

John M. Hands

Partner



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Practices/Industries

- Complex Business Litigation
- Governance Disputes & D&O Litigation
- Corporate Finance Litigation
- Construction Litigation

Education

Miami University
(B.A., 1983)
University of Cincinnati
College of Law
(J.D., 1988)

Overview

John is highly skilled in litigating and resolving complex business and commercial disputes, governance disputes, D&O litigation, and construction related claims. John also has extensive knowledge and experience in IT contract disputes and litigation including representation of one of the nation's leading providers of SAP Enterprise Research Planning software implementation services in multiple cases. Publicly owned and privately held clients benefit from his 30 years of trial and appellate experience in these areas. John regularly litigates and arbitrates cases in jurisdictions across the nation to meet his client's objectives. He is equally adept at serving as a risk advisor to clients and in bringing about informal resolution of disputes out of court when desirable. John also has extensive experience with all types of ADR proceedings including serving as a private mediator and arbitrator. Additionally, aided by his litigation background, John drafts and negotiates commercial, construction, and IT contracts and related documents.

John has been repeatedly selected by his peers for inclusion in *The Best Lawyers in America*® (2015-2022) in the field of Commercial Litigation. John has also been consistently named to the Ohio Super Lawyers list (2007-2021) and has achieved the highest rating, AV Preeminent®, from Martindale-Hubbell®. He has also been selected for inclusion in America's Top 100 Civil Defense Litigators for Ohio. John is also the Past President of the Ohio Association of Civil Trial Attorneys, and previously served as an officer and president of ProKids, a community non-profit that serves at-risk children in the child protective and juvenile court systems.

Experience

- Represented one of the country's leading providers of SAP Enterprise Resource Planning (ERP) software implementation services in litigation in California state court with the largest privately held toy manufacturer in the world. Toy manufacturer brought claims for breach of contract, negligence, and fraud, and counterclaims were asserted for breach of contract and unjust enrichment on behalf of client. The case was successfully resolved after a two-day mediation resulting in a significant payment to the client.
- Represented an SAP partner in federal court litigation in Georgia on fraud, negligent misrepresentation, and breach of warranty claims allegedly worth tens of millions of dollars related to an international ERP systems integration project for the parent and multiple subsidiaries of a multinational corporation. Breach of contract and unjust enrichment counterclaims were asserted, and the case was resolved to the client's satisfaction after substantial discovery was completed.
- Served as defense counsel in Ohio for global financial institutions in a variety of multimillion dollar lawsuits related to residential mortgages, including disputes involving alleged securities act violations, breach of contract, fraud, and class action claims involving the alleged "robo-signing" of affidavits in connection with foreclosure practices.

Experience (Cont)

- Successfully defended an IT client and one of its officers in a multimillion dollar breach of contract, negligence, and fraud case involving SAP ERP software pending in Toledo, Ohio. Obtained judgment on the pleadings in favor of the clients on seven of eight counts.
- Obtained defense verdict on all claims asserted by the owner/developer of a multiphase commercial construction project against the general contractor after a three-week jury trial. Client was awarded a significant verdict on general contractor's delay damages counter-claim.
- Represented a bar and restaurant in a DRAM Shop action involving a motorcycle accident in which a patron was killed and a non-patron was catastrophically injured. Served as appellate counsel for the bar and restaurant after the grant of summary judgment. Prevailed at the appellate level and in the Ohio Supreme Court at the jurisdictional level and on motion for reconsideration.
- Obtained a high six-figure judgment on behalf of a subcontractor against commercial developers on contract claims relating to non-payment for construction services and improvements on a large public project in St. Louis, Mo.
- Served as counsel in state and federal courts in Ohio and Kentucky representing the manufacturer and distributor of post-surgical "pain pumps" in approximately 20 separate "mass tort" medical device product liability lawsuits.
- Obtained a dismissal with prejudice on all claims against a banking client and several of its officers in a multimillion dollar lender liability case, and obtained affirmance in the First District Court of Appeals.
- Disposed of employment-related claims seeking injunctive relief and millions of dollars in damages for alleged violations of restrictive covenants, misappropriation of trade secrets, and intentional interference brought by large wealth management firm against former financial advisor employees and their new brokerage firm employer involving the transfer of approximately \$130 million in customer accounts to the new brokerage firm.
- Defended online personal property and estate auction sales and service company in a lawsuit brought in the Delaware Court of Chancery by its former officers and directors for advancement of their fees, costs, and expenses incurred in defending a separate lawsuit brought by an investor that purchased a significant percentage of the former officers and directors shares of stock in the company.
- Represented a commercial sub-dealer client in a private binding arbitration and obtained a significant arbitration award for the full amount requested on behalf of sub-dealer client based upon claims for breach of contract and unjust enrichment against the dealer for failing to pay commissions.
- Obtained a voluntary dismissal of all claims against a luxury yacht manufacturer in a lawsuit brought by the supplier of hundreds of thousands of dollars of wood veneers to the yacht manufacturer's New Zealand-based subcontractor responsible for completing the interior finishes to the yacht.
- Chaired panel and authored decision and award in private binding arbitration of non-payment claims and counterclaims for design related errors between architectural firm and residential subdivision developer.
- Obtained a judgment in favor of an institutional trustee of a testamentary trust in a declaratory judgment action brought in defense of claims asserted by the trust beneficiary, which had demanded a multimillion dollar lump sum distribution from the trust.
- Disposed of fiduciary duty and fraud claims in private arbitration against global supplier of paper goods and its individual members arising from dissolution of third party business venture through extensive motion practice.

