



## Jeffrey P. Hinebaugh

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When clients meet Jeff for the first time, they come away knowing they have creative, responsive, experienced and personable representation.

For more than 25 years, Jeff, a member of the firm's Board of Directors, has become a go-to for clients looking for representation in commercial litigation, construction law and entertainment matters. He focuses on representing financial institution clients in litigation and regulatory matters but also handles construction litigation, as well as heading up the firm's entertainment law practice.

Financial industry clients prefer his counsel because he has experience as both in-house and outside counsel. He understands how litigation impacts them internally and how to manage them externally. Jeff has served as a seconded attorney for Fifth Third Bank with national responsibility for retail litigation, consumer litigation, mortgage litigation, corporate facilities litigation, and the Legal Operations group (subpoenas, garnishments, court-controlled accounts and guardianships). Additionally, he represents multiple banks and financial institutions in FCRA and TCPA litigation; state and national consumer class actions, UCC Article 3 and 4 claims; check fraud; safe deposit box litigation; lender liability claims; Fair Lending claims; state and federal customer discrimination claims; TILA claims; RESPA claims; wrongful repossession claims; and FINRA arbitration matters.

Jeff has more than two decades of experience representing commercial and residential construction companies, owners, contractors, subcontractors, material suppliers and surety companies. His experience includes representing owners, general contractors and subcontractors with respect to commercial and residential disputes across the country with experience trying and arbitrating construction claims in Ohio, Michigan, Florida, Kentucky, Indiana, California and Colorado. He is also national counsel for mechanic lien matters for one of the largest construction material suppliers in the world.

In addition, Jeff represents Fortune 100, 500 and 1000 companies on non-compete and non-solicitation disputes and has handled these types of matters in 17 states in federal and state courts.

His entertainment industry clients appreciate his fresh approach with a focus on branded content. Jeff has experience in all aspects of entertainment law, with a focus on television, music and interactive media. He has served as lead studio and production counsel for Procter & Gamble Productions, Inc., and TeleNext Media, Inc.

He has worked with Sobini Films, dePasse- -Jones and Lions Gate on several feature films and he has worked extensively with NBC Universal Television Group, Fox Broadcasting Company and Muse Entertainment in developing and negotiating film and television productions. He also represents the leading internet television site (by subscriber revenue) and helped develop the legal and revenue models for the site. Jeff represents several music publishers and record labels and has been instrumental in developing new music licensing and use agreements for use with digital and internet companies.

Aside from his legal practice, he has been issued five patents, is the author of *A Board Game Education* published in 2009 by Rowan & Littlefield, and is in pre-production for a new monthly radio program through Public Radio International. He is also the varsity assistant men's soccer coach at a local high school, a position he has held since 2005.

## **Services**

- Litigation
- Product Liability
- Entertainment Industry
- Mass Tort
- Tort
- Intellectual Property
- Transportation Industry
- Banking & Financial Services
- Bank Regulatory & Enforcement
- Gaming & Sports Industry
- Construction Industry

## **Education**

- University of Michigan Law School (J.D., *cum laude*, 1992)
- Grove City College (B.A., *summa cum laude*, 1989)
  - Accounting and History

## **Bar Admissions**

- Ohio

## **Court Admissions**

- U.S. District Court for the Southern District of Ohio

## **Affiliations/Memberships**

- American Bar Association
- Cincinnati Bar Association

- Defense Research Institute
- Mariemont High School, assistant varsity men's soccer coach
- University of Cincinnati, Career Roundtable
- Grove City College Men's Soccer Program, career adviser
- United States District Court, Southern District of Ohio, Settlement Week, volunteer mediator
- Grove City College Alumni Board, trustee
- Cincinnati Museum Center – Board of Trustees
- Cincinnati Arts and Technology Studios - Board of Trustees
- Mariemont School Foundation - Board of Trustees
- Creative Aging Cincinnati – Board of Trustees

## Distinctions

- Peer Review Rated AV in *Martindale-Hubbell*
- *Best Lawyers*®
  - "Lawyer of the Year" in Cincinnati for Litigation-Construction (2012)
  - "Lawyer of the Year in Cincinnati for Litigation - Banking and Finance (2018, 2021)
  - Commercial Litigation; Litigation - Banking and Finance; Litigation – Bankruptcy; Litigation – Construction; Product Liability Litigation – Defendants; Transportation Law (2021-2022)
- Ohio *Super Lawyers*®
- *Chambers USA*®: *America's Leading Lawyers for Business*, Litigation: General Commercial
- BTI Client Service All-Star, 2020

## Experience

### Breach of Warranty

We represented an international motor vehicle distributor in a breach of warranty case that was tried in Gadsden, Alabama. After prevailing during the trial, we were able to reach a settlement agreement with the plaintiff to resolve the case for a nominal amount of money.

