

Frederic X. (Fritz) Shadley

Partner | Group Leader, Construction Litigation



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Practices/Industries

- Construction Litigation
- Complex Business Litigation
- Product Liability
- Catastrophic Loss

Education

University of Notre Dame
(B.S., Electrical Engineering,
1978)

University of Notre Dame
Law School
(J.D., 1981)



Overview

As Group Leader of Ulmer & Berne's Construction Litigation Practice Group, Fritz brings more than 30 years of litigation experience and the knowledge of a degreed engineer to his much-honored practice representing parties in construction, environmental, product liability, and toxic tort litigation.

Recognized by Chambers USA as one of Ohio's leading commercial litigators and given Martindale-Hubbell's® highest ranking (AV Preeminent), Fritz is consistently acknowledged for his excellence in construction and product liability litigation. Since 2009, he has been named annually to *The Best Lawyers in America's* list of top lawyers in those fields, and was named *Best Lawyers 2019 Construction Law "Lawyer of the Year"* in Cincinnati. American Lawyer Media also named him a top-rated lawyer in construction law, for his representation of both plaintiffs and defendants across a wide range of construction-related disputes, including those involving claims of defective construction, defective design, fraud, and negligence, as well as Fair Housing Act cases.

Fritz has substantial experience in environmental litigation, toxic tort litigation, and the defense and prosecution of personal injury claims, including his work securing the largest known, single victim, personal injury settlement in the history of Kentucky or Ohio for a plaintiff who suffered burns from a spontaneous explosion of pool chemicals.

Outside the courtroom, Fritz is the proud father of five children, and has trained for and participated in over 20 triathlons.

Experience

Construction Cases

- Representing a Florida-based national engineering firm in the allegedly defective design of a roadway, retaining wall, and new bridge over the Ohio River in a \$131 million project.
- Representing a New York-based national engineering/architectural firm in litigation involving the adequacy of the design of "scour protection" around bridge piers in a river stream that was altered by the upstream removal of a dam. The bridge settled, with alleged damages in excess of \$12 million.
- Representing a California-based designer of a dehumidification system for a marijuana "grow facility" in Denver, Colorado, with alleged damages of over \$3 million.
- Representing a design/builder of food processing design in construction projects throughout the United States, with projects ranging from \$2 million to \$10 million.
- Representing an oil and gas production company in a fatality caused by the allegedly deficient design and construction of a fracking facility, where the victim allegedly burned alive.
- Representing an architect and civil engineering firm for a design issue in an ADA case.

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Experience (Cont)

Construction Cases (Cont)

- Representing a condominium developer in a defective construction case.
- Representing a civil engineering firm in a landslide case involving the damage/destruction of six homes.
- Representing a general contractor in claims of defective construction of a Florida hospital.
- Representing a national home builder in the fatal collapse of a 25-foot deep trench during construction.
- Representing a large solar company in various large-scale solar installations across the United States.
- Represented an architectural firm in the failed construction of a mixed-use, 20-story structure, which allegedly caused over \$75 million in damages.
- Represented an architect and structural engineer in the \$30 million collapse of an existing, in-use, four-story, 100-year-old school building allegedly caused by negligent plans and designs of new, adjacent construction.
- Represented the owner of a 10-story, \$15 million hotel with defectively installed EIFS panel joints, which caused the Health Department to close the hotel for almost a year because of moisture and mold contamination.
- Represented a contractor in a \$6 million hotel rehab lawsuit.
- Represented an architectural firm in a \$6 million claim for unrepairable ice damage to the internal workings of 32 rooftop units in a geothermal HVAC design.
- Represented a major state university in a suit against a contractor for deficient construction, which caused damages in excess of \$5 million.
- Represented a general contractor against allegations of defective construction of a \$4.2 million, eight-story, Florida home, whose construction allowed water and mold to so infiltrate the structure that it was no longer inhabitable. This matter was resolved in pre-suit mediation (that we initiated) involving the owner, the designer, and relevant subcontractors, with the general contractor recovering 90% of the cost to repair.
- Represented an engineering company in the alleged negligent design of a glass manufacturing facility bag house, which caused over \$3 million in damages.
- Represented a structural engineer in a \$2.5 million claim for deficient design of 12-story hospital building.
- Represented building owners in a \$2.2 million claim against a general contractor for the defective construction of a \$4.2 million medical office building.
- Represented an architect in the allegedly defective construction of a \$2.2 million home by facilitating suit against the home builder and not the architect.
- Represented the nation's largest specialty concrete company in a \$2 million arbitration case involving the construction of a steel manufacturing plant in a southern state.
- Represented a greenhouse designer and builder against a \$2 million claim, which alleged that a negligent design caused five acres of greenhouses to collapse under snow load.
- Represented an engineering firm against a \$2 million claim for the allegedly defective design of a data center's cooling system.

