



## Frank C. Woodside, III

Of Counsel  
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Dr. Frank Woodside is a nationally-known trial lawyer representing manufacturers of pharmaceutical and medical devices, chemicals and flavorings as well as producers of consumer products. Over a period of more than 45 years, he has tried 80+ cases to verdict or judgment, serving as primary trial counsel in medical malpractice, product liability and mass tort cases. His background to practice medicine and surgery for nearly 40 years affords him added knowledge and insight he uses to his clients' advantage in preparing for and defending high-stakes litigation.

His clients include Fortune 500 companies, health care providers and hospitals. His experience includes serving as national trial counsel and MDL counsel for Merrell Dow Pharmaceuticals in the Bendectin birth defect litigation; Procter & Gamble in the Rely tampon/toxic shock syndrome litigation; Dow Corning Corporation in the silicone gel breast implant litigation; and Rugby Laboratories in the Fen-Phen litigation. He also served as trial counsel for Brown & Williamson Tobacco Corporation in the smoking and health litigation, International Flavors & Fragrances, Inc. in the microwave popcorn butter flavoring litigation, and Procter & Gamble in the Denture Adhesive Cream litigation.

Dr. Woodside is the chairman emeritus of the firm's Toxic and Environmental Tort practice groups. He is one of only a few attorneys recognized as a Bet-the-Company Litigator by *Best Lawyers*® and, since 1993, he has been recommended by the referral guide in numerous practices areas. He is the editor of a treatise, *Drug Product Liability*, published by Matthew Bender, an adjunct professor of law at the University of Cincinnati College of Law, and an emeritus clinical professor of pediatrics at the University of Cincinnati College of Medicine.

### Services

- Product Liability
- Litigation
- Tort
- Mass Tort
- Toxic Tort

- Class Action
- Health Care Industry
- Medical Malpractice

## **Education**

- NIOSH-Approved Spirometry, UPMC Health System; Pittsburgh, PA (NIOSH Course Approval No. 101, 2005)
- The Ohio State University Moritz College of Law (J.D., *cum laude*, 1969)
- Institute of Environmental Health, University of Cincinnati; Cincinnati, OH (Post-graduate courses in Toxicology)
- University of Cincinnati (M.D., 1973)
- The Ohio State University (B.S., 1966)
  - Microbiology

## **Bar Admissions**

- Ohio
- Kentucky
- Missouri
- Tennessee

## **Court Admissions**

- U.S. Supreme Court
- U.S. Court of Appeals for the District of Columbia Circuit
- U.S. Court of Appeals for the First Circuit
- U.S. Court of Appeals for the Third Circuit
- U.S. Court of Appeals for the Fifth Circuit
- U.S. Court of Appeals for the Sixth Circuit
- U.S. Court of Appeals for the Eighth Circuit
- U.S. Court of Appeals for the Eleventh Circuit
- U.S. District Court for the Northern District of California
- U.S. District Court for the District of Colorado
- U.S. District Court for the Northern District of Ohio
- U.S. District Court for the Southern District of Ohio
- U.S. District Court for the Eastern District of Kentucky
- U.S. District Court for the Western District of Kentucky

- U.S. District Court for the Eastern District of Michigan
- U.S. District Court for the Western District of Missouri
- U.S. District Court for the Western District of Texas
- U.S. District Court for the Eastern District of Wisconsin

## **Affiliations/Memberships**

- American Bar Association
- Federal Bar Association
- Ohio State Bar Association
- Cincinnati Bar Association
- Columbus Bar Association
- Dayton Bar Association
- Kentucky Bar Association
- Northern Kentucky Bar Association
- Tennessee Bar Association
- Missouri Bar Association
- American Society of Hospital Attorneys of the American Hospital Association
- PLAC
- Society of Ohio Hospital Attorneys
- American Health Lawyers Association
- International Association of Defense Counsel
- Defense Research Institute
- Litigation Counsel of America,
  - Order of Juris, fellow
  - Order of Certus, fellow
- Ohio Association of Civil Trial Attorneys
- American Board of Trial Advocates (ABOTA), Cincinnati, Ohio Chapter, vice president (2012 - 2012)
- American Medical Association
- Ohio State Medical Association
- Cincinnati Academy of Medicine
- American College of Legal Medicine, fellow
- American College of Forensic Examiners

