

Peter J. Macdonald

RETIRED PARTNER

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Peter Macdonald was a partner, a former vice chair of the firm's Litigation/Controversy Department, former co-chair of the Business Trial Group, and was a member of the Securities Litigation and Enforcement Practice Group. He joined the firm in 1984 and retired in 2018.

Mr. Macdonald was lead counsel or primary co-counsel in more than 25 trials, including matters in New York, Delaware, Massachusetts, Colorado, Maryland, Illinois, New Hampshire, Washington DC and Puerto Rico. In addition to extensive trial work, Mr. Macdonald obtained dismissal before trial of many more cases, and effectively negotiated settlement of numerous complex business disputes. These matters spanned a range of legal and business issues, including accounting questions, contract disputes, fraud claims, corporate governance matters, intellectual property, trade secrets, employment and securities law. In the field of securities litigation, Mr. Macdonald frequently defended federal securities law class actions for many publicly traded companies. Beyond trial court level work, Mr. Macdonald also argued many appeals, including before the Delaware Supreme Court, the New York Court of Appeals, the Massachusetts Appeals Court, and the Federal Courts of Appeal for the First, Second and Eleventh Circuits.

Mr. Macdonald published articles in both the *Boston University Law Review* and the *Boston Bar Journal* and was a co-author of *New York Business Litigation*.

Professional Activities

Mr. Macdonald was a member of the American Bar Association. He lectured on civil trial topics at continuing legal education programs, and is a former adjunct professor of law at Northeastern University School of Law.

Experience

Recent Highlights

Significant matters in the past five years include the following:

- Initiation and prosecution of an arbitration on behalf of a major medical device manufacturer seeking breach of contract damages. After trial of the matter, an arbitration award was issued for more than \$100 million and the losing party thereafter paid the principal amount of the award in full.
- Defense of an executive of a leading global financial services firm in a three week trial prosecuted by the Enforcement Division of the United States Securities and Exchange Commission. In a 95-page ruling, the court rejected the SEC's entire case and found that neither the executive (nor his employer, which had previously settled) had engaged in any wrongful conduct.
- Successful trial defense in Denver, Colorado, of a \$60 million fraudulent conveyance action against a New York-based clearing broker brought by a trustee on behalf of Ponzi scheme victims. After a two week trial, the claims were rejected and the claimant received a zero award.
- Successful defense of a former executive of a major New York-based bank in a two week jury trial in New York state court asserting claims of defamation.
- Initiation and prosecution of claims seeking preliminary injunctive relief against a major global telecommunications equipment company in proceedings brought in New York state court arising from license and trade secret claims. After a multi-day evidentiary hearing, the court granted broad injunctive relief.
- Defense of a publicly traded pharmaceutical company of a securities fraud class action in the Southern District of New York filed when the company's stock suffered a one-day 70 percent price drop after the disclosure of safety related information about a product in clinical trials. Mr. Macdonald obtained dismissal of the law suit and thereafter successfully defended the outcome on appeal before the Second Circuit.
- Conduct of a 58-day trial before the American Arbitration Association involving allegations against a European bank of financial fraud. As co-counsel, Mr. Macdonald both defended the claims (which were in excess of \$200 million) and pursued rights on behalf of the bank. After trial, the arbitration panel rejected the other side's claims, and made a monetary award in excess of \$20 million to Mr. Macdonald's client, including an award of 100 percent of the legal fees incurred in the matter.
- Defense of a securities fraud class action in the Northern District of Georgia arising from a restatement of five years of audited financial statements following an internal investigation of grants of "in the money" options. The case was dismissed, and thereafter the dismissal was affirmed by the Court of Appeals for the Eleventh Circuit.
- Defense before the Court of Appeals for the Second Circuit in obtaining affirmance of the dismissal of a putative class and derivative action brought against Mr. Macdonald's clients in the Southern District of New York.
- Defense of a three week trial before the American Arbitration Association involving license rights to molecular diagnostic probes. Mr. Macdonald's client prevailed on all issues and was awarded (and recovered) more than \$3 million in attorneys fees and expenses.
- Leadership of the legal team that obtained the release of Dewey Bozella, who had been wrongfully imprisoned in New York State for more than 26 years. The case,

handled on a pro bono basis, generated widespread media coverage. See *New York Times* October 29, 2009, A21, "Unyielding in His Innocence, Now a Free Man." For its work on the case, the team was given the Gideon Champion of Justice Award by the New York State Association of Criminal Defense Lawyers.

- Obtaining dismissal, on the first day of a jury trial in the United States District Court in Boston, Massachusetts, of a securities fraud class action after successfully cross-examining, and excluding on Daubert grounds, the testimony of the plaintiff bar's leading damages expert.
- The successful defense of a post-acquisition breach of contract case in a ten-day trial in New York arising from a \$240 million business acquisition. The dispute was between two Fortune 50 companies.
- Obtaining dismissal of a long-running \$600 million breach of fiduciary duty case pending in the Delaware Court of Chancery. The case had been litigated for many years, both before the Court of Chancery and the Delaware Supreme Court, and culminated in dismissal in late 2008. *Parfi v. Mirror Image International Inc.* 954 A.2d 911 (Del. Ch. 2008)

Recognition

Honors & Awards

- Selected by peers for inclusion in the 2016-2018 editions of *Best Lawyers in America* in the area of commercial litigation
- Recommended by *The Legal 500 United States* in 2016 and 2017 for his securities and financial services litigation practice

Credentials

EDUCATION

JD, Boston University School of Law, 1984

cum laude

Editor, Boston University Law Review

BA, Northwestern University, 1980

ADMISSIONS

New York

Massachusetts