



## Gary E. Becker

Partner  
[gary.becker@dinsmore.com](mailto:gary.becker@dinsmore.com)

Cincinnati, OH  
Tel: (513) 977-8179

A trial attorney with more than 30 years of experience defending product liability, transportation, workers' compensation and other personal injury claims, Gary has also served as Ohio counsel for a food distribution chain involved in nationwide litigation following a large E-Coli outbreak, and was coordinating counsel for a produce distributor sued in numerous jurisdictions following the largest Hepatitis A outbreak in U.S. history. He advises transportation providers, and likewise consults with food distributors relative to food safety and foodborne illness issues, deals with the CDC, FDA and various state agencies, and has working relationships with various scientific experts in both fields. He also has extensive experience defending municipal governments and their employees in constitutional law claims.

### Services

- Product Liability
- Toxic Tort
- Workers' Compensation
- Mass Tort
- Tort

### Education

- University of Cincinnati College of Law (J.D., 1984)
  - Order of the Coif
  - Law Review
- Valparaiso University (B.A., 1980)
  - Criminal Justice

### Bar Admissions

- Ohio

### Court Admissions

- U.S. Court of Appeals for the Sixth Circuit
- U.S. District Court for the Southern District of Ohio
- U.S. District Court for the Northern District of Ohio

## **Affiliations/Memberships**

- Ohio State Bar Association
- Butler County Bar Association
- Cincinnati Bar Association
- Defense Research Institute

## **Distinctions**

- Peer Review Rated AV in *Martindale-Hubbell*
- *Best Lawyers*®
  - Personal Injury Litigation - Defendants, Commercial Litigation and Transportation Law (2021)
- Ohio *Super Lawyers*®
- Hamilton County Police Association President's Award for Service to Law Enforcement

## **Experience**

### **Helping to Ensure Quality and Safety**

#### **Strengthening the Chain**

Supply chain challenges overcome through Castellini/Dinsmore partnership

Few industries have as much inherent risk as food sourcing, processing and interstate distribution. Traditional business hazards are accompanied by the unpredictability of Mother Nature herself, which often dictates product availability and impacts pricing throughout the food supply chain. Safety, quality and timing top the list of daily concerns, but contingency planning, liability and risk mitigation are also determining factors in the success of any operation.

At the heart of the food supply chain is Castellini Group of Companies, which was started more than 115 years ago and now supports more than 1,500 employees. As Castellini has steadily grown over the years, Dinsmore attorneys have grown alongside, helping them ensure the quality and safety of their products, as well as insulating them from external risks. As the food sourcing industry has evolved from handshake agreements to now being a more regulated and “papered” industry, our attorneys have helped Castellini to be proactive in their approach to quality and safety. This includes drafting, negotiating and reviewing a variety of contracts with both suppliers and distributors to ensure best practices are followed, as well as the development and implementation of food safety plans. Our attorneys understand the significance of learning not only about Castellini’s operations, but those of their suppliers and distributors, regularly visiting Castellini warehouses and processing plants to learn all aspects of the industry and processes.

An additional protection offered by our team has been assisting Castellini with periodic audits and facility inspections conducted by both private experts in the field, and by state and federal agencies. Castellini's progressive approach, coupled with due diligence by our team, has enabled them to successfully navigate the intricacies involved in safe food preparation, storage and distribution and keep their business moving forward. Understanding the different challenges associated with warehousing and processing, our team offers a variety of proactive counseling to ensure safe products and regulatory compliance, all stemming from our knowledge of the industry.

Castellini also faces myriad risks in the transportation realm, where owned and brokered semi-tractor trailers distribute products throughout the United States. Understanding this leaves Castellini exposed to potential problems, Dinsmore has served as a liaison with insurance carriers, and as litigation counsel in other venues to ensure Castellini is covered and protected against the potential hazards inherent to the interstate transport of food products. We also help steer Castellini through the contractual process associated with insuring operations, brokering vehicles, negotiating terms with suppliers and customers and monitoring the process to ensure Castellini's interests and businesses are protected as their potential is maximized at every step of the supply process.

