

## LAWYERS OF THE YEAR

## MADELEINE MCDONOUGH

*E-Discovery Pioneer*

Age: 41

Education: University of Missouri — Kansas City, Pharmacy, 1985;  
University of Kansas Law School, 1990

Professional Experience: Associate, Shook, Hardy & Bacon, 1990;  
Partner, Shook, Hardy & Bacon, 1998.

Helping corporate clients navigate the ever-changing world of electronic discovery is one of Madeleine McDonough's many duties. A partner with Shook, Hardy & Bacon, McDonough is a leader in the brave new world of e-discovery — offering seminars to lawyers, providing comments to a new proposed federal rule and helping to create the Sedona Draft E-Records Guidelines.

"This is a quickly evolving area of the law," McDonough said. Her job is "to ensure they have anticipated this changing landscape."

And her corporate clients are keen to get her guidance on the issues. Because her client base includes both national and international companies, it isn't unusual for the Kansas City lawyer to find herself on a plane bound for Switzerland to deliver in-person advice. McDonough said one of her basic goals in litigation is

to head off claims by an opponent — usually a much smaller entity — that her corporate client is engaging in discovery abuse. She noted that there is a "potential for people on one side with almost no documents to unfairly gain advantage over a side with millions of documents."

Accordingly, McDonough tries to work things out with opposing counsel — that way "e-discovery doesn't become the issue."

**Pharmacist First**

McDonough's path to the law began at the University of Missouri — Kansas City pharmacy school. Although it is normally a five-year program, McDonough attended school year-round and was able to graduate with a pharmacy degree in the space of four years.

During her time in pharmacy school, McDonough spent time in a number of rotations — assisting people with terminal illnesses who needed a pharmacist to manage their pain, handling chemotherapy for cancer patients, and working in a hospital pharmacy.

When McDonough graduated in 1985, she worked as a clinical pharmacist at the University of Kansas Medical Center. As a member of the code blue team, she said she was called on to use medicine in "life and death" situations.

"I really did see first hand how medicine saves lives," McDonough said. She wanted to be part of the discovery and innovation process and decided that a law degree would help her with that goal.

McDonough enrolled at the University of Kansas Law School in 1987. But even while she was a law student, McDonough continued to work part-time as a clinical pharmacist. And that, she said, kept "the false drama of law school" in perspective.

In 1989, McDonough accepted a summer clerkship at Shook Hardy. In May 1990, she joined the firm.

At the firm, McDonough has worked with a number of pharmaceutical companies on matters ranging from product liability defense to navigating the regulatory waters. And over the past 14 years, she's seen a number of changes.

One of the biggest problems, McDonough said, is that the public takes medications for granted and fails to appreciate that with a drug's benefits there are also potential dangers.

"Every single drug has risks. People forget that," McDonough said.

And since she's been practicing, drug makers have also been allowed to advertise directly to the public.

"Direct-to-consumer advertising has alerted consumers and patients that there might be something to benefit them," she said, noting that historically, people suffering from depression and migraines believed that nothing could be done to ameliorate their condition.

But with the advent of advertising, they are learning that there are ways to ease their pain. Consumers can "begin to have that conversation with their doctor," she said, but it is important for the doctor to still ultimately decide if the drug is right for the patient using a risk-benefit analysis.

And on the down side, McDonough said that advertising has brought the pharmaceutical industry into "sharper focus." Greater visibility means a greater chance for attracting lawsuits.

The Food and Drug Administration has also evolved, demanding more "anticipatory labeling," requiring companies to think in more theoretical terms about possible side effects that haven't popped up in clinical trials. It is up to McDonough to help her clients not only to understand the changing landscape but to comply with the shifting requirements.

In addition to serving her clients, McDonough has been active internally within Shook Hardy. She helped establish a summer intern program, served on the firm's hiring committee, and is on the firm's executive committee.

A Kansas City native, McDonough said she is happy to have been able to practice in her hometown. Even if that practice frequently requires her to jet off to more exotic locales from time to time.

— BY GERI L. DREILING