

## David J. Gass

MEMBER

Grand Rapids

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Dave Gass is an experienced trial lawyer who represents clients in a wide variety of complex commercial and general civil litigation in state and federal courts. He has a strong record of successful results. Mr. Gass has been with Miller Johnson for more than 40 years.

### Education

Mr. Gass received his law degree *cum laude* from **Harvard Law School** in 1980. He received his undergraduate degree, with high distinction, from the **University of Michigan** in 1977, with majors in Economics and English. He is licensed to practice law in Michigan and Massachusetts (inactive) and is admitted to practice in all Michigan state, federal, and appellate courts.

### Litigation Practice

Mr. Gass's litigation experience has been remarkably varied, but generally focuses on complex commercial cases. He has successfully tried many cases to judges, juries, and arbitration panels. His expertise is not confined to any specific subject area; rather, his expertise is in the advocacy of complex issues in an understandable and persuasive manner, using the latest technology. He and Miller Johnson have an

### Practice Areas

- [Litigation](#)
- [Commercial Litigation](#)
- [Employment Litigation](#)
- [Insurance Policyholder Counseling and Recovery](#)
- [Automotive](#)
- [Unfair Competition](#)
- [Professional Liability](#)
- [Government Investigations](#)
- [Family Owned Business and Closely Held Companies](#)
- [Manufacturing](#)
- [Election Law](#)

### Education

- J.D., Harvard Law School, 1980, *cum laude*
- B.A., University of Michigan, 1977, *magna cum laude*

### Bar Admissions

- Michigan, 1982
- Massachusetts (Inactive)



outstanding reputation among the judges in the state and federal courts in Western Michigan.

Mr. Gass has represented clients in the following types of disputes:

- Insurance coverage
- Contract
- Business/shareholder
- Automotive supplier
- Unfair competition/trade secrets
- Real estate
- Attorney grievance/legal malpractice
- Tax
- Employment
- Media/first-amendment/defamation
- Product liability
- Professional Liability

In Mr. Gass's litigation practice, he represents plaintiffs and defendants, individuals and corporations, in prosecuting and defending a wide variety of commercial cases. He has represented a Fortune 500 company since 2003 in insurance coverage, product liability, and contract litigation. More than 50 percent of his practice is in federal court, primarily in the Western District of Michigan.

Some recent successes in complex insurance coverage litigation representing policyholders include:

- After trial and two trips to the Sixth Circuit, an insurance carrier paid over \$45 million on a \$15 million policy
- Obtained summary judgment against a carrier in federal court, with damages exceeding \$10 million



- Obtained summary judgment for \$8.4 million against a carrier in a case in Illinois state court and the case settled for \$7 million
- Achieved a \$25 million settlement against a carrier after bringing a lawsuit in federal court in Michigan
- Achieved a \$10 million settlement against a carrier after a lawsuit was filed by a carrier in NY state court

Mr. Gass has tried many cases. In addition he has resolved hundreds of cases, in advance of trial, through motion practice, mediation, or settlement.

[Click here](#) to view a summary of the significant cases that Mr. Gass has tried and the results obtained, as well as a few cases of interest that were resolved short of trial. This does not include the hundreds of cases that he has resolved, in advance of trial, through motion practice, mediation, or settlement.

### **Litigation Philosophy**

Miller Johnson has one of the most successful and respected litigation practices in the state. The firm prides itself in its exemplary reputation among judges and other lawyers and strives at all times to maintain that reputation.

Mr. Gass's philosophy for successful litigation is grounded in the following fundamental concepts:

- Represent the client zealously
- Communicate regularly with the client, and listen
- Develop a strategy at the outset and implement it
- Prepare thoroughly and attend to details
- Advocate with passion and clarity



- Maintain the highest standards of professionalism

### **Honors, Professional Affiliations and Activities**

Mr. Gass is a **Fellow of the American College of Trial Lawyers**. He is named as a “Super Lawyer” in Business Litigation since 2006 and to their “Top 100 Lawyers” in Michigan on six occasions including 2014, 2015 and 2016. He was also named to the Top 50 Michigan Business Super Lawyers List for 2014. In 2018, Best Lawyers named Mr. Gass as Grand Rapids Lawyer of the Year for Product Liability Litigation – Defendants. He is listed in “The Best Lawyers in America®” Bet-the-Company Litigation, Commercial Litigation, First Amendment Law, and Product Liability Litigation – Defendants. He was named as *Best Lawyers* 2020 Grand Rapids Lawyer of the Year for Product Liability Litigation – Defendants.

