



Craig B. Merkle

cbm@gdlldlaw.com
(410) 783-4007 (phone)
(410) 783-4040 (fax)



Goodell, DeVries, Leech & Dann, LLP

Goodell, DeVries, Leech & Dann, LLP • One South Street • 20th Floor • Baltimore, Maryland 21202

PROFILE

Craig B. Merkle is one of the founding partners at GDLD and has been actively involved in trial practice since 1982. His practice is concentrated in professional malpractice defense, pharmaceutical and medical device litigation, hospital litigation and professional disciplinary and licensing actions. In addition, he has handled a variety of general litigation matters arising in contract and tort.

Mr. Merkle is a Fellow in the American College of Trial Lawyers (ACTL) and a member of the American Board of Trial Advocates (ABOTA). He has also been repeatedly recognized for excellence in his practice by Chambers U.S.A., Super Lawyers and Best Lawyers.

Professional Liability Claims. Mr. Merkle has represented physicians and health care providers in virtually every medical specialty, as well as community hospitals and academic medical centers throughout the State of Maryland. Representative self-insured institutions and insurance company clients include: The Doctors Company, University of Maryland Medical System, Mercy Medical Center, Upper Chesapeake Health System, Ascension Health, and St. Agnes HealthCare, Inc. Mr. Merkle has tried to verdict numerous cases in the Circuit Courts of Maryland, United States District Court for the District of Maryland and the Health Claims Arbitration Office.

Pharmaceutical and Medical Device Litigation. Mr. Merkle is actively involved in the firm's medical drug and device practice. He has been lead trial counsel for multiparty trial groups in the diet drug litigation in the Court of Common Pleas in Philadelphia, Pennsylvania. In addition to serving as trial counsel, Mr. Merkle has been responsible for conducting discovery, case work-up, expert development and serving as the liaison for local counsel. He has also been involved in the evaluation, discovery and work-up of lawsuits arising from prosthetic knee implants and the investigational study of diabetes drugs

Professional Disciplinary, Privileging and General Hospital Litigation. Mr. Merkle has represented academic and community health care systems in a number of matters which extend beyond the professional liability arena where he frequently practices. For example, he is often requested to provide counsel and guidance to hospital leadership on issues concerning privileging and employment disputes, impaired physicians, boundary violations, and breach of professional and fiduciary obligations. This representation involves complex problem solving challenges in an effort to balance the safety of patients, the common law and statutory obligations of the institution and the due process rights of the involved health care providers. Mr. Merkle has represented hospitals in lawsuits arising from denials and restrictions of hospital staff privileges. Theories of liability typically include antitrust, breach of contract, civil rights, conspiracy, interference with contract, defamation, and interference with prospective business advantage. He has also been involved in the defense of hospitals in wrongful discharge suits brought by health care providers. Mr. Merkle has also represented physicians, nurses, dentists, podiatrists, and other health care providers in disciplinary actions and investigations before the Board of Physicians and other state licensing boards.

Other Civil Litigation. Mr. Merkle has represented individuals, partnerships and corporations in a wide array of litigation matters arising in tort and contract. For example, he represented a major manufacturer of dental equipment and supplies in recovering damages under a Licensing Agreement following a product recall of the licensed product by the FDA, FTC and EPA. He represented a hospital system in a series of lawsuits and claims arising from multiple patient deaths allegedly due to the outbreak of Legionella. He has also been involved in the defense of building products used in commercial and home construction.

Representative Trials:

Eskandary v. RHJN, Circuit Court for Montgomery County, Maryland (2011). Obtained defense verdict after 3 weeks of trial for obstetrical group and 3 obstetricians in suit alleging birth trauma and profound neurological damages to infant. Plaintiffs sought \$20 million in damages following death of the infant's mother during the 40th week of pregnancy from a congenital cardiomyopathy and ischemic brain injury to fetus.

Schaefer v. Moen, Circuit Court for Anne Arundel County, Maryland (2010). Obtained defense verdict after 2 weeks of trial for gynecologist in wrongful death claim alleging failure to diagnose endometrial cancer.

Barbely v. PPS, Circuit Court for Wicomico County, Maryland (2010). Obtained defense verdict for plastic surgeon in claim for permanent damages, scarring, and pain following breast reconstruction after mastectomy

Crowder v. Flynn, Circuit Court for Anne Arundel County, Maryland (2008). Defended general surgeon in a claim involving necrotizing fasciitis after alleged perforation of bowel during repair of extensive hernia with mesh.

Hayes v. CWC, Circuit Court for Anne Arundel County, Maryland (2007). Obtained defense verdict for obstetrician/gynecologist in medical malpractice claim alleging permanent injury, scarring and disfigurement following MRSA infection in the breast. Plaintiffs alleged negligent diagnosis and treatment of mastitis following childbirth.

