

# David D. Yeagley

Partner



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## Practices/Industries

- Class Actions
- Complex Business Litigation
- Consumer & Commercial Litigation
- Appellate Litigation

## Education

Ohio Northern University  
(B.S., with distinction, 1986)

Ohio Northern University  
Pettit College of Law  
(J.D., with distinction, 1989)  
Willis Academic Honorary  
Society; Executive Editor,  
*Ohio Northern University Law  
Review*

## Overview

David is a trial and appellate lawyer whose practice focuses on class action and complex litigation. David's practice encompasses the defense of consumer protection and deceptive practices litigation, warranty and false advertising litigation, insurance policy litigation, TCPA class actions, real estate and construction litigation, director, officer and shareholder rights litigation including D&O and derivative claims, credit card litigation, food advertising and marketing litigation, automobile franchise litigation, investment fraud and securities litigation, business contracts litigation, defective products and Magnuson-Moss Warranty Act litigation, and environmental and toxic tort litigation. David is skilled in the development of comprehensive class action defense strategies, including jurisdictional issues and the use of early motion practice based on principles under Article III standing, Rule 12(b), and Rule 23. David also has extensive experience regarding arbitration proceedings and the enforcement of arbitration clauses in consumer and business contracts. He has achieved the highest rating, AV Preeminent<sup>®</sup>, from Martindale-Hubbell<sup>®</sup>.

## Experience

- Procured voluntary dismissal of putative class action lawsuit following filing of motion to dismiss complaint in first-party property insurance total loss class action lawsuit.
- Obtained dismissal of consumer protection and contract claims brought against national homebuilder on motion to dismiss.
- Secured dismissal of putative consumer protection class action through contested settlement with bankruptcy trustee.
- Obtained partial summary judgment and partial exclusion of opposing expert witness in contract and consumer protection case pending in federal court.
- Represented an insurer in class action breach of contract cases relating to first-party total loss property damage.
- Defeated class certification in a case brought against a national home builder.
- Successfully defended financial institution in procedural motion seeking to intervene and file complaint on behalf of putative class.
- Successfully defended putative class action by obtaining order upholding pre-dispute arbitration provision in customer agreement.
- Successfully obtained appellate court decision reversing class certification, establishing important Rule 23 precedent.
- Crafted unique strategies to settle multi-party class action without class certification proceedings.
- Crafted strategy and arguments in successful Supreme Court of Ohio appeal involving class certification, which established national precedent in the defense of no-injury class actions.
- Procured dismissal of purported nationwide class action filed in federal district court alleging consumer and warranty claims utilizing early motion practice under Civil Rules 12 and 23.

## Experience (Cont)

- Defended national retailers in class action cases alleging false advertising.
- Defended lenders in class action claims relating to consumer warranty issued by defunct company.
- Defended a retail company in class action consumer claims relating to discount certificates.
- Defended national retailer in customer class action alleging statutory and common-law claims; trial court dismissed case on early dispositive motion, court of appeals affirmed dismissal, discretionary appeal denied by Supreme Court of Ohio.
- Represented national retail chain in customer class action lawsuit asserting claims to discounted prices.
- Defended manufacturer in putative class action alleging false advertising.
- Successfully defended national home builder in putative class action.
- Lead counsel in putative class action brought under the TCPA.
- Utilized bankruptcy procedures to defeat long-standing class action litigation.
- Defended manufacturer in putative class actions arising from product recalls, developing Article II standing arguments.
- Procured early dismissal of shareholder derivative and class action claims arising out of merger transaction.
- Defended public company in class action brought under consumer protection statutes.
- Defended company against derivative D&O claims.
- Lead trial counsel of public company in defense of consumer protection claims.
- Shareholder derivative litigation involving Fortune 500 conglomerate.
- Defended large automobile dealer in class action consumer protection claims.
- Represented commercial real estate broker in commission dispute.
- Defended a public company in a class action alleging consumer protection and advertising claims in Illinois State Court.
- Consumer class action defense work for large credit card issuer.
- Class action defense of consumer claims in the construction and real estate industries.
- Class action defense in the financial and investment services industry.
- Class action defense of consumer protection, defective goods, and false advertising claims.
- Construction litigation involving large health care institution.
- Construction and business contract litigation on behalf of public company.
- Class action defense of consumer claims against large automobile dealer.
- Environmental class action involving over 30 expert witnesses.
- Warranty litigation involving claims of business loss.
- Automobile dealership franchise litigation.
- Consolidated investment fraud litigation involving over \$80 million.

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## Experience (Cont)

- Extensive shareholder rights, fiduciary duty, and director and officer liability litigation experience.
- Extensive business and consumer class action experience.
- Successfully resolved putative nationwide class actions through individual named plaintiff settlements.

