



## James W. Mizgala

### Partner

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James Mizgala has 25 years of experience defending clients in cases involving pharmaceutical products liability, consumer fraud, toxic torts, and mass torts on national and local trial teams.

James has tried cases to verdict in Cook County, Illinois, and the District of Nebraska, and he has served on trial teams in Las Vegas, Los Angeles, Philadelphia, and West Virginia. He has also served as national coordinating counsel on consumer fraud class action litigation for a consumer products company. With graduate-level training as a neurobiologist and more than five years of experience working in research labs, James is often called upon to handle the science side of cases, such as during a recent antitrust MDL where plaintiffs claimed a “sham” citizen petition had been filed with FDA.

Selected for Who’s Who Legal in the areas of “Product Liability Defence” and “Life Sciences – Product Liability,” James is highly regarded for his “unsurpassed knowledge of science and expert development.” He has been described as “a tough, tenacious litigator” with “an amazing mind for science and expert issues” who “consistently ranks highly in our research for his skills in court and ‘personable and committed approach’ to clients.” Clients remark that James “provides sophisticated and aggressive advocacy and excels at presenting complex scientific evidence” and “impresses clients with his ability to balance legal analysis with business realities.”

James (a transplanted upstate New Yorker) and his wife (a native Chicagoan) have three children, all of whom fortunately reside in Chicago – a son thriving in the food industry, after graduating from Indiana University; a daughter teaching seventh-grade math, after graduating from the University of Illinois; and a son in his senior year at Northwestern University – and have finally achieved their dream of being empty-nesters.

## **Education**

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- University of North Carolina School of Law (J.D., with honors, 1994); North Carolina Journal of International Law and Commercial Regulation, Managing Editor
- Johns Hopkins University (M.A.S., 1988)
- Cornell University (B.A. in Biology, with distinction in all subjects, 1984)

## **State Admissions**

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- Illinois, 2000
- Pennsylvania, 1994

## **Federal Admissions**

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- United States Court of Appeals, Eighth Circuit
- United States Court of Appeals, Tenth Circuit
- United States District Court, Central District of Illinois
- United States District Court, Northern District of Illinois
- United States District Court, Western District of Pennsylvania

## **Service Areas**

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- Life Sciences Litigation
- Mass Tort & Product Liability
- Class Action Litigation
- Environmental & Renewable Energy
- Commercial Asset Recovery & Protection
- Health & Life Sciences

## **Experience**

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### **REPRESENTATIVE CASES**

- As lead counsel for a chemical manufacturer, secured a defense verdict in a Cook County case where plaintiff claimed that her son's birth defects were caused by an occupational exposure to chemicals
- As co-lead counsel for a meat processing company, secured a \$17,500 verdict in a case where plaintiff claimed injuries due to hydrogen sulfide exposure and asked the jury for over \$1,000,000 in damages

### **REPRESENTATIVE DECISIONS**

- Representing a pharmaceutical company, defeated plaintiff's motion for spoliation sanctions for alleged document destruction
- Obtained dismissal of plaintiff's consumer fraud class action complaint, alleging the

- presence of formaldehyde in bath products, for failing to plead a cognizable injury-in-fact
- Obtained summary judgment on the adequacy of the defendants' labeling of a statin medication
- Obtained summary judgment in a case of alleged drug-induced liver failure from statin use after exclusion of plaintiff's three causation experts pursuant to *Daubert*
- Obtained exclusion of plaintiffs' generic experts' testimony regarding comparative toxicity of statins as not scientifically valid, of plaintiffs' generic expert's recalculation of manufacturer's study, and of plaintiffs' generic expert's testimony regarding manufacturer's ethical obligations
- On appeal, obtained affirmance of the denial of a motion to certify medical monitoring, consumer fraud, and breach of warranty classes of statin users and of the granting of a motion for summary judgment
- Precluded plaintiffs' expert toxicologist from testifying on medical causation in a case of alleged injury from statin use
- Obtained summary judgment against a medical monitoring class of statin users following the exclusion of plaintiffs' expert pursuant to *Frye*
- Successfully opposed plaintiffs' motion to certify medical monitoring, personal injury, and economic loss classes of statin users
- Successfully argued for exclusion plaintiffs' generic cardiac pathology expert from opining that a diet drug caused cardiac fibrosis during preclinical studies

### **Publications & Events**

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#### **SPEAKING ENGAGEMENTS**

- "What Young Lawyers Need to Know When Looking for an Expert Witness," Teleconference, ABA Products Liability Young Lawyers Subcommittee and Expert Witnesses Committee (April 2017)
- "Experts," Drug & Device Forum 2016, HB Litigation Conferences, Philadelphia, Pennsylvania (December 2016)

#### **PUBLICATIONS**

- "The Complex Task of Managing Nanotechnology Risks," *IndustryWeek* (November 2015)
- *Mississippi ex rel. Hood v. AU Optronics Corp.*, listed in *Top 20 Food and Drug Cases, 2014 & Cases to Watch, 2015*, The Food and Drug Law Institute (FDLI) (2015)
- *Falsberg v. GlaxoSmithKline, PLC*, listed in *Top 20 Food and Drug Cases, 2013 & Cases to Watch, 2014*, The Food and Drug Law Institute (FDLI) (2014)
- *Scheuerman v. Nestlé Healthcare Nutrition, Inc.*, listed in *Top 20 Food and Drug Cases, 2012 & Cases to Watch, 2013*, The Food and Drug Law Institute (FDLI) (2013)
- "Mitigating Risk in Mass Nano Torts," *Law360* (February 2012)
- *Graco, Inc. v. PMC Global, Inc.*, listed in *Top 20 Food and Drug Cases, 2011 & Cases to Watch, 2012*

- , The Food and Drug Law Institute (FDLI) (2012)
- *Carson v. DePuy Spine, Inc.*, listed in *Top 20 Food and Drug Cases, 2010 & Cases to Watch, 2011*, The Food and Drug Law Institute (FDLI) (2011)
- “Nanotechnology Manufacturers’ Duty to Warn and Potential Affirmative Defenses,” *BNA Toxics Law Reporter*, Vol. 26, No. 13 (March 2011)
- “Treating Physician v. Expert Witness,” *Law360* (June 2009)

### Honors

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- Who’s Who Legal
  - » Life Sciences – Product Liability (2015-2022)
  - » Product Liability Defence (2012-2021)
- LMG Life Sciences
  - » Life Sciences Star (Product Liability)
- Benchmark Litigation
  - » Local Litigation Star in Product Liability
- The Legal 500
  - » Product Liability and Mass Tort Defense: Pharmaceuticals and Medical Devices
- Martindale-Hubbell® AV Preeminent® Peer Rating
- Illinois Super Lawyers® (2018-2022)

### In the Community

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- American Bar Association
- Defense Research Institute
- Thrive Counseling Center, Board Member