



## Robert E. Kerrigan

Partner

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### Practices

Commercial Litigation

Aviation Litigation

Manufacturer's & Products Liability

Premises Liability

Professional Liability of Attorneys, Accountants, Agents and Brokers

### Industries

Insurance

Manufacturing

Aviation

### Bar Admissions

Louisiana

### Education

J.D., Tulane University, 1969

A.B., Spring Hill College, 1964

Robert Kerrigan gives careful consideration and personal attention to his clients and their problems. After an exhaustive review of case materials, he counsels clients to set forth a plan of action in order to get to a resolution point in a case.

He defends personal injury claims, including certified class actions and cases involving catastrophic events. He has experience defending cases involving industrial explosions and accidents, toxic exposure claims, product defect allegations, and aviation, trucking, and other transportation-related litigation.

Among his many cases in defending professionals against claims for damages are several claims involving insurance brokers in the aftermath of Hurricane Katrina. In one case, he obtained dismissal of an insurance broker in litigation with claims exceeding 18 million dollars, proving that the broker placed proper coverage.

Dating back to the 1980s, Bob achieved one of his most notable verdicts representing Pan American Airlines and the United States Government as lead trial counsel in the defense of an airline accident just outside of New Orleans, Louisiana where over 200 lawsuits were involved.

After graduating college, he completed basic Officer, Airborne & Ranger training in the United States Army, Infantry, retiring as a Captain in 1973.

When not defending his clients, Bob enjoys time with his family, friends, hunting and on the golf course.

### Professional Associations

- International Academy of Trial Lawyers
- American Bar Association
- Louisiana State Bar Association
- Network of Trial Lawyers, Founder & Chairman, 1995

### Accolades

- Louisiana *Super Lawyers*, 2007-2019
- *Martindale-Hubbell AV® Preeminent™ Peer Review Rated Lawyer*
- Who's Who Legal: Product Liability Defense 2017, 2018
- *The Best Lawyers in America®* 1995-2019
  - *Best Lawyers in America®* 2014 Litigation - Environmental "Lawyer of the Year,"

New Orleans, LA.

- *Best Lawyers in America*® 2012 Personal Injury Litigation - Defendants "Lawyer of the Year," New Orleans, LA
- *Chambers & Partners*, "Notable Practitioner," 2009-2017
- *New Orleans CityBusiness* "Leadership in Law: Top 50 Lawyers in New Orleans" 2008, 2009, 2013 (Hall of Fame)
- *New Orleans Magazine* "Top Lawyers," 2012-2014, 2016

### Representative Successes

- **Stroud v. Commerce & Industry Ins. Co.**

Robert Kerrigan and Jerry Glas defended an insurer against a serious TBI (traumatic brain injury) case dating back to 2010.

Plaintiffs claimed that the accident caused a cervical injury, a lumbar injury, and a traumatic brain injury that resulted in permanent and disabling psychiatric conditions, including four post-accident suicide attempts. The plaintiff's treating doctors (Dr. Gonzales-Toledo (neuroradiologist) & Dr. Howard Katz (Board certified Physical Medicine & Rehabilitation) all said she suffered from TBI in addition to serious psychiatric problems resulting in 4 post-accident suicide attempts. Treating psychiatrists all recommended 24-hour medical care for the remainder of her life. Her experts all agreed she was not malingering and she couldn't testify at trial. The existence of the TBI was called into question by her medical records that did not show clear signs of TBI until months to a little over a year post-accident.

Defendants stipulated to 100% fault for causing the accident and reserved their right to challenge at trial whether the accident caused the alleged injuries (medical causation) and the severity of those injuries (damages). Mr. Kerrigan and Mr. Glas argued the accident did not cause a TBI, and Plaintiff's experts were incorrectly blaming the accident for psychiatric illnesses that arose more than a year after the accident.

During closing, Shreveport plaintiff attorney Trey Morris asked for \$18.5 million. During his closing, Jerry Glas explained that the reasonable range was \$180,000, if they found the plaintiff did not have TBI, to \$2.8 million if they found she had TBI. After a 2 hour deliberation, the jury awarded \$1.5 million.

- **Solstice v. OBES, Inc., et al, U.S. EDLA No. 12-2417**

Robert Kerrigan and Raymond C. Lewis secured a favorable verdict for Ole Brook Directional Services and its insurer after a four-day jury trial in the U.S. District Court for the Eastern District of Louisiana. Solstice v. OBES, Inc., et al., U.S. EDLA No. 12-2417. In August 2011, JAM Petroleum LLC, as the operator of leases, and Solstice Oil & Gas I LLC, as the non-operating interest-holder, entered into a joint operating agreement to drill "ML Mann et al. No. 1 Well" in West Avondale Field, St. Charles Parish, La. JAM contracted with multiple drilling and servicing companies, including Ole Brook for its directional drilling services.

In October 2012, Solstice sued Ole Brook for breach of contract and negligence alleging that Ole Brook was charged with directionally drilling a non-vertical wellbore to a predetermined target bottom-hole location. Solstice alleged that Ole Brook's deviation from the drilling plan and failure to reach the target bottom-hole location required the drilling of a second, side-track well to test the prospect.

