



ANDREW C. EFAW

Partner

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Andrew Efaw defends clients in professional liability trials and quasi criminal litigation, and he advises on the civil implications of criminal lawsuits. A former JAG officer, Andy's practice includes high-exposure professional malpractice, product liability, and premises liability cases.

EDUCATION

University of Pennsylvania Law School, J.D., 1997

U.S. Army War College, Master of Strategic Studies, 2013

United States Military Academy, West Point, B.S., 1989

OTHER EXPERIENCE

Judge Advocate General's Corps of the United States Army
Colonel

Military Judge, Afghanistan
Senior Defense Counsel,
Northern Iraq
Senior Trial Counsel, Fort
Lewis, Washington

ADMISSIONS

Colorado
Montana
New Mexico
Wyoming

HIGHLIGHTS

- Achieved exoneration for an oncologist facing sexual assault allegations in Indiana.
- Achieved a complete defense victory for a hospital client and staff by negotiating dismissal with prejudice—with no money paid—of a lawsuit in Colorado state court.
- Won a defense verdict in federal court against \$27 million malpractice and negligence claims involving a subdural empyema.
- Won a unanimous defense verdict for a hospital against negligence claims in a \$55 million trial in eastern Kentucky.
- Won a complete defense verdict for a Virginia hospital facing \$32 million negligence claims.
- Won a defense verdict for an emergency physician in a \$22 million lawsuit.
- Defended a medical device company facing allegations that its product catastrophically injured a patient's heart.

INDUSTRIES

- Medical Devices & Pharmaceuticals
- Healthcare
- Asbestos
- Consumer Products & Services
- Professional Services

PRACTICE AREAS

- Investigations & Compliance
- Healthcare Professional Liability
- Personal Injury Defense
- Product Liability
- Commercial Litigation
- Mass Torts
- Environmental Litigation
- Professional Liability

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BIOGRAPHY

Andrew Efaw defends clients in professional liability trials and quasi criminal litigation, and he advises on the civil implications of criminal lawsuits. A former JAG officer, Andy's practice includes high-exposure professional malpractice, product liability, and premises liability cases.

Andy has represented clients in complex trials and litigation in federal and state courts in 17 states nationwide. In addition to handling intricate commercial cases, Andy helps companies and individuals navigate civil lawsuits that arise after criminal acts. He defends hospitals and executives against malpractice claims involving violations of patient trust; pharmaceutical companies against product liability claims linking medicines to violent acts; and property owners and operators when catastrophe strikes on their premises.

In these and similar matters, Andy brings significant niche experience and a deft touch to protect his clients when their businesses, brands, and relationships require nuanced defense. Andy approaches each case with distinctive intellectual rigor, and he has a record of entering cases and uncovering game-changing facts.

After 27 years in the U.S. Army on active duty and as a reservist, Andy retired as a Colonel. Over the course his career, he served as an officer in the Field Artillery, Civil Affairs, and the Judge Advocate General's Corps. As a JAG officer, he served as trial counsel, defense counsel, and military judge. He has twice deployed to combat zones. In 2004-2005, Andy served in Iraq, trying cases as the Senior Defense Counsel of Northern Iraq. In 2012, Andy served as the Army judge presiding over courts-martials in Afghanistan and Kuwait. In his six-year tenure as a military judge, he presided over cases in 11 states, Germany, and Southeast Asia. He is the recipient of two Bronze Stars.

Andy frequently presents to lawyers, judges, insurers, and risk managers on topics including the defense of high-profile events, trial strategy, and professional ethics.

CASES

- Achieved exoneration for an oncologist facing sexual assault allegations in Indiana. After a two-year investigation, the State of Indiana determined that the allegations were unfounded and announced that it was dropping the case.
- Achieved a complete defense victory for a hospital client and staff by negotiating dismissal with prejudice—with no money paid—of a lawsuit in Colorado state court. The case involved highly sensitive criminal and civil claims of post-surgery sexual assault.
- Won a defense verdict in federal court for a hospital and its staff against \$27 million malpractice and negligence claims involving a subdural empyema.
- Won a unanimous defense verdict in a \$55 million trial in eastern Kentucky for a hospital accused of malpractice.

