



Derek M. Stikeleather

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Goodell, DeVries, Leech & Dann, LLP

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PROFILE

Mr. Stikeleather is an associate with the firm practicing primarily in the areas of appellate advocacy and complex litigation with an emphasis on product liability and class action defense. He has represented several medical device and pharmaceutical manufacturers, including Pfizer Inc, Dentsply International, DePuy Orthopaedics, and Hanger Prosthetics & Orthotics in federal and state court proceedings. He has argued cases before the Fourth Circuit Court of Appeals and the Court of Appeals of Maryland and authored several winning briefs there as well as in the District of Columbia Court of Appeals.

From 2004-2005, Mr. Stikeleather served as a Law Clerk to the Hon. William M. Nickerson in the United States District Court for the District of Maryland. Before joining the firm in 2007, Mr. Stikeleather worked for two years at a prominent international law firm based in Baltimore.

Before becoming an attorney, Mr. Stikeleather taught Advanced Placement United States History and coached varsity hockey for eight years, the last six years at St. Paul's School in Baltimore. Through law school and in practice, he has been active in numerous programs assisting at-risk students, teachers and schools. For the last several years, he has coached youth baseball and soccer in Baltimore City.

EDUCATION

J.D., University of Maryland, 2004

Order of the Coif

Writing Fellow

Journal of Healthcare Law and Policy, Notes and Comments Editor

Moot Court Board, Executive Board Member

M.L.A., Johns Hopkins University, 1998

B.A., *cum laude*, History, University of Pennsylvania, 1993

BAR ADMISSIONS

- Court of Appeals of Maryland
- District of Columbia Court of Appeals
- United States District Court for the District of Maryland
- United States District Court for the District of Columbia
- United States Court of Appeals for the Fourth Circuit
- United States Court of Appeals for the Third Circuit

TEACHING AND ACADEMIC ACTIVITIES

In 2006, Mr. Stikeleather served as an Adjunct Professor of Legal Writing at the University of Maryland School of Law.

He currently serves as the Fourth Circuit editor of the Defense Research Institute's on-line periodical *DRI Daubert On-line*, which tracks developments in the federal circuits' application of the landmark *Daubert* decision on standards for the admission of expert witness testimony.

Mr. Stikeleather is also a member of DRI's Appellate Advocacy Committee.

FEDERAL AND STATE APPELLATE MATTERS

Fourth Circuit Court of Appeals

McEwen v. University of Maryland No. 09-2141, 2010 WL 5129873 (4th Cir. Dec. 14, 2010)

Briefed and argued matter to the United States Court of Appeals for the Fourth Circuit to affirm summary judgment in U.S. District of Maryland, based on inadmissibility of medical causation expert testimony under Daubert. Plaintiff's experts were barred from offering testimony that administration of certain anti-stroke medications would have prevented plaintiff from suffering a stroke two days later. Without admissible medical causation testimony against them, defendants were all entitled to summary judgment in their favor. *McEwen v. Baltimore Washington Medical Center*

Quillin v. Fleet No. 08-1814, 2009 WL 1336719 (4th Cir. May 14, 2009)

Co-authored winning brief to United States Court of Appeals for the Fourth Circuit to affirm summary judgment in U.S. District of Maryland, based on plaintiff's failure to timely file complaint under Maryland's discovery rule. Plaintiff argued that he was unable to make a connection between his renal failure and use of defendants' phospho-soda product outside the limitations period. *Quillin v. Fleet*

Court of Appeals of Maryland

Tyler v. College Park, 3 A.3d 421 (Md. 2010)

Represented the City of College Park in its successful defense of the constitutionality of its rent control ordinance. Co-authored winning brief to the Court of Appeals of Maryland and successfully moved in the Court of Special Appeals to lift an injunction pending appeal to allow immediate enforcement of the ordinance. Precedential, published opinion affirms Maryland's constitutional standard for rational basis review of legislative action. *Tyler v. College Park*

Lanay Brown v. Daniel Realty, 976 A.2d 200 (Md. 2009)

Authored winning brief to Court of Appeals of Maryland, which affirmed Baltimore City Circuit Court's jury verdict for defendant property owner in lead paint case. In a precedential opinion, the Court of Appeals agreed with the defense argument that evidence was properly admitted and that evidentiary errors raised by the plaintiff on appeal were not properly preserved at trial. The Court further agreed that evidentiary errors raised on appeal were not prejudicial. *Lanay Brown v. Daniel Realty*

Univ. of Md. Medical System Corp. v. Muti, September Term 2011, No. 42

Briefed and argued high court appeal addressing consequences of plaintiffs' failure to include all primary beneficiaries as plaintiffs or use plaintiffs in statutory Maryland wrongful death claim. Decision pending.