The relationship between Dinsmore and Castellini continues to grow stronger, even amidst an industry undergoing constant changes. It's the strength of that relationship, built upon trust, that is paving the way for future success together.

## **Published Decisions - State of Ohio**

Selected published decisions - State of Ohio:

- Scherpenberg v. City of Mason, 12th Ohio Appellate District, CA2011-02-017 (12-5-11).  
Discretionary appeal denied 131 Ohio St. 3d 1499 (2012). Upholding dismissal of employment-related claims against the City by former Clerk of Courts.
- Lowe v. Cincinnati Inc., 124 Ohio St. 3d 204 (November 12, 2009).  
Upheld termination of permanent total disability benefits.
- Blauvelt v. City of Hamilton, 12th Ohio Appellate District, CA2008-07-174 (June 15, 2009); Discretionary appeal denied (October 14, 2009).  
Reversing trial court -- Assistant law director is not entitled to civil service protection.
- Perkins v. Live Nation, 1st Ohio Appellate District, C-080809 (May 13, 2009),  
Summary judgment upheld--premises owner not liable in slip and fall case.
- Mitchell v. City of Blue Ash, 1st Ohio Appellate District, C-080657 (April 24, 2009); Discretionary appeal denied (August 26, 2009).  
Summary judgment upheld--recreational use immunity bars claims against The City.
- Sexton v. City of Mason , 117 Ohio St. 3d 275 (2008).  
Summary judgment upheld--city not liable for flooding on homeowners' property and claim of permanent trespass.

- *Williams v. City of Hamilton*, Twelfth Appellate District, CV 2005-09-3061 (July 21, 2008); Discretionary appeal denied (December 3, 2008).  
Summary judgment upheld--city not liable for intentional tort involving employee with 2nd and 3rd degree burns over large percentage of his body.
- *Crosset v. Marquette*, First Appellate District, 2007 Ohio 550 (February 9, 2007); Discretionary appeal denied 114 Ohio St. 3d 1428, (2007).  
Summary Judgment upheld--officer did not engage in malicious prosecution.
- *State ex rel. Hiatt v. Indus. Comm'n.*, 99 Ohio St. 3d 32; (2003).  
Supreme Court affirmed industrial commission award of minimum benefit.
- *State Farm Cas. v. Black & Decker, Inc.*, Eighth Appellate District, 2002 Ohio 5821, (October 24, 2002); Discretionary appeal denied 98 Ohio St. 3d 1480 (2003).  
Reversing verdict for plaintiff in a product liability action and ruling in favor of defendant manufacturer--testimony of plaintiff's expert was contradicted by physical facts.
- *Stanley v. City of Miamisburg*, Second Appellate District, 2000 Ohio App. Lexis 205, (January 28, 2000).  
Summary judgment upheld--Judicial estoppel precluded plaintiff from claiming City constructively discharged him by "forcing" him to retire in retaliation for whistleblowing.
- *Golden v. Kearse*, Twelfth Appellate District, 1999 Ohio App. Lexis 2573, (June 7, 1999).  
Summary judgment upheld--truck driver was independent contractor at time of accident and not entitled to workers' compensation.
- *Cincinnati Bell Tel. Co. v. Village of Fairfax*, 81 Ohio St. 3d 599 (1998).  
Supreme Court upheld Village's right to impose net profits tax on telephone company.
- *General Accident Ins. Co. v. Black & Decker (U.S.)*, First Appellate District, 1996 Ohio App. Lexis 4907, (November 13, 1996).  
Defense verdict in product liability claim upheld--trial court properly admitted testimony of a manufacturer's expert witness.
- *Gallaher v. Manpower Int'l*, First Appellate District, 106 Ohio App. 3d 881, (October 25, 1995).  
Summary judgment upheld--heart attack not caused by employment.
- *Helton v. Consol. Rail Corp.*, Twelfth Appellate District, 1992 Ohio App. Lexis 3881, (July 27, 1992).  
Summary judgment upheld--railroad had no duty to provide crossing warnings beyond those required by statute and the injured motorist was required to exercise ordinary care for his own safety.
- *Sites v. Proctor & Gamble Mfg. Co.*, Third Appellate District, 1991 Ohio App. Lexis 6471, (December 24, 1991).

