

Janet G. Abaray, Esq.

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312 Walnut Street, Suite 2090
Cincinnati, Ohio 45202

Current Position: Managing Shareholder, Ohio Office
Burg Simpson Eldredge Hersh Jardine, P.C.

Education:

University of Cincinnati: 1979 Bachelor of Arts in English Literature
High College and Departmental Honors
Summa Cum Laude
Phi Beta Kappa

University of Cincinnati: 1982 College of Law
Order of the Coif
Law Review: Business Manager

Court and Legislative Appointments:

In re Depakote Products Liability Litigation
Co-Lead Counsel for Plaintiffs
(appointed by the Honorable Nancy Rosenstengel, S.D. Ill.)

Ohio Constitutional Modernization Commission:
Chair of Subcommittee on the Judicial Branch and Administration of Justice

In re Ephedra Products Liability Litigation (MDL 1598)
Member of Plaintiffs Executive Committee and National Liaison Counsel
(appointed by the Honorable Jeb Rakoff, USDC, SDNY.)

In re Ortho Evra Products Liability Litigation (MDL 1742)
Co - Lead Counsel for Plaintiffs
(appointed by the Honorable David A. Katz, N.D. Ohio)

In re Heparin Products Liability Litigation (MDL 2100)
Executive Committee
(appointed by the Honorable James G. Carr, Chief Judge, N.D. Ohio)

Reedy v. Cincinnati Bengals
Lead Counsel for Plaintiff Class
(appointed by the Honorable Robert P. Ruhlman)

Dunkelman v. Cincinnati Bengals
Lead Counsel for Plaintiff Class
(appointed by the Honorable Robert P. Ruhlman)

Commonwealth of Kentucky v. Bayer (Yaz consumer litigation)
Appointment approved by Kentucky Attorney General (2013)

Publications:

Modern Realities Render the Learned Intermediary Doctrine Obsolete, American Bar Association Products Liability, Winter 2010, Volume 21, Number 1.
Janet Gilligan Abaray and Erica Kern.

Reply in Support of "Modern Realities Render the Learned Intermediary Doctrine Obsolete," American Bar Association Products Liability, Summer 2010, Number 3.
Janet Gilligan Abaray and Erica Kern

Deja Vu All Over Again: Ohio's 2005 Tort Reform Act Cannot Survive a Rational Basis Challenge, University of Dayton Law Review, Vol. 31, No. 2, 2006.

Lectures and Presentations:

Northwestern Law School: Judicial Symposium, 2009
Guest Lecturer in Epidemiology: 2011, 2009
NBI Seminars: 2010, Discovery Tactics
AAJ Convention: Summer 2011, Winter 2012
OAJ Convention: Winter 2012
Cincinnati Bar Association: Winter 2012
MTMP: 2011, 2013
AAJ Pharmaceuticals Symposium: Fall 2014
CBA Seminar: October 2015
KJA Seminar: September 2017

Memberships:

American Association for Justice
American Bar Association
Federal Bar Association

Honors and Awards:

Featured Attorney: Ohio and Kentucky Super Lawyers 2017
OATL Distinguished Service Award: 1998, 2010
Ohio Super Lawyer 2004 through 2017
Martindale Hubbell AV Rated
Martindale Hubbell - Directory of Pre-eminent Women Attorneys
Top 50 Women Attorneys in Ohio
Carl B. Rubin Legal Society Lawyer of the Year 2013
Best Lawyers - Lawyer of the Year Cincinnati 2017: Mass torts/Class Actions

SIGNIFICANT CASES:

2017 **In Re: Depakote Litigation**
Southern District of Illinois
Co-Lead Counsel for Mass Action Tort Claims

- 2012 **St. Elizabeth Medical Center v. Kremer**
Boone County Kentucky Circuit Court
Contract rescission and employment dispute involving Medicare payments
Result: Defeated Plaintiff's claims and prevailed on counterclaim
- 2009 **In re: Yasmin and Yaz Products Liability Litigation, MDL 2100**
Southern District of Illinois
Co-Chair Science Committee
Result: Daubert motions denied; Litigation resolved
- 2008 **In re: Heparin Products Liability Litigation, MDL 1953**
Northern District of Ohio
Member of PCC and Executive Committee for Plaintiffs.
Result: Daubert Motions Denied in Part, granted in part; Litigation resolved
- 2006 **In re: Ortho Evra Products Liability Litigation, MDL 1742**
Northern District of Ohio
National Co-Lead and Liaison Counsel
Result: Settlement of Over 2300 Cases
- Arbino v. Johnson & Johnson, 116 Ohio St. 3d 468 (2007) (challenge to constitutionality of Ohio tort reform statutes rejected)
- 2005 **In re: Nutraquest Inc.**
District of New Jersey
(Trial Counsel for Test Case Plaintiffs in Bankruptcy Proceedings.)
Result: Settlements for personal injury creditors
- 2004 **Dunkelman v. Cincinnati Bengals, Inc.**
Hamilton County Court of Common Pleas
(Lead counsel for plaintiff class in breach of contract action involving club seat licenses for Paul Brown Stadium.)
Result: Class action certification and settlement
- 2004 **In re: Ephedra Products Liability Litigation, MDL No. 1598**
Southern District of New York
(National Liaison counsel and member of PCC for plaintiffs.)
Result: Individual case settlements
- 393 F.Supp.2d 181 (S.D.N.Y. 2005) (Denying summary judgment based on Daubert.)
- 494 F. Supp. 2d 256 (S.D.N.Y. 2007) (Granted in part and denied in part Defendants' motion to exclude testimony of Plaintiffs' case specific expert witness)

