

*Partner*

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**Practice Areas**

Antitrust & Trade Regulation

Business & Commercial  
Litigation

Class Action Defense &  
Multi-District Litigation

Health Care

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**Bar Admissions**

Colorado, 1999

Louisiana, 1978

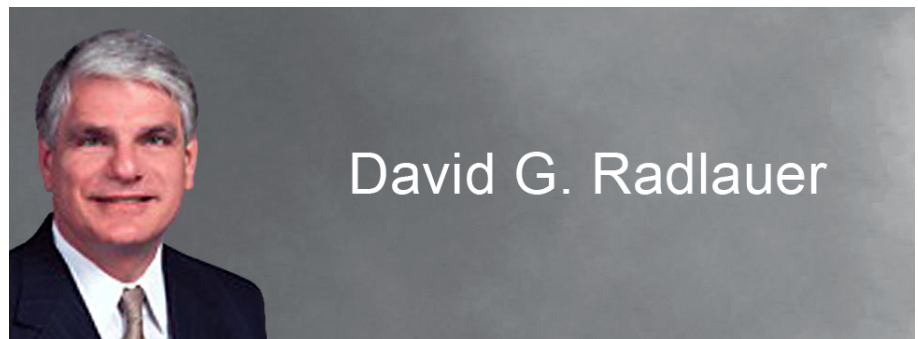
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**Education**

Georgetown University Law  
Center, J.D., 1978; Member,  
1976–1977, and Editor,  
1977–1978, *Law and Policy  
in International Business*

University of New Orleans,  
B.A., 1975, *magna cum laude*

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David Radlauer practices in the areas of antitrust law, class action defense, and business and commercial litigation. He joined the firm's New Orleans office in 1978, and was elected to partner in 1983. Mr. Radlauer is recognized by a number of notable organizations, including being listed in *The Best Lawyers in America*® (copyright Woodward/White, Inc.) in the area of antitrust law since 2005. Mr. Radlauer has been listed in *Louisiana Super Lawyers* in the area of Business Litigation since 2007.

Mr. Radlauer is a member of the firm's board of directors and previously served as chair of the firm's Strategic Planning Committee, as the head of the Business & Commercial Litigation Practice Group, as a member of the firm's former executive committee, and as the chair of Jones Walker's Practice Standards Committee.

Mr. Radlauer's experience includes matters in the areas of antitrust, class actions, and commercial cases and arbitrations.

**Antitrust Matters**

Serving as lead counsel for PHI, Inc., in a purported class action against the three largest providers of offshore helicopter services in the Gulf of Mexico. *Superior Offshore International, Inc. v. Bristow Group Inc., et al.*, No. 1:09-cv-438 (D.Del., filed 6/12/09). The plaintiff alleges price fixing of offshore helicopter services in violation of federal antitrust law.

Mr. Radlauer was co-counsel for PHI, Inc. in connection with a federal grand jury subpoena and investigation of the Gulf of Mexico helicopter services industry by the Antitrust Division of the United States Department of Justice.

Acting as lead counsel for Stewart Enterprises, Inc., in a purported nationwide

consumer class action against the three largest providers of funeral home services in the United States and the largest casket manufacturer. *Funeral Consumers Alliance Inc. v. Service Corp. International, et al.*, No. 4:05-CV-3394 (S.D.Tx.). Originally filed in the Northern District of California, the suit alleges that the defendants acted jointly to reduce competition from casket discounters and to fix casket prices in violation of the federal antitrust laws and the California Business and Professions Code. After a four-day evidentiary hearing, the court denied plaintiffs' motion for class certification on March 26, 2009. The Fifth Circuit denied plaintiffs' petition for permission to appeal on June 19, 2009, and denied plaintiffs' motion for reconsideration on July 29, 2009.

In addition, he was lead counsel for Stewart Enterprises, Inc., in *Pioneer Valley Casket Co., Inc. v. Service Corp. International, et al*, No. H-05-3399 (S.D. Tx.). Making allegations similar to those in the case above, several retail casket stores sought to represent a nationwide class of casket retailers. Soon after the district court denied their motion for class certification, the plaintiffs dismissed their claims.

He was lead counsel for Stewart Enterprises, Inc. in a civil antitrust investigations conducted by several state attorneys general, including Maryland, Florida, and Connecticut. The investigations were closed in 2009 without any action taken.