### Breach of Warranty Allegations in Connection with Vehicle Condition

We served as counsel for a major motor vehicle manufacturer/distributor in a breach of warranty/consumer sales practices case that was tried to a jury in January of 2013 in Beaufort County, North Carolina. The case involved allegations of alleged fading or discoloration on multiple components on the exterior and interior of the vehicle. The jury unanimously returned a defense verdict in favor of our client.

### Breach of Warranty/Lemon Law Case

We represented a major motorcycle manufacturer in a breach of warranty/lemon law case in Tulsa, Oklahoma. The case involved allegations of a purportedly defective chain on the motorcycle, which the Plaintiff contended interfered with the motorcycle's ability to operate properly. We argued that the condition was not a defect in workmanship or materials covered by our client's applicable warranties. Following a three-day trial, the jury returned a unanimous defense verdict in our client's favor on all claims.

### **Lemon Law/Breach of Warranty Case Related To Vehicle Design**

We represented an international motor vehicle distributor in a lemon law/breach of warranty case in the Stark County, Ohio Court of Common Pleas. We argued that the alleged non-conformity with the vehicle was based upon the design of the vehicle, and, accordingly, was not covered by the terms of our client's applicable warranties. The trial court granted our Motion for Summary Judgment and dismissed the case. The court of appeals affirmed the decision.

### **Health Care Services Cleared of False Claims Allegations**

We represented a health care services business that provided billing services to physicians groups and emergency rooms after a false claims act (FCA) suit was filed alleging the company had improperly coded and overcharged government health care services, including Medicare and Medicaid, by millions of dollars. We did our own analysis of the company's records while working closely with the U.S. attorney's office as well as the U.S. Department of Health and Human Services and found an explanation for the company's coding and charges. As a result of our investigation no criminal charges were filed and the civil suit was not pursued.

### **Personal Injury/Product Liability**

We represented a major motorcycle manufacturer in a personal injury product liability case in Montgomery County, Ohio. After conducting some preliminary discovery, and after arranging for an inspection of the product by expert witnesses, we were able to persuade the Plaintiff's counsel to voluntarily dismiss the litigation.

### **Allegations of a Defective Vehicle**

We represented an international motor vehicle manufacturer in a case that was pending in Warren County, Ohio. The case involved allegations that the vehicle had a significant pulling or drifting condition. Following a trial, we obtained a defense verdict on behalf of our client.

### **Allegations of Unintended Acceleration**

Dinsmore represented a major motor vehicle manufacturer in cases filed in Ohio associated with allegations of sudden unintended acceleration. We removed the cases to federal court and were involved in successfully litigating the matters as part of the multi-district litigation procedure.

### **Automobile Class Action Litigation**

Dinsmore & Shohl represented a large automobile distributor in class action litigation initiated in Ohio and Kentucky, alleging the automobiles distributed by our client that were subject of a nationwide recall, unintentionally accelerated or were prone to such an alleged defect. The class action plaintiffs alleged a variety of claims, including fraud, breaches of express and implied warranties, negligence, and violations of consumer protection statutes. Plaintiffs also sought compensatory relief in the form of diminished value of the subject vehicles or injunctive relief. Dinsmore & Shohl either successfully removed all such actions to federal court, where they were consolidated in multi-district litigation, or obtained a dismissal of the entire suit.

## **Breach of Warranty Case Involving Alleged Vehicle Defects**

We represented a major motor vehicle distributor in a breach of warranty case that went to a jury trial in Licking County, Ohio. The Plaintiffs alleged that defects with the vehicle were causing significant and premature wearing of the vehicle's tires. We obtained a defense verdict on behalf of our client.

## **Breach of Warranty Dispute Involving a Vehicle**

We represented an international automobile manufacturer in a breach of warranty/consumer sales practices act case that was litigated in Franklin County, Ohio. The case involved a multitude of alleged defects and non-conformities with the vehicle's warranty. We argued that the conditions did not substantially impair the use, value, or safety of the vehicle. Following the conclusion of a trial we obtained a defense verdict on behalf of our client.

