



## Daniel W. McGrath

### Partner

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Dan McGrath represents major manufacturers, distributors, and service provider businesses in product liability, toxic tort, environmental, medical device, construction, and commercial matters. He regularly defends clients in consolidated, mass tort, and multi-district litigation and class actions in a variety of jurisdictions as well as in national and regional forums.

With more than 30 years of trial and litigation experience, Dan has represented clients in a broad variety of product liability and commercial litigation cases, including matters where chemicals, coatings, appliances, foods, beverages, outdoor power equipment, glass, lawn and garden equipment, medical devices and equipment, pharmaceuticals and biologics, fluid control equipment, and consumer products were at issue in the federal and state courts of 13 states. He has also tried to verdict multiple cases, including cases on behalf of park and recreation districts.

Dan is the former co-leader of Hinshaw's Defense Litigation Practice Group and a member of the firm's Executive Committee. He serves on the Board of Directors of the Federation of Defense and Corporate Counsel. Dan is a past chairperson of the Defense Research Institute's (DRI) Toxic Tort & Environmental Law Committee and Jury Trial Preservation Task Force.

## Professional Affiliations

- Defense Research Institute (DRI)
  - Toxic Tort & Environmental Steering Committee, 2014 – 2023
  - Jury Trial Preservation Task Force, Chair, 2015 – 2022
  - Issues & Advocacy Committee, 2014 – 2022
  - Committee on Engagement, 2014 – 2021
  - Select Nominating Committee, 2015
  - Toxic Tort & Environmental Law Committee, Chair, 2012 – 2014
  - SLG Climate Change Litigation, Leader, 2008 – 2012
  - Climate Change Litigation Task Force, Chair, 2010 – 2011; Vice-Chair, 2008 – 2009
  - SLG Chemical and Solvent Exposure, Leader
  - Toxic Tort & Environmental Law Seminar, Program Chair, 2005 – 2007
- Federation of Defense and Corporate Counsel

## Practices

Commercial Litigation  
Complex Tort & General Casualty  
Consumer and Class Action Defense  
Environmental  
Sustainability & ESG

## Education

J.D., Loyola University Chicago School of Law, 1982

B.A., *with high honors*, Loyola University of Chicago, 1979

## Admissions

Illinois  
Federal Trial Bar  
U.S. Court of Appeals for the Seventh Circuit  
U.S. District Court for the Central, Northern, and Southern Districts of Illinois  
U.S. District Court for the Northern District of Indiana



- Board of Directors, 2021 – 2023
- Illinois Membership, Chair, 2020 – 2023
- Corporate Counsel Seminar
  - Program Co-Chair, 2023
  - Marketing Co-Chair, 2020 – 2023
- Local Meetings Project Committee, Chair, 2017 – 2023
- Communications Committee/FDCC Flyer Editor, 2021 – 2023
- Lifetime Achievement Award Committee, 2007 – 2023
- Officers & Directors Nominating Committee, 2014; Chair, 2020
- Membership Development & Retention Committee, Vice-Chair, 2017 – 2019
- Visibility Project Committee, 2017
- Admissions Committee, 2014 – 2017
- Illinois State Bar Association
  - Civil Practice and Procedure Section
  - Civil and Tort Law Section
  - Product Liability Section
- Illinois Association of Defense Trial Counsel
- Society of Trial Lawyers

## Honors & Awards

- Holds the AV® Peer Review Rating from Martindale-Hubbell, its highest rating for ethics and legal ability
- Recognized on the Super Lawyers list by Illinois Super Lawyers magazine, 2005, 2007, 2009, 2011 – 2024
- Selected by his peers for inclusion in *The Best Lawyers in America*® for Mass Tort Litigation / Class Actions – Defendants, 2017 – 2024; Product Liability Litigation – Defendants, 2020 – 2024
- Recognized by *Best Lawyers*® as the Product Liability Litigation – Defendants "Lawyer of the Year" in Chicago, 2022
- Recognized by his peers as a "Leading Lawyer" in the areas of: Class Actions/Mass Tort Defense Law; Toxic Torts Defense Law; and Personal Injury Defense Law: Products Liability

## Representative Matters

Dan's extensive client base includes long-time representation of several Fortune 500 companies and other manufacturers, distributors, service firms, and insurers. Wide-ranging trial and litigation experience includes over 25 civil jury trials taken to verdict in various state and federal courts and leadership roles as national, regional, and coordinating counsel for clients in various product liability, toxic tort, and commercial litigation matters.

