



## J. David Brittingham

Partner

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David is co-chair of the firm's Tort Practice Group. He is a trial attorney with the ability to see the big picture, enabling him to handle a variety of product liability, mass tort, toxic tort, health care and commercial matters for clients. His legal counsel has broadly guided manufacturers of food flavorings, food supplements, pharmaceuticals, chemicals, chemical packaging, manufactured housing, bicycles and recreational equipment, as well as healthcare providers and hospitals. He has extensive litigation experience in both state and federal courts, including the management, discovery, resolution and trial of individual and multi-party suits, mass tort claims, class actions and multi-district litigation.

He has represented a variety of clients in product liability cases, including an international manufacturer of food flavorings in multi-plaintiff cases involving the coordination of hundreds of claims in eight states, as well as multiple jury trials to verdict. His experience in multi-district litigation further includes the representation of a diet drug distributor, resulting in a complete dismissal of the statewide claims. Understanding such cases requires a high level of coordination with other counsel and plaintiffs. David is adept at crafting strategies that incorporate his clients' goals into the overall picture, relying on a detailed, communication-oriented approach to find an efficient resolution. He has handled product liability and toxic tort cases in both state and federal courts, and is experienced with arbitration and mediation as alternative means for resolving disputes. David places a premium on learning his client's operations and processes, enabling him to tailor an approach that meets each client's unique objectives.

David is also counsel to one of the top two nationally and internationally recognized children's hospitals in the U.S., defending its physicians and others against claims of professional negligence, and advising it on a broad range of risk and liability matters. He serves as lead trial counsel in state and federal courts, including trial courts, appellate courts, juvenile court and probate court, handling and advising on all matters related to claims of professional negligence, liability, risk, and insurance. Such matters include complex claims related to individuals, class actions and multi-plaintiff claims, including claims made under the Federal False Claims Act. David's ability to offer precise and focused legal insight to in-house counsel, while maintaining a big-picture outlook, affords his clients the benefit of both short and long-term perspectives on mitigating risk and reaching resolutions, as well as preparation for trial.

## Services

- Product Liability
- Toxic Tort
- Mass Tort
- Tort
- Class Action
- Medical Malpractice

## Education

- Northern Kentucky University, Chase College of Law (J.D., *cum laude*, 1993)
- University of Mississippi (B.F.A., 1988)

## Bar Admissions

- Ohio
- Kentucky
- Missouri

## Court Admissions

- U.S. Supreme Court
- 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
- U.S. District Court for the Eastern District of Kentucky
- U.S. District Court for the Western District of Kentucky

## Affiliations/Memberships

- Cincinnati Bar Association
- Ohio State Bar Association
- Kentucky Bar Association
- Missouri Bar Association
- Defense Research Institute

## Distinctions

- *Best Lawyers*®
  - "Lawyer of the Year" in Cincinnati for Product Liability Litigation-Defendants (2018)
  - "Lawyer of the Year" in Cincinnati for Mass Tort Litigation / Class Actions - Defendants (2024)

- Mass Tort Litigation / Class Actions – Defendants; Product Liability Litigation - Defendants (2006-present)
- Ohio *Super Lawyers*®
  - For Civil Litigation: Defense (2018-present)
- Ohio *Rising Star*®
- Peer Review Rated AV in *Martindale-Hubbell*

## Experience

### **Spine Surgery Malpractice**

Currently represent and defend a nationally recognized children's hospital against multiple (50+) claims of medical malpractice related to the care of a single spine surgeon.

### **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.

### **MDL 1023: In re: Diet Drugs (Fen-Phen)**

As national coordinating counsel and trial counsel, Dinsmore & Shohl defended a distributor of phentermine in the multi-district product liability litigation related to the diet drug commonly known as fen-phen. Mr. Brittingham assisted the team that represented the client nationally. Additionally, as local and regional counsel, Mr. Brittingham managed the litigation and discovery of claims pending in Kentucky, successfully obtaining their dismissals.

### **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.

## Publications

May 4, 2020

**Investigations against Health Care Facilities and Nursing Homes on the Rise**

March 19, 2020

**Tort-Focused Legal Considerations for Health Care Providers and Product Manufacturers in the COVID-19 Landscape**

November 18, 2019

**Emerging Concerns Regarding Silica Exposure in the Engineered Stone Industry**

March 23, 2017

**House Bill Would Significantly Change Class Actions and Multidistrict Proceedings in Federal Court**

September 6, 2016

**Promoting Off-Label Use: Are the Times Changing at the FDA?**

January 5, 2016

**Diacetyl Update: What's In Your Product?**