

Matthew J. Malinowski
Partner

1350 I Street, NW
Washington, DC 20005
T 202.898.5860 F 202.682.1639
mmalinowski@hollingsworthllp.com



Matthew J. Malinowski focuses his practice on highly complex, "bet the company" trials and litigation. He has defended corporate clients in serial mass tort litigation and trials, including both state and federal multi-district litigation. He specializes in the areas of medical device and pharmaceutical products liability defense, multiple plaintiff serial trials and related litigation, high-stakes financial and commercial contract disputes, high dollar lost business value and business interruption claims, and putative class action and mass groundwater and soil contamination cases.

Mr. Malinowski has a wealth of experience in all levels of high-stakes litigation. He has tried cases in state and federal courts and has handled every level of trial advocacy, including picking juries, in so-called "Judicial Hellhole" jurisdictions. He has extensive experience in cross and direct examinations of fact and expert witnesses at trial, as well as conducting summary judgment and *Daubert* dispositive motions hearings, both pre-trial and during trial, in courts throughout the country.

Over the last several months, Mr. Malinowski has developed a specialty for successfully defending brand-name pharmaceutical companies against so-called "innovator liability" claims by plaintiffs allegedly injured by exposure to generic drugs. This includes obtaining pre-litigation dismissals in courts in Texas and Idaho based on the rejection of the innovator liability doctrine as a valid cause of action. (See W.D. Texas order.)

Mr. Malinowski is lead trial counsel for one of the world's largest petrochemical companies in serial state-court trials in Iberville Parish, Louisiana stemming from a plant explosion and subsequent two-year plant shutdown. For the past three years, he has actively prosecuted commercial contract claims against a large company that formerly co-owned and operated the plant under both breach of contract and contractual indemnification causes of action with hundreds of millions of dollars at stake. Trial in that matter is set for November 2020. From 2014 through early 2017, he litigated, tried and picked juries in multiple personal injury cases involving the same plant explosion.

In 2014, he successfully tried for a large pharmaceutical company a case on remand from one of the most active federal MDLs, achieving a defense verdict in Florida after the jury deliberated for less than 45 minutes following a three-week trial. In that same litigation, he obtained summary judgment on various different independent legal grounds in multiple cases, including specific causation, general causation, and adequacy of the drug's warning. He has also obtained a dispositive *Daubert* victory excluding a serial causation expert's opinion in its entirety as unreliable.

Litigation

Common Carrier Liability
Complex Litigation
Investigations
Pharmaceutical Products
Toxic Torts & Products Liability

Education

Michigan State University (B.A., 1998, *with honors*)
Emory University School of Law (J.D., 2003)

Admissions

District of Columbia and Virginia
United States Court of Appeals for the Fifth Circuit
United States District Court for the Eastern District of Virginia

Mr. Malinowski regularly advises clients on various employment and labor controversies both before and after litigation has ensued. He represents corporate clients in extra-jurisdictional document production disputes involving internal employment files and other highly sensitive corporate documents and assessments. He also counsels clients on the proper handling and best practices associated with different garnishment proceedings throughout the country. He leads interviews of potential corporate witnesses both before and after lawsuits are filed to develop a detailed understanding of the underlying facts necessary to present the best possible corporate liability litigation defense.

Mr. Malinowski has been heavily involved in some of the Firm's most notable recent cases. In 2018, he represented an industry sponsored recycling program as lead counsel in an anti-trust case pending in California. He represented a large Firm client in the defense of a substantial lost business value and business interruption case stemming from a train derailment at an industrial plant site, in which the plaintiff company sought hundreds of millions of dollars in alleged damages. That trial, which was tried in the U.S. District Court for the District of South Carolina, lasted just one out of an anticipated three months before the parties reached a confidential settlement.

Mr. Malinowski also represented a medical device manufacturer in serial litigation involving surgical mesh used to repair hernias, and was part of the trial team for the first jury trial in that litigation, which resulted in a complete defense verdict that was subsequently named by *The National Law Journal* as one of the year's "Top Ten Defense Wins." He has actively participated in both pre-filing and post-filing investigations and corporate witness interviews regarding a recalled product for the same client, and helped develop winning litigation strategies from the ground up based on these investigations.

Mr. Malinowski has experience conducting extensive jury selection in state courts, often against high-profile local plaintiffs' attorneys. He has experience handling every aspect of trial practice. He regularly conducts trial examinations of experts in medical, economic, financial, petrochemical, environmental disciplines, and corporate witnesses. Mr. Malinowski has conducted affirmative direct examinations of corporate witnesses at trial, and has defended employees in numerous depositions. He also has prepared pre-trial mock jury presentations and represented some of the Firm's largest clients in high-stakes mediations. He has been instrumental in the successful resolution of many of the Firm's complex cases, including *Daubert* summary dispositions and trials.

Mr. Malinowski is an active member of the National Association of Railroad Trial Counsel (NARTC). He currently serves as a member of the executive committees on preemption and program issues for NARTC, and serves as a faculty member instructor for the NARTC's Annual Trial College — an intensive six-day trial techniques course attended by attorneys throughout the country. He has also given numerous presentations on various topics throughout the country, including ethical and strategic trial strategies in high profile litigation.

Mr. Malinowski is a member of the Defense Research Institute and The John Carroll Society. He was a summer associate at the Firm in 2001 and 2002, practiced as an associate beginning in 2003, and became a partner in early 2011.

Publications

And The Defense Wins: DRI's *The Voice* recognizes Matt Malinowski as district court rejects innovator claims against Firm client Novartis

Pursuing Sanctions Under 28 U.S.C. § 1927: An Underused Defense Strategy

And the Defense Wins: DRI's *The Voice* recognizes Matthew J. Malinowski in win before trial.

And The Defense Wins: DRI's *The Voice* recognizes Firm partner in summary judgment win for Novartis.

Avoiding the Sideshow: One Trial Judge's Textbook Application of *Daubert* to Exclude Dubious Testimony