District of Columbia Court of Appeals

Phillips v. Fujitec, 3 A.3d 324 (D.C. 2010)

Authored winning briefs in Superior Court and the District of Columbia Court of Appeals affirming summary judgment for all defendants, who were sued for negligence after a fatal accident when plaintiff's decedent attempted to climb out of a stalled elevator. Precedential, published opinion clarified important points of D.C. law on contributory negligence and assumption of the risk. *Phillips v. Fujitec*

Davis v. Georgetown Hospital, 5 A.3d 22 (D.C. September 2, 2010) (Table)

Authored winning brief to District of Columbia Court of Appeals affirming jury verdict for defendant healthcare providers alleged to have been negligent in care of severely disabled patient. Plaintiff argued on appeal that trial court erred in denying him leave to amend complaint to raise new claims and rejecting his proposed jury instructions.

CLASS ACTION AND OTHER LITIGATION MATTERS

Hildebrand v. Dentsply International, 264 F.R.D. 192 (E.D. Pa. 2010),
-2011 WL 4528343 (E.D. Pa. Sept. 30, 2011) (dismissing case)

Represented dental device manufacturer in the defense of a multi-state federal class action brought in 2006 in the Eastern District of Pennsylvania. Court dismissed case for lack of subject matter jurisdiction after Defendant successfully moved for dismissal of improperly joined diverse party.

Weinstat v. Dentsply International

Defending same dental device manufacturer in ongoing California State Court class action (filed in 2004) alleging violations of the Unfair Competition Law and breach of warranty.

Mahtani v. Wyeth
-2011 WL 2609857 (D.N.J. June 30, 2011)

Co-authored winning brief opposing certification of nationwide class alleging negligence, consumer fraud under New Jersey Consumer Fraud Act, and unjust enrichment, related to sales of millions of doses of spot-on flea and tick repellent for dogs. Court denied class certification outright on all three claims (including alternative motion for New Jersey classes). *Mahtani v. Wyeth*

Pfizer HRT Litigation

Assisted trial counsel with expert witness, evidentiary, and myriad other issues in connection with ongoing national litigation challenging adequacy of company's warning label for hormone replacement therapy medications.

Pfizer Neurontin Litigation

Assisted national trial counsel with sophisticated expert witness preparation and Daubert hearings (offensive and defensive) to rebut plaintiff's theory that data showed increased suicide risk with anti-psychotic drug.

McEwen v. University of Maryland

Successfully briefed and argued summary judgment motion in federal District of Maryland, challenging the admissibility of medical causation expert testimony under *Daubert*. Plaintiff sought \$20 million and alleged defendants' decision not to administer certain medications caused his stroke two days later. Also briefed and argued the appeal in the Fourth Circuit Court of Appeals. See link above.

Eisai v. sanofi-aventis

Representing plaintiff pharmaceutical company in its ongoing antitrust action against competitor in the United States District Court for the District of New Jersey. Competitor controls more than 90% of the United States low molecular-weight heparin market. Briefed successful opposition to summary judgment motion on antitrust standing in trial court as well as the response to defendant's petition to the Third Circuit Court of Appeal for Section 1292(b) review of the District Court's decision finding client had antitrust standing.

McCoy v. Hanger

Obtained full defense verdict in one-day bench trial in the District Court of Maryland for Baltimore County. Plaintiff accused client of improperly fitting him with orthotic shoes, allegedly causing several falls and injuries. Mr. Stikeleather was solely responsible for preparing key fact witness and company representative and conducted the defense at trial.