Experience with these clients is illustrated as follows:

### Medical Device Litigation

- Successfully defended a medical equipment manufacturer in several consolidated cases pending in Cook County, Illinois Circuit Court brought on behalf of individuals or estates alleging CRE infections developed in patients as a consequence of endoscopic surgical procedures performed with duodenoscopes at a large Chicago teaching hospital. The plaintiffs contended the client's product did not properly clean and disinfect surgical instruments to permit reuse.
- Successfully defended a Swiss medical device manufacturer in federal court sued for deceptive business practices, breach of contract, and breach of warranty by a physicians group relating to a specialized piece of medical equipment by contesting jurisdiction.
- Awarded a summary judgment on behalf of a manufacturing client in a case by establishing that a hospital's misapplication and misuse of an endoscopic instrument along with negligence of the attending physician in its



deployment were at issue, rather than a manufacturing issue.

### **Product Liability and Commercial Disputes**

- Represents numerous manufacturers, distributors, and service firms in product liability and commercial matters. Counsels clients in the full spectrum of legal issues arising from product manufacturing and distribution, including developing product literature and labeling content, managing product recalls, drafting sales and distribution agreements and related contract documents, and litigation and trial of product liability suits.
- Serves as product liability counsel for manufacturers of food equipment, food, and beverage flavorings, household appliances, heating/air-conditioning/ventilation equipment, aerospace products, glass, paints and coatings, chemicals, petroleum products, pumps, valves, electric motors, outdoor power equipment, lawn and garden equipment, medical devices and equipment, pharmaceuticals and biologics, and fall protection equipment.
- Successfully negotiated the settlement of numerous cases in addition to trying a variety of complex cases. Also deals with commercial disputes, property damage, and personal injury matters.
- Serves as national coordinating and trial counsel for a leading food and beverage flavor manufacturer in product liability matters pending in federal and state courts in six states.
- Served as national coordinating and trial counsel for a leading food and beverage flavor distributor in product liability matters litigated in state and federal courts in eleven states for eight years. Defended firm client, often a target defendant, in approximately 60 cases in a very challenging legal landscape where the products at issue were under close scrutiny by regulatory authorities, government agencies, and research scientists in the academic community. Led a team of Hinshaw attorneys, paralegals, and staff; ably complemented and supported by superb local counsel, responsible for managing this litigation from the commencement of the suit through trial and appeal. Hinshaw attorneys prepared all pleadings and discovery responses; managed document and electronically stored information production; deposed opposing experts; selected, prepared, and presented defense experts; conducted all party and witness depositions; prepared and presented all dispositive and other motions for trial and appeal, and tried matters to verdict.
- An aluminum roll-on-bottle closure manufacturer brought an action against a polyvinyl chloride plastic supplier seeking damages allegedly arising by reason of contamination of the plastic with petroleum distillate byproducts contaminating tens of thousands of cases of bottled beer. The Federal district court granted a motion for partial summary judgment holding a cause of action for upstream implied indemnity premised on strict liability in tort did not survive the enactment of the Illinois Contribution Act. This decision continues to be cited by Illinois practitioners dealing with indemnity issues. The case was successfully defended on the merits by establishing through scientific testing that the client did not utilize the particular petroleum distillate discovered to have contaminated the beer, and that same was present in a coating applied to the aluminum in the manufacturing process by the plaintiff.

### **Toxic Torts and Environmental Matters**

- Defends manufacturers, distributors, and other parties in property damage, personal injury claims, and suits associated with toxic torts and environmental contamination. Deals extensively with claims relating to chemical exposure, indoor air quality, mold, and communicable disease claims and suits in commercial real estate, health care facilities, manufacturing plants, public buildings, and school environments. He has considerable experience with groundwater and soil contamination and the resulting issues of liability and remediation. He has defended clients in both actual and proposed class actions.
- Defeated claims of approximately 75 workers brought in multiple actions in Cook County, Illinois Circuit Court seeking recovery of damages for claimed exposures to carbon disulfide and other chemicals at an Illinois manufacturing facility. The claims of each plaintiff were thoroughly discovered, and depositions of the parties, witnesses, and attending physicians were taken to establish the absence of a causal relationship between the alleged exposures and claimed diseases. The plaintiffs' counsel dismissed the suits with prejudice before deposing defense experts.
- Successfully defended three chemical manufacturers and one chemical distributor in consolidated cases, with approximately 35 plaintiffs seeking damages for various injuries and deaths allegedly caused by exposures to ethylene oxide gas in a Chicago hospital instrument sterilization unit. The claims of each plaintiff were thoroughly discovered; depositions were taken of all parties, witnesses, attending physicians, and experts; and the case was prepared for trial.



