



David T. Schaefer

Partner
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David is a co-chair of the firm's Product Liability practice group. He has extensive experience defending a wide variety of clients, including automotive, pharmaceutical and medical device companies in product liability cases. He also handles insurance coverage and general litigation matters, including asbestos, premises liability and commercial cases.

Understanding each client has unique tolerances and objectives, David works with his clients at the outset to provide them with a thorough evaluation of the case and identify their options before crafting a strategy that fits their needs. He is adept at all aspects of building a defense, from conducting on-site investigations to taking depositions and securing expert testimony to preparing a case for trial. He has significant experience negotiating settlements but also has taken numerous cases to trial in state and federal courts in Kentucky and Indiana. His appellate experience includes arguments before the Kentucky Supreme Court, Kentucky Court of Appeals, Indiana Supreme Court, Indiana Court of Appeals, and the Sixth Circuit Court of Appeals.

Services

- Litigation
- Tort
- Mass Tort
- Product Liability

Education

- Indiana University Maurer School of Law (J.D., *cum laude*, 1986)
 - Indiana Law Journal
- Indiana University (B.A., *with honors*, 1983)
 - Phi Beta Kappa

Bar Admissions

- Kentucky

- Indiana

Court Admissions

- Supreme Court of Indiana
- Supreme Court of Kentucky
- U.S. Court of Appeals for the Sixth Circuit
- U.S. District Court for the Western District of Kentucky
- U.S. District Court for the Eastern District of Kentucky
- U.S. District Court for the Southern District of Indiana
- U.S. District Court for the Northern District of Indiana

Affiliations/Memberships

- Product Liability Advisory Council, sustaining member
- International Association of Defense Counsel
- Defense Research Institute
- Kentucky Defense Counsel, Inc., past director
- Kentucky Science Center, past board member and general counsel
- Kentucky Bar Association
- Indiana Bar Association
- Louisville Bar Association

Distinctions

- Peer Review Rated AV Preeminent by *Martindale-Hubbell*
- Kentucky Trial Court Review
 - Defense Trial Lawyer of the Year (2022)
- Kentucky *Super Lawyers*®
 - For Personal Injury – Products: Defense (2021)
- Top 50 by Kentucky *Super Lawyers*®
- *Best Lawyers*®
 - "Lawyers of the Year" in Louisville for Product Liability Litigation - Defendants (2022)
 - Personal Injury Litigation - Defendants(2022-2024)
 - Product Liability Litigation - Defendants (2022-2024)
- "Top Lawyers" by *Louisville Magazine* (2014, 2016)

Experience

Medical Device Product Liability Litigation

Defending multiple product liability cases involving joint replacement products.

Representative Reported Cases

Toyota Motor Corp. v. Gregory, 136 S.W.3d 35 (Ky. 2004). Airbag deployment injury case. Defense verdict at trial, affirmed by the Kentucky Supreme Court. Issues on appeal involved *Daubert* review of expert testimony and requirement of proof of an alternative feasible design. David Schaefer argued the case on appeal.

Early v. Toyota Motor Corp., 2008 U.S. App. LEXIS 10383 (6th Cir. 2008). Double fatality carbon monoxide poisoning case brought against vehicle manufacturer. The Sixth Circuit affirmed the trial court's exclusion of plaintiffs' expert under *Daubert* and affirmed summary judgment for manufacturer. David Schaefer argued the case on appeal.

Smith v. Toyota Motor Corp., 2004 U.S. Dist. LEXIS 14892 (6th Cir. 2004). Rollover roof crush case. Defense verdict at trial affirmed on appeal. Issues on appeal included evidence of fault of driver in crashworthiness case. David Schaefer argued the case on appeal.

Messerly v. Nissan North America, Inc., 2011 Ky. App. LEXIS 234 (Ky. App. 2011). Product liability case alleging that child's death was caused by absence of rear camera in sport utility vehicle. David Schaefer argued the case on appeal.

Burrows v. General Motors Corp., 1993 U.S. App. LEXIS 17673 (6th Cir. July 6, 1993). Motor vehicle product liability case tried to defense verdict. Issues on appeal involved the admissibility of expert testing and hearsay evidence. David Schaefer argued the case on appeal.

Kenworth of Indianapolis, Inc. v. Seventy-Seven Ltd., 134 N.E.3d 370 (Ind. 2019). Commercial case involving truck warranties. David Schaefer argued the case at the Indiana Supreme Court.

Nissan Motor Co. v. Maddox, 486 S.W.3d 838 (Ky. 2015). Automotive crashworthiness case alleging restraint system and seat design defects. On appeal, the Kentucky Supreme Court vacated the punitive damages award because automaker met or exceeded FMVSS requirements and there was no evidence of gross negligence or reckless disregard.

General Electric Co. v. Cain, 236 S.W.3d 579 (Ky. 2007). Represented multiple defendants in asbestos premises liability case. The appeal resulted in a significant opinion by the Kentucky Supreme Court applying the exclusive remedy provisions of the Kentucky workers compensation act, known as the "up the ladder" defense.