SBL v. Annapolis OB/GYN, Circuit Court for Anne Arundel County, Maryland (2007). Obtained defense verdict for obstetrician/gynecologist in medical malpractice claim alleging permanent injury, disfigurement and post traumatic stress disorder due to labial agglutination following traumatic childbirth.

Garvey v. Morris, Circuit Court for Anne Arundel County, Maryland (2006). Obtained defense verdict for gynecologist in medical malpractice claim alleging permanent injury, disfigurement and surgical reconstruction due to vaginal foreshortening following hysterectomy.

Disney v. McClain, et al., Circuit Court for Anne Arundel County, Maryland (2005). Obtained defense verdict for obstetrician in medical malpractice claim alleging \$6 million in damages for cerebral palsy and brain damage due to pre-term delivery of infant claimant.

McCormick v. Strider, Circuit Court for Calvert County, Maryland (2005). Obtained defense verdict for gynecologist in medical malpractice claim alleging massive bleeding and infection with multiple surgeries and hospitalizations following hysterectomy.

Hansen, et al v. Wyeth, Court of Common Pleas, Philadelphia, Pennsylvania (2004). Lead trial counsel in defense of multi-plaintiff suit v. Wyeth, alleging valvular heart disease from ingestion of diet drugs. Jury returned verdicts in favor of four plaintiffs in the trial group. On post trial motions, however, the defense obtained entry of judgment notwithstanding the verdict based on the doctrine of assumption of the risk as to one plaintiff, and an order for new trial as to the remaining plaintiffs due to the improper and conclusory testimony of plaintiffs' liability expert.

LeMaster v. Yousefi, Circuit Court for Montgomery County, Maryland (2004). Obtained defense verdict for plastic surgeon in medical malpractice claim alleging lung injury and other complications during breast implant surgery.

Rice v. Wise, Circuit Court for Charles County, Maryland (2003). Obtained defense verdict for orthopedic surgeon in medical malpractice claim alleging permanent damage due to misdiagnosis of complete quadriceps tendon rupture.

James Kernan Hospital, Inc. v. Ambition Health Care Services, Circuit Court for Baltimore City, Maryland (2002). Obtained jury verdict for full recovery of contribution for University of Maryland Medical System in claim against nursing agency arising from settlement of wrongful death of 19 year old patient.

Lyon v. Dentsply International, Inc., American Arbitration Association (2002). Obtained judgment in favor of Dentsply International in dispute over termination of company manager following sale of subsidiary and assignment of executive employment contracts.

Unnamed Physician v. Upper Chesapeake Health System, Administrative Hearing, Harford County, Maryland (2002). Successfully represented the medical staff of the health system in a full evidentiary administrative appeal brought by physician whose active staff privileges were suspended and subsequently revoked due to imminent danger to the health and safety of patients in the system.

Hevey v. Hill, Circuit Court for Baltimore City, Maryland (2001). Obtained defense verdict for hand surgeon in medical malpractice claim alleging amputation due to failure to treat infected wounds following crush injury.

Thomas v. Gorbaty, Circuit Court for Anne Arundel County, Maryland (1998). Obtained defense verdict for hematologist in medical malpractice claim alleging amputation of leg due to delay in diagnosis of compartment syndrome.

Hammond v. Barr, Circuit Court for Montgomery County, Maryland (1997). Obtained defense verdict for internist in medical malpractice claim alleging permanent brain damage from delay in diagnosis of subarachnoid hemorrhage.

Jacobs v. McCormack, Circuit Court for Howard County, Maryland (1997). Obtained defense verdict for rheumatologist in medical malpractice claim alleging paraplegia from delay in diagnosis of epidural hematoma.

Mandell v. Zonies, Circuit Court for Baltimore City. Obtained defense verdict for internist in claim alleging failure to diagnose impending myocardial infarction and permanent heart damage.

Reuwer v. Lee, Circuit Court for Baltimore City. Obtained defense verdict for anesthesiologist in claim alleging blindness to eye during cataract surgery when patient emerged from anesthesia and sat up on table.

Ensor v. Pradhan, Circuit Court for Baltimore County. Obtained defense verdict for vascular surgeon in claim alleging delay in diagnosing injury to popliteal artery after arthroscopic knee surgery.

Appellate Practice. In addition to his trial experience, Mr. Merkle has extensive appellate experience. For example, Mr. Merkle successfully handled the appeal in which the Maryland appellate court refused to recognize a duty by health care providers to warn friends and family members of a patient's HIV status. Reported cases include:

Marcantonio v. Moen, 177 Md.App. 664, (2007), reversed, ____ A.2d ____, 2008 WL 4791313 (Md.Ct.App., filed November 5, 2008).

