

David J. Fagnilli

Senior Counsel

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David is a member of the casualty department handling matters involving products liability, trucking and transportation, automobile liability, premises liability, construction accidents, uninsured and underinsured motorist coverage and personal injury. He has represented insureds in business disputes, construction claims, complex litigation and business arbitrations. David has also handled litigation concerning defamation, contractor claims, property use disputes, and commercial and business property losses. He has extensive experience negotiating favorable settlements independently and through mediation and other forms of ADR.

Additional areas of practice include insurance coverage, contract interpretation and analysis for first and third party claims; and defense of coverage disputes and bad faith lawsuits involving commercial general liability, commercial property, commercial vehicle, umbrella, auto and homeowners' policies; and claims for environmental damage, asbestos and other toxic torts.

David is admitted to practice in all Ohio Courts, all Federal District Courts in Ohio, the Sixth Circuit Court of Appeals and the U.S. Supreme Court. David is a life member of the Eighth District Judicial Conference. He is a member of the American, Ohio State, Cleveland Metropolitan, and Lake County Bar Associations, the Defense Research Institute, the Ohio Association of Civil Trial Attorneys, the Cleveland Association of Civil Trial Attorneys, the Claims & Litigation Management Alliance, and the Justinian Forum.

A shareholder with an AV® Preeminent™ by Martindale-Hubbell rating, David has also been selected by his peers as an "Ohio Super Lawyer" annually since 2010, as published in *Cincinnati Magazine* and *Northern Ohio Live Magazine*. Since 2009, he has been listed in *The Best Lawyers in America*®.

David received his B.A. from Southern California College in 1980, and his *juris doctor* from Cleveland-Marshall College of Law in 1985.

Practices

- Product Liability
- First-Party Property
- Insurance Services – Coverage & Bad Faith Litigation
- General Liability
- Construction Injury Litigation
- Automobile Liability
- Trucking & Transportation Liability
- Environmental & Toxic Tort Litigation
- Asbestos & Mass Tort Litigation
- Insurance Agents & Brokers Liability
- Premises & Retail Liability
- Rideshare Liability
- Catastrophic Claims Litigation

Education

- Cleveland State University College of Law (J.D., 1986)
- Vanguard University of Southern California (B.A., 1980)

Admissions

- Ohio, 1986
- U.S. District Court Northern District of Ohio
- U.S. District Court Southern District of Ohio
- U.S. Court of Appeals 6th Circuit
- Supreme Court of the United States

Honors & Awards

- AV® Preeminent™ by Martindale-Hubbell®
- The Best Lawyers in America®, Insurance Law (2009-2027)
- Ohio Super Lawyers (2010-2020)

Associations & Memberships

- American Bar Association
- Cleveland Association of Civil Trial Attorneys
- Cleveland Metropolitan Bar Association
- Defense Research Institute
- Justinian Forum
- Ohio Association of Civil Trial Attorneys
- Ohio State Bar Association

Classes/Seminars Taught

- *Insurer, Adjuster and Agent and Broker Liability: A - Z*, National Business Institute, August 26, 2016, presenter
- *Ten Commandments of Working with Expert Witnesses*, June 13, 2013, CLM Transportation Conference, panelist
- *Anatomy of a Complex CGL Claim, Additional Insureds – Ohio Anti-Indemnity Statute*, Cleveland Metropolitan Bar Association, November 2, 2012
- *Insurance Law from Basic to Advanced – Claims Handling Process*, Akron Bar Association October 30, 2012
- *What Civil Court Judges Want You to Know*, National Business Institute, November 4, 2011, moderator
- *Ohio Tort and Insurance Case Law Update*, Akron Claims Association, April 14, 2010
- *Insurance Law in Ohio*, Lorman Educational Services, March 21, 2003, co-author and presenter
- *Insurance Law in Ohio: Third Party Coverage in Ohio*, National Business Institute, March 14, 1996, co-author and presenter

Published Works

- "Ohio Supreme Court Holds That General Contractor's CGL Insurer Is Not Obligated

to Defend Suit Alleging Subcontractor's Faulty Workmanship," *Legal Updates for Coverage & Bad Faith*, March 2019

- *Case Law Alerts*, regular contributor, 2018-present
 - *Ohio Construction Insurance Law; Policyholder and Insurer Perspective on Custom Agri*, Bar Journal of the Cleveland Metropolitan Bar Association, February 2013, coauthor
 - *A.M. Best Ohio Digest of Insurance Law*, Editor 2012-present
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Results

Summary Judgment for Insurance Broker and Two Lloyds Syndicates

We obtained a ruling granting summary judgment in favor of an insurance broker and two Lloyds syndicates in a case pending in the United States District Court for the Northern District of Ohio. The case involved a claim arising from a fall from a tree stand at a hunting camp. The plaintiff suffered spinal fractures when he fell out of the tree stand. He obtained judgment against the owner of the hunting outfitter business and then sought to recover under two policies of insurance issued to the business and a hunting club operated by the same individual. There was a stipulated judgment of \$2 million, and a supplemental complaint was brought where the only issue was coverage under two \$1 million policies. Accepting Marshall Dennehey's arguments, the court granted summary judgment in favor of all defendants on the grounds that the broker had no obligations under the policies and that the policies were not written to insure commercial hunting activities or the premises where the accident occurred.

Thought Leadership

July 27, 2026

Ohio Supreme Court Holds That a Binding Appraisal Award May Not Be Set Aside Absent Specific Evidence of Manifest Mistake or Fraud

February 27, 2026

Ohio Supreme Court Clarifies Rule on Attorney-Client Privilege and Communications Between Insurer and Its Outside Counsel

October 1, 2025

Ohio Appeals Court Affirms Class Certification in Auto Insurance Total Loss Valuation Dispute; Ohio Supreme Court Review Pending

October 1, 2024

Ohio Supreme Court to Review Scope of Attorney-Client Privilege in Bad Faith Cases.

July 1, 2024

Ohio Supreme Court Finds that Hidden Damage Discovered After Appraisal Was Completed and Repairs Commenced May Still Be Recoverable

July 1, 2024

Professional Services Exclusion in GL Policy Issued to Property Inspector Barred Claims for Injuries Resulting from Inspector's Failure to Replace Floor Panel

July 1, 2024

Court Rules that Liability Insurance Does Not Cover Claims for Civil Liability Under the Antiterrorism Act 18 U.S.C. 2333(a)

January 1, 2024

Ohio Supreme Court Applies Contract Language to Determine if Permissive User Qualifies as an Insured Under a Personal Auto Policy.

January 1, 2024

Ohio Supreme Court Applies Tort Conflict of Law Rules to an Insurance Bad Faith Claim.

July 1, 2023

Ohio Appellate Court holds expert testimony not required to support claim for bad faith.

October 1, 2022

Ohio Supreme Court finds no duty to defend in opioid litigation.

September 20, 2022

Ohio Supreme Court Finds No Duty to Defend in Opioid Litigation

April 1, 2022

Ohio Supreme Court holds that insurance policy exclusion for water backup encompasses sewage backup.

April 1, 2021

Ohio Supreme Court accepts review of duty to defend in opioid litigation.

April 1, 2021

Ohio Appellate Court holds the intentional demolition of interior space was not an accident or occurrence that triggered coverage under contractor's CGL policy.