



J. David Bolen

Partner
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An accomplished first chair trial attorney, David has an outstanding record of success defending both complex tort and commercial matters in some of the most difficult venues in the nation. Focusing his practice in the areas of product liability, transportation, professional liability, and insurance defense. David has experience defending companies in a variety of actions including: product defect claims, chemical exposure, contractual disputes, professional liability, director and officer liability, and transactional liability. In addition to his primary defense work, David also represents and advises insurance companies serving as an expert witness in an international arbitration, providing testimony on the interpretation of U.S. law as it relates to insurance coverage, reinsurance, and bad faith claims.

David advises clients on risk management solutions, claims analysis and prevention, and conducts pre-litigation assessments and claim due diligence. He has served as coordinating counsel and routinely serves as monitoring counsel for on-going litigation. In these roles, David has formulated and implemented the pre-trial, discovery, trial and/or end-game strategy with his clients along with ensuring the trial record and appellate records are protected. David's ability to offer case specific insight to in-house counsel, while maintaining an overall general litigation strategy, affords his clients the benefit of both short and long-term perspectives on mitigating risk, finding creative solutions, and trial preparation.

Routinely appearing in the state and federal courts of West Virginia, Kentucky, and Ohio, David has successfully represented companies facing personal injury, wrongful death, and property damage claims arising out of claimed product defects, fires, explosions, train derailments, environmental clean-up (CERCLA), trucking and aviation accidents, and other crises. He also represents medical professionals, brokers, agents, corporate officers and boards of directors, architects, and other professionals as to claims of malpractice, negligence, breach of contract, and other professional liability claims.

He participates in a variety of civic and community groups and currently serves on the Board of Directors for the Ashland Child Development Center located in Ashland, Kentucky, coaches middle school girls' basketball, and is a member of Kentucky's Board of Zoning Adjustment, in the city of Ashland.

Services

- Litigation
- Tort
- Product Liability
- Insurance Industry

Education

- University of Kentucky College of Law (J.D., 2001)
- University of Kentucky (B.A., 1998)
 - History and Political Science

Bar Admissions

- West Virginia
- Kentucky

Court Admissions

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

Affiliations/Memberships

- West Virginia Bar Association
- Kentucky Bar Association
- Cabell County Bar Association
- Defense Trial Counsel of West Virginia
- Defense Research Institute
 - Insurance Practice Group
 - Product Liability Group
- National Association of Railroad Trial Counsel
- Kentucky Defense Counsel

Distinctions

- *Chambers USA*®: *America's Leading Lawyers for Business*, Litigation
- *Best Lawyers*®

- "Lawyer of the Year" in Charleston for Railroad Law (2022)
- Railroad Law (2021-2024)
- West Virginia *Super Lawyers*®
- West Virginia *Rising Stars*®

Experience

Verdict in favor of global client leads to continued representation

Our client, a global insurance company, provided re-insurance coverage to a group of insurance carriers. We were retained to provide both written and live expert testimony and opinions about the meaning and interpretation of various insurance policies and contracts during a coverage arbitration in London, England. In addition to the legal research that was required, we attended an extensive training to be a witness in the foreign hearing due to the differences in procedures in the United Kingdom. The case was resolved successfully for our client and we still get cases today because of it.

FELA case involving Federal Preemption and complex witness work

Our client, a railroad company (the defendant), was sued in conjunction with the Federal Employers Liability Act (FELA). The plaintiff in this case alleged injuries to his knees and back as a result of walking on large rocks along the railroad and in rail yards. The case involved issues of Federal Preemption about rock size and complex witness work. This case was tried to a verdict in the defense's favor.

Woman alleges client's cleaning product turned her skin orange

Our client, a Multi-National Consumer & Professional Good Manufacturer, manufactured a liquid-type cleaning product that contained a fragrance that made it smell of oranges. In this product liability case, a cleaning lady, who had used the product, claimed it had turned her skin an orange color and damaged her liver. Through our investigation, we determined rather than being the result of the use of the product, a localized outbreak of a viral infection may have been responsible for the damage. As a result, the Court returned a judgment in favor of our client.

Summary judgment in FELA case upheld and new laws enacted as a result

Our client, an international transportation company, was sued by an employee under the Federal Employers Liability Act (FELA). The employee claimed a back injury due to the vibrations coming through the seat of a locomotive. We were able to show through the employee's own medical records and testimony he had discussed this injury with this physician outside the statute of limitations, which is three years. The trial court granted us summary judgment on the statute of limitations issue. The Plaintiff appealed the judgment which was upheld on appeal by the State's Supreme Court. Not only was the judgment upheld on appeal, but the Court enacted a new point of law as a result for FELA cases in that State.

No negligence verdict for client in slip-and-fall case

The plaintiff claimed a soft tissue back injury due to a slip-and-fall on snow and ice outside of our client's, a national convenience store chain, store. We received a defense verdict at trial on the basis there was no negligence (no breach of any duty) on our client's part.

Partial summary judgment for client in breach of agreement dispute

On behalf of our client, a subsidiary of a national consumer goods company, we obtained a partial summary judgment regarding a contract dispute between our client and a supplier. The court agreed with our client's right to refuse wood waste, which is used in the production of charcoal, delivered by the plaintiff. This resulted in a significant reduction in the potential amount of damages the supplier could claim at trial, which ultimately paved the way for a settlement between parties.

Summary judgment for client in deliberate intent case

Our client, a large chemical company, was accused of Deliberate Intent. Deliberate Intent is an extension of Workers' Compensation in which an employee may collect extra compensation if the employer is shown to have deliberately and intentionally exposed the employee to harm.

In this case, the plaintiff claimed a variety of health conditions due to exposure to toxic chemicals. Our client received summary judgment due to insufficient evidence. The court also found that a prior settlement agreement released our client from any claims against them.

Summary judgment for client in sexual harassment and gender discrimination suit

Our client, a locally operated nonprofit day care center, was sued by a former employee. The plaintiff claimed sexual harassment and gender discrimination. We were able to obtain summary judgment on behalf of our client on grounds of insufficient proof. Due to the nature of this case, it received local and national attention.

Publications

2010-2018

West Virginia chapter of the Product Liability Desk Reference: A Fifty State Compendium

Wolters Kluwer