

## Howard L. Murphy



**Partner**  
(504) 593-0639  
hmurphy@dkslaw.com



### Location

New Orleans, LA

### Practice Areas

- Civil Litigation
- Construction
- Energy
- ERISA Litigation
- General Casualty Litigation
- Insurance Coverage
- Personal Injury
- Products Liability

### Jurisdictions

- Louisiana

Howard L. Murphy joined Deutsch, Kerrigan & Stiles, L.L.P. in 1980, after spending seven years in broadcast journalism working as a news reporter for television stations in New Orleans, Louisiana and San Antonio, Texas.

Since that time, Mr. Murphy has developed a broad practice in the areas of maritime law, products liability, casualty litigation, insurance coverage, building design and construction, and fiduciary liability litigation.

Mr. Murphy has represented oil companies, drilling contractors, fixed platform operators, vessel owners, service companies, and oil field equipment manufacturers. He has defended actions brought under the Jones Act, Section 905(b) of the Longshore and Harbor Workers' Compensation Act, the Death on the High Seas Act, the general maritime law, and state survival and wrongful death statutes. Furthermore, he has handled numerous contractual disputes concerning indemnification, additional insured status, and the application of anti-indemnity statutes.

Mr. Murphy has participated in dozens of trials and has secured defense verdicts in at least three separate wrongful death cases. One involved a products liability claim brought against the manufacturer of a high pressure clamp used to test oil field equipment. Another concerned a collision on an inland waterway between a towing vessel and a recreational watercraft.

Other accomplishments that Mr. Murphy has achieved in maritime and oil field-related litigation include securing reduction of a \$19 million plus judgment to \$44,309, in a suit brought by a well operator against a drilling contractor for intentionally damaging an oil well in *Massey v. Decca Drilling Co., Inc.*, 64 So.2d 1196 (La. App. 2nd Cir. 1994), and obtaining the acquittal of a drilling contractor from a personal injury claim, which clarified the standard for when a new trial should be granted under the Jones Act, in *Smith v. Transworld Drilling Co.*, 773 F.2d 610 (5th Cir. 1985). Furthermore, Mr. Murphy litigated the constitutionality of whether a choice-of-law provision in a master service agreement can displace application of the Louisiana Oilfield Indemnity Act in *Matte v. Zapata Offshore Company*, 784 F.2d 628 (5th Cir. 1986).

In the realm of casualty and product liability litigation, Mr. Murphy has garnered numerous successes. He obtained the reversal of a \$1.4 million judgment entered against an uninsured motorist insurer in *Dupre v. Maynard*, 692 So.2d 36 (La. App. 1st Cir. 1997). He successfully defended the validity of an uninsured motorist coverage rejection notice in *Alford v. Woods*, 614 So.2d 1299 (La. App. 3rd Cir. 1993), which allowed an uninsured motorist carrier to avoid a judgment on a bodily injury claim that exceeded \$400,000. In *Clark v. R.D. Werner Co., Inc.*, 2000 WL 66380 (E.D. La.), he successfully excluded plaintiff's metallurgical expert from testifying at trial.

Additionally, Mr. Murphy regularly has defended architects, other design professionals and building contractors against personal injury and property damage claims. He secured the dismissal of a suit brought by multiple plaintiffs against a mechanical engineering firm for the alleged presence of mold and other neuro-toxins in a newly constructed university office building. He also secured dismissal of a suit against a mechanical subcontractor brought by a municipal worker who alleged multiple neurological disorders as a result of being exposed to hydrogen sulfide gas. In *Merchants National Bank & Trust Co. of Indianapolis v. Smith, Hinchman & Grylls Associates, Inc.*, 876 F.2d 1202 (5th

Cir. 1989), Mr. Murphy successfully defended an architectural firm against a multi-million dollar claim brought by an electrical sub-contractor in connection with the construction of a hospital.

Mr. Murphy also possesses considerable experience in the litigation of fiduciary liability claims brought under the Employer Retirement Income Security Act. In the past, he has defended fiduciaries of a major construction company and a major shipbuilding company against ERISA claims asserted in relation to the diversification of assets held by employees stock ownership plans.

Mr. Murphy has spoken on numerous occasions, including appearances before the Meeting of Invited Attorneys sponsored by Victor O. Schinnerer & Co., the American Corporate Counsel Association, the Greater New Orleans Business Roundtable, the Network of Trial Law Firms, and the New Orleans Bar Association. He is a contributing author to the "Construction Industry Insurance Handbook" in the areas of self-insurance and risk retention groups, which John Wiley & Sons, Inc. published in 1991.