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Experience (Cont)

- Defended regional construction company and its members against claims by competitor sounding in breach of fiduciary duties, breach of contract, tortious interference with prospective business advantage, conspiracy, and unjust enrichment.
- Defended corporate CFO of national convenience stores against breach of fiduciary duty, fraud, and conversion claims by credit card processing company and other state regulators.
- Defended international affiliates of the Catholic Church against claims filed in Illinois state court by technology vendor sounding in breach of contract, fraud, unjust enrichment, and conversion.
- Obtained voluntary dismissal of contract and equitable claims after filing a motion to dismiss on behalf of a third party administrator in suit brought by an insured related to the denial of coverage under a hospital indemnity insurance policy.
- Obtained dismissal of fraud, conversion, invasion of privacy, negligence, and unjust enrichment claims for millions of dollars against property inspection company related to alleged destruction of real property and removal of personal property.
- Represented a former CFO of a bankrupt company who was being pursued personally by the State of Ohio for millions of dollars of unpaid motor fuels taxes. Obtained a favorable decision nullifying the default taken against the client and permitting the client to defend the tax claims on their merits.
- Disposed of claims for fraud and misrepresentation against a well-known online estate auction sales and services company in a federal lawsuit brought by a sophisticated investor that purchased a significant percentage of shares in the company held by its former officers and directors.
- Obtained summary judgment on behalf of a utility marking company for allegedly negligently marking utilities prior to construction under the Ohio Utility Protection Statute in connection with a large commercial construction project in Columbus, Ohio.
- Obtained summary judgment and affirmance on appeal on behalf of an architectural firm in a multimillion dollar negligent design/architectural malpractice case relating to the design and conversion of downtown parking garages into upscale condominiums.
- Obtained a directed verdict at the close of plaintiff's case during trial on behalf of an excavation subcontractor in a negligence/defective construction case involving the alleged wrongful death of a 14-year-old boy who drowned on a construction site.
- Served as trial counsel in jury trials following vehicle accidents, securing defense verdicts in cases involving claims of wrongful death and personal injuries.

Reported Cases

- *Privett v. QSL-Milford, LLC*, 139 Ohio St.3d 1408, 2014-Ohio-2245
- *Privett v. QSL-Milford, LLC*, 138 Ohio St.3d 1450, 2014-Ohio-1182, 5 N.E.3d 668
- *Five Star Fin. Corp. v. Merchants Bank and Trust Co.*, 2013 – Ohio - 3097
- *Five Star Fin. Corp. v. Merchants Bank & Trust Co.*, 192 Ohio App. 3d 544, 2011-Ohio-314
- *Columbia Gas of Ohio, Inc. v. Columbus Asphalt Paving, Inc.* (2005), 142 Ohio Misc. 2d 88, 2005 Ohio-7163

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Reported Cases (Cont)

