
Nancy J. Marshall



Partner
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Location
New Orleans, LA

Practice Areas
- Products Liability
- Professional Liability
- Toxic Tort & Environmental
- Transportation

Jurisdictions
- Louisiana

Nancy Marshall practices in the area of professional liability law, and is co-head of Deutsch, Kerrigan & Stiles' professional liability & commercial law department. In particular, she concentrates on defending legal malpractice claims, representing the endorsed insurer for the Louisiana State Bar, among other insurers. She was a member of the ABA Standing Committee on Lawyers Professional Liability from 2000-2003. Ms. Marshall also represents other professionals, including insurance agents and brokers, real estate brokers, nurses, nursing homes, home health care facilities, accountants and termite protection providers.

Ms. Marshall additionally practices in the areas of toxic torts, personal injury and professional liability. Her experience includes representing the manufacturers of three- and four-wheelers, motorcycles, personal watercraft, light truck wheels, airless spray guns, pesticides, guniting equipment and golf course trenching equipment, as well as representing various trucking and rental car companies. She was appointed to the Products Liability Advisory Council in 1990, after nominations for her membership were submitted by Kawasaki Motors Corporation and The Budd Company.

Ms. Marshall has spoken at professional seminars on several occasions. She presented on the amendments to the Federal Rules of Civil Procedure at the American Bar Association's 1995 National Legal Malpractice Seminar in Tempe, Arizona, and spoke on third-party liability for the Association of Defense Council of Arkansas. She has also presented on the use of accident reconstructionists, and has spoken at numerous seminars in New Orleans, the most recent being a seminar on civil pre-trial procedure sponsored by the federal judges.

Professional Liability Experience

Ms. Marshall has successfully defended numerous legal malpractice cases involving issues of attorney liability to third parties, including a defense verdict in a legal malpractice case in Federal Court for the Eastern District of Louisiana for alleged malpractice in the handling of the underlying trial. She has also handled defamation and prescription (statute of limitations) issues where the trial court granted motions for summary judgment which were affirmed by the appellate courts, and has handled RICO cases and cases involving abandonment or missed deadlines where the underlying case was tried with the malpractice case.

Personal Injury/Products Liability Experience

Ms. Marshall successfully represented a pesticide manufacturer in a lawsuit where a child's death by rhabdomyolysis was alleged to have been caused by exposure to the pesticide. The lawsuit was dismissed with no payment by the manufacturer. Ms. Marshall has also defended cases involving chlorine exposure and 1-1-1 trichloroethane, and has been involved in breast implant litigation.

Representative cases also include a two and one-half week jury trial in Baton Rouge, Louisiana, representing a trucking company. The plaintiff claimed injuries of TMJ, cervical, lumbar and knee injuries, with resultant surgery for carpal tunnel syndrome and the knee injury, and medical bills in the amount of \$70,000. The plaintiff was awarded only \$8,000, and Ms. Marshall's client was relieved of any responsibility for the award by the Court of Appeal on an insurance coverage issue.

Ms. Marshall also tried a three-week products liability jury trial in Baton Rouge, involving a motorcyclist's death due to an allegedly defective motorcycle helmet, and resulting in a defense verdict. Additionally, she handled a jury trial in the Parish of Orleans involving alleged negligent operation of an 18-wheeler that pinned a car driven by an elderly preacher, who claimed extensive neck injuries. The jury awarded \$150,000 to the plaintiff.

Other notable cases include a successful two-week jury trial in 1987 defending an all terrain vehicle manufacturer, and a successful defense verdict in an Orleans Parish products liability case involving a jet ski.

Public Service

Ms. Marshall is a board member of Wilson School as well as Odyssey House, a nonprofit behavioral health care provider with an emphasis on addiction treatment. She has previously served on the boards of both Crescent Academy, a school for children with learning disabilities, and St. Andrew's Episcopal School. Additionally, she was a vestry member of St. Andrew's Episcopal Church.

In April 2006, Ms. Marshall was elected Assessor of District 6 in New Orleans. Marshall ran as part of the "I.Q. Ticket," vowing to work towards consolidating the city's seven assessor offices into one, as well as refusing to personally accept a salary or participate in the generous assessors retirement program. Her salary was donated for the purchase of eighty XO laptop computers, one to every 3rd, 4th and 5th grade student of Wilson Charter School.

