



## THOMAS H. FAIN

After a 40 plus year career as a trial lawyer, Tom has retired from his trial practice, but continues to consult with professionals in disciplinary disputes, and is available for consultation on other types of litigation. Tom has been elected by his peers into the American College of Trial Lawyers and the American Board of Trial Advocates. Tom's practice emphasized product and professional liability. He has represented hundreds of health care professionals over the years, and tried their cases before civil juries and professional disciplinary boards. Tom has worked closely with corporate counsel in representing some of the largest U.S. and foreign manufacturers of agricultural products, manufactured housing, consumer goods and industrial equipment with respect to claims brought in the Western United States. His other trial activities have included legal malpractice, contract claims, workers compensation jury appeals, construction, guardianship fraud, bankruptcy fraud and insurance fraud.

### Practice

- Medical Professional Liability Defense
- Licensing and Disciplinary Actions
- Products Liability
- Business Litigation

### Representative Cases

- Fain v Chapman, 89 Wn.2d 48
- Jeffries v Clark's Restaurant Enterprises, Inc., 20 Wn. App. 428
- Ohler v Tacoma General Hospital, 92 Wn.2d 507
- Roth v Bell, 24 Wn. App. 92
- DeHaven v Gant, 42 Wn. App. 666
- Gustav v Seattle Urological Associates, 90 Wn.App. 785
- Silves v King, 93 Wn.App. 873
- Fireman's Fund Insurance Co. v. Puget Sound Escrow Closers, Inc., 96 Wn. App. 227, 979 P.2d 872

### Education

- University of Texas at Austin School of Law, J.D., with honors, 1976  
Order of the Coif, Phi Delta Phi
- Southern Methodist University, B.B.A., 1969  
Double Major: Economics and Finance

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## **Admitted to Practice**

- Washington State Bar
- United States District Court - Western District of Washington, Western District of Texas, District of Idaho
- United States Court of Appeals - Eighth, Ninth and Tenth Circuits
- Pro Hac Vice Admissions: Montana, Hawaii, Wyoming, Arizona, Colorado, Texas, South Dakota

## **Professional Experience**

- Fain Anderson VanDerhoef Rosendahl O'Halloran Spillane PLLC, Of Counsel, 2019 - Present
- Fain Anderson VanDerhoef Rosendahl O'Halloran Spillane PLLC, Principal/Owner, 2015 - 2018
- Fain Anderson VanDerhoef PLLC, Member, 1997 to 2015
- Williams, Kastner & Gibbs, PLLC, Attorney, 1976-1982, Partner – 1983 to 1997
- Shell Chemical Co., Accountant and Senior Analyst, Financial Reporting and Computer Programming, 1970 to 1973

## **Professional Memberships**

- American College of Trial Lawyers
- American Board of Trial Advocates
- American Bar Association  
Trial Torts & Insurance Practice Section (TIPS)
- Defense Research Institute
- Washington Defense Trial Lawyers Association

## **Publications & Presentations**

Tom has presented to more than 30 legal, healthcare and other trade organizations over the years on a variety of topics, including:

Successful Medical Malpractice Suits  
Informed Consent  
Masters in Trial  
Telling Your Story as a Witness  
When Trouble Occurs: Some Legal Issues for Physicians  
Responding to Unanticipated Outcomes  
Expert Witness Testimony and the Litigation Process  
Ethical & Malpractice Issues in Forensic Work  
Protecting Your Practice and Your License  
Health Insurers' "Fraud and Abuse" Enforcement  
Trying Big Tort Cases  
Emerging Issues In HMO Tort Liability

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Limiting the Expert Witness: Before Judge and Jury  
Common Issues in Claim Investigation  
Punitive Damages from the Jury's Perspective  
Problems and Pitfalls in Litigation Involving a Foreign Party  
Product Liability Law in Washington  
Health Law: An Overview of Issues Affecting Providers  
Risk Management: Staying Out of Trouble  
Liability Issues for Primary Care Practitioners  
Comments on Expert Witnesses in Toxic Tort Litigation

**Honors & Awards**

- American Board of Trial Advocates – Masters in Trial Award (National, 2011)
- Tom has served by invitation as Director of the ABA/TIPS National Trial Academy in Reno, NV, Chair of the WSBA Multidisciplinary Task Force, and Chair of the ABA/TIPS Products Liability Committee
- Named a Super Lawyer by Washington Super Lawyers every year since 2003, and in Top 100 in years 2008, 2011, 2012, 2013