### **Professional Activities and Honors**

"Louisiana Super Lawyers" List, 2007-2010

American Bar Association

-- Section of Litigation, Products Liability Committee

International Association of Defense Counsel

-- Products Liability, Casualty Insurance and Maritime Law Committees

Defense Research Institute

Louisiana Association of Defense Counsel

-- Board of Directors

Louisiana State Bar Association

### **Education**

J.D., Loyola University, 1980

B.A., Communications, Loyola University, 1976

## **Representative Works**

### **Personal Injury**

Mr. Murphy secured the dismissal of a multi-million dollar suit brought against a sugar mill and its insurers by several plaintiffs, including one plaintiff who was rendered a quadriplegic as a result of a vehicular collision that occurred in Baton Rouge, Louisiana, in March 2008. The sugar mill had arranged for the driver of a tractor-trailer operated by another company to load raw sugar at the sugar mill, using equipment belonging to the sugar mill, and to transport the raw sugar to a refinery located approximately 60 miles away. The driver loaded more raw sugar on the trailer than the statute governing weight limits on roadways allowed. While in transit to the refinery, the tractor-trailer rear-ended several vehicles, including the vehicles operated by plaintiffs. The sugar mill moved for summary judgment in the trial court, contending the tractor-trailer company was an independent contractor and therefore the sugar mill should have no liability for the actions of the tractor-trailer company or its driver. After the motion was filed, the trial court authorized plaintiffs to take the depositions of representatives of both the sugar mill and the tractor-trailer company. At the hearing on the motion, the trial court denied the motion. Following the denial, the sugar mill and its insurers applied for a supervisory writ of certiorari to the Louisiana First Circuit Court of Appeals. The First Circuit granted the writ, reversed the trial court and entered summary judgment in favor of the sugar mill and its insurers. The First Circuit held that plaintiffs had failed to establish that they will be able to carry their evidentiary burden at trial to demonstrate the sugar mill's vicarious liability or that the sugar mill had a duty to prevent the overloading of the tractor-trailer. Plaintiffs thereafter applied for a supervisory writ of certiorari to the Louisiana Supreme Court, which the Supreme Court denied. *Manchester v. Conrad*, No. 2009-CW-1074 (La. App. 1st Cir.)

### **Maritime Personal Injury**

Mr. Murphy obtained summary judgments for LLOG Companies, the largest privately owned oil and gas company operating in the Gulf of Mexico, and Diamond Offshore Companies, a leading U.S. deepwater drilling contractor, when a plaintiff claimed to have sustained bodily injuries while standing on a vessel which lunged due to choppy seas, causing him to fall. In his complaint, the plaintiff alleges that the defendants directed him to leave the cabin of the vessel for the deck, where he was injured. LLOG Offshore, the time charterer of the vessel, moved for summary judgment on the basis that it has no liability because the voyage the vessel performed was subject to the sole right of

the captain of the vessel to determine whether movement of the vessel may be safely undertaken. Diamond Offshore moved for summary judgment because the plaintiff had testified he did not believe the seas were too dangerous for work, and in fact, he safely completed a personnel basket transfer to the drilling rig after his injury. *Christopher S. Callahan v. Gulf Logistics, LLC et al.*, USDC WDLA, Lake Charles.

### **Wrongful Death**

Mr. Murphy secured a favorable ranking of insurance coverage for an excess insurer that was one of several insurers sued in connection with a multi-vehicle collision caused by a tractor-trailer rig, that precipitated two wrongful death claims and numerous bodily injury claims.

*Wanda Lafleur, et al v. AFTCO Enterprises, Inc., et al*, 927 So.2d 1200 (La. App. 3rd Cir. 2006), writ granted and partially reversed, 940 So.2d 649 (La. 2006).

### **Bodily Injury**

Mr. Murphy obtained the dismissal of bodily injury claims brought by the passenger of a public transit bus against the transit company on account of a fall the passenger sustained while the bus was in motion.

*Doretha Covington v. Louisiana Transit Company, Inc.*, No. 591-547 (24th Judicial Dist. Ct. 2007).

### **Chemical Exposure Defense**

Mr. Murphy obtained the dismissal of an action brought by a City of Lafayette sewerage plant worker, who alleged various neurogenic and other disorders due to exposure to hydrogen sulfide gas, which he claimed emanated from improperly installed valves.

*Michael T. Sprague, et. al v. City of Lafayette*, 2002-0624 (La. App. 3rd Cir. 2002).

### **Personal Injury - Transportation**

Mr. Murphy obtained the dismissal of an action brought against a tractor-trailer operator for severe bodily injuries a 9-year-old girl sustained as a result of being struck by the vehicle.

*Michelle Murrell, et. al v. John H. Pollan, et. al*, No. 2000-CA-1389 (La. App. 4th Cir. 2001).

### **Product Liability**

Mr. Murphy excluded the plaintiff's metallurgical expert, who opined about alleged deficiencies in a stepladder, under a motion brought pursuant to Fed. R. Evid. 702.

*JoAnn Clark v. R.D. Werner Co., Inc.*, 2000 WL 666380 (E.D. La.).