Professional Activities and Honors

"Louisiana Super Lawyers" List, 2007-2010

"The Best Lawyers in America" List, 1999-2010

Leadership in Law: Top 50 Lawyers in New Orleans, 2007

Association of Women Attorneys' Special Recognition Award, 2007

American Bar Association

Louisiana State Bar Association

Products Liability Advisory Council

Louisiana Association of Defense Council

Editorial Subcommittee for Standing Committee on Lawyers Professional Liability

Education

J.D., *cum laude*, Tulane University, 1980

B.S., Mathematics, Tulane University, Sophie Newcomb College, 1976

L.L.M., Environmental Law, in progress

Representative Works

Legal Malpractice - RICO

Joanne Rinardo and Nancy Marshall represented a prominent divorce attorney against claims of RICO violations as well as state law claims of breach of contract, malpractice and intentional infliction of emotional distress. The Plaintiffs alleged that the defendant's business practices were, in essence, criminal, and sought treble damages, compensatory damages, and attorneys fees totaling over \$100,000. Rinardo and Marshall filed a Rule 12(b)(6) Motion to Dismiss all claims which was orally argued by Ms. Rinardo before Judge Barbier. After two hours of argument, the Judge ruled from the bench dismissing all claims against the defendants.

Civil Death Case

Ms. Marshall handled this civil case arising out of the death of an elderly woman's male maid. The investigating detective arrested the woman with murder, but the District Attorney refused the charges. Thereafter, plaintiff filed a lawsuit alleging that the elderly woman, who, by the time of trial, had herself died of natural causes, was responsible for the death of the male maid. The male maid had a very disturbed personal life. His autopsy revealed the presence of metabolites of heroin, he had threatened suicide, and the gun used was his brother's. The defense theory was that he had committed suicide. The jury determined that he had not been killed by the defendant.

On Behalf of the Heirs of the Estate of John Gregory Suhor A/k/a Stephan Sure Versus Diane Kohn and XYZ Insurance Company, CDC, No. 2000-09685, "N". October, 2006.

Personal Injury

Ms. Marshall and Ms. Gilbert handled this case arising out of an accident involving a seven year old boy who was playing with a rope on a merry-go-round with an open platform. The rope wrapped around the base of the merry-go-round, tangled with his foot, and dragged him underneath the merry-go-round where his foot was badly broken, requiring two operations. Plaintiff contended that the merry-go-round, which was more than 25 years old and had an open design not consistent with standards set forth in the 1990s, had caused the injury to the child. A biomechanical expert testified that the cause of the injury was the rope wrapping around the child's ankle, which could have occurred with or without an open platform on the merry-go-round. The trial court granted a defense verdict.

Daisey Taylor, et al vs. Corcoran Jennison Management Co., et al., CDC No. 02-10631, Div. "E". August, 2006.

Products Liability - Personal Injury - \$7 Million Demand Denied

Ms. Marshall handled this case involving a fall product trial, where the plaintiff sustained a severely broken leg, requiring more than thirteen surgeries, which, up to the time of the trial, had never healed. Plaintiff's demand was \$7 million dollars. After a week long trial, the plaintiff's attorney lost the ladder in question, but the judge would not allow a spoliation charge to the jury, and prevented the attorneys from finding out that the plaintiff and/or his attorney had lost the ladder. After a week long jury trial, there was a defense verdict rendered.

Harold Roy and Hazel Roy v. Gabriel Building Supply Co., Inc. and Davidson Ladders, Inc., No. 9800981, 21st Judicial District Court, Parish of Tangipahoa. April 2004.

Trucking - Personal Injury - \$840k Saved

Ms. Marshall handled this case involving an eighteen wheeler which rear-ended a vehicle occupied by the plaintiff, allegedly resulting in a herniated disc and a forced retirement of the plaintiff. The defendant driver of the eighteen wheeler was legally drunk at the time of the accident. The plaintiff demanded policy limits of \$1 million dollars. The case was settled after three days of trial for \$160,000.

Connors v. Simpson, et al., Case No. 99-3005, Civil District Court for the Parish of Orleans. May 2003.

Attorney Liability - Security Fraud

Ms. Marshall handled this security frauds case brought against a lawyer and his law firm for improperly prepared corporate documents, alleged to be the basis for Section 10b of Section 12(2) of the Securities Exchange Act of 1933 as well as RICO claims. Motion for summary judgment granted by the trial court affirmed per curiam by the Federal 5th Circuit.

Tracy Bergquist v. FyBX Corporation, et al., Case No. 02-722, United States District Court for Eastern District of Louisiana. January 2003.

U.S. Court of Appeal for 5th Circuit, Case No. 03-30946.