Mr. Radlauer served as lead counsel for BellSouth Telecommunications, Inc. in a commercial arbitration held in Atlanta brought by a local exchange carrier operating primarily in Southern Florida. The claimant alleged that BellSouth had violated federal antitrust law. While the arbitration was pending, the claimant filed for bankruptcy protection in Miami. Jones Walker joined a team of three law firms representing BellSouth in the bankruptcy proceedings. Because BellSouth uncovered evidence implicating the debtor's Chief Executive Officer "in problematic transactions," *In re Supra Telecommunications*, No. 02-41250-BKC-RAM (U.S. Bankruptcy Court. S.D.Fla.), the debtor appointed new executive leadership. The arbitration was resolved prior to trial.

#### **Class Actions**

Mr. Radlauer acted as lead counsel for Stewart Enterprises, Inc. in a purported

nationwide class action by consumers of funeral goods and services, *Henrietta Torres v. Stewart Enterprises, Inc.*, No. BC328961 (Los Angeles County Super. Ct.). This action was one of three similar cases against the three largest providers of funeral services in the United States alleging state law causes of action based on alleged violations of the FTC's "funeral rule" by each of the defendants. The court designated the first-filed case as the lead case and allowed all defendants to participate in briefings and hearings in the lead case. The court granted a summary judgment dismissing the lead case, which was affirmed on appeal. *Baudino v SCI California Funeral Services, Inc.*, 169 Cal.App.4th 773, 87 Cal.Rptr.3d 147 (Cal.App. 2 Dist. 2008). Jones Walker submitted briefs and arguments in the Superior Court and an *amicus* brief on appeal. The plaintiffs dismissed the action against Stewart Enterprises on March 11, 2009, without commencing discovery.

He represented Ochsner Clinic Foundation, a nonprofit hospital serving the New Orleans area, in a putative class action brought by uninsured patients who claimed that Ochsner charged them more for the same services than it charged for insured, Medicare, and Medicaid patients. This case was one of more than sixty similar suits brought against non-profit hospitals throughout the country by well-known class action plaintiff lawyers. The trial court's denial of class certification was affirmed on appeal by the Fifth Circuit. The plaintiffs agreed to dismiss the action soon thereafter. *Maldonado v. Ochsner Clinic Foundation*, 237 F.R.D. 145 (E.D.La. 2006), *aff'd*, 493 F.3d. 521 (5th Cir. 2007).

As lead counsel, he represented Grant Geophysical, Inc. in a purported class action brought by three landowners in Rio Grande City, Starr County, Texas. The plaintiffs alleged that Grant committed seismic trespass by conducting a large 3-D seismic survey spanning parts of three counties without their permission. The court granted summary judgment dismissing the case, which was affirmed on appeal. *Villereal v. Grant Geophysical, Inc.*, 136 S.W.3d 265 (Tex. App. 4th Dist.), *petition for review denied*, 2004 Tex. LEXIS 928 (Tex., 8/13/2004).

Mr. Radlauer and Tom Casey have defended General Motors Corporation in purported products liability class actions in state and federal courts in Louisiana, Arkansas, and Florida:

- *General Motors Corp. v. Bryant*, 374 Ark. 38, 285 S.W.3d 634 (Ark.2008). The Arkansas Supreme Court affirmed the district court's certification of a nationwide consumer class. The suit alleged that certain GM models had defective parking brakes. After it filed for bankruptcy protection, GM removed the case to bankruptcy court in Arkansas and successfully moved for transfer to bankruptcy court in the Southern District of New York.
- *Cole v. General Motors Corp.*, 484 F.3d 717 (5th Cir. 2007). Plaintiffs, who sought to represent a nationwide consumer class, alleged that a certain Cadillacs had defective side air bags. Although the district court certified a nationwide class, the Fifth Circuit reversed. The plaintiffs then settled on an individual basis.
- *White v. General Motors Corp.*, 835 So.2d 892 (La. App. 1st. Cir. 2002); 775 So. 2d 492 (La. App. 1st Cir. 2000). In 1996, General Motors reached agreement to settle a nationwide class action in which consumers alleged that certain pickup trucks were dangerous because the gas tanks were placed outside the trucks' frame rails. After a Louisiana court approved the proposed coupon settlement, plaintiffs' counsel obtained court orders altering the agreed terms of the settlement. As lead counsel for General Motors Corporation, Mr. Radlauer successfully argued on two separate occasions that the trial court had exceeded its authority in approving the alterations sought by plaintiffs' counsel.
- *In re Air Bag Products Liability Litig.*, 7 F. Supp.2d 792 (E.D.La. 1998)(Feldman, J.) Plaintiffs in this multi-district litigation against several domestic and foreign automotive manufacturers alleged that first generation air bags deployed too forcefully rendering the front passenger seat unfit for use by children and the elderly. As defense liaison counsel, Jones Walker negotiated a class certification schedule with plaintiffs' counsel that avoided expansive discovery and provided for hearings on summary judgment motions before class certification proceedings commenced. The court granted defendants' motions for summary judgment, obviating the need for any class certification proceedings.