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Experience (Cont)

Construction Cases (Cont)

- Represented an architect in a \$2 million acceleration and delay claim by a subcontractor on a signature design building in downtown Cincinnati.
- Represented a subcontractor in a \$2 million claim of defective window and wall installation.
- Represented an Ohio architectural firm and its sub-consulting structural engineer, regarding allegedly defective structural engineering design “discovered” by the owner’s consultant during the construction of a \$40 million high school. The claim exceeded \$1.5 million.
- Represented a civil engineer against allegations of negligently causing two landslides and over \$1 million in damages.
- Obtained summary judgment for the nation’s largest specialty concrete company in a multimillion dollar Fair Housing Act case, succeeding on appeal in the 6th Circuit.
- Secured summary judgment for an architectural firm against allegations of defective design of an outdoor athletic facility.
- Represented an architectural firm in the alleged negligent design of a five-story parking structure.
- Secured summary judgment for an architect in a negligent design of school building claim, which allegedly allowed pervasive water intrusion and mold contamination.
- Represented a number of sureties in bond claim litigation in numerous actions across Ohio.

Product Liability Cases

- Representing two national flavoring companies in over 20 lawsuits that relate to claims of lung damage allegedly caused by the presence of the chemical diacetyl in food flavorings provided by the defendant companies.
- Representing a Fortune 50, national defense contractor as the plaintiff in a \$49 million claim of defective design/construction of mobile communications shelters sold to a foreign government for military use.
- Representing a company who purchased allegedly defective “roof” fabric for installation in over 100 acres of greenhouse agricultural facilities.
- Represented a train car manufacturer in a benzene leak, which caused over \$60 million in property damage and lost profits of \$8 million due to the closing of an adjacent loading terminal.
- Represented a truck manufacturer in a \$3 million explosion case.
- Sued a Finland-based manufacturer of a large, industrial sheet metal, automated handling and cutting machine for defective design and fraud, generating a settlement in excess of the \$1 million original cost of the machine after five years of use.
- Represented a contractor in two separate suits involving fatalities caused by exploding tractor wheel assemblies. Secured summary judgment in one case that was affirmed on appeal.

Catastrophic Loss Cases

- Representing an employer in a fatality caused by an employee being crushed under a 50,000-pound steel coil that fell from an overhead crane.

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Experience (Cont)

Catastrophic Loss Cases (Cont)

- Representing a waste broker in a zirconium-related explosion at an incinerator, which killed one and burned another.
- Represented a burn victim against a national big-box store and 29 other defendants for burn injuries over 70% of her body caused by an explosion of pool chemicals that leaked from their containers during her car trip home from the store. This resulted in the largest known, single victim, personal injury settlement in the history of Kentucky or Ohio.
- Represented a Japanese company in an employee-caused trucking accident that left the plaintiff with serious, permanent brain damage and alleged damages over \$10 million.

Fire Cases and Miscellaneous Cases

- Representing three alleged “generators” in a \$15 million CERCLA cleanup case that focuses on the intent to recycle and not to dispose of certain electronic waste streams.
- Representing a manufacturer in a class action brought by all residents of an Ohio city for alleged pollution of their drinking water.
- Representing a contractor against alleged environmental spills during a subterranean horizontal drilling project.
- Representing one of two competing businesses as a plaintiff in a \$20 million claim of violation of antitrust statutes.
- Representing a national firm in a multimillion dollar dispute over the private equity purchase of a significant portion of the firm.
- Represented a product manufacturer in a \$12 million, 5-acre warehouse fire allegedly caused by the client’s product.
- Represented an international product manufacturer against a claim that defective electrical equipment caused fire and more than \$1 million of damage and down-time in a steel manufacturing facility.
- Represented a Fortune 50 manufacturer against allegations of defective electrical switch gear causing a major fire in downtown office building, by proving the fire was caused by the installer of the equipment and not by our client, the manufacturer.
- Settled favorably during trial on behalf of the plaintiff, a major U.S. automobile manufacturer, a multimillion dollar suit for damages caused by fire on its production line.
- Represented a fireworks store owner in a 10-fatality fire caused by a mentally challenged 14-year-old who intentionally lit a firework in the store, with allegations the store owner had intentionally turned off a leaking fire sprinkler system.
- Represented a motor home manufacturer against claims of defective construction, which caused a fire and the deaths of two children.
- Represented a builder of two homes that together caught fire and burned to the ground.
- Represented a contractor in a case against a negligent insurance broker in loss exceeding \$50 million.
- Represented a private equity plaintiff in a \$30 million claim against an investor.

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Experience (Cont)

Fire Cases and Miscellaneous Cases (Cont)

- Represented an environmental consultant in an \$11 million negligence lawsuit.
- Represented buyers of an \$8 million hotel against the seller for fraud in the disclosure of the condition of the building.
- Represented investors in a \$4 million fraud and theft claim against co-investors.
- Represented a company in a \$3 million claim of trade secret theft.
- Secured an arbitration award of over \$500,000 against a client's past employees who stole its trade secrets.
- Secured summary judgment for an internet marketing company, which was alleged to have violated The Ohio Consumer Sales Protection Act by its email marketing.
- Represented a California company in the defense of patent infringement lawsuits in federal court. Personal jurisdiction was challenged and the matters settled while that issue was under consideration.
- Represented an Ohio sound recording company in local and California-based litigation involving copyright and trademark disputes.
- Represented a manufacturer suing a competitor for copyright infringement.
- Represented a debt collector in a federal class action suit alleging violation of The Fair Debt Collection Practices Act, and obtained dismissal of all claims on legal grounds.

