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Related Practices

Labor, Employment and Benefits

Litigation

Alternative Dispute Resolution

Appellate

Class Actions and Mass Torts

Commercial

Insurance

Product Liability

Torts / Personal Injury

Related Industries

Manufacturing

Case Stories

Absence of successor liability following series of acquisitions yields defense win

OVERVIEW

In his 30th year of practice, Don DeCandia focuses primarily on the areas of products liability, tort and personal injury, and ERISA litigation. He has litigated complex commercial cases and class actions and has a depth of experience in appellate work. Don believes that listening and attention to detail are key components of a successful practice. He maintains close communications with client contacts to ensure that informed judgment guides key decisions. Don has achieved the highest rating possible from *Martndale-Hubbell* and is recognized by *Best Lawyers in America*[®] and *Southwest Super Lawyers*[®].

Don has handled scores of products liability cases in the vehicle context, including the defense of several tire manufacturers in tire failure litigation. He has also represented building product and power tool manufacturers, and his practice includes insurance bad faith cases and premises liability matters. Many of his cases involve claims for wrongful death and serious personal injury.

Don's extensive experience in ERISA litigation includes representation of life, health and disability insurers, HMOs, self-funded plans, plan sponsors, plan administrators, pension plans and third-party administrators.

Don takes an active role in the management of the law firm. He has served recently as General Counsel for the firm (2017-2019), Head of the Litigation Department (2015-2017), a member of the Executive Committee (2011-2014) and Chair of the Tort, Products Liability and Railroad Practice Group, and he has been a member of the Associate, Intake, Client Relations and Technology Committees.

Education

University of Texas School of Law, J.D., 1989

University of Notre Dame, B.A. in English *cum laude*, 1986

Bar Admissions

New Mexico

U.S. District Court for the District of New Mexico

U.S. Court of Appeals for the Tenth Circuit

United States Supreme Court



EXPERIENCE

Representative Matters

- In a product liability case involving an alleged defect of a table saw, obtained a ruling from the Tenth Circuit Court of Appeals affirming the district court's summary judgment for the defense. The summary judgment interpreted a series of corporate acquisitions. Plaintiff argued under New Mexico law that the corporations that had acquired the saw's manufacturer were liable based on the product-line exception to the general rule of successor non-liability. The appellate court determined that Texas law applied and that defendants were not responsible for the design, manufacture or marketing of the table saw at issue. Motions dealt with evolving issues of personal jurisdiction, choice of law and important questions of successor liability. *Lopez v. Stanley Black & Decker, et al.*, U.S.D.C., D.N.M, No. 2:15-CV-00193 JB/GJF; Tenth Circuit, No. 18-2055.
- Received summary judgment for self-insured medical plan and third-party administrator in ERISA matter involving claim for medical transport to Massachusetts General Hospital. *Witte v. Blue Cross Blue Shield of Nebraska and TransCanada USA Services, Inc. Retiree PPO Plan*, U.S.D.C., D.N.M, No. 14-1084 SCY/GJF.
- Successful defense of Best Friends Animal Society in both State District Court and the New Mexico Court of Appeals in mandamus action that sought to curtail the City of Albuquerque's Trap-Neuter-Return program for feral cats. Appellate decision issued in 2016. *Britton v. Bruin, et al.*, No. D-202-CV-2013-09303; N.M. Ct. App. No. 34,283.
- Obtained summary judgment in premises liability case for a service station. Successfully opposed subsequent effort to amend complaint and pursue parallel lawsuit. *Madrid v. Valero Marketing and Supply Co.*, No. D-202-CV-2015-06968; *Madrid v. CST Services, LLC et al.*, No. D-202-CV-2016-04929.

ACTIVITIES

Professional Activities

- New Mexico Defense Lawyers Association – Former Co-Editor and Editorial Board Member of NMDLA's publication *Defense News*
- Modrall Sperling, Executive Committee, 2011-2014
- Modrall Sperling, Head of Litigation Department, 2015-2017
- Modrall Sperling, General Counsel, 2017-2019

Civic Activities

- Board of Directors, Animal Humane Association of New Mexico, 1996-2004
- Member, Animal Welfare Board for City of Albuquerque, 2003-2005

NEWS & ARTICLES



News

***Super Lawyers®* Names 31 Modrall Sperling Attorneys to 2019 List; Four Named Top 25 New Mexico Super Lawyers**

Posted on April 15, 2019 By Daniel Schueler

Modrall Sperling Attorneys Recognized by Best Lawyers® 2019

Posted on August 15, 2018 By Daniel Schueler

Super Lawyers Names 32 Modrall Sperling Attorneys to 2018 List; Four Named Top 25 New Mexico Super Lawyers

Posted on April 23, 2018 By Alexandra Schexnayder

Modrall Sperling Announces New Department Heads

Posted on March 15, 2015 By Modrall Sperling

HONORS

- *Best Lawyers in America®* in Commercial Litigation, 2018
- *Martindale-Hubbell AV®* Preeminent Peer Review Rated
- *Southwest Super Lawyers®* (derived from a lawyer survey), 2011-present