He is a Fellow of the American Bar Foundation and the Michigan Bar Foundation. He is also a Life Member of the Sixth Circuit Court of Appeals.

Mr. Gass is President of the Historical Society for the Western District of Michigan. He is a past President of the Western Michigan Chapter of the Federal Bar Association. He is a Faculty Member and a former Chair of the Hillman Advocacy Program of the United States District Court for the Western District of Michigan. He is former chair of the Miller Johnson’s litigation section and former member of the management committee.

Mr. Gass has served on the boards of St. John’s Home, Catholic Social Services, and Mothers Against Drunk Driving.



## Articles and Presentations

Mr. Gass writes and speaks on commercial litigation and other topics. Below is a list of some of his speeches and publications.

- Moderated and created, in 2013, 150th Anniversary celebration of the founding of the Western District of Michigan
- [“Our First District Judge and the Civil War,”](#) *The Journal of the Historical Society of the United States District Court for the Western District of Michigan*, 2007
- “Enron and Document Retention Policies – This Changes Everything,” lecture presented for the Grand Rapids Bar Association Corporate Counsel Section, 2002
- Faculty Member, Hillman Advocacy Institute, Regular and Advanced Sessions, 2002, 2001, 1998, and 1997
- “Deposition Skills Workshop” lecture presented at the Institute for Continuing Legal Education Deposition Skills Workshop, 2000
- Contributing author to the book on Contract Law, Institute for Continuing Legal Education, 1998
- Speaker, Product Liability Seminar, Business and Institutional Furniture Manufacturer’s Association, Chicago, 1997
- Moderator, “Legal Malpractice” seminar, Grand Rapids Bar Association, 1997
- “Michigan’s UCC Statute of Frauds and Promissory Estoppel,” *74 Michigan Bar Journal* 524, 1995
- Speaker, “Noncompete Agreements,” Business Law Section, 1994



- Speaker, “Deposition Techniques and Strategies,” Grand Rapids Bar Association Seminar, 1994
- Moderator, “The Art of Trial Persuasion,” seminar including federal judges Douglas Hillman and Richard Enslin and circuit court judge Dennis Kolenda, 1994
- “Departing Directors, Officers and Employees and the Limits of Their Fiduciary Duties,” 72 *Michigan Bar Journal* 650, 1993. Cited by Williston and the Iowa, Alaska, and Utah Supreme Courts:
  - *Valdez Fisheries Development Assn, Inc. v. Alyeska Pipeline Service Co.*, 45 P.3d 657, 669, (Alaska 2002)
  - *Kolkman v. Roth*, 656 N.W.2d 148, 155 (Iowa 2003)
  - *Youngblood v. Auto-Owners Ins. Co.*, 158 P.3d 1088 (Utah App. 2007)
  - *Williston on Contracts* § 21:2 (2011)

### Representative cases

- **AGA Gas, Inc. v. Wohlert Corporation**  
2000 WL 1478466 (W.D. Mich.)
- **Appalachian Railcar Services, Inc. v. Boatright Enterprises, Inc.**  
602 F.Supp.2d 829 (W.D. Mich. 2008)
- **Ashdown Group Ltd. et al v. Prestige Pattern & Model, Inc. et al**  
1999 WL 33439546 (Mich. App.)
- **Bowkus v. Lange**  
1992 WL 309010 (W.D. Mich.)
- **Bug Juice Brands, Inc. v. Great Lakes Bottling Co.**  
2010 WL 1418032 (W.D. Mich.)
- **CSA-Credit Solutions of America, Inc. v. Schafer**