Attorney Liability

Ms. Marshall handled this legal malpractice case arising out of alleged conflict of interest, involuntary dismissal at close of plaintiff's case.

Nat Colona v. John I. Feduccia, No. 96-00897, 21st Judicial District Court, Parish of Tangipahoa. January, 2001.

Attorney Liability - RICO

The underlying case involved an alleged quadriplegic who claimed to have been injured as a result of an electrocution at a Best Western Motel in Alexandria, Louisiana. There had been a defense verdict after a two-month trial. The lead defense attorney was subsequently sued for allegedly hiding evidence of a defect on the premises. A RICO action was brought against him, as well as his former clients and other defendants in the underlying case. Ms. Marshall obtained a dismissal via motion for summary judgment, which was affirmed by the federal Fifth Circuit on appeal. Additionally, the plaintiffs had previously filed a RICO action against the same defendants which was dismissed and have subsequently filed a tort action against the IME doctors in the RICO action, as well as a petition for nullity of the original judgment.

St. Paul Mercury Insurance Company v. Williamson, 986 F. Supp. 409 (W.D. La. 1997)

Attorney Liability - Summary Judgment

Ms. Marshall obtained a motion for summary judgment for a defendant lawyer in a case involving allegations of unethical behavior and liability of a lawyer to a third party, non-client.

Lee Roy Joyner v. George Wear, et al., 665 So. 2d 634 (2d Cir. 1995), writ den. 96-0040 (La. 02/28/96), 1996 WL 84524 (La.)

Attorney Liability

Ms. Marshall handled this matter. Writs applied for, case involving lawsuit and failure to timely file a medical malpractice lawsuit after the medical review panel issued its decision. The trial court found the case had prescribed in the hands of the plaintiff's current attorneys, and was affirmed on appeal.

Adesina Oyefodun v. Ike Spears, et al., 95-1472 (La. App. 4th Cir. 02/15/96), 1996 WL 67335 (La. App. 4th Cir.)

Attorney Liability

Ms. Marshall handled this legal malpractice case against a lawyer for allowing a case to abandon involving a three-year-old child burned over ten percent of her body, allegedly as a result of a failure on the part of landlord to provide smoke detectors in the apartment. Investigation revealed the smoke detectors had been placed in the apartment, contrary to the testimony of plaintiff's mother and father, resulting in a reasonable settlement of the case.

Ferguson v. Vasques, Case No., 02-09331, Civil District Court for the Parish of Orleans.

Attorney Liability

Ms. Marshall handled this legal malpractice case involving underlying issue of alleged medical malpractice with regard to the handling of a code by a emergency room physician necessitating both the use of medical experts and legal malpractice experts. Settled after five days of trial at 25% of the judgment value of the case.

Aaron Davis, et al. vs. Coregis Insurance Co., No. 98-10208, Civil District Court, Parish of Orleans

Attorney Liability

Ms. Marshall handled this legal malpractice case tried in St. Tammany parish in Louisiana. Two-day trial involving allegation that an attorney allowed a case to be abandoned. Defense that underlying lawsuit against the State Department of Highways and Transportation had no merit, involving accident reconstructionist and highway engineer. Defense verdict was granted.

Nat Colona v. Lawyer A.B. and Coregis Insurance Company, No. 99-11754, 22nd Judicial District Court, Parish of St. Tammany.

Attorney Liability

Week long jury trial. Ms. Marshall handled the defense of an attorney in a legal malpractice action arising out of the attorney's alleged failure to properly confect corporate documents. Tried to defense verdict.

Warren Leger, Jr., et al. v. Superior Products, Inc., No. 448-764, 19th Judicial District Court, Parish of East Baton Rouge, Louisiana.

Medical Malpractice

Two-week jury trial involving several defendant doctors, hospital and ICU nurse in connection with the death of a nineteen-year-old, allegedly as a result of failure to monitor and failure to administer appropriate medication. Ms. Marshall obtained a defense verdict for all defendants.

Williams v. Dauterive Hospital, et al., No. 96-977, 16th Judicial District Court, Parish of Iberia, Louisiana.

Speeches and Presentations

Surviving Disasters: Fires, Storms & Problem Partners

Presentation by Ms. Marshall; One Beacon 4th Annual Lawyers' Professional Liability Risk Management Conference; 6/16/10; Las Vegas, NV

Anatomy of a Settlement

Presentation by Ms. Marshall; Louisiana Bar Association CLE; 4/30/10; New Orleans, LA

What's Your Little Secret? They Want to Know.

