

Joseph P. Thomas

Partner



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Practices/Industries

- Life Sciences
- Pharmaceutical, Medical Device & Mass Tort Litigation
- Product Liability

Education

Washington State University
(B. Pharm., 1980)

University of Cincinnati
(Pharm. D., 1982)

Salmon P. Chase College of Law, Northern Kentucky University
(J.D., *cum laude*, 1988)

Overview

Joe is one of the nation's leading advocates in class-action, multi-district, and mass-tort litigation involving drugs and medical devices. He has served as national defense counsel in numerous high-impact mass tort litigations, including those involving fen/phen, ephedra, ADHD medications, hormone replacement therapy, fentanyl patches, propoxyphene, isotretinoin, metoclopramide, antidepressants, oral contraceptives, and the New England Compounding Pharmacy, among others.

In the 1990s, he conceived the legal argument for holding makers of generic pharmaceuticals immune from failure-to-warn suits on a preemption theory ultimately recognized by the Supreme Court in the landmark *PLIVA Inc. v. Mensing* litigation, in which Joe represented PLIVA. His tireless advocacy on that issue "transformed the landscape of litigation against the pharmaceutical industry," *The American Lawyer* said in the course of naming Joe its Appellate Litigator of the Week, and is characteristic of his pioneering work for pharmaceutical interests.

Joe's unique background – as a licensed pharmacist, a member of the patent bar, an author of peer-reviewed scientific literature, and clinical researcher – gives him a deep understanding of the science behind his clients' work. Together with his litigation skills, it has won him consistent recognition from clients and peers, including being named annually to *The Best Lawyers in America*, as a "State Litigation Star" in Ohio by *Benchmark Litigation*, and previous designations such as MEDMARC's Defense Attorney of the Year and *Best Lawyers*[®] Product Liability Litigation – Defendants "Lawyer of the Year" in Cincinnati.

Experience

- National counsel in fen/phen, antidepressant suicidality, antidepressant birth defect, ephedra, hormone replacement therapy, metoclopramide, propoxyphene, fentanyl patch, Ocella oral contraceptive, ADHD, and other litigations.
- Extensive experience in the areas of toxic tort defense, drug and medical device litigation, and product liability defense.
- Extensive experience in class action and mass tort litigation involving drugs and medical devices.

Other Professional Experience

- Chief, Inpatient Pharmacy, Cincinnati VA Medical Center (1982-1988)
- Adjunct Assistant Professor of Clinical Pharmacy, University of Cincinnati (1982-1988)
- Member, Veterans Administration Research and Development Committee (1986-1988)
- Member, Institutional Review Board, University of Cincinnati, College of Medicine (1987-1988)
- Pharmacology Instructor, University of Cincinnati, College of Nursing and Health (1982-1984)

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Experience (Cont)

Other Professional Experience (Cont)

- Residency Training Program, Cincinnati VA Medical Center (1980-1982)
- Instructor, College of Pharmacy, Washington State University (1980)
- Registered Pharmacist

Presentations

- “Unique Challenges in Labeling Biosimilar Products in the U.S.,” International Drug Discovery Science and Technology, Japan (July 2017)
- “The Product Liability Implications of Noncompliance with Regulatory Obligations,” GPhA 2014 Fall Technical Conference, North Bethesda, Maryland (October 2014)
- “FDA Proposed Rule for Generics,” Risk and Insurance Management Society National Conference, Denver, Colorado (April 2014)
- “How Generic Companies Are Defending Against Evolving Theories of Liability Following Pliva v. Mensing,” American Conference Institute’s Legal and Regulatory Summit on Generic Drugs, New York, New York (July 2013)
- “Product Liability for Generic Pharmaceutical Products: Generic Preemption from the Ground Up,” Marsh Life Sciences Conclave – 2013, Mumbai, India (July 2013)
- “The History of Generic Preemption,” GPhA Annual Meeting, Orlando, Florida (February 2013)
- “Lazarus and Other Lost Causes: Generic Preemption from the Ground Up,” Medical Device Seminar, Lake George, New York (June 2012)
- “Winning Without Fighting: Not All Disputes Are Created Equal,” PriceWaterhouseCoopers General Counsel Forum (August 2007)
- “Using Scientific Principles to Win Your Case,” PriceWaterhouseCoopers General Counsel Forum (August 2006)
- “Winning Mass Tort Cases,” PriceWaterhouseCoopers General Counsel Forum (August 2005)
- “Critical Review of Learned-Intermediary Doctrine in States Where Ritalin Suits are Pending,” Ritalin Litigation Seminar, American Conference Institute, New York City (March 2001)
- “Special Litigation Group Update: Mass Tort Litigation,” DRI Product Liability Conference, San Francisco, California (February 1999)
- “ANDA Preemption: A Novel Theory of Non-liability For Generic Manufacturers,” National Pharmaceutical Alliance, Tucson, Arizona (February 1998)
- “Gone But Not Forgotten: Handling (And Mishandling) The Turncoat Employee,” Role Participant, ABA Section of Litigation, 20th Annual Meeting, Bal Harbour, Florida (January 1996)
- “The Hidden Dangers of Employee Benefit Plans: Protecting Your Pharmacy and Your Employees from Financial Ruin,” American Pharmaceutical Association, Seattle, Washington (March 1994)
- “The Implications of OBRA 90 on Civil Liability of Pharmacists,” New Jersey Pharmaceutical Association, Atlantic City, New Jersey (June 1992)