Summary judgment was granted in favor of our clients during pre-trial motion hearings at the outset of jury selection.

- Won summary judgment in favor of a leading chemical manufacturer in a complex wrongful death suit in federal court in Chicago, brought on behalf of the estate of a truck driver asphyxiated while attempting to remove residual glue containing trichloroethylene from a tanker truck. The plaintiff brought claims for strict liability, negligence, breach of warranty, and distribution of unavoidably unsafe and hazardous materials against the trucking carrier, glue manufacturer, and manufacturers of the ingredients comprising the glue. The court granted summary judgment, ruling that the client had no duty to warn the plaintiff under any pleaded theory.
- A long-time industrial chemist brought strict tort liability and negligence claims against several leading chemical manufacturers and suppliers, alleging he developed cancer as a consequence of exposures in the workplace to an assortment of solvents. The case was discovered, and a motion for summary judgment was granted by the trial court and affirmed on appeal on the grounds that the plaintiff knew more than two years before the suit was filed of his disease and its potential wrongful cause, even though his specific cancer was not diagnosed until the year suit was filed. The case continues to be cited by practitioners for the proposition that manufacturers may assume that warnings, if communicated, will be heeded, thereby avoiding liability.
- Successfully defeated an effort to certify a purported class of 2,500 apartment unit dwellers housed in four 30-story apartment building complexes in Chicago against the property owner and property manager due to a claimed pest infestation in Cook County, Illinois Circuit Court. The individual claims of the proposed class members and other plaintiffs were litigated and disposed of by motion practice before initiation of expert witness discovery.

### Commercial Litigation

- Counseled and represented clients in a variety of commercial and construction claims and suits and breach of contract and warranty claims. Drafted and negotiated contracts, sales and supply agreements, warranties, and employment agreements.
- Successfully defended a leading food and beverage manufacturer in a suit seeking millions of dollars for alleged breach of contract to construct a bakery in Mexico litigated in federal court in Chicago. Summary judgment was entered in favor of our client at the close of discovery.
- Successfully defended a leading adhesive manufacturer in a suit seeking millions of dollars in damages for tortious interference with contract and intentional interference with business relationship litigated in federal court in Chicago. Summary judgment was entered in favor of the client at the conclusion of discovery and shortly before trial as the plaintiff failed to meet its burden of proof on all claims pleaded. The court further found that plaintiff had failed to establish damages with reasonable certainty to permit recovery.
- Successfully defended leading chemical distributor in federal court suit seeking recovery of millions of dollars in damages under breach of contract and warranty theories for alleged coatings failure. The district court granted the client's motion to dismiss all claims asserted.

### Presentations

- Co-Program Chair and Moderator, "Current Developments and Best Practices in Class Action Litigation," Federation of Defense & Corporate Counsel Symposium, Philadelphia, Pennsylvania, October 24, 2023
- Co-Program Chair and Moderator, "Lessons from the Varsity Blues Scandal," 2023 Federation of Defense & Corporate Counsel Symposium, Philadelphia, Pennsylvania, October 24, 2023
- Moderator, "A Regulatory and Legislative Perspective of State Attorney Generals and United States Attorneys," Federation of Defense & Corporate Counsel (FDCC) Seminar, Philadelphia, Pennsylvania, October 6, 2020
- FDCC Chicago Corporate Counsel Seminar Chairperson, Chicago, Illinois, June 2019
- Panelist, "Keeping Your Business Clients Happy in Turbulent Times," FDCC Winter Meeting, Austin, Texas, March 25, 2019
- "Expert Witness Examinations and Adoptive Admissions Under FRE 801 (d)," FDCC Annual Meeting, Maui, Hawaii, July 2018