Wood v. Wyeth-Ayerst Laboratories, 82 S.W.3d 849 (Ky. 2002). Diet drug case in which plaintiff sought a class action for medical monitoring. Summary judgment at trial affirmed by the Kentucky Supreme Court, which held that there is no claim for medical monitoring in Kentucky absent a present physical injury.

Walker v. Philip Morris USA Inc., 610 F.Supp.2d 785 (W.D. Ky. 2009). Multiple fatality house fire allegedly caused by careless smoker. Motion to dismiss granted in favor of cigarette manufacturer.

Siegel v. Dynamic Cooking Systems, Inc., 2012 U.S. App. LEXIS 20416 (6th Cir. 2012). Product liability case involving burn injuries caused by gas leak in oven. Summary judgment in favor of oven component part manufacturer affirmed on appeal.

Williams v. Toyota Motor Sales, U.S.A., Inc., 2012 U.S. Dist. LEXIS 6724 (E.D. Ky. 2012). Summary judgment entered in favor of vehicle manufacturer due to insufficient evidence presented by plaintiff to support product liability claim.

McGuire v. Lorillard Tobacco Co., 2014 Ky. App. LEXIS 25 (2014) (unpublished). Asbestos product liability case. Defense verdict at trial in favor of cigarette manufacturer affirmed on appeal.

Hiser v. Seay, 2014 U.S. Dist. LEXIS 168429 (W.D. Ky. 2014). Product liability suit against vehicle manufacturer. Successful removal of case to federal court more than one year after suit was filed based upon "bad faith exception" of 28 U.S.C. 1446(c)(1).

Electric Insurance Co. v. Freudenberg NOK General Partnership, 487 F.Supp.2d 894 (W.D. Ky. 2007). Complex subrogation and indemnity action against manufacturer of dishwashing machine component part. Summary judgment opinion held that common law indemnity actions are governed by the five year limitations period set forth in KRS 413.020(7), even if the claim is based on breach of contract rather than tort.

Burns v. Wyeth, Inc., 352 F.Supp.2d 773 (E.D. Ky. 2004). Diet drug case successfully removed to federal court due to fraudulent joinder of sales representative.

Childress v. Interstate Battery System of America, Inc., 2010 U.S. Dist. LEXIS 13897 (W.D. Ky. 2010). Product liability suit against battery manufacturer. Motion to dismiss granted on breach of warranty claim due to lack of privity of contract, and on tort claim due to expiration of statute of limitations.

State Farm Mutual Auto Ins. Co. v. Norcold, Inc., 849 F.3d 208 (6th Cir. 2017). Product liability case involving recreational vehicle fire allegedly caused by defective RV refrigerator. The issue involved application of the economic loss rule to consumer products.

Rutherford v. Goodyear Tire and Rubber Co., 943 F.Supp. 789 (W.D. Ky. 1996). Summary judgment entered in favor of vehicle manufacturer based upon application of Indiana's statute of repose.

General Motors Corp. v. Herald, 833 S.W.2d 804 (Ky. 1992). Motor vehicle product liability case involving dispute over alleged verbal settlement agreement prior to trial.

Motor Vehicle Product Liability Litigation

Since 1986, representing numerous motor vehicle manufacturers in product liability cases in Kentucky and Indiana. Defect allegations defended against include seatbelts, airbag deployment, airbag non-deployment, no airbag, rollover propensity, roof intrusion, seatback deformation, fuel system, post-collision fire, electrical systems, unintended acceleration, absence of rear camera, and various claims relating to warnings. Significant experience in MDL practice and proposed class actions.

Successfully defended motor vehicle manufacturer at trial in March 2022. High exposure case involving three fatalities and one significant injury. Defect allegation involved frontal crashworthiness and bumper welds. Unanimous defense verdict.

Pharmacy Litigation

Successfully defended a pharmacy against claims of negligence in connection with a prescription that allegedly caused kidney damage. Defense verdict as lead trial counsel.

Diet Drug Litigation

This multi-year representation included defense of a proposed statewide class action, and dismissal of a proposed medical monitoring class affirmed by the Kentucky Supreme Court. Significant experience in MDL practice and the interplay between state court cases and MDL cases.

Asbestos Litigation

Defended manufacturer against product liability claims, resulting in defense verdict at trial affirmed on appeal. Defended premises liability case, obtaining summary judgment affirmed by the Kentucky Supreme Court.

Carrollton, Kentucky Church Bus Fire

Defended motor vehicle manufacturer in protracted product liability litigation stemming from tragic accident and bus fire that resulted in 27 deaths.

Firearm Product Liability Litigation

Defended firearm manufacturers against design defect allegations.

Premises Liability Litigation

Defended premises liability cases for auto parts client and major retailer.

Recreational Vehicle Product Liability Litigation

Defending manufacturer of RV refrigerators in product liability cases.

Tire Product Liability Litigation

Defending tire manufacturers in product liability cases involving allegations of design and manufacturing defects.

Warranty and Lemon Law Litigation

Defense of motor vehicle manufacturers in cases involving alleged breach of warranty, lemon law violations and complex litigation involving Article 2 of the UCC.