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Presentations (Cont)

- “Civil Liability and Clinical Pharmacy,” American Society of Hospital Pharmacists, Washington, D.C. (June 1992)
- “Overview: Safe Medical Devices Act of 1990,” Medical Device Manufacturer’s Update, New Brunswick, New Jersey (June 1991)
- “Beyond The Package Insert: Are you Protected?,” American Society for Pharmacy Law, New Orleans, Louisiana (March 1991)
- “Effect of Continuous Intravenous Cimetidine Infusion on Steady-State Theophylline Concentrations,” American Society of Hospital Pharmacists, Atlanta, Georgia, (December 1988)

Publications

- “Preemption as a Defense in Pharmaceutical Litigation,” *IADC Newsletter*, Drug, Device & Biotech Committee (March 2004)
- “Protective Orders in Litigation Involving Sensitive Company Information: It Is Possible to Enforce Them Even After the Litigation is Over,” *IADC Newsletter*, Drug, Device & Biotech Committee (June 2001)
- “Fifty State Survey of FDCA-Related Tort Causes of Action: Ohio Section,” American Bar Association, Section of Litigation (2001)
- “State-by-State Survey of the Law Regarding Potential Liability for Off-Label Uses of Drugs or Medical Devices: Ohio Section,” American Bar Association, Section of Litigation (1999)
- “The Use of Computerized Information at Trial,” American Bar Association Annual Meeting, Section of Litigation, Chicago, Illinois (August 1995)
- “Defending Against Formaldehyde Exposure Claims,” *For the Defense* (February 1995)
- “Value of Patents in Litigation Likely to be Minimal,” *Leader’s Product Liability Law and Strategy* (March 1994)
- “State-by-State Summary of the Learned Intermediary Doctrine as a Springboard for Summary Judgment,” Pharmaceutical and Medical Device Subcommittee, ABA Products Liability Committee, Section of Litigation (July 1993)
- Editorial Board Member, *Pharmacy Legal Lessons* (1992-1994)
- “Food, Drug and Cosmetic Law Update: Rulings and Reversals,” *133 New Jersey Lawyer* 16 (1990)
- “Proposed Eye-Test Ban Leaves Shadow of Doubt,” *124 New Jersey Law Journal* 1524 (1989)
- “Effect of Continuous Cimetidine Infusion on Steady-State Theophylline Kinetics,” *Clinical Pharmacy*, 1989; 8:206-9
- “Clinical Evaluation of Intravenous Labetalol for Treatment of Hypertensive Urgency,” *American Journal of Hypertension*, 1988; 1 (3):284S-289S

Involvement

Professional Affiliations

- American Bar Association
- Cincinnati Bar Association

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Involvement (Cont)

Professional Affiliations (Cont)

- New Jersey State Bar Association
- International Association of Defense Counsel
- Defense Research Institute
- Fellow, American Society for Pharmacy Law
- Drug and Medical Device Subcommittee of Products Liability and Toxic Torts Committee (Chairman 1992)

Honors & Distinctions

- Received the Lifetime Achievement Award, Chase Alumni Association of the Salmon P. Chase College of Law at Northern Kentucky University (2018)
- Named a "State Litigation Star" in Ohio by *Benchmark Litigation* (2015-2020)
- Named a Cincy Leading Lawyer in Biotech in a survey of lawyers by Cincy Magazine (2007-2019)
- Named to the Ohio Super Lawyers list (2004-2019)
- Named to *The Best Lawyers in America*®, Product Liability Litigation – Defendants; Commercial Litigation; Litigation – Antitrust; Litigation – Regulatory Enforcement (SEC, Telecom, Energy) (2007-2020)
- Who's Who Legal: Life Sciences 2019 - Product Liability
- Designated *Best Lawyers* Product Liability Litigation - Defendants "Lawyer of the Year" in Cincinnati (2013)
- *National Law Journal's Supreme Court Insider*: Appellate Lawyer of the Week: 7/27/11
- Defense Attorney of the Year, Medmarc Insurance Group (1996)

Admissions

- State of Ohio
- Commonwealth of Kentucky
- State of New Jersey
- U.S. Supreme Court
- U.S. Patent & Trademark Office
- U.S. Court of Appeals, First Circuit
- U.S. Court of Appeals, Second Circuit
- U.S. Court of Appeals, Third Circuit
- U.S. Court of Appeals, Fourth Circuit
- U.S. Court of Appeals, Fifth Circuit
- U.S. Court of Appeals, Sixth Circuit

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Admissions (Cont)

- U.S. Court of Appeals, Seventh Circuit
- U.S. Court of Appeals, Eighth Circuit
- U.S. Court of Appeals, Ninth Circuit
- U.S. Court of Appeals, Tenth Circuit
- U.S. District Court, Southern District of New York
- U.S. District Court, Western District of New York
- U.S. District Court, District of New Jersey
- U.S. District Court, Southern District of Ohio
- U.S. District Court, Northern District of Ohio
- U.S. District Court, Northern District of Illinois
- U.S. District Court, Southern District of Indiana
- U.S. District Court, Western District of Kentucky
- U.S. District Court, Eastern District of Kentucky
- U.S. District Court, Eastern District of Michigan
- U.S. District Court, District of North Dakota
- U.S. District Court, Eastern District of Texas
- U.S. District Court, Southern District of Texas
- U.S. District Court, Northern District of Texas
- U.S. District Court, Northern District of Florida