- *Broomfield v. General Motors Corp.*, No. 03-2741 (E.D.La)(Zainey, J.). Plaintiffs, who sought to represent a class of Louisiana consumers, alleged that a certain Chevrolet model had defective brakes. This action was one of several similar actions pending against General Motors in six other states. The district court denied plaintiffs' motion for class certification (6/17/2004), and the plaintiffs voluntarily dismissed the action (4/8/2005).
- *Payne v. Don Bohn Ford, Inc. and General Motors Corp.*, 1998 U.S. Dist. Lexis 3688 (E.D.La. 1998)(Livaudais, J.). The plaintiffs, who sought to represent a class of Louisiana consumers, alleged that certain truck engines had defective pistons. The court denied the motion for class certification. The individual plaintiff then settled.
- *Edwards v. General Motors Corp.*, No. 50,667 (18th JDC 6/6/2003), *aff'd by supervisory writ*, No. 2003 CW 1359 (La. App. 1st Cir. 12/31/2003). The plaintiffs, who sought to represent a class of Louisiana consumers, alleged that a certain Chevrolet model did not have the specified spare tire. The court dismissed the case for improper venue.

### Commercial Cases and Arbitrations

Mr. Radlauer is lead counsel for Warrior Energy Services Corp. in *Crist v. St. James Capital Partners, L.P. v. St. James Capital Corp., et al.*, No. 2004-70333 (129th JDC Harris County, Texas). Plaintiffs alleged that the general partners in two investment limited partnerships breached fiduciary duties and engaged in self-dealing in connection with various investments, including those made in Warrior Energy Services Corp. Plaintiffs also alleged that Warrior aided and conspired with the general partners to breach their fiduciary duties and that Warrior violated the Texas Securities Act and committed fraud in connection with a public offering of securities. The trial court granted summary judgment dismissing all claims against Warrior. Plaintiffs' appeal of the dismissal of their public offering claims is pending in the 14th Circuit Court of Appeals.

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### Noteworthy

- Listed in *The Best Lawyers in America*® 2012 (Copyright 2011 by Woodward/White, Inc., Aiken, SC) in the areas of Antitrust Law and Litigation - Antitrust (listed annually since 2005)

- Listed in the 2012 edition of *Louisiana Super Lawyers* in the area of Antitrust Litigation (also listed in 2011), and in the area of Business Litigation (2007–2010)
  - **AV® Peer Review Rating in Martindale-Hubbell**
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#### **Presentations**

- "Recent Health Care Trends from a Legal and Compliance Perspective"  
Hollywood, Florida, November 17, 2011
  - "Health Care Legislation Update—Accountable Care Organizations, Medical Home, and Other Key Trends"  
Westin Diplomat Resort and Spa, Hollywood, Florida, May 26, 2011
  - "Under the Microscope: Advising an Industry or Trade Association Under Antitrust Scrutiny"  
Antitrust Law Spring Meeting, April 1, 2006
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#### **Publications**

- "Class Actions in Louisiana"  
*74 Tulane Law Review* 2047, 2000
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#### **Memberships**

- American Bar Association (Member, Section on Antitrust Law)
  - Louisiana State Bar Association (Chairman, Section on Antitrust and Trade Regulation (1995–1998))
  - Jewish Federation of Greater New Orleans (Former Member, Board of Trustees)
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#### **Court Admissions**

U.S. Supreme Court, 1984

5th Cir., 1981

E.D. La., 1978

M.D. La., 1980

W.D. La., 1983