Ole Brook countered that Solstice, JAM, the Company Man, and other subcontractors had no experience drilling in South Louisiana and that lack of experience led to operational problems that pre-dated Ole Brook's work and prevented Ole Brook from completing its work. Specifically, Ole Brook alleged that the drilling fluid and mud weight program for the Well were insufficient and inadequately maintained to successfully directionally drill the Well to the desired depth and target bottom-hole location.

In closing argument, Solstice asked the jury to find Ole Brook 100% responsible for the failure of the drilling project and award \$5.7 million. Mr. Kerrigan explained that the

problems faced at this project had nothing to do with Ole Brook and Solstice, JAM, and the Company Man bore the lion's share of the responsibility for any alleged losses.

After nearly five hours of deliberations, the jury found that Ole Brook's work was not negligent but that it had breached a portion of its contract with JAM. However, the jury found Ole Brook to only be 10% at fault for Solstice's losses. The jury apportioned the remaining 90% of fault to JAM (50%), Solstice (20%), and the Company Man (20%). Lastly, the jury found that Solstice's total damages were only \$474,530 – less than 8% of Solstice's demand in closing.

- **Pan American World Airways**

Lead trial counsel in multi-district wrongful death/personal injury/property damage litigation arising from crash of Pan Am 759 into a suburban neighborhood near New Orleans in 1982. Litigation involved approximately 200 suits and was litigated from 1982 through 1985. Conducted discovery in and prepared over sixty suits for trial. Tried over twenty-five Pan Am jury trials, including numerous wrongful death suits, psychic injury claims of neighborhood residents, personal injury claims and numerous house damage claims involving extensive engineering investigation and testimony. Significant appellate practice followed a number of the trials. See, e.g., *Trivelloni-Lorenzi v. Pan American World Airways*, 789 F.2d 1092 (5th Cir. 1986), 821 F.2d 1147 (5th Cir. 1987) (en banc), reversed in favor of Pan Am on Warsaw Convention issue, 109 S.Ct. 1928 (U.S. 1989), on remand, 883 F.2d 17 (5th Cir. 1989); *Tudela v. Pan American World Airways*, 764 F.2d 1082 (5th Cir. 1985); *Turgeon v. Pan American World Airways, Inc.*, 764 F.2d 1084 (5th Cir. 1985); *Leconte v. Pan American World Airways*, 736 F.2d 1019 (5th Cir. 1984); *Giancontieri v. Pan American World Airways*, 767 F.2d 1151 (5th Cir. 1985); *Brun-Jacob v. Pan American World Airways*, 847 F.2d 242, 11 Fed. R. Serv. 3d 585 (5th Cir. 1988); *Bode v. Pan American World Airways, Inc.*, 786 F.2d 669 (5th Cir. 1986); *Savoie v. Pan American World Airways, Inc.*, 742 F.2d 1451 (5th Cir. 1984); *Eymard v. Pan American World Airways, Inc.*, 795 F.2d 1230 (5th Cir. 1986).

- ***In re Chemical Release at Bogalusa, No. 73.341 Div. "C"***

Following a five and a half week jury trial, obtained a defense verdict as to all claims brought by three employees of Gaylord Chemical/Container against a trucking company alleged to have delivered and moved four stainless steel trailers at Gaylord Chemical's Bogalusa plant. The last of the "Gaylord Chemical" cases, plaintiffs' alleged that their injuries and damages were caused by nitrogen tetroxide that leaked from the trailers in the days prior to the October 23, 1995, explosion. Because the cause of action accrued in 1995, plaintiffs were allowed to pursue punitive damages in addition to the forty million dollars (\$40,000,000.00) they prayed for in closing argument. After deliberating for forty-five minutes, the jury found in favor of the trucking company and against the plaintiffs, dismissing their claims, with prejudice, and at their cost.

- ***Averel Jackson v. Rose Phillips et al., 07-CA-963, La. App. 5<sup>th</sup> Cir. April 15 2008***

Appellate decision in favor of defendants and against a plaintiff who filed suit against a district judge's minute clerk and the Clerk of Court for the Twenty-Fourth Judicial District Court for what he claimed was his "unjust incarceration." Filed exceptions of prescription (statute of limitations) and of no cause of action under the theory of judicial immunity in the trial court, which were granted. Argued in the trial court and on appeal that the plaintiff, who filed suit more than five years after the alleged erroneous minute entry due to the clerks' negligence, had notice of his cause of action and thus should have filed a civil lawsuit within one year of learning of the alleged mistake. Also argued that even if the plaintiff's claims were timely, they were barred because the clerk's actions were cloaked in judicial immunity. The trial court and a 2-1 majority on the appellate court agreed.

- ***Gloria B. Martello v. City of Ferriday, et al. No. 36-358-A. Judicial Dist. Court, Concordia Parish, Louisiana***

This certified class action was originally filed on behalf of the residents of the Town of Ferriday. The action involved Ferriday's water treatment system, and primary claims were for injury, nuisance, and inconvenience. Plaintiffs also alleged that engineers engaged in

fraud to cover up their alleged negligence in designing the system. This case was vigorously defended under the immediate direction of our client, and was favorably settled to the client's satisfaction.