- *Jurgens Real Estate Co. v. R.E.D. Const. Corp.* (1995), 103 Ohio App. 3d 292
- *Stanton v. Miller* (1990), 66 Ohio App. 3d 201

Presentations

- “Best Practices and A Few Lessons Learned From ERP Software Litigations,” Risk Management Presentation to Clients (December 2018)
- “The Hangover: Coverage for Property Damage Due to Defective Workmanship,” Assured Partners/Neace Lukens (September 2016)
- “Litigation Hold Redux - Just Do It,” Cincinnati Bar Association Young Lawyers (July 2016)
- “Legal and Ethical Issues in the Construction Industry – Managing and Receiving Top Value for Legal Services,” Allied Construction Industries Leaders of Tomorrow Program (May 2012)
- “The Challenge of Leadership,” DRI Central Region Meeting (April 2010)
- “IRS Governance Policies for Nonprofits,” DRI Central and Mid-Atlantic Region Meeting (May 2009)
- “What Can DRI Do For Your SLDOs?,” DRI Central Region Meeting (April 2008)
- “Minimizing Engineering Liability Exposure: Understanding Ohio Liability Law,” HalfMoon Seminars (December 2007)
- “Trying the Negligence Case Under Tort Reform,” Ohio Association of Civil Trial Attorneys Meeting (1998)
- “OHIO TORT REFORM: A Summary of House Bill 350,” (1997)
- “Update on Status of Those Injured Upon Premises,” Ohio Association of Civil Trial Attorneys Meeting (1996)
- “Construction Defect Litigation,” (1995)

Publications

- “Update Concerning Cincinnati’s Bidding Requirements For MSD Construction Project,” Ulmer & Berne LLP, *Client Alert* (January 2014)
- “Cincinnati Changes Bidding Requirements Concerning Sewer District, Storm Water, and Water Works Construction Projects,” Ulmer & Berne LLP, *Client Alert* (May 2013)
- “Five Points to Consider When Leasing Construction Equipment,” *ACC Lexology* (June 2012)
- “Ohio Authorizes Construction Manager At Risk Standard Requirements For Public Facility Construction,” *The Update*, by the Ohio Association of Civil Trial Attorneys (Spring 2012)
- “Defending Post-Traumatic Stress Disorder Claims,” *Deliberations*, Vol. V., Issue 1
- “Reform Act Clarifies Product Liability Actions,” *The Greater Cincinnati Business Record*, Vol. II, No. 41

Involvement

Professional Affiliations

- Ohio Association of Civil Trial Attorneys (*Member, Past President and Past Member of the Board of Trustees*)

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Involvement (Cont)

Professional Affiliations (Cont)

- Ohio State Bar Association
- Kentucky Bar Association
- Cincinnati Bar Association (*Member and Past Chair of Construction Law Committee; Member of Tort and Insurance Law Committee*)
- Northern Kentucky Bar Association
- Allied Construction Industries (*Member, Membership Committee*)
- ProKids of Hamilton County (*Former Officer and Former President, Board of Trustees*)
- Defense Research Institute
- Claims & Litigation Management Alliance
- Diversity Law Institute (*Member*)
- The Trial Law Institute (*Member*)
- Cincinnati Academy of Leadership for Lawyers (*Fellow*)
- National Institute of Trial Advocacy Graduate
- Hamilton County Court of Common Pleas (*Mediator*)

Honors & Distinctions

- AV Preeminent Peer Review Rated – Martindale-Hubbell
- Named to *The Best Lawyers in America*®, Commercial Litigation (2015-2022)
- Named to the Ohio Super Lawyers list (2007-2021)
- America's Top 100 Civil Defense Litigators for Ohio (2018)
- Exceptional Performance Citation – Defense Research Institute (2010)
- President's Award – Ohio Association of Civil Trial Attorneys (2010)
- Litigation Counsel of America (*Fellow*)

Admissions

- State of Ohio
- Commonwealth of Kentucky
- U.S. Supreme Court
- U.S. Court of Appeals, Sixth Circuit
- U.S. District Court, Southern District of Ohio
- U.S. District Court, Eastern District of Kentucky

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Admissions (Cont)

- U.S. District Court, Northern District of Illinois
- U.S. District Court, Eastern District of Michigan
- U.S. District Court, Southern District of Texas