

Robert E. Kerrigan, Jr.



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Location

New Orleans, LA

Practice Areas

- Aviation
- Civil Litigation
- Commercial Litigation
- Expropriation
- General Casualty Litigation
- Personal Injury
- Premises Liability
- Products Liability
- Professional Liability
- Securities Litigation
- Toxic Tort & Environmental
- Transportation

Jurisdictions

- Louisiana

Mr. Kerrigan is a partner in the firm and head of the Civil Litigation Department. A significant portion of his practice is in product defect, toxic exposure, general aviation, securities, commercial, toxic waste and environmental litigation, and professional liability defense litigation. He represented Pan American World Airways and the United States Government in the defense of the Pan Am Flight 759 accident in Kenner, Louisiana. He is Liaison Counsel in the states of Louisiana and Arkansas defending thousands of asbestos claims on behalf of former members of the Center for Claims Resolution. He represented the general partners and executive officers of Equity Group, a real estate limited partnership, against claims made by hundreds of investors in six failed real estate ventures in Texas, Mississippi and Louisiana, alleging securities violations, breach of fiduciary duty and negligence. He represented an insulation manufacturer in connection with a \$17 million asbestos abatement claim involving a large office building in Atlanta. He represented the New Orleans International Airport in precedent-setting federal preemption litigation concerning interference by a local entity with an \$80 million runway project.

Mr. Kerrigan has lectured at numerous litigation and legal education seminars, including those held by Defense Research Institute and Med Psych Corporation. He has been on the faculty of the Insurance and Law Committee of the Georgetown University School of Medicine's Research Program in Forensic Psychiatry and on the faculty of the 20th Annual Defense Counsel Trial Academy of the International Association of Defense Counsel. He has written articles relating to advocacy, and has served on various boards of business, charitable and social organizations.

Military Service

United States Army, Infantry, 1964-66, Retired Captain

Professional Activities and Honors

Leadership in Law Award: Top 50 Lawyers in New Orleans, 2008, 2009

American Bar Association

-- Products, General Liability, Consumer Law, Aviation and Space Law Committees

-- Tort and Insurance Practice Section

Louisiana State Bar Association

-- House of Delegates, 1974-present

-- Chairman, Committee on Draft, 1979

-- Chairman, Committee on Lawyer Referral, 1976-77

New Orleans Bar Association

-- Committee on Unauthorized Practice of Law, 1974

Tulane Law School American Inns of Court, Active Master

International Academy of Trial Lawyers

International Association of Insurance Counsel

Defense Research Institute

American Bar of Trial Advocates
American Arbitration Association, Panel
Louisiana Organization for Judicial Excellence
New Orleans Association of Defense Counsel
International Association of Defense Counsel
International Who's Who of Commercial Litigators
International Who's Who of Business Lawyers
International Who's Who of Product Liability Lawyers
"The Best Lawyers in America" List, 1995-2010
"Louisiana Super Lawyers" List, 2007-2010
Chambers & Partners, Notable Practitioner, 2009-2010

Education

J.D., Tulane Law School, 1969
A.B., Spring Hill College, 1964

Important Trials

Lead trial counsel in multi-district wrongful death/personal injury/property damage litigation arising from crash of Pan Am 759 into a suburban neighborhood near New Orleans in 1982. Litigation involved approximately 200 suits and was litigated from 1982 through 1985. Conducted discovery in and prepared over sixty suits for trial. Tried over twenty-five Pan Am jury trials, including numerous wrongful death suits, psychic injury claims of neighborhood residents, personal injury claims and numerous house damage claims involving extensive engineering investigation and testimony. Significant appellate practice followed a number of the trials. See, e.g., *Trivelloni-Lorenzi v. Pan American World Airways*, 789 F.2d 1092 (5th Cir. 1986), 821 F.2d 1147 (5th Cir. 1987) (en banc), reversed in favor of Pan Am on Warsaw Convention issue, 109 S.Ct. 1928 (U.S. 1989), on remand, 883 F.2d 17 (5th Cir. 1989); *Tudela v. Pan American World Airways*, 764 F.2d 1082 (5th Cir. 1985); *Turgeau v. Pan American World Airways, Inc.*, 764 F.2d 1084 (5th Cir. 1985); *Leconte v. Pan American World Airways*, 736 F.2d 1019 (5th Cir. 1984); *Giancontieri v. Pan American World Airways*, 767 F.2d 1151 (5th Cir. 1985); *Brun-Jacobo v. Pan American World Airways*, 847 F.2d 242, 11 Fed. R. Serv. 3d 585 (5th Cir. 1988); *Bode v. Pan American World Airways, Inc.*, 786 F.2d 669 (5th Cir. 1986); *Savoie v. Pan American World Airways, Inc.*, 742 F.2d 1451 (5th Cir. 1984); *Eymard v. Pan American World Airways, Inc.*, 795 F.2d 1230 (5th Cir. 1986).

