



## Ernest W. Auciello, Jr.

### Partner

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Ernie Auciello is a trial lawyer who focuses on pharmaceutical litigation, medical malpractice, and long term care litigation.

Ernie has over 30 years of experience in defending medical professionals, hospitals, and other medical institutions and product manufacturers. Throughout the past 20 years, he has tried over 50 civil jury trials as first-chair counsel. He has successfully managed a variety of litigation against product managers, employers, and healthcare providers, and has represented his clients before courts of all levels, administrative agencies, and in private arbitration.

After law school, Ernie served a two-year clerkship for U.S. District Judge Churchill in the Northern Division of the Eastern District in Bay City, Michigan and assisted Judge Churchill during his designation to the United States Court of Appeals for the Sixth Circuit. Ernie has lectured before both national and local organizations on risk management and litigation and the defense of medical malpractice.

Born in Welch, West Virginia, Ernie lives in Perry Township, Ohio with his wife Sue. He loves golf and spending time with his son Stephen, a physician in Columbus, and daughter Megan, a public school teacher.

### Education

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- The University of Toledo College of Law (J.D., cum laude, 1985); Order of the Coif; Law Review, The University of Toledo College of Law; American Jurisprudence Awards; Constitutional Law I and II; Conflicts of Law; Criminal Law
- Bowling Green State University (B.S., cum laude, 1982)

### State Admissions

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- Ohio, 1985

## Federal Admissions

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- United States Court of Appeals, Sixth Circuit
- United States District Court, Northern District of Ohio
- United States District Court, Southern District of Ohio

## Service Areas

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- Long Term Care
- Life Sciences Litigation
- Medical Malpractice Litigation
- Health & Life Sciences

## Experience

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- Successfully defended nursing home in Ohio Court of Appeals, Eighth Appellate District; court vacated jury's award of nearly \$1 million in punitive damages and attorneys' fees
- Obtained defense verdict for a hospital in wrongful death case arising from a patient's loss of airway from a tracheotomy change (jury trial 2014, first chair)
- Obtained defense findings in multiple binding arbitrations for nursing homes (2015, 2016)
- Obtained defense verdict for a nursing home in wrongful death claim alleging death and injuries from a severe decubitus ulcer (jury trial 2012, first chair)
- As part of a trial team, represented pharmaceutical defendant in two wrongful death product liability trials involving a fentanyl pain patch (jury trials 2007 and 2008)
- Represented emergency room doctor in wrongful death medical malpractice suit alleging a failure to diagnose an impending cardiac arrest (jury trial 2008)
- Defended physician and clinic in birth injury causing brain damage claim, winning a judgment finding that Ohio does not recognize pre-conception torts (2007)
- Defended emergency room doctor in medical malpractice action dismissed on summary judgment due to technical failure of plaintiff to preserve statute of limitations (2010) later upheld by the Ohio Supreme Court
- Successfully defended neurosurgeons in multiple medical malpractice trials alleging complications from cervical fusions and discectomies (jury trials 2002 and 2004, first chair)
- Defended hospital in complex contracting case dismissed on motion and upheld on appeal
- Defended hospital and staff in wrongful death and medical malpractice suit alleging failure to diagnose an impending heart attack and alteration of medical records (jury trial 2001, first chair)
- Obtained defense verdict in trial alleging serious brain injury to a child from an auto collision with a tractor trailer (jury trial 2000, first chair)

## **Publications & Events**

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### **SPEAKING ENGAGEMENTS**

- “Advanced Medical Malpractice,” NBI Webinar (November 2020)
- “Medical Malpractice During a Pandemic,” National Business Institute, live video webcast (June 2020)
- “Electronic Medical Records (EMRs) and Discovery” and “Medical Malpractice Litigation – Defense Tips,” NBI Medical Malpractice Boot Camp, Video Webcast (August 2019)
- “Electronic and Other Medical Records: What to Look For and Where to Find It” and “Navigating Through the Medical Malpractice Trial,” National Business Institute’s “Medical Malpractice from Start to Finish,” Independence, Ohio (November 2018)
- “Legal Risks for Physicians at the Case Western Reserve University School of Medicine,” Case Western Reserve University, Cleveland, Ohio (June 2017)
- “Risk Avoidance for Doctors,” Case Medical School Emergency Medicine Residency (2016)
- “[State Law Update](#),” American Health Lawyers Association Annual Meeting, Washington, D.C. (June 2015)
- DRI Medical Liability and Health Care Seminar, Orlando, Florida (2009)

### **Honors**

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- Senior Fellow, Litigation Counsel of America
- Ohio Super Lawyers® (2007, 2009-2010, 2018-2020)
- American Lawyer Media, Top Rated Lawyer in Healthcare (2013)

### **In the Community**

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- American Board of Trial Advocates
- Defense Research Institute, Medical Liability Committee
- Ohio Association of Civil Trial Lawyers
- Litigation Counsel of America
  - » Trial Law Institute
  - » Diversity Law Institute
- Cleveland Metropolitan Bar Association
- Ohio State Bar Association