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- Won a complete defense jury verdict for a mental health hospital in Virginia. The plaintiff claimed \$32 million in damages arising from an alleged patient-on-patient sexual assault.
- Won a complete defense jury verdict in California for an emergency room doctor in a medical malpractice lawsuit with over \$22 million at stake in damages claims. WTO was called in just 10 days prior to the three-week trial.
- Defended a medical device company facing allegations that its product catastrophically injured a patient's heart.
- Won an appeal argued before the Colorado Supreme Court challenging a trial court's order to submit Quality Management Privileged (QMP) materials relating to an incident at issue in a medical malpractice trial. The appellate decision is significant, as the QMP designation allows hospitals and healthcare providers to assess and innovate following critical incidents without concern that their discussions will be discovered.
- *Brown v. Whirlpool* (N.D. Ohio 2014) - Obtained dismissal of class action allegations and 15 of 17 claims against Whirlpool in an environmental toxic tort case. Plaintiffs voluntarily dismissed their remaining claims after the court's ruling.
- Successfully appealed a decision by the Office of the Inspector General, Department of Health and Human Services, to impose on WTO's pro bono client, a Navy nurse and corpsman, a mandatory five-year exclusion from working in any federally funded healthcare program, which jeopardized her Navy service. WTO showed why the decision was not warranted or authorized under current statutes. The Inspector General withdrew the exclusion, dropping the case and allowing our client to return to military service.
- *Anderson v. Pfizer* (N. Dak. 2010) - Successfully defended a pharmaceutical company against claims that a convicted murderer's actions were induced by prescription medication. The plaintiff dismissed the case after 18 months of intense litigation.
- *Wilson v. Wyeth* (E.D. Ark. 2008) - Obtained a favorable settlement for a pharmaceutical company against claims that the plaintiff developed Stevens-Johnson Syndrome (SJS) from use of medication.
- *Auto Stiegler v. Mercedes-Benz USA* (C.D. Cal. 2006) - Won a complete jury verdict in a franchise dispute in Los Angeles, defeating all of the plaintiff's claims and winning all six counterclaims and an award of over \$7 million, including punitive damages, for Mercedes-Benz USA.
- *Taylor v. Solvay Pharmaceuticals* (D. Colo. 2003) - Obtained voluntary dismissal of claims against Solvay Pharmaceuticals in litigation following the 1999 Columbine High School shooting. A student injured in the shooting alleged liability against the drug maker because attacker Eric Harris had been taking the SSRI medication Luvox (fluvoxamine maleate) at the time of the incident. The injured student ultimately dropped his claim with no money exchanged.

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- *U.S. v. Brown* (Wash. 2000) - As senior Army trial counsel, led a team prosecuting the murder of a Fort Lewis soldier. The defendant received a life sentence without possibility of parole.
- *U.S. v. Guiza* - Won a jury acquittal for a soldier accused of rape, which allowed the defendant to remain in the Army.

REPRESENTATIVE CLIENTS

Georgia-Pacific
Lowe's - High Exposure Counsel
Pfizer
Universal Health Services - National Trial Counsel

BAR & COURT ADMISSIONS

Colorado
Montana
New Mexico
U.S. Court of Appeals, 7th Circuit
U.S. District Court, D. Colorado
U.S. District Court, W.D. Michigan
Wyoming

LEGAL MEMBERSHIPS, ACTIVITIES & HONORS

The Best Lawyers in America

Product Liability Litigation, 2017-2020
Professional Malpractice Law, 2013-2020
Personal Injury Litigation, 2013-2020

Colorado Super Lawyers

Personal Injury - Medical Malpractice Defense, 2018-2020
General Litigation, 2012-2017
Top 100, 2020, 2019, 2015