- 2001 **Reedy v. Cincinnati Bengals**
Hamilton County Court of Common Pleas
(Lead counsel for plaintiff class in breach of contract action involving seat licenses for Paul Brown Stadium.)
Result: Class action settlement and seat relocation program
- 143 Ohio App.3d 516 (1st. Dist. 2001) (Arbitration clause in seat license brochure unenforceable.)
- 1998 **In re: Diet Drugs Litigation, MDL No. 1203**
Eastern District of Pennsylvania
(Co-lead counsel for plaintiffs at Interneuron Class Action Fairness Hearing.)
Result: Class settlement denied due to subsequent *Ortiz* decision by U.S. Supreme Court.
- 1995 **In re: Albuterol Products Liability Litigation, MDL No. 1013**
District of Wyoming
(Co-lead trial counsel in class action alleging personal injury from contaminated prescription inhalant.)
Result: Class action settlement before closing argument.
- 158 F.R.D. 485 (D. Wyoming, 1994) (Certification of class)
161 F.R.D. 456 (D. Wyoming, 1995) (Denial of motion to decertify class.)
- 1994 **Mulligan v. Howmedica**
Southern District of Ohio
(Lead trial counsel for plaintiff in defective knee implant case.)
Result: Plaintiff verdict: \$215,000
- 850 F.Supp. 633 (S.D. Ohio 1994) (Denial of summary judgment based on federal pre-emption of a medical device claim.)
- 1994 **Simpson v. Ernst & Young**
Southern District of Ohio
(Counsel for plaintiff in age discrimination and ERISA case on behalf of partner in Big 6 accounting firm.)
Result: Plaintiff verdict: \$5,000,000 (including attorneys fees and pre/post judgment interest.)
- 850 F.Supp. 648 (S.D. Ohio, 1994) (Granting Plaintiff's motion for summary judgment.)
879 F.Supp. 802 (S.D. Ohio 1994) (Judgment for Plaintiff on ERISA claim)
100 F.3d 436 (6th Cir. 1996) (Affirming ADEA and ERISA judgments.)

- 1990 **Goldstein v. D.D.B. Needham**
Southern District of Ohio
(Counsel for plaintiff in white water rafting case.)
Result: Confidential settlement
- 740 F. Supp 2d 461 (S.D. Ohio 1990) (denying motion for summary judgment.)
- 1989 **In Re: Chubb Drought Insurance Litigation, MDL No. 782**
Southern District of Ohio
(Co-trial counsel for Plaintiff class of farmers in Midwest alleging breach of drought insurance contract.)
Result: Class settlement exceeding \$70 million.
- 1988 **Thompson, et al. v. Midwest Foundation of Independent Physicians Assoc., d/b/a ChoiceCare, et al.**
Southern District of Ohio
(Co-trial counsel for plaintiff class of physicians in antitrust and RICO case against HMO.)
Result: Plaintiff Verdict: \$101,868,014.00
- 124 FRD 154 (S.D. Ohio 1988) (approval of class action settlement.)
- 1984 **In Re: Bendectin Products Liability Litigation MDL No. 486**
Southern District of Ohio
(Third Chair Trial Counsel for Defendant Merrell Dow Pharmaceuticals, Inc.)
Result: Defense Verdict
- 624 F. Supp. 1212 (S.D. Ohio 1985) (Denial of motion n.o.v. and new trial.)
857 F.2d 290 (6th Cir. 1988) (Affirmed.)

Admissions

Ohio Supreme Court - 1982
United States District Court, Southern District of Ohio - 1982
United States Court of Appeals for the Sixth Circuit - 1985
United States District Court, Central District of Illinois - 1985
United States Court of Appeals for the Third Circuit - 1986
United States Court of Appeals for the Eleventh Circuit - 1986
United States Supreme Court - 1997
United States Court of Appeals for the Tenth Circuit - 1999
United States District Court, Southern District of Illinois - 2013