

Dustin B. Rawlin

Partner

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education

Duke University School of Law
(J.D.), 2000

Boston College (M.A.), 1997

Boston College (B.A.), *summa cum laude*, 1997; Gabelli Presidential Scholar; Phi Beta Kappa

services

Medical & Pharmaceutical Liability

Business Litigation

Class Action Litigation

Appellate & Legal Issues

Mass Tort & Product Liability

Drug & Device Regulatory Issues

Financial Services Litigation

Food, Cosmetics & Dietary

Supplements

Dustin Rawlin is a trial lawyer who represents businesses in complex litigation matters in courts throughout the United States.

He defends companies in cases involving product liability, business tort, breach of warranty, consumer fraud, professional negligence, and commercial disputes. Dustin is national counsel for a medical device manufacturer and has successfully defended hundreds of cases involving a wide variety of medical devices, including saline and silicone gel breast implants, tissue expanders, vocal cord paste, ultrasound devices, liposuction equipment, and penile implants. Dustin works with nationally and internationally renowned experts in the fields of biomaterials, pathology, toxicology, microbiology, epidemiology, biomedical engineering, regulatory compliance, and medicine to present sophisticated scientific and medical concepts to juries.

He is currently defending personal injury claims related to transvaginal mesh devices used to treat stress urinary incontinence and pelvic organ prolapse as coordinating and lead counsel in two multidistrict litigation proceedings, as well as personal injury claims related to saline and silicone gel breast implants.

Dustin is also currently defending a manufacturer in consumer class actions relating to flushable wipes, and a law firm in a securities fraud and professional negligence class action.

Dustin has lead attorney experience representing a major credit reporting agency in more than 80 cases involving the Fair Credit Reporting Act in federal courts throughout the Midwest, including

putative class actions. He also represents companies in Telephone Consumer Protection Act cases.

Dustin devotes substantial time to pro bono representations, community service, and mentoring associates. The Sixth and Tenth Circuit Courts of Appeals have appointed Dustin to pro bono representations in criminal matters, and Dustin represents clients pro bono in civil rights and wrongful eviction cases referred by the Legal Aid Society of Cleveland.

Dustin met his wife Meggan, also an attorney, while they were both students at Duke University School of Law and – in one of his finest pieces of advocacy – convinced her to turn down job opportunities in Dallas and Atlanta and move to Northeast Ohio where they live with their four young children.

state admissions

- Ohio (2000)

federal admissions

- Supreme Court of the United States
- United States Court of Appeals, First Circuit
- United States Court of Appeals, Third Circuit
- United States Court of Appeals, Fourth Circuit
- United States Court of Appeals, Sixth Circuit
- United States Court of Appeals, Eighth Circuit
- United States Court of Appeals, Ninth Circuit
- United States Court of Appeals, Tenth Circuit
- United States Court of Appeals, Eleventh Circuit
- United States District Court, Southern District of Indiana
- United States District Court, Northern District of Indiana
- United States District Court, Eastern District of Michigan
- United States District Court, Western District of Michigan
- United States District Court, Northern District of Ohio
- United States District Court, Southern District of Ohio
- United States District Court, Eastern District of Wisconsin
- United States District Court, Western District of Wisconsin

experience

REPRESENTATIVE MEDPHARMA DECISIONS

- Obtained dismissal for medical device company on federal preemption under *Riegel* and Ohio Product Liability Act abrogation in case involving alleged breast implant-associated Anaplastic Large Cell Lymphoma (BIA-ALCL) from silicone gel breast implants (N.J. Sup. Ct. Law Div. Middlesex Cty 2018)
- Obtained voluntary dismissal for medical device company in case involving alleged injuries from silicone gel breast implants (Fla. Cir. Ct. Seminole Cty 2018)
- Obtained dismissal for medical device company on federal preemption under *Riegel* in case involving alleged injuries from ruptured silicone gel breast implants (Cal. Super. Ct. Los Angeles Cty 2018)