In re Chemical Release at Bogalusa, No. 73,341, Div. "C." Following a five and a half week jury trial, obtained a defense verdict as to all claims brought by three employees of Gaylord Chemical/Container against a trucking company alleged to have delivered and moved four stainless steel trailers at Gaylord Chemical's Bogalusa plant. The last of the "Gaylord Chemical" cases, plaintiffs' alleged that their injuries and damages were caused by nitrogen tetroxide that leaked from the trailers in the days prior to the October 23, 1995, explosion. Because the cause of action accrued in 1995, plaintiffs were allowed to pursue punitive damages in addition to the forty million dollars (\$40,000,000.00) they prayed for in closing argument. After deliberating for forty-five minutes, the jury found in favor of the trucking company and against the plaintiffs, dismissing their claims, with prejudice, and at their cost.

Averel Jackson v. Rose Phillips, et al., 07-CA-963, La. App. 5th Cir. April 15, 2008. Appellate decision in favor of defendants and against a plaintiff who filed suit against a district judge's minute clerk and the Clerk of Court for the Twenty-Fourth Judicial District Court for what he claimed was his "unjust incarceration." Filed exceptions of prescription (statute of limitations) and of no cause of action under the theory of judicial immunity in the trial court, which were granted. Argued in the trial court and on appeal that the plaintiff, who filed suit more than five years after the alleged erroneous minute entry due to the clerks' negligence, had notice of his cause of action and thus should have filed a civil lawsuit within one year of learning of the alleged mistake. Also argued that even if the plaintiff's claims were timely, they were barred because the clerk's actions were cloaked in judicial immunity. The trial court and a 2-1 majority on the appellate court agreed.

Gloria B. Martello v. City of Ferriday, et al., No. 36-358-A, 7th Judicial Dist. Court, Concordia Parish,

Louisiana. This certified class action was originally filed on behalf of the residents of the Town of Ferriday. The action involved Ferriday's water treatment system, and primary claims were for injury, nuisance, and inconvenience. Plaintiffs also alleged that engineers engaged in fraud to cover up their alleged negligence in designing the system. This case was vigorously defended under the immediate direction of our client, and was favorably settled to the client's satisfaction.

Phillips v. Severn Trent Environment Services, Inc. and the Parish of Plaquemines, United States District Court for the Eastern District of Louisiana, No. 07-3889., Sect. "F," Mag. 4. This class action involves alleged water contamination and the failure to notify affected parties in a timely manner. The case involves upwards of 15,000 people and is currently being litigated. We have successfully removed the case from state to federal court under the CAFA Statute, and have successfully defended against its remanding. Alleged damages include permanent gastrointestinal problems and other infirmities such as cancer. Due to the involvement of local government in the case, this matter has required both political finesse and a strong defense.

Erick Molo v. Southern Magic, Inc., et al., Case Number 103,600, 16th District Court, Parish of St. Mary, State of Louisiana. Worker at a Sugar Mill filed suit after being struck in the head by a blowtorch, which fell from scaffolding forty feet above his head. Plaintiff sustained a comminuted and depressed skull fracture which required surgery to repair. At trial, Plaintiff alleged that he sustained permanent brain damage and was unemployable. We represented the excess carrier at the 2004 trial and the jury returned a verdict well within the primary insurer's offer.

Carroll Menard, et al. v. Cassidy Empire, Inc., et al., Docket Number 108225, Parish of St. Mary, State of Louisiana. Retired gentleman filed suit alleging that he sustained permanent brain damage after being struck by the digger bucket of a backhoe. The gentleman sustained a fractured skull and later required a burr hole to relieve the pressure caused by the subdural hematoma. Plaintiffs alleged that the gentleman required 24 hour care and/or institutionalization. Jury Trial on damages was held from March 24 to March 28, 2003 and the jury did not accept plaintiff's life care plan.