## Reported Cases

- *Kitral v. NVR, Inc.*, Case No. 21-cv-612, 2021 WL 1927853 (N.D. Ohio May 13, 2021)
- *Smith v. NVR, Inc.*, 2019 WL 6838938 (N.D. Ill. Dec. 16, 2019)
- *Big City Small World Bakery Cafe, LLC v. Francis David Corporation dba Electronic Merchant Systems*, 2017 WL 2954694 (E.D. Mich.)
- *Javitch v. First Union Securities, Inc.*, 2017 WL 768024 (N.D. Ohio)
- *Konarzewski v. Ganley, Inc.*, 2017-Ohio-4297, 2017 WL 2590553
- *Lopez v. JPMorgan Chase Bank, N.A.*, No. 15-CV-1970, 2016 WL 2990982 (N.D. Ohio)
- *Felix v. Ganley Chevrolet, Inc.*, 2015-Ohio-3430 (Supreme Court of Ohio Aug. 27, 2015)
- *Gill-Samuel v. Nova Biomedical Corporation*, 298 F.R.D. 693 (S.D. Fla. 2014)
- *GuideOne Elite v. Synergy Building Systems, Inc., et al*, 12-CV-110 (S.D. Ohio 2012)
- *Koyo Corp. v. Comerica Bank, et al*, Case no. 10-CV-2557 (N.D. Ohio 2011)
- *Priore v. Chase Bank USA, N.A.*, Case No. 09-cv-1045 (N.D. Ohio 2010)
- *Heiges v. JP Morgan Chase Bank N.A.*, 521 F.Supp.2d 641 (N.D. Ohio 2007)
- *Repede v. Nunes*, 2006-Ohio-4117 (Ohio 8th Dist.)
- *All-Iowa Contracting Co. v. Linear Dynamics, Inc.*, 296 F.Supp.2d 969 (N.D. Iowa 2003)
- *Rudy v. Carter*, 2009-Ohio-2729 (Ohio 8th Dist.)
- *F&L Ctr. Co. v. M. Goodman, Inc.*, 2004-Ohio-5856 (Ohio 8th Dist.)
- *Nefores v. BrandDirect Mktg., Inc.*, 2004-Ohio-5006 (Ohio 5th Dist.)
- *C.H. Robinson Worldwide, Inc. v. Maxxum Group, LLC*, 2010 U.S. Dist. LEXIS 73419 (D. Minn.)
- *McClendon v. Challenge Fin. Investors Corp.*, 2009 U.S. Dist. LEXIS 22446 (N.D. Ohio)
- *Olah v. Ganley Chevrolet, Inc.*, 2010-Ohio-5485 (Ohio 8th Dist.)
- *Wallace v. The Ganley Auto Group*, 2011-Ohio-2009 (Ohio 8th Dist.)
- *Maestle v. Best Buy Co., et al.*, 2011-Ohio-5833 (Ohio 8th Dist.)
- *Sandesara v. Peco II, Inc. et al.*, 2011-Ohio-5927 (Ohio 8th Dist.)
- *Grey v. Walgreen Company*, 2011-Ohio-6167 (8th Dist.)

## Presentations

- "Ulmer's Front-Line Insights on the Class Action Landscape in Ohio & What it Means for You," Ulmer Litigation Conference (September 2017)

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## Presentations (Cont)

- “Consumer Class Actions: Where Do We Go From Here?” Ulmer & Berne, Financial Services & Securities Litigation Hot Topics 2015 (November 2015)
- “Navigating the Ever-Changing Landscape of Financial Services Litigation,” Financial Services Hot Topics (December 2013)

## Publications

- “A Class Action Was Just Filed—Now What?” JD Supra (March 2022)
- “SCOTUS Green Lights Price Impact Evidence for Class Cert in Inflation-Maintenance Case,” Ulmer & Berne LLP, *Client Alert* (June 2021)
- “U.S. Supreme Court Accepts Case That Could Alter the Landscape of Private Securities Litigation,” Ulmer & Berne LLP, *Client Alert* (January 2021)
- “New Supreme Court Decision: *Tyson Foods v. Bouaphakeo*,” Ulmer & Berne LLP, *Client Alert* (March 2016)
- “Defending The ‘No-Injury’ Class Action,” *Law360* (July 2015)
- “2nd Circ. Unlikely To Change Class Action Status Quo,” *Law360* (February 2015)
- “The Judicial Pick-Off Play: U.S. Supreme Court Holds Individual Offer of Judgment Moots FLSA Collective Action,” Ulmer & Berne LLP, *Client Alert* (April 2013)
- “Supreme Court Doubles Down on *Wal-Mart Stores, Inc. v. Dukes*, Tightening Class Certification Requirements,” Ulmer & Berne LLP, *Client Alert* (March 2013)
- “Ohio Legislature Helps Protect Construction Trades by Shortening Statute of Limitations,” Ulmer & Berne LLP, *Client Alert* (September 2012)
- “Amendment to Ohio Revised Code Implements Cure Offer in Consumer Claims,” Ulmer & Berne LLP, *Client Alert* (July 2012)
- “Primary Liability Under Rule 10b-5 Limited to ‘Ultimate Makers’ of Fraudulent Statements,” VC Experts’ *Encyclopedia of Private Equity and Venture Capital* (July 2011)
- “Supreme Court Nixes Massive Wal-Mart Employee Class Action,” Ulmer & Berne LLP, *Client Alert* (July 2011)
- “Primary Liability Under Rule 10b-5 Limited to ‘Ultimate Makers’ of Fraudulent Statements,” Ulmer & Berne LLP, *Client Alert* (June 2011)
- “Class Action Defense Checklist,” Ulmer & Berne LLP, *Financial Law Resource* (Summer 2007)

## Involvement

### Professional Affiliations

- Ohio State Bar Association
- Cleveland Metropolitan Bar Association

### Honors & Distinctions

- Named to *The Best Lawyers in America*, Commercial Litigation (2021; 2022)
- AV Preeminent Peer Review Rated – Martindale-Hubbell

### Admissions

- State of Ohio

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## Admissions (Cont)

- U.S. Supreme Court
- U.S. Court of Appeals, Sixth Circuit
- U.S. District Court, Northern District of Ohio
- U.S. District Court, Southern District of Ohio
- U.S. District Court, Northern District of Illinois (Trial Counsel)
- U.S. District Court, Eastern District of Michigan