Presentations

- "Professional Liability Risk Management Strategies," Ulmer/Oswald Companies Seminar (May 2019)
- "2018 Ohio Law Update," Insurance Adjuster Meeting (February 2018)
- "2017 Legal Updates & the Known Unknowns," Ohio Valley ABC Seminar (March 2017)
- "Understanding the General Conditions of a Construction Contract," Cincinnati Chapter of the American Institute of Architects, Education Summit 2015 (November 2015)
- "How to Win a Deposition," Associated Builders and Contractors, Inc., ABC Legal Day (June 2015)
- "Keeping Your HR Managers Out of Court, and What to Do When They Get There," The Association of Corporate Counsel (ACC) (November 2014)
- "Damages and Legal Risks Caused by Failure of Non-Code Compliant Construction," Southwestern Ohio Building Officials Association (June 2009)
- "Risk Reduction for Frequent Claims Against Structural Engineers," Structural Engineers Association of Ohio (March 2009)
- "The Practical Aspects of Multi-District Litigation," Federation of Defense & Corporate Counsel 2008 Winter Meeting, Grand Bahama Island, Bahamas (February 27-March 1, 2008)
- "Strategies to Minimize Professional Liability," HalfMoon Seminar (December 2007)
- "Mold, Moisture and Remediation Workshop," The American Conference of Governmental Industrial Hygienists (November 2007)

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Presentations (Cont)

- “Establishing Causality: What Constitutes Peer Reviewed and Medically Accepted Standards?” 62nd Annual Meeting of the American Academy of Allergy, Asthma and Immunology in Miami Beach, Florida (March 3-7, 2006)
- National Business Institute: “The Mold/Construction Challenge in Ohio,” (November 2003 and December 2005)
- “Solving Construction/Mold Contamination & Water Intrusion Claims,” Sterling Education Services, Inc. (November 2004)
- “Legal Perspectives of Ohio’s Voluntary Action Program,” 6th Annual Business & Industry’s Environmental Symposium (April 16, 1997)
- “How to Avoid the Pitfalls of CERCLA/Superfund,” Executive Enterprises, The Environmental Regulation Course (February 1996)
- “The Jurisdictional Aspects of Litigation Involving International Clients: Everything You Need to Know About Achieving and Defending Against Jurisdiction, the Hague Convention, Service of Process and Forum Selection Clauses,” FICC Quarterly (Fall 1995)
- “The Jurisdictional Aspects of Litigation Involving International Clients: Everything You Need to Know About Achieving and Defending Against Jurisdiction, the Hague Convention, Service of Process and Forum Selection Clauses,” Speaker at the Federation of Insurance and Corporate Counsel Mid-Winter Meeting in Scottsdale, Arizona (February 23-28, 1993)
- “Joining Foreign Entities as 3d-Party Defendants,” *Leader's Products Liability Law and Strategy*, Vol. XI, No. 1, (July 1992)
- Conducted 1991 in-house seminar for Shelby Insurance Company covering recent developments in Ohio’s law

Publications

- “Statutes of Repose: What Every Contractor Needs to Know,” Co-Author, *Construction Executive* (February 2020)
- “Trial Court Rules That Ohio’s Statute of Repose Does Not Apply to University of Cincinnati’s Construction Claims,” Ulmer & Berne LLP, *Client Alert* (February 2013)
- “Five Points to Consider When Leasing Construction Equipment,” *ACC Lexology* (June 2012)

Involvement

Professional Affiliations

- Federation of Defense and Corporate Counsel
- The Fellows of the American Bar Association

Firm Involvement

- Management Committee
- Group Leader, Construction Litigation

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Honors & Distinctions

- Named to *The Best Lawyers in America*[®], Commercial Litigation; Construction Law; Construction Litigation; Product Liability Litigation – Defendants (2009-2021)
- Named *Best Lawyers Construction Law* “Lawyer of the Year” in Cincinnati (2019)
- Designated *Best Lawyers Litigation – Product Liability* “Lawyer of the Year” in Cincinnati (2012)
- Named a “State Litigation Star” in Ohio by *Benchmark Litigation* (2016-2020)
- Named to the Ohio Super Lawyers list (2004-2011; 2014-2020)
- Ranked as one of Ohio’s “Leaders in Their Field” in Construction (2019; 2020) and General Commercial Litigation (2012-2016) by Chambers USA: America’s Leading Lawyers for Business
- AV Preeminent Peer Review Rated – Martindale-Hubbell
- Named a Top Rated Lawyer in Construction Law by *American Lawyer Media* (2012)
- One of 63 Leading Cincinnati Lawyers named by *Cincy Business* (2005)

Admissions

- State of Ohio
- Commonwealth of Kentucky
- State of Illinois
- State of Indiana
- 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 Indiana
- U.S. District Court, Southern District of Indiana
- U.S. District Court, Eastern District of Kentucky
- U.S. District Court, Western District of Kentucky
- U.S. District Court, Northern District of Illinois