



## Jennifer L. Mesko

### Partner

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Jennifer Mesko is an experienced litigator who represents businesses in complex civil litigation throughout the United States with a particular focus on class action defense.

Jenn has accumulated experience in class actions spanning a variety of areas, including insurance, data breach, securities fraud, consumer claims, and warranty and product liability litigation. In addition to briefing novel dispositive and class certification issues, she is seasoned in case management, including the creation of case schedules; design and coordination of offensive and defensive discovery strategies; fact development to lay the foundation for successful motion practice; and the identification and preparation of fact, corporate, and expert witnesses.

Jenn also represents clients in commercial disputes, extra-contractual matters, and complex insurance coverage issues. In addition, she briefs legal issues in trial and appellate courts across the country, including innovative preemption and jurisdictional arguments for pharmaceutical and medical device companies against product liability and personal injury claims.

Ranked in Chambers USA in the area of Insurance (Ohio), Jenn is described as “a top-notch trial lawyer with savvy regarding the courts and opposing counsel” with a “deep understanding of the legal issues we face and keen strategic insight.” Clients rely on her guidance, noting that Jenn “knows what will succeed, so she renders very valuable advice.” Others remark on her responsiveness and consistently high-quality work. “She’s very knowledgeable and can shift quickly when the scope expands and when we need more in-depth representation.”

Originally from Milwaukee, Wisconsin, Jenn and her family are proud Cleveland transplants. In her spare time, Jenn enjoys spending time with her husband and daughters, running with her Rhodesian Ridgeback, and competing in triathlons.

### **Education**

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- Case Western Reserve University School of Law (J.D., summa cum laude, 2011); Order of the Coif; Case Western Reserve Law Review, Editor-in-Chief; Dunmore Moot Court Competition, Winner; Emmerich de Vattel International Human Rights Scholarship; Clinton & Margaret DeWitt Scholarship; School of Law Leadership Award
- Wheaton College (B.A., 2004)

### **State Admissions**

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- Ohio, 2011

### **Federal Admissions**

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- United States Court of Appeals, Sixth Circuit
- United States District Court, Northern District of Illinois
- 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 Court of Appeals, Seventh Circuit
- United States District Court, Western District of Texas
- United States Court of Appeals, Fifth Circuit

### **Service Areas**

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- Business Litigation
- Insurance
- Class Action Litigation
- Privacy & Data Security
- Life Sciences Litigation
- Health & Life Sciences

## Experience

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- Represents a major insurance carrier as national counsel in numerous class actions across the country challenging whether sales tax and/or transfer fees should be included in the calculation of the actual cash value for a total loss vehicle
- Serves as lead counsel for a third-party technology provider in a class action brought under the Illinois Biometric Information Privacy Act (BIPA)
- Serves as counsel to a major insurance carrier in a nationwide data breach class action alleging claims for negligence, unjust enrichment, breach of implied contract, declaratory judgment, negligent training, hiring and supervision, and state privacy statutes, including the California Consumer Privacy Act
- Represents a leading manufacturer of flushable wipes in class actions alleging violations of various consumer statutes and breach of warranty and seeking national injunctive relief
- Obtained dismissal at the pleadings stage of a purported nationwide class action alleging that cosmetic wipes were not “gentle” or “hypoallergenic” as labeled
- Obtained summary judgment in favor of a cat litter manufacturer in a nationwide consumer class action alleging violations of consumer statutes, breach of warranty, unjust enrichment, and negligent misrepresentation claims, which was affirmed by the Sixth Circuit on appeal
- Obtained dismissal and favorable settlement without payment by client of a class action against a leading ecommerce subscription service in a nationwide class action alleging breach of contract, fraud, RICO, and violation of state consumer protection statute claims
- Defended a law firm in a securities fraud and professional negligence class action
- Represented major insurance carriers in sophisticated coverage litigation arising out of interpretations of CGL and specialty policies, including cases with bad faith allegations
- Obtained dismissals in numerous insurance coverage matters as the result of dispositive briefing
- Obtained voluntary dismissal of a class action litigation involving an insurance carrier in state court
- Secured numerous dismissals of state-law claims against a generic prescription drug manufacturer as impliedly preempted by federal law

