

DAVID L. WALLACE

PARTNER

30 Rockefeller Plaza
New York, NY 10112
United States of America

tel +1 (212) 408-5498
fax +1 (646) 710-5498
email dwallace@chadbourne.com
online www.chadbourne.com/dwallace



Practice Areas

Litigation
Next Generation Vehicles
Products Liability Counseling
and Defense

Industries

Consumer Products
Nanotechnologies

Regions

Asia
Australia and the Pacific Rim
Europe
North America
United Kingdom
United States
Canada

Admissions

1988 New York
1995 U.S.D.C. - E.D.N.Y.
1992 U.S.D.C. - S.D.N.Y.
2002 U.S. Ct. App. - 5th Cir.
2009 U.S. Ct. App. - D.C. Cir.

Languages

English

Practice Description

David Wallace is a courtroom lawyer with extensive experience in a wide range of products liability litigation and related defense counseling. His cases have involved litigation throughout the Americas and the United Kingdom.

Representative Matters

- *City of St. Louis v. The American Tobacco Co.*, No. CV982-09652 (St. Louis, Missouri). In April 2011, he won a defense verdict for British American Tobacco (Investments) Ltd. after a four-month jury trial of a multi-billion dollar healthcare cost recoupment action.
- *United States v. Philip Morris USA, Inc.*, No. 99-2496 (Washington, D.C.). In March 2011, after more than a decade of litigation involving a nine-month-long bench trial and multiple appeals, he delivered a major victory for BATCo in this landmark \$280 billion civil fraud action brought by the U.S. government under the federal RICO statute. On remand, after losses at the trial and appellate levels, he secured a favorable result for his client on a motion for reconsideration, arguing that an intervening decision by the U.S. Supreme Court on extraterritoriality (see *Morrison*), had invalidated the sole legal basis for BATCo's liability.
- *Rosen v. B&W Holdings, Inc.*, No. 018589/97 (Mineola, New York). In June 2005, he argued and won directed verdict on plaintiffs' failure to warn and design defect claims leading to the collapse of plaintiffs' case. His "searing cross-examination" of plaintiffs' treating psychiatrist made headlines. See R. Topping, "Psychiatrist Testifies in Habitual Smoker's Case," *Newsday* (June 16, 2005).
- *DuJack v. Brown & Williamson Tobacco Corp.*, No. 07-99-728255 (Rockville, Connecticut). In November 2001, in the first trial of its kind in a Connecticut state court, he won directed verdict on plaintiffs' design defect claims, producing a defense verdict later profiled in *The National Law Journal* (Jan. 7, 2002).
- *Dean v. Gallaher Ltd.* (Belfast, Northern Ireland). In October 1996, in the Queen's Bench Division of the High Court of Justice in Northern Ireland, he teamed with Belfast solicitors and Queen's Counsel (now Mr. Justice) John Gillen to win the first tobacco case ever heard in the United Kingdom. With trial limited to the preliminary issue of whether Mr. Dean had a rare disease known as thromboangiitis obliterans (Buerger's disease), plaintiff dramatically abandoned his claims during the cross-examination of his vascular surgeon.
- *Allgood v. R.J. Reynolds Tobacco Co.* (Houston, Texas). This case, which was filed in the Southern District of Texas, is an example of the many products liability claims he has defeated on motions for summary judgment in both federal and

This material may constitute Attorney Advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

state courts. See 80 F.3d 168 (5th Cir.), cert. denied, 117 S.Ct. 599 (1996); See also *Cleustz v. The American Tobacco Co.*, 961 F. Supp. 143 (M.O. La. 1996), *aftd* 72 Fed. Appx. (5th Cir. 2003).

- *Civil-Law System Experience.* In the late 1990s, he coordinated the successful defense of several hundred products liability cases, both individual and representative actions, against the holdings of an English company in courts across Central and South America.

Honors

Mr. Wallace's courtroom experience has earned him recognition as a "high caliber" lawyer with "a likeability factor that is invaluable in front of a jury" (*The Legal 500 US*, 2007-2011), and a "litigation star" (*Benchmark Litigation*, 2009-2011). He is included in the International Bar Association's *Who's Who Legal* (2011), and the ranks of *New York Super Lawyers* (2006-2011).

In April 2009, *Nanotechnology Law & Business* named Mr. Wallace to its "Top Ten" list of experts on "environmental, health and safety issues related to engineered nanomaterials" who are expected "to play leading roles in nanotechnology law and business." See 6 *Nanotechnology Law & Business* 133 (Spring 2009).

The *Australian Financial Review* reported that Mr. Wallace's pre-trial cross-examination of the key witness against his client in a civil RICO case—an affiliate's former general counsel turned whistleblower—caused the witness's Australian barrister "extremel] disappoint[ment]" and the witness to "storm out of the examination." Some of the novel, multi-jurisdictional discovery disputes he litigated in the course of this RICO case were covered by *The National Law Journal*.

Activities and Affiliations

- Member, International Association of Defense Counsel (IADC)
- Member, Defense Research Institute (DRI)
- Board of Editors, *Product Liability Law & Strategy* (ALM Publication)
- Advisory Board, The Nanoethics Group (Cal. Polytechnic State Univ.)
- Advisory Board, *Nanotechnology Law & Business*
- Past Member, Product Liability Committee, International Institute for Conflict Prevention and Resolution

Publications

Mr. Wallace writes frequently on various products liability and other legal topics. He is also the editor of *In re Products Liability*, a Chadbourne newsletter dealing with noteworthy trends and developments in the products liability field.