- Obtained dismissal for medical device company on federal preemption under *Riegel* in case involving alleged injuries from ruptured silicone gel breast implants (C.D. Cal. 2018)
- Obtained summary judgment for medical device company on federal preemption under *Riegel* and for lack of defect or causation in case involving alleged mold toxicity from saline breast implants, following exclusion of plaintiff's three experts under *Daubert* (C.D. Cal. 2017)
- Obtained dismissal for medical device company on federal preemption under *Riegel* in case involving injuries allegedly caused by ruptured saline breast implant (N.D. Okla. 2017)
- Obtained summary judgment for medical device company in 100+ MDL cases on statute of limitations grounds in cases involving injuries allegedly caused by transvaginal mesh (M.D. Ga. 2015-2017)
- Obtained dismissal for medical device company on federal preemption under *Riegel* in case involving injuries allegedly caused by ruptured silicone gel breast implant (D.S.C. 2014)
- Obtained dismissal for medical device company on federal preemption under *Riegel* in case involving injuries allegedly caused by ruptured saline breast implant (N.D. Cal. 2014)
- Obtained summary judgment for medical device company for lack of defect in case involving injuries allegedly caused by leaking tissue expander (N.J. Super. Ct. Law Div. Atlantic Cty 2014)
- Obtained dismissal for medical device company on federal preemption under *Riegel* in case involving injuries allegedly caused by ruptured saline breast implant (E.D. La. 2013)
- Obtained summary judgment for medical device company in four MDL bellwether cases on statute of repose/limitations grounds in cases involving injuries allegedly caused by transvaginal mesh (M.D. Ga. 2013)
- Obtained dismissal for medical device company on federal preemption under *Riegel* in case involving injuries allegedly caused by ruptured saline breast implant (E.D. Cal. 2012)
- Obtained dismissal with prejudice of putative medical monitoring class action regarding needle-free jet injection device used to administer flu vaccine (N.D. Ohio 2012)
- Obtained summary judgment for medical device company on innocent retailer defense in case involving burn injuries allegedly caused by external ultrasound device (N.J. Super. Ct. Morris Cty 2008)
- Obtained dismissal with prejudice of putative medical monitoring class action regarding transvaginal mesh (W.D. Mo. 2008)
- Obtained summary judgment for medical device company on federal preemption in case involving granuloma allegedly caused by "transitional device" Teflon® vocal cord paste (W.D. La. 2008)
- Obtained summary judgment for medical device company for lack of causation in case involving alleged mold toxicity from saline breast implants (N.D. Ga. 2007)
- Obtained summary judgment for medical device company for lack of proof of defect in case involving infection allegedly caused by ruptured tissue expander (D. Conn. 2006)
- Obtained summary judgment for medical device company because plaintiff was member of non-opt-out class action settlement in case involving injuries allegedly caused by silicone gel breast implants (Tex. Dist. Ct. Tarrant Cty 2005)
- Obtained summary judgment for medical device company for lack of proof of defect in case involving injuries allegedly caused by silicone gel breast implants (Fla. Cir. Ct. Orange Cty 2004)

- Obtained summary judgment for medical device company for lack of proof of defect in case involving injuries allegedly caused by penile prosthesis (Fla. Cir. Ct. Pinellas Cty 2004) Affirmed on appeal. (Fla. 2d DCA 2005)
- Obtained summary judgment for medical device company following *Daubert* decision barring plaintiff's causation expert in case involving alleged autoimmune disease from silicone gel breast implants (Mo. Cir. Ct. Green Cty 2003)