- American College of Occupational and Environmental Medicine
- University of Cincinnati College of Medicine
  - Alumni Advisory Council, representative (class of 1973)
  - Dean's Advisory Council
- University of Cincinnati Foundation
  - Board of Trustees
  - Finance and Operations Committee
  - Gift Acceptance Committee
- Children's Hospital Medical Center and the Children's Hospital of Cincinnati, Board of Trustees, past member (1981 - 2004)
- School Board of the Wyoming, Ohio School District, past member (1990 - 1997)
- American Board of Legal Medicine
- American Board of Professional Liability Attorneys (1991 - 2008)
- American Board of Forensic Medicine
- Tocqueville Society
- Cincinnati Bar Foundation, Board of Trustees
- Supreme Court of Ohio, Board of Professional Conduct
- Appointed to the Real Estate Appraiser Board by Governor Mike DeWine, (2020 - 2022; 2022-2025)

## Distinctions

- *Best Lawyers*® (1993 - present)
  - Bet-the-Company Litigation, Commercial Litigation, Health Care Law, Mass Tort Litigation/Class Actions - Defendants, Medical Malpractice Law - Defendants, Personal Injury Litigation - Defendants, Product Liability Litigation - Defendants
- Peer Review Rated AV in *Martindale-Hubbell*
- Ohio *Super Lawyers*®
  - For Class Action (2021)
- *Chambers USA*®: *America's Leading Lawyers for Business*, Litigation: General Commercial
- Master of the Bench for the Potter Stewart Inn of Court
- *Who's Who Legal the International Who's Who of Business Lawyers*
- *Cincy Magazine*
  - Cincy Leading Lawyer

- Leading Lawyers Power 100 (2021)
- Life Science Star by *LMG Life Sciences* (2013)
- *Benchmark Litigation* Star in Ohio (2016)
- 2020 Senior Partner of the Year, Dinsmore
- Moritz College of Law 2022 Alumni Awards Recipient

## Experience

### **Medical Malpractice Defense Litigation**

The cases involving our client, a large regional pediatric medical center and its employees and employed physicians, have ranged from simple personal injury claims to allegations of catastrophic injury and death. All cases were fully litigated and either dismissed, settled or tried. Dinsmore & Shohl has developed special skill in the handling of pediatric medical negligence claims, including analysis of complex pediatric medical issues, and development of and relationship with numerous experts nationwide.

### **Schirmer v. Children's Hospital Medical Center**

Represented Children's Hospital Medical Center in medical malpractice action seeking to recover for "wrongful birth". Argued on behalf of all defendants and obtained decision that Ohio does not recognize a "wrongful birth" cause of action.

### **In re Bendectin Product Liability Litigation**

Defense of Merrell Dow in several thousand suits alleging that birth defects were caused by the prescription anti-nausea medication, Bendectin. Numerous summary judgments and jury verdicts obtained in favor of Merrell Dow.

### **In re: Diet Drugs (Phentermine/Fenfluramine/Dexfenfluramine) Product Liability Litigation**

Represented a generic drug manufacturer in thousands of product liability cases where plaintiffs alleged pulmonary and cardiac injury from ingestion of diet drugs. The cases were pending in federal multidistrict litigation proceedings in E. D. of Pennsylvania, and in various state courts in Texas, Alabama, Mississippi, Louisiana, Pennsylvania and California.

### **Fixodent Denture Cream Litigation**

Dinsmore's Product Liability Team recently received a ruling in favor of The Procter & Gamble Defendants ("P&G") which is the first in the country to assess and reject the scientific basis for lawsuits filed by a number of Fixodent® users.

Frank C. Woodside, III, and his team serve as counsel for P&G defendants concerning Denture Adhesive Litigation. In that litigation, Judge Cecilia Altonaga oversees discovery in the Multi-District Litigation involving more than 150 plaintiffs who seek damages for personal injuries that allegedly resulted from their use of excessive amounts of Fixodent, manufactured by P&G, and/or Poligrip, manufactured by GlaxoSmithKline. The current litigation was initiated in 2009 against P&G. The Federal cases were eventually consolidated in Miami with a number of other cases pending in state courts throughout the country. P&G has steadfastly defended the safety of

Fixodent.

On June 13, 2011 Judge Altonaga issued a *Daubert* opinion granting P&G's motion to exclude virtually all of the Plaintiffs' proposed expert opinion testimony that purportedly supported the link between extremely excessive use of Fixodent denture adhesive and neurological disease.

### **Class Action Defense - Manufactured Housing**

Dinsmore & Shohl defended a national seller of manufactured housing in state and federal court against class action claims related to the alleged inherent risks of fire and injury associated with manufactured housing. Following successful motion practice, all claims were dismissed in both state and federal courts.

### **Class Action Defense - Truth in Lending Act**

Dinsmore & Shohl defended its clients in federal court against multi-state claims of fraud, consumer protection violations and violations of the federal Truth in Lending Act. Following summary judgment in the clients' favor, the case was argued to the U.S. Court of Appeals for the Sixth Circuit before settling favorably for the clients.