Summary judgment upheld--owner of premises had no duty to warn or protect individual independent contractors from dangers associated with work they were hired to perform.

- Dickstrom v. Southern Ohio Fabricators, Inc., Twelfth Appellate District, 1990 Ohio App. Lexis 502, (February 12, 1990).

Summary judgment upheld--employee's death not caused by intentional tort.

- Miller v. Procter & Gamble Mfg. Co., Third Appellate District, 1989 Ohio App. Lexis 4793, (December 20, 1989).  
Directed verdict upheld--manufacturer not responsible for injuries to an employee of an independent contractor where the employee was responsible for the condition of her work area and knew of the dangers of the job.

- Cox v. Consolidated Rail Corp., Twelfth Appellate District, 1989 Ohio App. Lexis 3313, (August 28, 1989).  
Summary judgment upheld--Rail company's failure to use warnings at grade crossing was not a nuisance.

- Grimsley v. General Motors Corp., Twelfth Appellate District, 1988 Ohio App. Lexis 516, February 15, 1988.  
Summary judgment upheld--employer did not act with the belief that an injury was substantially certain to occur.

- Joseph v. Consolidated Rail Corp., Twelfth Appellate District, 1987 Ohio App. Lexis 9435, (October 30, 1987).  
Summary judgment upheld--surveillance by private contractor did not impose liability on the employer.

- Baker v. Consolidated Rail Corp., Second Appellate District, 1986 Ohio App. Lexis 7559, (July 8, 1986).  
Summary judgment upheld--railroad not liable for failing to provide warning devices in addition to the usual signs at a crossing where the decedent was killed by a train because the crossing was not especially dangerous.

## **Court Cases**

Selected court cases:

- RWI Transportation LLC v. California Employment Development Department (5308590)  
Reversing imposition of a multimillion dollar state tax assessment by establishing that fleet and long haul drivers are independent contractors, not employees.
- Goode v. Deaconess Hospital (A0708530)  
Hamilton County Common Pleas  
Defense verdict--Employee's lumbar and cervical disc conditions not caused by work-related injury.
- Crawford v. General Motors Corp. (A-9110056)  
Hamilton County Common Pleas  
Defense verdict--Product liability--alleged defective seatbelt.
- General Accident Ins. Co. v. Black & Decker (US) Inc.  
Hamilton County Common Pleas  
Judgment in favor of Defendant in product liability claim (bench trial).
- Birkenheuer v. Black & Decker (U.S.), Inc.  
We represented a major household product manufacturer in a personal injury matter in Hamilton County, Ohio. The Plaintiff alleged she had suffered significant injuries when operating a hand-held mixer. The

case went to trial. By utilizing effective presentations from our expert witnesses, including a live demonstration for the jury, and cross-examination of the Plaintiff and her expert witnesses, we were able to obtain a defense verdict on behalf of our client.

- *Wendt v. City of Hamilton* (CV 2006-06-1966)  
Butler County Common Pleas  
Defense verdict--Firefighter's heart attack not caused by cumulative effects of smoke, heat and gas.
- *Coleman v. City of Hamilton* (CV 2004 10 2942)  
Butler County Common Pleas  
Defense verdict--Employee's leg injuries not sustained in scope and course of employment.
- *Stone v. Ball Corp.* (03 CVD-10-11034)  
Franklin County Common Pleas  
Defense verdict--Employee's psychological condition not caused by work-related injuries.
- *Adkins v. Ball Corporation* (A0101858)  
Hamilton County Common Pleas  
Defense verdict--Employee's additional conditions not caused by work-related injuries.
- *Connelly v. Deaconess Hospital* (A0005271)  
Hamilton County Common Pleas  
Defense verdict--Employee's additional conditions not caused by work-related injuries.
- *Frazier v. Quest Diagnostics*  
Defense verdict--Employee's additional conditions not caused by work-related injuries (bench trial).
- *Miller v. Procter & Gamble Mfg. Co.*  
Directed verdict in favor of premises owner versus employee of independent contractor.