REPRESENTATIVE BUSINESS LITIGATION/CLASS ACTION DECISIONS

- Obtained dismissal for law firm in \$60-million securities fraud and legal malpractice class action (N.D. Ohio 2018)
- Obtained summary judgment for crane manufacturer in breach of contract action involving windstorm damage to a 25-metric ton double-girder gantry crane (S.D. Iowa 2016)
- Obtained reversal of certification of a consumer class action regarding run-flat tires on luxury vehicles (3d Cir. 2012)
- Obtained dismissal with prejudice of putative medical monitoring class action regarding needle-free jet injection device used to administer flu vaccine (N.D. Ohio 2012)
- Obtained summary judgment for developer regarding easement over E. 119th Street in Little Italy, Cleveland (Ohio CP Ct. Cuy. Cty 2010)
- Obtained judgment on the pleadings for sports club in copyright and trademark infringement case involving health club management software (N.D. Ohio 2007)
- Obtained dismissal with prejudice of putative medical monitoring class action regarding transvaginal mesh (W.D. Mo. 2008)
- Obtained dismissal on forum non conveniens grounds for French and Swedish employees in case alleging breach of fiduciary duty by employer (Mass. Super. Ct. Essex Cty 2006); affirmed on appeal (Mass. App. Ct. 2006)
- Obtained summary judgment for energy company on its breach of contract claims and defendant's counterclaims in case involving supply of lubricating oil to Navy (N.D. Ohio 2006)
- Obtained preliminary injunction for medical device company requiring defendant to continue supplying a critical blood transfusion product under a distribution agreement (N.D. Ohio 2005)

REPRESENTATIVE FCRA/FINANCIAL SERVICES LITIGATION DECISIONS

- Obtained summary judgment for credit reporting agency in case under Fair Credit Reporting Act, 393 F.Supp.2d 853 (D. Minn. 2005)
- Obtained summary judgment for credit reporting agency in case under Fair Credit Reporting Act, 2004 WL 161494 (N.D. Ill. 2004)
- Obtained summary judgment for credit reporting agency in case under Fair Credit Reporting Act, 297 F.Supp.2d 1196 (E.D. Mo. 2003)
- Obtained summary judgment and attorneys' fees pursuant to 28 U.S.C. § 1927 for credit reporting agency in case under Fair Credit Reporting Act, 289 F.Supp.2d 956 (N.D. Ill. 2003)

REPRESENTATIVE TRIALS

- Obtained complete defense verdict as second-chair trial counsel in two-week jury trial in MDL bellwether case involving transvaginal mesh (M.D. Ga. 2013)

- Obtained complete defense verdict in five-week jury trial involving transvaginal mesh (Cal. Sup. Ct. Alameda Cty 2008)
- Obtained verdict for pro bono client in illegal lockout case against landlord; jury awarded compensatory and punitive damages; motion for relief from judgment and for new trial denied (Ohio CP Ct. Cuy. Cty 2008)
- Obtained complete defense verdict in jury trial involving alleged injuries from saline tissue expanders (Miss. Cir. Ct. Lee Cty 2004)

publications & events

SPEAKING ENGAGEMENTS

- "Writing and Arguing Daubert Motions," Cleveland, Ohio (August 2018)
- "Deposition Demonstration," Cleveland, Ohio (September 2017)
- National Institute for Trial Advocacy (NITA) Deposition Skills Workshop, Instructor, Cleveland, Ohio (March 2017)
- "Controlling the Narrative: Making the Case About What You Want It to Be About," Cleveland, Ohio (March 2017)
- "Lessons Learned from a Transvaginal Mesh Trial," Cleveland, Ohio (August 2013)
- "Preparing the Witness for Deposition," Cleveland, Ohio (March 2012)
- "Developments in the Local Rules of the N.D. Ohio," Cleveland Metropolitan Bar Association, Federal Court Training, Cleveland, Ohio (December 2011, December 2010)
- "Fundamentals of Medical Device Regulation and Litigation," internal client presentation, Cleveland, Ohio (March 2011, November 2010)
- "Hearsay, Trial Evidence for Ohio Practitioners," Ohio State Bar Association, Cleveland, Ohio (December 2010)
- Instructor, National Institute for Trial Advocacy (NITA) Expert Witness Deposition Workshop, Dallas, Texas (September 2010)
- "Effective Mediation," San Francisco, California (April 2008)
- "The Joint Defense Privilege and Joint Defense Agreements," Cleveland, Ohio (August 2007)
- "Professionalism," Cleveland Bar Association, New Lawyers Training, Cleveland, Ohio (February 2006; February 2004)