## Publications & Events

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### SPEAKING ENGAGEMENTS

- “Class Action Law and Practice,” Guest Lecturer, Boston College Law School (March 2024)
- “Fraudulent Claims in Class Action Settlements: Contending With the Increasing Danger of Manipulation,” Strafford Webinar (November 2023)
- “Class Action Defense Tactics,” Guest Lecturer, Cornell Law School (November 2023)
- “Game Changers or Blips in the Radar? The Practical Impact (If Any) of Recent Decisions on Standing, Ascertainability, and Incentive Awards,” ABA National Institute on Class Actions, Chicago, Illinois (October 2023)
- “Fixin’ to Settle? Tips and Tricks for a Fair Shake,” ABA National Institute on Class Actions, Scottsdale, Arizona (November 2022)
- “Rule 23(c)(4) Issue Certification: Reconciling the Conflict With Rule 23(b)(3)’s Predominance Requirement,” Strafford Webinar (October 2022)
- “Nuts and Bolts of Complex Litigation: Practical Tips on How to Prosecute and Defend Complex, Multi-party, and Class Cases,” ABA Litigation Section 2022 Annual Conference, Miami Beach, Florida (May 2022)
- “Class Settlement: Addressing Reversionary Clauses, Fraud in Administration, Notice, Opt-Outs and Objectors,” Strafford Webinar (April 2021)
- “[Common Questions](#),” a podcast of the American Bar Association, Class Actions & Derivative Suits Committee (March 2021)
- “Rule 23(c)(4) Issue Certification: Reconciling the Conflict With Rule 23(b)(3)’s Predominance Requirement,” Strafford Webinar (November 2020)
- “The Next Domain: Conscientious Objectors and How to Deal with Them,” Moderator, ABA National Institute on Class Actions 2020 (October 2020)
- “Pursuing or Challenging Rule 23(b)(3) Class Certification: Lessons From *In Re Hyundai*,” Strafford Webinar (October 2019)
- “Mission Impossible? Protecting Data and Mitigating Litigation Risk in the World of Biometric Authentication Technology,” 2018 In-House Counsel Summit, Tucker Ellis LLP, Cleveland, Ohio (October 2018)
- “One Class Action or 50? Choice of Law Considerations as Potential Impediment to Nationwide Class Action Settlements,” Moderator, American Bar Association, 5th Annual Western Regional CLE Program on Class Actions and Mass Torts, San Francisco, California (June 2018)
- “Pursuing or Challenging Rule 23(b)(3) Class Certification: Lessons From *In Re Hyundai*,” co-presented at a national Strafford webinar (May 2018)
- “Rule 23(c)(4) Issue Certification: Reconciling the Conflict with Rule 23(b)(3)’s Predominance Requirement,” co-presented at a national Strafford webinar (November 2017)
- “Food Contamination and Coverage Issues,” co-presented at the CMBA Insurance Law Section Seminar “Hot Topics in Commercial General Liability Insurance,” Cleveland Metropolitan Bar Association, Cleveland, Ohio (June 2016)
- “Case Law Update: New Developments in Ohio Bad Faith Law,” co-presented at the CMBA

Insurance Law Spring Seminar “The Good, the Bad, and the Ugly: Ohio Insurance Bad Faith Law 2015,” Cleveland Metropolitan Bar Association, Cleveland, Ohio (May 2015)

## PUBLICATIONS

- *Ohio Insurance Coverage* (2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, and 2022 Editions), Thomson Reuters
- “[Federal Judge Vacates \\$228M Damages Award in BIPA Trial and Orders New Damages Trial](#),” Tucker Ellis Client Alert (July 2023)
- “[Illinois Supreme Court Holds BIPA Claims Accrue with Each Alleged Scan](#),” Tucker Ellis Client Alert (February 2023)
- “[Recoupment of Defense Costs: When Can an Insurance Company Get Defense Costs Back From the Insured?](#),” *Cleveland Metropolitan Bar Journal* (February 2022)
- “[INSIGHT: Coronavirus Raises Novel Business Insurance Issues](#),” *Bloomberg Law* (March 2020)
- “[The Un-Easy Street of Class Action Settlements: Strategies for Preventing and Mitigating Fraud in Claims Administration](#),” ABA Section of Litigation, Class Actions & Derivative Suits (September 2019)
- “[Illinois Supreme Court Rules in Biometric Information Privacy Act Case](#),” ABA Section of Litigation, Class Actions & Derivative Suits (February 2019)
- “[Illinois Supreme Court Rules in Favor of Consumers in Landmark Biometric Case](#),” Tucker Ellis Client Alert (January 2019)
- “[Status Quo Maintained: Supreme Court of Delaware Precludes Stockholder Derivative Claims](#),” American Bar Association, *Class Actions & Derivative Suits* (Spring 2018)
- “[Third Circuit Emphasizes the Need to Provide Reasonable Notice of Arbitration Clauses](#),” American Bar Association, *Class Actions & Derivative Suits* (March 2017)
- “[How to Remove Multi-Plaintiff Cases Involving Personal Jurisdiction Challenges and Avoid Subject Matter Remand](#),” DRI’s *RX for the Defense* (March 2015)
- “[Medical Malpractice and Sarcoma Care-Sarcoma Malpractice: Who is at Risk?](#),” *Journal of Surgical Oncology* (2014)
- “[It’s Not Form Over Substance – Procedural Fundamentals of Making and Reviewing a Claim](#),” *Cleveland Metropolitan Bar Association Journal* (February 2014)
- “[Unpeeling the Layers of Recall, Contamination Policies](#),” *Law360* (March 2012)
- “[Toward a Compassionate Solution: The UNHCR Guidance Note & Asylum for Parents of Potential Victims of Female Genital Mutilation](#),” 11 WHITTIER J. CHILD & FAM. ADVOC. 299 (2012)
- “[Report of the Cleveland Expert’s Meeting: The International Criminal Court & the Crime of Aggression](#),” 41 CASE W. RES. J. INT’L L. 429 (2009)

## MEDIA

- “[Notice Delay in Chubb’s \\$3.3M Recoupment Bid Bugs 6th Circ.](#),” *Law360* (January 2024)

### **Honors**

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- Chambers USA
  - » Insurance (Ohio) (2023)
  - » “Up and Coming” in Insurance (Ohio) (2021, 2022)
- Benchmark Litigation
  - » Future Star
- Lawdragon 500 Leading Litigators in America (2023, 2024)
- The Best Lawyers in America® (2020–2024)
- Ohio Super Lawyers® (2024)
- Ohio Super Lawyers Rising Stars® (2017–2022)
- Pro Bono Hero Recognition, Cleveland Metropolitan Bar Association (2021)

### **In the Community**

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- Cleveland Metropolitan Bar Association
- American Bar Association, Class Actions and Derivative Suits Section
  - » National Institute on Class Actions, Co-Chair
  - » Consumer Law Subcommittee, Co-Chair
- Safe Families for Children – Cleveland, Advisory Board Member