- FDCC Chicago Corporate Counsel Seminar Chairperson, Chicago, Illinois, June 2018
- "Responding to a Subpoena in Federal Civil Litigation," FDCC Winter Meeting, February 2018
- "Emerging Issues in Third-Party Litigation Funding of Product Liability and Commercial Matters," FDCC Annual Meeting, Montreux, Switzerland, July 2017
- "Insights From The Bench: Key Issues For Judges and Juries," DRI Toxic Torts & Environmental Law Seminar Panel Presentation, New Orleans, Louisiana, March 2017
- "Defending "Take-Home" Asbestos Exposure Claims," The Hartford Insurance Company Legal and Claims Department, Hartford, Connecticut, September 2016
- "Product Liability Claims and Recalls - Managing The Media," Willis Client Educational Series Webinar, November 2014
- "Product Liability Claims and Recalls - The Basics," Willis Client Educational Series Webinar, September 2014
- "Household Chemicals – The Next Wave," panel moderator, ABA Litigation Section seminar "Chemical Products and Toxic Torts at a Crossroads," Houston, Texas, September 2009
- "Food Industry Respiratory Cases are Popping Up All Over," Defense Research Institute seminar "Toxic Torts and Environmental Law," Phoenix, Arizona, March 2009
- "Diacetyl and Food Flavoring Litigation," paper and presentation, Hartford Insurance Company Complex Claims Group, Hartford, Connecticut, January 2007
- "State of the Art – Who Knew What and When," paper and presentation, Mealey's Benzene Litigation Conference, Marina del Rey, California, June 2006
- "Guidelines for MDL Litigation," paper and presentation, Hartford Insurance Company Complex Claims Group, Hartford, Connecticut, December 2004
- "Construction Defect Litigation and Mold - The Contractor's Perspective," paper and presentation, Annual Meeting of the International Association of Defense Counsel, Whistler, British Columbia, Canada, July 2002
- "Defense of Indoor Air Quality and Mold Claims," paper and presentation, Consumer Specialty Products Association, Annual Meeting, Ft. Lauderdale, Florida, December 2001
- "Product Liability and Intellectual Property Law in the United States of America for Electronic Videogames," paper and presentation, Sumitomo Insurance Company, Chicago, Illinois, 1996
- "Procedural Issues: Pleadings and Discovery in Toxic Tort Cases," paper and presentation, Chicago Bar Association Continuing Legal Education Seminar, Chicago, Illinois, 1994
- "Evaluation and Defense of Spinal Injuries," paper and presentation, Pekin Insurance Company, Chicago, Illinois, 1994
- "Trial of a Product Liability Suit," paper and presentation, CNA Insurance Companies, Chicago, Illinois, 1990

## Publications

- "Emerging Issues in Third Party Litigation Funding," paper and presentation, FDCC Annual Meeting, Montreux, Switzerland, July 2017
- "Judicial and Legislative Responses to the Vanishing Civil Jury Trial," DRI Toxic Torts & Environmental Law Seminar, New Orleans, Louisiana, March 2017
- "GHS Adoption in the Face of Daubert," *Occupational Health & Safety Magazine*, authored by Daniel W. McGrath with James M. Hofert and Frederick J. Ufkes, May, 2014
- "Providing Superior and Timely Insight," *DRI For the Defense Magazine*, April 2014
- "Developing Knowledge to Craft Effective Strategies," *DRI For the Defense Magazine*, January 2013
- "Diacetyl and Food Flavoring Litigation," paper and presentation, Hartford Insurance Company Complex Claims Group, Hartford, Connecticut, January 2007
- "State of the Art – Who Knew What and When," paper and presentation, Mealey's Benzene Litigation Conference, Marina del Rey, California, June 2006



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## Community/Civic Activities

- Christ the King Jesuit College Preparatory School, Corporate Work Study Program, Member
- Georgetown University's Parents' Advisory Council, Member
- Our Lady of Perpetual Help Church & School, Glenview, Illinois, Men's Club Member, Director and President
- Our Lady of Perpetual Help School Endowment Fund, Member, Director
- Loyola Academy Ramble, Past Director, Co-Chair and Chairperson
- Misericordia, Volunteer
- Golf Acres Community Association, Director and President