Presentation by Ms. Marshall; Legal Malpractice & Risk Management Conference; 3/3/10; Chicago, IL

E-Discovery and LPL: Overcoming the Challenges Associated with the Preservation and Production of Electronically Stored Information

Presentation by Ms. Marshall; LPL/Legal Malpractice Conference; 1/27/10; New York, NY

Ethics Issues for Corporate Counsel

Speech by Ms. Marshall at the Association of Corporate Counsel (ACC) Louisiana Chapter/Loyola University New

Orleans College of Law CLE; 9/25/2009; New Orleans, LA

What You Need to Know About Developments in Litigating Legal Malpractice Claims

Panel Discussion Including Ms. Marshall; Legal Malpractice & Risk Management Conference; 3/4/2009; Chicago, IL

Privilege, Estoppel, Judgmental Immunity and Other Special Defenses

Nancy Marshall was a panel member for this discussion at the Legal Malpractice & Risk Management Conference every year from 2005-2008. The panel focuses on developments in the affirmative defenses available to lawyers in legal malpractice cases.

What's New in U.S. Litigation?

Speech by Ms. Marshall at Second Annual U.S. Litigation Seminar, 10/14/04, London, England

Trying the Case Within A Case

Speech by Ms. Marshall at ABA Legal Malpractice Conference; 4/29/04; Miami, FL

Understanding Their Language: Medical Terminology in Louisiana

Presentation by Ms. Marshall; Lorman Educational Services; 4/28/04; New Orleans, LA

Causation and Case within a Case Methodology

Presentation by Ms. Marshall at Legal Malpractice and Risk Management Annual Conference; 3/4/2004-3/5/2004

Sarbanes-Oxley and Practicing Attorneys

Presentation by Ms. Marshall at DRI Meeting; "Applicability of the Scope and Effect of Sarbanes-Oxley and the New Sec Rule on Practicing Attorneys, Including Those Who Don't Think They Are Securities Lawyers to Outside Counsel"; 10/2003

Application of the Judgment Rule in Recent Cases

Presentation by Ms. Marshall at Legal Malpractice and Risk Management Annual Conference; 3/2003

Current Issues in Litigation

Masters of the Courtroom speech by Ms. Marshall; 12/2002; New Orleans, LA

New Developments in Litigation

Speech by Ms. Marshall; 10/2002; Manchester, England

Daubert/Kumho Hearings

Masters of the Courtroom presentation by Ms. Marshall; 12/2000; New Orleans, LA

Litigation That Never Ends

Presentation by Ms. Marshall at DRI Annual Meeting; 10/2000; New Orleans, LA

Trial of a Legal Malpractice Action

American Bar Association Presentation by Ms. Marshall; 3/2000; New Orleans, LA

Risk Management

In-house seminar for CNA by Ms. Marshall; 9/1999; Lafayette, LA

Developing Deposition Skills

Presentation by Ms. Marshall; NITA Program; 5/1999

Defense Lawyers Seminar

Louisiana Association of Defense Counsel Seminar by Ms. Marshall; "A Business or a Profession? Making the Practice Work for You"; 12/1998; New Orleans, LA

Standard of Care in Managed Care Settings

American Academy of Psychiatry and Law Convention Mock Trial by Ms. Marshall; "Standard of Care in Managed Care Settings, Discharging Sicker and Potentially Violent Psychiatric Patients in the Managed Care Era"; 10/1998

Fiduciary Obligation and Malpractice Policies

Presentation by Ms. Marshall at American Bar Association Conference; 5/1998; Montreal, Canada

Law Firm Professional Training and Quality Assurance

Presentation by Ms. Marshall at 23rd National Conference on Professional Responsibility; 5/1997

Vicarious Liability and Legal Malpractice

Presentation by Ms. Marshall to Joint Committee of TIPS and the American Bar Association; 3/1997

Jury Trials and Legal Malpractice

Presentation by Ms. Marshall at National Legal Malpractice Conference; 10/1996

Minefields of Practice

Presentation by Ms. Marshall; CNA Legal Malpractice Risk Management Seminar for Attorneys; 5/1996

Civil Pre-Trial Proceeding Seminar

Speech by Ms. Marshall at seminar, chaired by Judge Sarah Vance; 12/1995

Third Party Liability

Presentation by Ms. Marshall; American Bar Association National Legal Malpractice Seminar; 4/1995

Mechanisms for Compliance with Automatic Disclosure

Presentation by Ms. Marshall; Products Liability Advisory Council; 9/1993