PUBLICATIONS

- "The Verdict Is In: Trial Tips for Associates," *Cleveland Metropolitan Bar Journal* (January 2009)
- "Time Management," *Cleveland Metropolitan Bar Journal* (November 2008)
- "For the Public Good: Pro Bono," *Cleveland Metropolitan Bar Journal* (September 2008)
- "Mentoring," *Cleveland Metropolitan Bar Journal* (August 2008)
- "Direct-to-Consumer Advertising and the Learned Intermediary Doctrine: Trends and Safe Harbors for Pharmaceutical Manufacturers," *Practice Perspectives: Product Liability & Tort Litigation* (Summer 2007)

MEDIA

- "Breast Implant Litigation – The Defense Wins a ... Couple," Drug & Device Law Blog (January 2019)
- "New Jersey Finds Preemption in Breast Implant Litigation," Drug & Device Law Blog (January 2019)

- "Even in California, Failure to Report Requires Something Reportable," Drug & Device Law Blog (October 2018)
- "Most Claims Either Expressly or Impliedly Preempted in Breast Implant Decision Out of the Northern District of Illinois," Drug & Device Law Blog (June 2018)
- "Still No Causation, Still No Parallel Claim," Drug & Device Law Blog (May 2018)
- "Innovative Bifurcation and Exclusion of Plaintiff's Experts in Mentor ObTape Case," Drug & Device Law Blog (May 2018)
- "M.D. Florida Shoots Down All Breast Implant Claims Except for Negligent Manufacturing Defect," Drug & Device Law Blog (March 2018)
- "And Now a Word from Maine," Drug & Device Law Blog (February 2018)
- "Illinois Court Rejects Novel Claims Alleging Deficiencies in Post-Approval Studies," Drug & Device Law Blog (February 2018)
- "Texas Justices Shelve J&J Mesh Case After Appeal Dropped," *Law360* (November 2017)
- "C.D. Cal. Excludes Three Plaintiff Experts in Breast Implant Case," Drug & Device Law Blog (November 2017)
- "Texas Justices Tackle 11th Circ.'s Discovery Rule Question," *Law360* (October 2017)
- "No Causation, No 'Parallel Claim,'" Drug & Device Law Blog (September 2017)
- "Failure to Warn Claim Dead on Arrival Without Testimony from Prescribing Physician," Drug & Device Law Blog (January 2017)
- "Put Up or Pay Up: Mentor ObTape MDL Judge Promises Sanctions to Plaintiff Attorneys Filing Meritless Cases," Drug & Device Law Blog (September 2016)
- "Vaginal Mesh MDL Judge Sick and Tired of Bogus Suits," *Law360* (September 2016)

honors

AWARDS & PROFESSIONAL RECOGNITION

- Law360 Rising Stars, Product Liability (2012, 2014)
- Ohio Super Lawyers® (2014-2019)
- Ohio Super Lawyers Rising Stars® (2005-2007, 2009, 2011-2013)

in the community

CIVIC & PROFESSIONAL INVOLVEMENT

- Cleveland Metropolitan Bar Association
 - Litigation Section, Council Member (2011 to present)
 - Commercial Docket Committee, Chair (2010)
 - Young Lawyers Section, Chair (2009)
 - Board of Trustees (2009)
- Northeast Ohio Tennis Association
 - Director and General Counsel
 - NEOTA Board Award (2017)
- The Honorable William K. Thomas American Inn of Court

- Defense Research Institute, Drug & Medical Device Committee
- Ohio State Bar Association
- Ohio State Bar Foundation, Fellow
- Federal Bar Association

FEDERAL APPOINTMENTS

- Northern District of Ohio Advisory Group (2003-present)
 - Deputy Chair (2018)
 - Civil Rules Committee, Co-Chair (2005-present)
- Northern District of Ohio, Merit Selection Panel (2008, 2011)