### **Insurance Coverage - Appeal**

Mr. Murphy secured reversal of a \$1.3 million plus judgment based on a lack of insurance coverage under a business auto liability policy.

*Rickie Dupre and Darla Samanie Dupre, et. al v. Jarret Maynard, et. al*, 692 So.2d 36 (La. App. 1st Cir. 1997).

### **Design & Construction Defect**

Mr. Murphy secured a favorable trial verdict in the defense of an architect for defects in the construction of a custom residence; also clarified the law applicable to the recovery of damages for mental anguish in a suit for design and construction defects.

*William Henry Sanders v. Carl Zeagler*, 686 So.2d 819 (La. 1997), 670 So.2d 748 (La. App. 3rd Cir. 1996).

### **Architect Liability**

Mr. Murphy obtained the dismissal of a subcontractor's claims against an architect on the grounds the claims had prescribed.

*Landis & James Construction Company v. Gee Cee Corporation*, 669 So.2d 1265 (La. App. 4th Cir. 1996).

### **Insurance Coverage - Appeal**

Mr. Murphy obtained a reduction in a \$41 million judgment awarded for damage to an oil well to \$44,309 based on a lack of insurance coverage and plaintiff's failure to establish a right of action for allegedly impaired mineral rights.

*Bruce T. Massey v. Decca Drilling Company, Inc.*, 647 So.2d 1196 (La. App. 2nd Cir. 1994).

### **Insurance Coverage**

Mr. Murphy successfully defended an uninsured motorist insurer by establishing the validity of a uninsured motorist rejection form through the introduction of parol evidence, resulting in the insurer avoiding a \$400,000 plus judgment.

*Donald Alford v. Lawrence Woods, Jr.*, 614 So.2d 1299 (La. App. 3rd Cir. 1993).

### **Pension Fund**

Mr. Murphy obtained the dismissal of a third-party claim asserted in state court by an attorney against pension fund trustees on the grounds that the state action was preempted by the Employee Retirement Income Security Act. *New Orleans Sheet Metal Worker's v. ABC Insurance Company*, 599 So.2d 868 (La. App. 4th Cir. 1992).

### **Personal Injury**

Mr. Murphy obtained a directed verdict at trial in favor of an oil equipment manufacturer sued by survivors of a decedent who died when a high pressure clamp separated while under extreme pressure. *Cathy Lavergne v. Cameron Iron Works, Inc.*, No. 90-4558 (5th Cir. 1991).

### **Architect Liability**

Mr. Murphy secured the dismissal of multi-million dollar claims brought by an electrical subcontractor against an architect for the construction of a military hospital; the decision reconciled which prescriptive period under Louisiana law applies to claims brought by a contractor against a designer when no contractual privity exists between the two parties.

*Merchants National Bank & Trust Co. of Indianapolis v. Smith, Hinchman & Grylls Associates, Inc. and The Mathes Group*, 876 F.2d 1202 (5th Cir. 1989).

### **Transportation - Personal Injury**

Mr. Murphy secured a defense verdict for a towing company sued by the survivors of a decedent whose fishing vessel collided with a tug and barge.

*Ruth Schoonmaker v. Capital Towing Company*, 512 So.2d 480 (La. App. 1st Cir. 1987).

### **Maritime - Personal Injury**

Mr. Murphy obtained the dismissal of a loss of consortium claim brought by the spouse of an injured seaman under maritime law.

*Phyllis Gaspard v. Transworld Drilling Company*, 468 So.2d 692 (La. App. 3rd Cir. 1985).

### **Personal Injury - Jones Act**

Mr. Murphy successfully defended an oil drilling company against a back injury claim brought by a Jones Act seaman; the decision clarified the legal standard to be applied for granting a motion for new trial on a Jones Act claim.

*Kenneth Smith v. Transworld Drilling Company*, 773 F.2d 610 (5th Cir. 1985).

### **Engineer Liability**

Mr. Murphy defended a mechanical engineering firm that designed the heating, ventilation and air conditioning system in a \$14 million building New Orleans Assets, L.L.C. developed and leased to the General Services Administration for occupation by the Federal Bureau of Investigation in a suit for remediation costs and a diminution in property values as a consequence of an alleged manifestation of mold.

*New Orleans Assets, L.L.C. v. Carl E. Woodward, L.L.C.*, No. 01-2171 (U.S.D.C., E.D. La.).

### **Personal Injury - Engineer Liability**

Mr. Murphy secured the dismissal of plaintiffs' personal injury claims against the mechanical engineering firm that designed the heating, ventilation and air conditioning system in a suit by employees of Louisiana Tech University in Ruston, Louisiana, for alleged exposure to formaldehyde, mold and other substances in a newly constructed classroom building.

*Howell v. The Finney Company*, No. 458,587 (1st Judicial District Court for the Parish of Caddo, State of Louisiana).