



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

HIGHLIGHTS

- Won a defense verdict in Philadelphia the week of Christmas against allegations that a missed diagnosis led to a patient's leg amputation.
- Won exclusion of a key plaintiff causation witness and summary judgment in a West Virginia case alleging that Pfizer's medication, Zolof, causes birth defects.
- Helped win summary judgment in a federal MDL in Philadelphia to dismiss Zolof birth defects litigation.
- Helped win summary judgment for Pfizer in Zolof birth defect case in Philadelphia.
- Won exclusion of experts in Zolof multidistrict litigation.
- Obtained dismissal of toxic tort class action claims against Whirlpool in Ohio without any payment by WTO's client.
- Won a defense verdict for Pizza Hut/Yum! Brands in a \$3.5 million delivery vehicle accident lawsuit.

INDUSTRIES

- Medical Devices &
Pharmaceuticals

PRACTICE AREAS

- Commercial Litigation
- Product Liability
- Personal Injury Defense

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BIOGRAPHY

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.

Andrew 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.

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, during the week of Christmas, 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: Zoloft 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, Zoloft, causes birth defects. As a result, the court granted summary judgment in Pfizer's favor less than three weeks before trial.
- *In re: Zoloft (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 Zoloft birth defect MDL.
- *Porter v. Smithkline Beecham* (Phila. Ct. Com. Pl. 2015) - Contributed to summary judgment win for Pfizer in a Zoloft 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 plaintiffs' experts. This was the second time courts excluded causation experts in Zoloft 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 Zoloft caused birth defects.

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- *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.
- *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 an 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.

REPRESENTATIVE CLIENTS

Guidant - National Trial Counsel
Pfizer

BAR & COURT ADMISSIONS

Colorado
U.S. District Court, D. Colorado

LEGAL MEMBERSHIPS, ACTIVITIES & HONORS

Benchmark Litigation

Under 40 Hotlist, 2017-2018

The Best Lawyers in America

Personal Injury Litigation - Defendants, 2021

Colorado Rising Stars

Personal Injury Defense: Products, 2011-2017

Law Week Colorado

Up-and-Coming Lawyers, 2008

Colorado Bar Association

Colorado Civil Justice League

President, Board of Directors, 2018-2019

ARTICLES & PRESENTATIONS

- Contributing author, "Guidelines and Best Practices for Large and Mass-Tort MDLS," The Bloch Judicial Institute at Duke Law (September 2018).

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- "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