## **Browning v. Kia Motors America, Inc.**

This litigation arose out of a car fire. Plaintiff asserted product liability claims against our client. We, in turn, asserted a third-party complaint against the service repair facility which serviced the vehicle, alleging that it failed to adequately diagnose and correct the alleged cause of the fire. Following the completion of a jury trial, we successfully prevailed on a claim against the service repair facility which failed to adequately diagnose and correct the cause of the fire, and were able to recoup those damages on behalf of our client.

## **Campbell v. General Motors Corp.**

The Plaintiff asserted product liability and breach of warranty claims against our client arising out of a car fire which occurred in a conversion van. This case was tried to a jury. At the conclusion of the Plaintiff's case-in-chief, the judge granted our motion for a directed verdict and dismissed all of the Plaintiff's claims.

## **Car Fire Case Involving a Repair Facility**

We represented an international motor vehicle manufacturer in a car fire case in Lawrence County, Ohio. We contended that the fire could have been avoided through effective investigation by a repair facility that serviced the vehicle shortly before the fire. Accordingly, we asserted a cross-claim against the repair facility seeking contribution. Following the completion of a trial, the jury returned a verdict in our client's favor on the cross-claim, awarding our client contribution damages. The repair facility appealed the decision to the court of appeals, and the court of appeals affirmed the jury's verdict.

## **Commercial Construction Dispute Relating to Payment**

We represented a material supplier in a commercial construction dispute in which our client was seeking in excess of \$400,000 for materials supplied to the project. After the general contractor failed to pay the amounts due (and subsequently went out of business), we made a claim on the payment bond associated with the project. The surety company refused to pay our client's claim on the bond, contending that our client was not entitled to recover because the project owner had issued joint checks payable to the general contractor and the owner. We successfully overcame the surety company's reliance upon the "joint check rule" by prevailing on a motion for summary judgment. The court of appeals and the Supreme Court of Ohio affirmed the summary judgment ruling in favor of our client. Accordingly, our client was able to recover the entire unpaid amount from the bonding company, plus interest and fees.

## **Fraud and Lemon Laundering**

We represented a major international motor vehicle distributor in a fraud and "lemon laundering" case

filed in Clark County, Ohio. The Plaintiff alleged that our client had improperly sold a repurchased vehicle in Ohio in violation of Ohio's Consumer Sales Practices Act. Through effective motion practice, particularly successfully presenting a number of motions in *limine*, we were able to negotiate a very favorable settlement for our client on the first day of trial.

#### **Jeffrey Williams v. American Suzuki Motor Corporation**

The Plaintiff had asserted a claim against American Suzuki Motor Corporation under Ohio's Lemon Law, breach of warranty, the Magnuson-Moss Warranty Act, and Ohio's Consumer Sales Practices Act. Following the completion of a jury trial, the jury returned defense verdicts in favor of American Suzuki Motor Corporation on all but one of the claims asserted, and the remaining claim resulted in an award of nominal damages.

#### **Judy Dial v. Kia Motors America, Inc.**

The Plaintiff asserted claims against Kia Motors of America, Inc. alleging breach of warranty and violation of the federal Magnuson-Moss Warranty Act. Following completion of a jury trial, we obtained a defense verdict on behalf of our client on all of Plaintiff's claims.

#### **Lemon Law Case Relating to Vehicle Repairs**

We represented an international automobile distributor in a lemon law case that was tried in Chicago, Illinois. The case involved a variety of alleged non-conformities with the vehicle, which the Plaintiff contended had not been repaired within a reasonable number of repair attempts. We obtained a defense verdict on behalf of our client.

#### **Lemon Law/Breach of Warranty**

We represented an international motor vehicle distributor in a lemon law/breach of warranty case that was tried to a jury in Lake County, Ohio. The Plaintiff sought compensatory and treble damages close to \$100,000, plus attorney fees. The jury returned a defense verdict on all but one of the claims for our client, and the remaining claim resulted in a verdict for the Plaintiff of only \$600. We also successfully opposed the Plaintiff's efforts to recover attorney fees, with the court awarding the Plaintiff's counsel less than 10% of the fees sought.