## **Published Decisions - Federal**

Selected published decisions - Federal:

- *Lavender v. City of Blue Ash*, 162 Federal App. 548, (6th Cir. 2006)  
Summary judgment upheld--Officers who detained plaintiff had reasonable belief that armed robber might have been in car, and were justified in using force to secure scene.
- *Watson v. City of Mason*, No.: C-1-04-283, United States District Court for the Southern District of Ohio, Western Division, 2005 U.S. Dist. Lexis 27116, (November 8, 2005).  
Summary judgment upheld--city's municipal court building did not violate ADA.
- *Feintheil v. Payne*, No. 04-3057, United States Court of Appeals for the Sixth Circuit, 121 Fed. Appx. 60; 2004 U.S., (December 30, 2004).  
Summary judgment upheld--City policy did not cause the injuries, there was probable cause for the search and arrest, and the force was proper under the circumstances.
- *Paquette v. City of Mason*, 250 F. Supp. 2d 840; 2002 U.S. Dist. Lexis 25934, (September 3, 2002).  
Summary judgment upheld--Employee's e-mail did not constitute a matter of public concern, and city did not violate Ohio's Whistleblower Act.

- Johnson v. City of Mason, 101 F. Supp. 2d 566; 2000 U.S. Dist. Lexis 8604, (April 4, 2000).  
Summary judgment upheld—Employee’s right leg injury and resulting limitations did not constitute disability within meaning of ADA.
- Rucker v. City of Kettering, 84 F. Supp. 2d 917; 2000 U.S. Dist. Lexis 1765, (February 7, 2000).  
Motion for preliminary injunction in civil rights action for denial of employment on basis of gender was denied.
- Black v. City of Blue Ash, USDC Southern Dist. Of Ohio, C-1:08-CV-00584  
Summary judgment granted—plaintiff passenger's constitutional rights were not violated by defendants in the course of a police chase.
- DeWald v. Emery Oleochemicals  
Defense Verdict—Employee was neither discriminated against nor retaliated against under the Americans with Disabilities Act ("ADA") and Ohio state law (second-chair).

## News

August 20, 2020

**Best Lawyers® Recognizes 180 Dinsmore & Shohl Attorneys**

December 6, 2019

**44 Dinsmore & Shohl Attorneys Named 2020 Ohio Super Lawyers and Rising Stars**

August 15, 2019

**Best Lawyers® Recognizes 178 Dinsmore & Shohl Attorneys**

December 7, 2018

**Dinsmore & Shohl Attorneys Top 2019 Ohio Super Lawyers Lists**

August 15, 2018

**Best Lawyers® Recognizes 179 Dinsmore & Shohl Attorneys**

January 30, 2018

**Gary Becker honored by Hamilton County Police Association**

December 7, 2017

**Dinsmore & Shohl Attorneys top 2018 Ohio Super Lawyers Lists**

August 15, 2017

**Best Lawyers® Recognizes 191 Dinsmore & Shohl Attorneys**

December 2, 2016

**Dinsmore & Shohl Attorneys Top 2017 Ohio Super Lawyers Lists**

August 15, 2016

**Best Lawyers® Recognizes 192 Dinsmore & Shohl Attorneys**

December 2, 2015

**Dinsmore & Shohl Attorneys top 2016 Ohio Super Lawyers Lists**

August 17, 2015

**Best Lawyers® Recognizes 189 Dinsmore & Shohl Attorneys**

December 3, 2014

**Dinsmore Tops Ohio Super Lawyers List**

August 18, 2014

**Best Lawyers® Recognizes 164 Dinsmore & Shohl Attorneys**

December 4, 2013

**65 Dinsmore & Shohl Named 2014 Ohio Super Lawyers & Rising Stars**

August 16, 2013

**Best Lawyers® Recognizes 160 Dinsmore & Shohl Attorneys**

December 19, 2012

**77 Dinsmore Attorneys Named 2013 Ohio Super Lawyers & Rising Stars**

August 24, 2012

**Best Lawyers® Recognizes 165 Dinsmore Attorneys**

January 5, 2012

**79 Dinsmore Attorneys Named to 2012 Ohio Super Lawyers & Rising Stars Lists**

## Publications

March 23, 2017

**New Ohio Law Benefits Firefighter Cancer Claims**