- "Lies, Damned Lies, and Addictions: The Strange Case of the Disappearing Person and the Bogey of Determinism", *Product Liability Law & Strategy* (ALM), (forthcoming Jan. 2012)
- "Addiction and Responsibility: Thoughts on the Misuse And Misunderstanding of Addiction in the Courtroom," *39 Prod. Safety & Liab. Rep. (BNA) 1167 (Oct. 24, 2011); 12 Class Action Litig. Rep. (BNA) 992 (Oct. 26, 2011); 26 Toxics L. Rep. (BNA) 1286 (Oct. 27, 2011)*, October 2011
- "In re Products Liability NewsWire," April 2009
- "Practice Tip: A Litigator's Guide to the 'Siren Song' of 'Consumer Law' Class Actions," *Product Liability Law & Strategy*, February 2009
- "The Trojan Horse of Modern Consumer Class Actions: Consumer Protection or Corporate Blackmail? A Litigator's Guide to 'Consumer Law' Theory and Practice," in *Barreau du Quebec, Developpements Recents En Recours Collectifs 1-26*, (Montreal: Editions Yvon Blais, 2008)
- "Mediating the Uncertainty and Abstraction of Nanotechnology Promotion and Control: 'Late' Lessons from Other 'Early Warnings' in History," *Nanotechnology Law & Business* 309-312, Fall 2008

- "In re Products Liability NewsWire," July 2008
- "Chadbourne on Nanotechnology: The Need for New Policy and Business Paradigms," *Product Liability Law & Strategy*, July 2008
- "In re Products Liability NewsWire," April 2008
- "Nanotechnology And The Power Of Innovation," *Technology Law360*, Portfolio Media, Inc., January 25, 2008
- "Industrial Revolution Redux -- Nanotechnology: Law and Business at One-Billionth of a Meter," (co-author), *Product Liability Law & Strategy*, January 2008
- "Nanotechnology: The Future Is Now," (interview), *The Metropolitan Corporate Counsel*, December 2007
- "Small Is the New Big," (co-author), *IPFrontline Magazine of Intellectual Property and Technology*, November 27, 2007
- "Nanotechnology and Product Safety," (co-author), *Product Liability Law360*, November 26, 2007
- "In re Products Liability NewsWire," November 2007
- "The Commercial Risk of International Trafficking in American-Style Tort Litigation," *Bloomberg Law Reports - Litigation*, October 29, 2007
- "Eleventh Circuit Holds That Beryllium Sensitization May Be Cognizable 'Injury'," *Mondaq*, August 30, 2007, reprinted in *Product Liability Law360*, September 24, 2007
- "The Dispositive Preemption Question," (co-author), *Product Liability Law360*, July 30, 2007
- "In re Products Liability NewsWire," July 2007
- "Overview of Trademark Licensor Liability for Defective Products," (co-author), *Bloomberg Law Reports*, June 25, 2007
- "Trademark Licensor Liability for Defective Products Under U.S. Law," (co-author), *law.com*, May 16, 2007
- "In re Products Liability NewsWire," April 2007
- "'Lost in Translation': The Blurring of the Distinction Between Assumption of Risk and Comparative Fault by Tort Plaintiffs For Profit," *Strictly Speaking: The Newsletter of the DRI Product Liability Committee*, January 18, 2007
- "In re Products Liability NewsWire," November 2006
- "Beryllium Sensitization (Without More) Not A Disease Or Cognizable Tort Injury," *Mealy's Emerging Toxic Torts*, September 2006
- "In re Products Liability NewsWire," July 2006
- "A Dispatch from America's Tobacco Litigation Ranks: Primary Assumption of Risk and Personal Responsibility in a Comparative Fault Age," *Zeitschrift für Stoffrecht: The European Journal for Substances and the Law*, May 2006
- "In re Products Liability NewsWire," April 2006

Speeches and Events

- "Weathering the Storm: Financing Strategies in a Challenged Environment -- Exit Strategies Under Duress," (moderator), 2009 Nanobusiness Conference, Chicago, IL, September 8-10, 2009
- "Interview: Products Liability, Nanotechnologies and the Expansion of MEMS, and other Emerging Technologies," *The Bourne Report Radio Show*, (KXAM radio broadcast Nov. 16, 2008)

- "The Trojan Horse of Modern Consumer Class Actions: Consumer Protection or Corporate Blackmail? [A Litigator's Guide to 'Consumer Law' Theory and Practice](#)," Quebec Bar Association, Montreal, Canada, October 23-24, 2008
- "Interview: Nanotechnologies and Products Liability," *The Bourne Report Radio Show*, (KXAM radio broadcast Sept. 7, 2008)
- "Mediating Nanotechnology Uncertainty and Abstraction: Lessons from Recent History and the Case for New Paradigms," Credit Suisse Global Nanotechnology Conference, London, England, June 17-18, 2008
- "Nanotechnology Tools: Advancements in Characterization and Fabrication," (moderator); NanoBusiness Alliance Conference, New York, NY, May 4-6, 2008
- "The Perfect Storm? International Trade in American-Style Tort Litigation," Managing Production in Foreign Countries and Related Global Litigation, DRI Annual Product Liability Conference: Product Liability in the Global Economy, Phoenix, AZ, February 6-8, 2008
- Nanotechnology Law & Commerce: Business at One-Billionth of a Meter, (chair), New York, NY, January 31, 2008
- "The RICO Racket: Plaintiffs Having 'Fun with Fraud' and Products," Defense Research Institute's Annual Meeting, Products Liability Committee Meeting, San Francisco, CA, October 11-15, 2006

Education

Georgetown University, B.S.F.S., 1982

Georgetown University Law Center, J.D., *cum laude*, 1987