Law Week Colorado

Lawyer of the Year, 2012

Martindale-Hubbell AV® Peer Review Rated

Benchmark Litigation

Future Star - Colorado, 2014-2018

American Bar Association

Faculty of Federal Advocates

Colorado Bar Association

Denver Bar Association

United States Army Military Judge 2007-2013

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ARTICLES & PRESENTATIONS

Articles

- "Periodic dispatches about life as a deployed Judge Advocate General," *Law Week Colorado* (May/December 2012).
- "The United States Refusal to Ban Landmines: The Intersection Between Tactics, Strategy, Policy, and International Law," 159 *Mil. L. Rev.* 87 (1999).
- "Total Concept and Feel: A Proper Test for Children's Books," 5 *UCLA Ent. L. Rev.* 141 (1997).
- "Free Exercise and the Uniformed Employee: A Comparative Look at Religious Freedom in the Armed Forces of the United States and Great Britain," 17 *Comp. Lab. L.J.* 648 (1996).

Presentations

- "Marijuana and the Changing Landscape for Healthcare Providers and Hospital Administrators," Risk Webinar presented by American Excess Insurance Exchange (April 2019).
- "Allegations of Sexual Assault by a Provider: A Roadmap to Limit Exposure," presented at The Crittenden Medical Insurance Conference (March 31-April 2, 2019).
- Co-presented "Sexual Misconduct Allegations: Law, Ethics, and Controlling Risk," at the annual American Society for Health Care Risk Management (October 9, 2018).
- "Practical Judicial Ethics Dilemmas, the Lawyer's Perspective," presented at the Biennial Judicial Ethics Training for Administrative Law Judges (December 2, 2016).
- "Managing Violent Patients and Visitors Coming" presented at the Mountain States Healthcare meeting (Feb. 10-11, 2016).
- "Practical Judicial Ethics Dilemmas: The Lawyer's Perspective," Advanced New Judge Orientation, Denver, CO (May 2015).
- "Practical Judicial Ethics Dilemmas: The Lawyer's Perspective," Eleventh Biennial Judicial Ethics Training: Threats and Opportunities for Administrative Law Adjudicators: The Future, Denver, CO (December 2014).
- "Defending Suicide: Investigating and Defending a High-Profile Event," presented at the Kentucky Society of Health Risks Managers Annual Conference, Louisville, KY (November 2014).
- "Texting & Social Media in Medicine: A Prescription for Trouble?" presented at the American Society of Health Risks Managers Annual Conference, Phoenix, Arizona (October 2014).
- "False Advertising & Marketing in the Healthcare Industry," Marketing Risk Webinar presented by Mountain States Healthcare Risk Retention Group (May 2014).
- "Social Media and Cyber Liability," presented to Colorado Healthcare Associated Risk Managers, Denver, CO (March 2014).

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- "Medical Malpractice Cases, Practical Advice and Winning Strategies: Defending Against Plaintiff's Case," presented at the Colorado Bar Association, Denver, CO (March 2013).
- "Judicial Ethics: Solutions" at Joint Military Judges Annual Training (JMJAT) presented at National Judicial College, Reno, Nevada (September 20, 2012).
- "Search & Seizure; Selected Problems," guest Lecturer, Criminal Procedure for the Criminal Justice Professional, Central Texas College at Camp Arifjan, Kuwait (September 13, 2012).
- "Attorney Ethics: Solving Dilemmas," presented to attorneys at Bagram and Kandahar Airfields, Afghanistan, and Camp Arifjan, Kuwait (Multiple dates in 2012).
- "Defending Suicide: Investigating and Defending a High Profile Event," presented at the American Society of Health Risks Managers Annual Conference, Phoenix, Arizona (October 19, 2011).
- "Practical Judicial Ethics Dilemmas," presented at the Ninth Judicial Ethics Training, State of Colorado Office of Administrative Courts, Denver, Colorado (December 1, 2010).
- "Ethics and Professionalism," presented at ABA Standing Committee on Legal Assistance for Military Personnel CLE, Fort Carson, Colorado (March 16, 2009).
- "Beyond Daubert: An Analytical Framework for Judges to Evaluate Experts," presented at National Judicial College, Reno, Nevada (March 2008).