

## ERNEST R. BAZZANA



### Partner

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**Ernest R. Bazzana** is an appellate specialist who has for the past 27 years represented corporate entities on appeal in complex product liability, construction, commercial, employment, intellectual property, insurance coverage and motor vehicle litigation. He has been lead appellate counsel in more than 300 cases decided by the Michigan and Federal appellate courts.

### Representative Client Work

- Successfully defended the constitutionality of statutory cap on recoverable damages against challenges based on the right to jury trial, equal protection and due process.
- Successfully defended the application of the common law open and obvious danger doctrine (1992) and the statutory open and obvious danger doctrine (2006) in Michigan product liability cases.
- Obtained a reversal on appeal of a \$3,384,427 jury verdict in favor of the plaintiff. Convinced the appellate court that the submission by an employee of an idea pursuant to a suggestion plan did not give rise to a property interest that was subject to a conversion cause of action.
- Obtained a Sixth Circuit decision reversing a \$1,500,000 verdict in favor of the employee and holding that the employer was entitled to judgment as a matter of law on the plaintiff's age discrimination claim as a result of the insufficiency of the plaintiff's proofs.

### Areas of Practice

- Appellate Law

### Honors & Awards

- Martindale-Hubbell's highest rating-AV. AV is a registered certification mark of Reed Elsevier Properties, Inc., used in accordance with the Martindale-Hubbell certification procedures, standards and policies
- 2006 - 2008 Michigan Super Lawyer in Appellate, Michigan Super Lawyers, a publication of Law & Politics magazine

### Education

- Detroit College of Law, 1978, J.D., with honors
- University of Michigan, 1973, B.A.

### Bar & Court Admissions

- Michigan, 1978
- United States Court of Appeals for the Sixth Circuit
- United States Court of Appeals for the Third Circuit
- United States Court of Appeals for the Federal Circuit
- United States Supreme Court

## Notable Cases

- *Greene v AP Products, Ltd*, 475 Mich 502; 717 NW2d 855 (2006); (if it is obvious to a reasonably prudent product user that use or misuse of a product may cause some injury, a product manufacturer has no legal duty to warn of the risk of specific severe consequences)
- *Phillips v Mirac*, 470 Mich 415; 685 NW2d 174 (2004); (statutory cap on recoverable damages in MCLA 257.401(3) is constitutional because it does not violate the right to jury trial, equal protection or due process)
- *Bieszck v Avis Rent-A-Car System, Inc*, 459 Mich 9; 538 NW2d 691 (1998); (peremptory decision in lieu of leave to appeal reversing prior law and holding that a rental car company's written restriction in its rental agreement was sufficient to overcome the common law presumption that the vehicle was being driven with the consent of the rental car company)
- *Frankenmuth Mutual Ins Co v Marlette Homes, Inc*, 456 Mich 511; 573 NW2d 611 (1998); (peremptory decision in lieu of leave to appeal reversing the lower courts and holding that a manufacturer of a modular home was a "contractor" within the plain meaning of Michigan's statute of repose)
- *Groncki v The Detroit Edison Company*, 453 Mich 644; 557 NW2d 289 (1996); (an electrical power company owes no duty to protect knowledgeable workmen from or warn them of the dangers associated with contacting an overhead power line because, due to their knowledge, accidental contact with the overhead electrical power lines is not legally foreseeable)

## Professional Affiliations

- State Bar of Michigan
- American Bar Association

## Publications

- Supreme Court Clarifies Scope of Open and Obvious Danger Doctrine and Discards 'Simple Tool' Doctrine in Product Liability Actions
- Appeals Court Rules That Employer Can Be Properly Named as a Non-Party at Fault
- A Settling Tortfeasor has the Statutory Right to Seek Contribution Under MCL §600.2925a
- Supreme Court Decision Holds Damage Cap Provision Constitutional
- Constitutionality of Rental Car Damages Upheld

## News

- Plunkett Cooney attorneys among Michigan 'Super Lawyers'
- Plunkett Cooney Attorneys Named 2007 Michigan 'Super Lawyers'