#### **Mattlin Holdings LLC v. First City Bank, 2010 Ohio 3700 (Ohio App. 10th Dist. 2010)**

Dinsmore & Shohl handled the defense on behalf of Defendants, Fifth Third Bank ("Fifth Third") and JP Morgan Chase ("Chase"). This is an important precedent for the banking industry in Ohio in that the appellate court refused to extend the discovery rule to toll the statute of limitations under O.R.C. § 1303.16(G) for a UCC conversion claim against two banks. In particular, the Appellants asserted a UCC conversion claim pursuant to O.R.C. § 1303.60 against both Fifth Third and Chase for the alleged conversion of a check in the amount of \$795,486.00. Appellants' conversion claims, however, were filed over four and one-half years after the alleged conversion by both Fifth Third and Chase. The Appellants argued, among others, that the discovery rule should toll the statute of limitations because Appellants did not discover the alleged conversion until after the statute of limitations had expired and because the Appellants had asserted fraud-based claims against other defendants, but not against Fifth Third or Chase. In response, Fifth Third and Chase argued that the discovery rule does toll the statute of limitations and that even in cases where fraud-based claims are asserted, the UCC claims against other defendants cannot be coupled with such fraud-based claims for purposes of tolling the statute of limitations.

The Tenth District Court of Appeals upheld the trial court's dismissal of Fifth Third and Chase and held that the three-year statute of limitations for conversion under Section 1303.16(G) is not tolled by the discovery rule. Both the appellate court and trial court cited to and relied upon the holding of the U.S. District Court from the Northern

District of Ohio in Metz v. Unizan Bank, (N.D. Ohio 2006), 416 F. Supp. 2d 568, 579. Both courts also cited to the holding in Loyd v. Huntington Nat'l Bank (N.D. Ohio 2009), 2009 U.S. Dist. LEXIS 51858.

Click [HERE](#) to view the Tenth District Court of Appeals decision.

### **Michelle Dillion v. Mazda Motors of America, Inc.**

Plaintiff asserted a claim against Mazda Motors of America, Inc. alleging violation of Ohio's Lemon Law and breach of warranty. Specifically, the Plaintiff alleged that the vehicle demonstrated a "pulling" or "drifting" concern that had not been corrected within a reasonable number of repair attempts. By utilizing effective cross-examination of the Plaintiff and persuasive testimony from Mazda's expert witness, we were able to obtain a complete defense verdict on behalf of our client.

### **Personal Injury Case Related to a Vehicle Seatbelt**

We represented a major automobile manufacturer in a personal injury product liability lawsuit. The Plaintiff alleged that her seatbelt failed to restrain her during an accident, and she contended that she suffered severe head injuries resulting in alleged cognitive impairment. By effective presentation of our expert witnesses, and through extensive discovery, we were able to negotiate favorable settlement terms to resolve the litigation.

### **Product Defect Case Involving Marine Products**

We represented an international motor vehicle manufacturer in a product defect case in Atlantic City, New Jersey involving allegedly defective marine products. Following the conclusion of a trial, the jury returned a verdict awarding the Plaintiff only nominal damages.

### **Product Liability Case Relating a Vehicle Fire**

We presented a major automobile manufacturer in a product liability case in Hamilton County, Ohio arising out of a car fire. At the conclusion of the Plaintiff's case-in-chief, the court granted our Motion for a Directed Verdict and dismissed all of the Plaintiff's claims.

### **Water Works Supplies, Inc. v. Grooms Construction Co.**

Our firm represented the Plaintiff in a suit involving a complex claim against a surety bond and general contractor arising out of a construction project. Our client supplied large quantities of material to the general contractor on a public construction project in Highland County, Ohio. When the general contractor failed to pay our client for these materials, we filed a Complaint on behalf of our client against the material supplier and the surety company. The surety company asserted a variety of defenses to our client's claim for payment, including an argument that our client's claim was barred by the "joint check rule." After extensive litigation through the trial court and the court of appeals, we ultimately obtained summary judgment on behalf of our client against the surety company, and were able to recoup the entire amount due to our client, plus interest. This case involved novel legal issues of first impression in Ohio. Through the effective use of motion practice and thorough research, we were able to obtain a substantial recovery on behalf of our client in a vigorously contested case.

### **Werzinger v. American Suzuki Motor Corporation**

This case involved claims for breach of warranty and consumer sales practices violations associated with an aquatic product. The Plaintiff's most significant claims were dismissed, and the jury verdict resulted in an award of only nominal damages.