



ANDREW H. MYERS

Partner

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Andrew Myers defends drug and medical device makers against mass tort litigation involving product liability, personal injury, wrongful death, and other claims. He has particular experience involving preemption in the pharmaceutical industry and has briefed numerous trial and appellate courts, including the U.S. Supreme Court.

EDUCATION

University of California, Berkeley
- Boalt Hall School of Law, J.D.,
2002

University of Colorado, B.A.,
1999, English Literature, *summa
cum laude* with distinction
Phi Beta Kappa

OTHER EXPERIENCE

Arnold & Porter LLP

ADMISSIONS

Colorado

PRACTICE AREAS

- Commercial Litigation
- Personal Injury Defense
- Product Liability

BIOGRAPHY

Andrew Myers has spent more than a decade defending businesses in a wide range of complex litigation matters. His practice focuses on complex commercial and products liability litigation, with a particular emphasis on the defense of drug and medical device manufacturers in mass tort litigation. He has extensive experience addressing the regulatory, legal, and factual issues arising in complex product liability matters, the law governing admissibility of expert testimony, and the application of complex scientific and medical issues in court. Andrew is also well versed in the area of preemption and has briefed issues related to preemption of claims against drug and medical device manufacturers in state and federal trial and appellate courts, including the United States Supreme Court.

Outside the product liability context, Andrew has represented commercial clients in a wide range of legal contexts, including defending Pfizer against civil RICO claims seeking to recover over \$300 million, representing a custom motorcycle parts manufacturer in a case to recover the cost of allegedly defective components, and representing a number of large corporations in adversary proceedings in bankruptcy.

CASES

- Won a defense verdict in Philadelphia for a hospital and its physician assistant who diagnosed muscle strain when in fact the plaintiff had an infection that resulted in the amputation of her leg. The jury agreed with WTO's arguments that, given the circumstances, the original diagnosis was reasonable.
- *In re: Zolofit Litigation* (Cir. Ct. Kanawha Cnty. W. Va. 2016) - Won exclusion of a key plaintiff causation witness and summary judgment in a West Virginia case alleging that Pfizer's medication, Zolofit, causes birth defects. The witness's exclusion followed depositions establishing his lack of qualifications to serve as an expert on specific causation. As a result of the witness's exclusion, the court granted summary judgment in Pfizer's favor less than three weeks before trial.
- *In re: Zolofit (Sertraline Hydrochloride) Products Liability Litigation* (E.D. Pa. 2016) - Successfully excluded all of plaintiffs' general causation experts to help Pfizer secure summary judgment in federal Zolofit birth defect MDL.
- *Porter v. Smithkline Beecham* (Phila. Ct. Com. Pl. 2015) - Contributed to summary judgment win for Pfizer in a Zolofit birth defect case in Philadelphia. WTO partner Jim Hooper cross-examined the plaintiffs' only expert to offer live testimony, leading to the exclusion of both of the



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plaintiffs' experts. This was the second time courts excluded causation experts in Zolofit birth defect litigation. In 2014, Hooper cross-examined three causation experts in federal multidistrict litigation in Philadelphia; all three were barred from offering causation opinions.

- Won exclusion of plaintiffs' general causation experts in multidistrict litigation involving more than 600 claimants alleging the antidepressant Zolofit caused birth defects.
- *Fletcher v. Pizza Hut* (E.D. Va. 2009) - Won a defense verdict for Pizza Hut/Yum! Brands in a liability case involving traumatic brain injury and over \$3.5 million in damages following an accident involving a Pizza Hut delivery vehicle.
- *Thunder Mountain Custom Cycles v. Thiessen Products*, 72 F.3d 604 (D. Colo. 2008) - Obtained dismissal of claims against a manufacturer of high-end motorcycle parts in a product liability case in federal court in Colorado. Following dismissal of plaintiff's claims, WTO's client was awarded over \$1 million on its counterclaim of payments owed.
- *McNellis v. Pfizer* (3d Cir. 2008) - Won a major appeal for Pfizer in a groundbreaking preemption case before the Third Circuit.
- *Conroy v. Dennis* (Colo. 2006) - Successfully tried to verdict a case in which our clients proved that Colorado's electronic voting systems had not been tested and certified in accordance with the law. The case led to major changes in Colorado election law.

ARTICLES & PRESENTATIONS

- "The False Equivalence Motion: A Trend in Plaintiffs' Offensive Use of *Daubert* Challenges," DRI's *RX for the Defense* (April 17, 2017).
- "Cross Examination – What You Need to Know," presented at a Doyle Inn of Court CLE (February 15, 2017).
- "Using FDA Pronouncements to Defend Product Liability Claims," presented at DRI Drug and Medical Device Conference (May 14, 2009).

PERSONAL INTERESTS

Coaching high school mock trial team, golf, and playing poker