### **Class Action v. Manufactured House Sellers**

We defended a national seller of manufactured housing in state and federal courts against alleged product liability, fraud, and RICO claims based on manufactured housing fire risks. Following successful motion practice, all claims were dismissed.

### **David Burton v. American Tobacco and R.J. Reynolds**

Dinsmore & Shohl represented a major cigarette manufacturer (American Tobacco) in a smoking and health case involving allegations of peripheral vascular disease causation and corporate misconduct that was tried in Federal Court in Kansas City, Kansas in 2002. The case resulted in a small compensatory damages verdict against American Tobacco in the amount of \$1984.00 (yes, that is the correct number) and no punitive damages. After the verdict was rendered the case against American Tobacco was dismissed without payment.

### **In re: Tobacco Litigation: Medical Monitoring**

A medical monitoring action tried to a defense verdict in state court in Wheeling, West Virginia in 2001 that was instituted against multiple tobacco companies by a class of West Virginia smokers who sought medical monitoring in the form of CT scanning and spirometry to screen for smoking related disease. In this action (which was affirmed on appeal) Dinsmore & Shohl represented The American Tobacco Company and Brown & Williamson Tobacco Corporation. In addition to acting as trial counsel, Dinsmore & Shohl consulted with and retained pre-eminent experts in the fields of public health, preventive medicine and pulmonology to develop and present a scientifically sound defense in emerging areas of law and medicine.

### **Linda Welch v. Brown & Williamson, et al.**

Dinsmore & Shohl served as trial counsel for Brown & Williamson in a smoking and health case involving allegations of bronchioloalveolar cancer causation and corporate misconduct that was tried in state court in Missouri in 2005. The case resulted in a verdict for the defense after a two-week trial.

### **MDL 1057: In re: Telectronics Pacing Systems, Inc., Accufix Atrial "J" Leads Product Liability Litigation**

Served as local counsel for defendant product manufacturer where plaintiffs claimed personal injury from allegedly defect atrial leads in federal multidistrict litigation in the S.D. of Ohio.

## **Michael Thompson v. Brown & Williamson, et al.**

Trial counsel for Brown & Williamson in dozens of tobacco/smoking cases including obtaining a defense verdict in a class action in West Virginia making claims for medical monitoring.

## **Popcorn Flavoring / Diacetyl Litigation**

Dinsmore & Shohl represents International Flavors & Fragrances in the butter flavoring litigation that arose after a NIOSH investigation found a significant lung disease, bronchiolitis obliterans, in a Missouri popcorn plant. The firm's trial team, consisting of Frank C. Woodside, III, Mary-Jo Middelhoff and J. David Brittingham, has taken 8 cases to trial since 2003 and continues to litigate numerous cases in a variety of jurisdictions.

## **Silicone Breast Implant Litigation**

Dinsmore & Shohl coordinated on a national basis thousands of lawsuits in state and federal courts. We developed and presented complex medical and scientific evidence on emerging issues, involving silicone chemistry, product integrity, immunology and rheumatology.

## **Smoking and Health Litigation**

Dinsmore & Shohl represented its tobacco clients in cases in a variety of state and federal courts participating in out of town trials in six cases. The cases ranged from medical monitoring class action to a major consolidated personal injury matter to individual lawsuits involving claims of lung cancer, peripheral vascular disease, laryngeal cancer, etc. The cases involved significant document management, as well as complex legal, factual and medical issues. All cases were fully litigated and either dismissed, disposed of on motion or tried to a verdict. In no case handled by Dinsmore & Shohl were the clients subject to punitive damages.

## **St. Elizabeth Medical Center / Dr. James C. Burt**

Represented SEMC in nearly 50 lawsuits alleging injuries from Dr. Burt's infamous "Love Surgery." Plaintiffs alleged that SEMC was negligent in its credentialing of Dr. Burt and that it should not have allowed him to do the surgery. Defense verdict for SEMC obtained in the only case tried. Several summary judgments obtained in favor of SEMC. Three of these cases ultimately reached the Ohio Supreme Court.

## **Tampon Product Liability Litigation**

Defense of The Procter & Gamble Company against claims of Toxic Shock Syndrome and other illnesses alleged to have resulted from the use of tampons.

## **Publications**

2015

**F. C. Woodside, III & M. J. Gray, Researchers' Privilege: Full Disclosure, 32 W. Mich. U. Cooley Law Review 1 (2015)**

June 13, 2013

**The Bradford Hill Criteria: The Forgotten Predicate**

Thomas Jefferson Law Review