Jacobs v. Flynn, 131 Md.App. 342, 749 A.2d 174 (2000)

Lemon v. Stewart, 111 Md.App. 511, 682 A.2d 1177 (1996)

Baltimore Sun Company v. University of Maryland Medical System, Corp., 321 Md.659, 584 A.2d 683 (1991)

Cherry v. Brothers, 306 Md. 84, 507 A.2d 613 (1986)

Toner v. Baltimore Envelope Co., 304 Md. 256, 498 A.2d 642 (1985)

Bessenyei v. Raiti, 266 F.Supp.2d 408 (2003)

EDUCATION

Western Maryland College (B.A., Summa Cum Laude, 1978)

Duke University School of Law (J.D., with distinction, 1981); Order of the Coif; Duke Law Journal 1979-81

JUDICIAL CLERKSHIP

Judicial Law Clerk, The Honorable Norman P. Ramsey, United States District Court for the District of Maryland (1981-82)

PROFESSIONAL AFFILIATIONS

Goodell, DeVries, Leech & Dann, LLP, 1988-Present. One of the founding partners of law firm devoted to representation of clients in litigation and litigation management.

Semmes, Bowen & Semmes, 1982-1988, Associate and Senior Associate in multi-specialty law firm in Baltimore, Maryland and Washington, D.C.

PROFESSIONAL ORGANIZATIONS

- Fellow, American College of Trial Lawyers
- Member, American Board of Trial Advocates
- Fourth Circuit Judicial Conference
- Maryland Association of Defense Trial Counsel
- Maryland Society for Healthcare Risk Management
- Defense Research Institute
- Maryland State Bar Association
- Bar Association of Baltimore City
- Wednesday Law Club
- Chair, University of Maryland Law School Norman P. Ramsey Lecture Series

TEACHING ACTIVITIES

Mr. Merkle is the Chair of the Norman P. Ramsey Lecture Series, which is held in conjunction with the University of Maryland School of Law. The series was established in 1993 after the passing of Judge Ramsey, who was a leading figure in the Baltimore legal community, a federal judge, and for many years a member of the ABA's Judicial Nominating Committee. Past speakers have included The Honorable Griffin Bell, The Honorable Lawrence Walsh, The Honorable Julian Cook, Jacob Stein, and Hugo Black, Jr.

Mr. Merkle has frequently been an invited speaker on a broad range of topics in trial practice, risk management, and the application of legal and ethical principles to scientific and medical advances. For example, he has lectured to lawyers and judges on genetics, the human genome project, cloning, and stem cell research. He has also lectured on medical documentation, federal statutory requirements on patient dumping, the National Practitioners Data Bank, and numerous topics and trends in medical malpractice. He has been invited to speak before the Smith Kline Beecham Oncology Fellows Forum, The Network of Trial Law Firms, the Maryland Society for Health Care Risk Management, the Maryland Association to Health Care Quality, and multiple hospital groups, including the presentation of grand rounds at the University of Maryland Medical System and many other Maryland hospital systems. Representative lectures include:

- Network of Trial Law Firms, Hidden Liability Exposure for Non Employees and Outsourced Operations
- Grand Rounds, Malpractice Issues in Obstetrics and Gynecology
- Network of Trial Law Firms, Computer Generated Evidence: It's Not Your Daddy's Courtroom
- Wednesday Law Club, DNA and Genetic Mapping: The Promise and the Perils
- Grand Rounds, Anatomy of a Malpractice Deposition
- Grand Rounds, Liability Issues in the Surgical Practice
- Maryland Society of Health Care Risk Management, Contributory Negligence: Patient v. Provider Responsibilities
- St. Agnes Hospital, Annual Medical Staff Meeting, Dissection of a Medical Malpractice Suit

- Maryland Society for Health Care Risk Management, "Patient Dumping" and COBRA Liability
- Good Samaritan Hospital, Annual Medical Staff Meeting, The Origins of Litigation, The Physician-Patient Relationship
- Franklin Square Hospital, Grand Rounds to Departments of OB/GYN, Internal Medicine, Emergency Medicine, Role of Documentation and Expert Review in the Medical Malpractice Case
- Maryland Society for Health Care Risk Management, The National Practitioner Databank
- University of Maryland Hospital, Grand Rounds, Duty to Warn v. Patient Confidentiality
- Northwest Hospital Center, Department of Medicine, Breakdowns in Communications Between Physicians
- St. Agnes Hospital, Department of Medicine, Documentation Pitfalls and Practices
- Maryland Association for Health Care Quality, Patient Dumping and EMTALA Requirements
- MICPEL, St. Agnes Hospital, Mercy Medical Center, University of Maryland Medical System Corporation. The Maryland Board of Physician Quality Assurance: Everything You Always Wanted to Know But Were Afraid to Ask.