Green v. K-Mart Corporation involved a claimant who alleged she sustained a closed-head injury as a result of being struck by falling merchandise at a K-Mart store. Our firm enrolled as appellate counsel for K-Mart twenty days after the Third Circuit Court of Appeal increased the jury's award to plaintiff from \$1,458,000 to nearly \$4,500,000. With less than ten days remaining before the judgment became final and irrevocable, we drafted a successful writ application to the Louisiana Supreme Court, which vacated the opinion of the Third Circuit and remanded the case to the court of appeal for another hearing. *Green v. K-Mart Corporation*, 2002-3198 (La.4/4/03), 840 So.2d 1209.

The Third Circuit Court of Appeal again rendered judgment against K-mart for \$4,500,000. *Green v. K-Mart Corporation*, 01-675 (La.App. 3 Cir. 6/18/03), 849 So.2d 814. We again sought a writ of certiorari, and the Louisiana Supreme Court agreed to hear the case. In a unanimous opinion, the court reversed the Third Circuit and reinstated the jury's award. *Green v. K-Mart Corporation*, 2003-2495 (La.5/25/04 so.2d). This case involved two successful writs to the Louisiana Supreme Court and saved the client \$3,300,000 in principal and interest.

Has directed and participated in all aspects of substantial securities fraud actions. Defended syndicator of real estate limited partnerships against six suits totaling \$40MM in claims for alleged fraud and RICO (involved complex evidentiary issues and numerous federal and state claims against syndicator, lenders and guarantors) (Equity Group litigation in USDC, ED - *A&R Associates v. LaMarquis, Ltd.*, 86-3991, *Waitz v Home Equity Group*, 893 F.2d 343, *Abbott v. Equity Group*, 86-4186, *E-CZ v. Equity Group*, 86-4197, and *Breaux v. Equity Group*, 87-2524). Prosecuted securities fraud claims against prominent businessmen resulting in \$4.6MM jury verdict after a seven week trial. (Louisiana Coke litigation - *Mary Margaret Ward, et al. v. Succession of Richard W. Freeman, et al.*, 854 F.2d 780 (5th Cir. 1988), 735 F. Supp. 692 (E.D., La. 1990); case settled during retrial).

Overtured 100 years of Louisiana precedent to obtain a date of valuation in "regular" expropriations no earlier than as of the date of trial, thus allowing recovery of appreciation in value occurring during the

pendency of the suit. As a result, the landowner client received a jury valuation of \$13 million, approximately \$9 million greater than the \$4 million expropriating agency sought to pay at conclusion of six week jury trial. *NOEHA v. Missouri Pacific*, 625 So.2d 1070 (La. App. 4th Cir. 1993), writ denied (630 So.2d 802).

Obtained U.S. Fifth Circuit precedent applying the Gilbert forum non conveniens criteria to admiralty cases. Obtained similar precedent under the Outer Continental Shelf Lands Act requiring the law of the adjoining state to be applied to a rig accident precluding imposition of punitive damages under a "choice of law" theory. *Wooton v. Pumpkin Air, Inc.*, 869 F.2d 848 (5th Cir. 1989). Defended against severe burn injuries to occupant of helicopter in clear liability case. Favorable quantum verdict obtained given extent of burns to a 28 year old married man.

Perniciaro v. Martin Marietta Corporation, 613 So.2d 775 (La.App. 4th Cir. 1993). Family of worker filed suits seeking tort recovery worker's compensation benefits alleging worker's suicide was the result of mental illness produced by stress in work place; tort action dismissed on summary judgment; benefits denied in trial on merits.

Mergen, et al. v. Piper Aircraft Corporation, et al., 524 So.2d 1348 (La.App. 1st Cir. 1988). Represented business owner of aircraft who sued manufacturer in redhibition and negligence to recover value of twin-engine Navajo Chieftain.

State of Louisiana, through Department of Transportation and Development v. Robertson Corporation, 563 So.2d 1165 (La.App. 4th Cir. 1990); 542 So.2d 698 (La.App. 4th Cir. 1989). Representation of business lessee in consolidated actions seeking full compensation, business damages and attorney fees involving State's expropriation of land. Trial resulted in recovery of over \$1 million of damages for lessee interest only.

Johnston, et al. v. Wilbourn, 760 F.Supp. 578 (S.D. Ms. 1991). Defense of officers and directors of bank in suit alleging various federal and state violations in connection with purchase of stock including violations of RICO statute and general fraud. Tried before jury Meridian, Mississippi: defense verdict.