Western District of Louisiana against claims for fraud, conspiracy to defraud, unfair business practices, negligent misrepresentation and other intentional and non-intentional business torts seeking more than \$1.1 billion in damages based on allegations that the insurer, individually and in concert with various investors and other credit insurers, sought to force the plaintiff hospital system into a default on a series of conduit financing bonds used to develop integrated and stand-alone facilities within the plaintiff's system.
- Significant experience litigating TROs and preliminary injunctions in unfair competition, trade secret and consumer lending disputes.

- Successfully represented an international construction, fabrication, and engineering concern in litigation before the Eastern District of Washington involving allegations of fraud, gross negligence and construction defects related to the construction of silicon and silicate refining facilities for a subsidiary of a major European solar power concern.
- Successfully defended an international disaster recovery and remediation company in an \$85 million suit in the Middle District of Florida against civil claims asserted under the RICO Act, as well as for fraud, civil conspiracy, tortious interference and related business torts involving alleged conspiratorial misconduct with the plaintiffs' insurers and adjusters, third-party construction managers and others related to property damage claims for nine beach front hotels stemming from hurricanes Charlie, Francis and Jeanne.
- Successfully represented a leading financial institution against individual and class-wide claims brought on behalf of mortgagors in the aftermath of hurricanes Katrina and Rita in both Louisiana state and federal courts, obtaining involuntary dismissals in eight separate cases.
- Represented a refinery operator following a release of 25,000 barrels of oil into a residential area. Successfully restricted the geographic area of the certified class. Following this, created and developed an aggressive settlement plan which resulted in a global settlement. After settlement, served as the refinery operator's lead witness in an arbitration proceeding in London against several excess level insurers. The client was ultimately indemnified for all settlement payments and defense expenses. Also represented the operator in this matter in connection with remediation of the contaminated properties. Remediation was supervised by EPA and Louisiana Department of Environmental Quality.
- Successfully avoided complex litigation for a large catfish processing company sued by one of the largest agricultural products companies in the world over an employee leasing contract. The potential cost to our client for the extremely complex case would have been millions of dollars.
- Represented two automotive dealers in a class action case challenging our clients' practice of passing on the business tax to automotive purchasers. The plaintiffs also challenged the constitutionality of the statute and revenue rule allowing this practice. A Tennessee court denied permission to appeal, affirming the previous ruling in our clients' favor.
- Represented a machine distributor against a product liability claim from a customer for \$13 million in compensatory damages. Obtained an order granting summary judgment in our client's favor after lengthy discovery was concluded.
- Assumed defense of medical device manufacturer in appeal of unfair competition case involving FDA 510(k) approval of calcium sulphate bone void filler, Tennessee common law of trade secrets and patent law issues. Obtained reversal of \$10 million judgment against manufacturer.
- Defended regional shopping center developer in breach of contract and breach of fiduciary relations action brought by limited partners seeking \$10 million in compensatory damages. Settled through dissolution of the limited partnership and distribution of retained earnings.
- Defended funeral home chain and related insurance company and principals of all entities in common law fraud, misrepresentation and breach of contract litigation relating to 20,000 burial insurance policies. Settled on favorable terms and developed policies to limit future litigation exposure.
- Represented commodities broker and his companies in connection with alleged commodity fraud violations. On appeal to Seventh Circuit Court of Appeals, obtained a reversal and vacation of the CFTC's \$10 million monetary penalty, the largest penalty ever instituted by the CFTC.
- Represented securities brokerage firm in defense of Mexican cotton merchant's claims of churning and misrepresentation, as well as counterclaim for \$4 million debit balance. After successfully dismissing a majority of plaintiff's claims, action settled favorably for client.
- Resolved series of 15 separate multimillion dollar lawsuits filed on behalf of major title insurance company against the Tennessee Department of Commerce and Insurance. The state recently agreed to a resolution favorable to our client.

- Represented an international building products manufacturer in the defense of thousands of class action claims associated with its allegedly defective Chinese-manufactured drywall. The multi-district litigation was assigned to the Eastern District of Louisiana, and involved complex issues regarding construction, product liability, and international law. After conducting several bellwether trials, a settlement was reached.