- ***Phillips v. Severn Trent Environment Services, Inc. and the Parish of Plaquemines, United States District Court for the Eastern District of Louisiana, No. 07-3889, Sect. "F," Mag. 4***  
This class action involves alleged water contamination and the failure to notify affected parties in a timely manner. The case involves upwards of 15,000 people. We successfully removed the case from state to federal court under the CAFA Statute, and have successfully defended against its remanding. Alleged damages include permanent gastrointestinal problems and other infirmities such as cancer. Due to the involvement of local government in the case, this matter has required both political finesse and a strong defense.
- ***Erick Molo v. Southern Magic, Inc., et al, Case Number 103,600, 16<sup>th</sup> District Court, Parish of St. Mary, State of Louisiana***  
Worker at a sugar mill filed suit after being struck in the head by a blowtorch, which fell from scaffolding forty feet above his head. Plaintiff sustained a comminuted and depressed skull fracture which required surgery to repair. At trial, Plaintiff alleged that he sustained permanent brain damage and was unemployable. We represented the excess carrier at the 2004 trial and the jury returned a verdict well within the primary insurer's offer.
- ***Carroll Menard, et al v. Cassidy Empire, Inc., et al. Docket Number 108225, Parish of St. Mary, State of Louisiana***  
A retired gentleman filed suit alleging that he sustained permanent brain damage after being struck by the digger bucket of a backhoe. The gentleman sustained a fractured skull and later required a burr hole to relieve the pressure caused by the subdural hematoma. Plaintiffs alleged that the gentleman required 24 hour care and/or institutionalization. The jury did not accept plaintiff's life care plan.
- ***Green v. Kmart Corporation, 2002-3198 (La.4/4/03), 840 So.2d 1209***  
*Green v. K-Mart Corporation* involved a claimant who alleged she sustained a closed-head injury as a result of being struck by falling merchandise at a K-Mart store. Our firm enrolled as appellate counsel for Kmart twenty days after the Third Circuit Court of Appeal increased the jury's award to plaintiff from \$1,458,000 to nearly \$4,500,000. With less than ten days remaining before the judgment became final and irrevocable, we drafted a successful writ application to the Louisiana Supreme Court, which vacated the opinion of the Third Circuit and remanded the case to the court of appeal for another hearing.  
  
The Third Circuit Court of Appeal again rendered judgment against K-mart for \$4,500,000. *Green v. K-Mart Corporation*, 01-675 (La.App. 3 Cir. 6/18/03), 849 So.2d 814. We again sought a writ of certiorari, and the Louisiana Supreme Court agreed to hear the case. In a unanimous opinion, the court reversed the Third Circuit and reinstated the jury's award. *Green v. K-Mart Corporation*, 2003-2495 (La.5/25/04 so.2d). This case involved two successful writs to the Louisiana Supreme Court and saved the client \$3,300,000 in principal and interest.
- ***Wooton v. Pumpkin Air, Inc., 869 F.2d 848 (5<sup>th</sup> Cir. 1989)***  
Obtained U.S. Fifth Circuit precedent applying the Gilbert forum non conveniens criteria to admiralty cases. Obtained similar precedent under the Outer Continental Shelf Lands Act requiring the law of the adjoining state to be applied to a rig accident precluding imposition of punitive damages under a "choice of law" theory. *Wooton v. Pumpkin Air, Inc.*, 869 F.2d 848 (5th Cir. 1989). Defended against severe burn injuries to occupant of helicopter in clear liability case. Favorable quantum verdict obtained given extent of burns to a 28 year old married man.
- ***Perniciaro v. Martin Marietta Corporation, 613 So.2d 775 (La.App 4<sup>th</sup> Cir. 1993)***

Family of worker filed suits seeking tort recovery worker's compensation benefits alleging worker's suicide was the result of mental illness produced by stress in work place; tort action dismissed on summary judgment; benefits denied in trial on merits.

- ***Mergen, et al v. Piper Aircraft Corporation, et al, 524 So.2d 1348 (La.App. 1<sup>st</sup> Cir. 1988)***  
Represented business owner of aircraft who sued manufacturer in redhibition and negligence to recover value of twin engine Navajo Chieftain.

### **Presentations**

- “Fundamentals of Brain Trauma Cases,” Lorman Education Services Seminar, New Orleans, LA, 2004
- “Litigation Strategies that Work,” Damages II – Defense Research Institute Seminar, Las Vegas, NV, 2003
- “Crisis Planning, Response and Communication – What to Do Before, During and After Crisis Strikes,” Joint seminar with the Beuerman Miller Group, New Orleans, LA, 2002
- “Trial Demonstrations in an Automobile/Pedestrian Collision Case – From Opening Statements to Jury Deliberations,” The Foundation of the American Board of Trial Advocates – Masters in Trial Seminar, New Orleans, LA, 2000
- “The Psychology of Big Trials,” New Orleans Bar Association Joint Inn of Court Seminar, New Orleans, LA, 2000