408 F.Supp.2d 503 (W.D. Mich. 2006)

- **Chormann v. PNC Financial Services Group, Inc.**

2012 WL 113549 (W.D. Mich.)

- **City of Pontiac General Employees' Retirement System v. Stryker Corp.**

865 F.Supp2d 811 (W.D. Mich. 2012)

2011 WL 2650717 (W.D. Mich.)

- **CornerWorld Corp. v. Timmer**

2010 WL 4778603 (W.D. Mich.)

2010 WL 4702343 (W.D. Mich.)

2010 WL 3942850 (W.D. Mich.)

2010 WL 3942804 (W.D. Mich.)

2010 WL 104683 (W.D. Mich.)

2009 WL 5196159 (W.D. Mich.)

- **Custom Coated Components, Inc. v. Benteler Automotive Corp.**

2006 WL 1653166 (W.D. Mich.)

- **DRG, Inc. v. Talent Tree, Inc.**

119 Fed. Appx. 702 (6th Cir. 2004)

- **Dana Limited v. American Axle and Mfg Holding, Inc., et al**

2013 WL 603104 (W.D. Mich.)

2012 WL 2524008 (W.D. Mich.)

2011 WL 4954061 (W.D. Mich.)

- **Duray Development, LLC v. Perrin**

792 N.W.2d 749 (Mich. App. 2010)

- **Eager v. Credit Bureau Collection Servs.**

2013 wl5719224 (W.D. Mich.)

- **Grau v. Detroit Auto. Inter-Insurance Exchange**

383 N.W.2d 616 (Mich. App. 1985)

- **Gray v. Bush**

628 F.3d 779 (6th Cir. 2010)

- **Heard v. Caruso**

2012 WL 951698 (W.D. Mich.)

- **Herman v Sempris, LLC, et al**

2013 WL 1402906 (W.D. Mich.)



- **Huizenga v. U.S.**  
68 F.3d 139 (6th Cir. 1995)
- **Joerger v. Gordon Food Service, Inc.**  
568 N.W.2d 365 (Mich. App. 1997)
- **Kelly-Stehney & Associates, Inc. v. MacDonald's Indus. Products, Inc.**  
693 N.W.2d 394 (Mich. App. 2005)  
658 N.W.2d 494 (Mich. App. 2003)  
677 N.W.2d 838 (S. Ct. of Mich. 2004)
- **In Re Koro Corp.**  
20 B.R. 241 (1st Cir. Bkcy. App. Panel, 1982)
- **Material Technologies, Inc. v. Johnson Controls Interiors, L.L.C.**  
2006 WL 4092319 (Mich. Cir.)  
2006 WL 4075575 (Mich. Cir.)  
2005 WL 5220836 (Mich. Cir.)
- **Phase III Marketing, Inc. v. EZ Paints Co.**  
2000 WL 33252113 (W.D. Mich.)
- **Pioneer Laboratories, Inc. v. Stryker Corp.**  
395 F.Supp.2d 612 (W.D. Mich. 2005)
- **Pioneer Surgical Technology, Inc. v. Vikingcraft Spine, Inc.**  
2011 WL 64239 (W.D. Mich.)  
2010 WL 2925970 (W.D. Mich.)
- **Reese v. ADIA Personnel Services et al**  
2000 WL 334067967 (Mich. App.)
- **Short v. Janssen Pharm., Inc.**  
2015 U.S. Dist. LEXIS 61123
- **Steelcase Inc. v. Haworth, Inc.**  
954 F.Supp. 1195 (W.D. Mich. 1997)
- **StoneMor Operating, LLC v. Bush**  
2015 U.S. Dist. LEXIS 123358 (W.D. Mich.)
- **StoneMor Operating, LLC v. Bush**  
2015 U.S. Dist. LEXIS 123357 (W.D. Mich.)
- **Stryker Corp. v. Bruty**  
2013 WL 1962391





2013 WL 3340268 (W.D. Mich.)

• **Stryker Corp. v. Ridgeway**

2016 U.S. Dist. LEXIS 110809 (W.D. Mich.)

2016 U.S. Dist. LEXIS 10636 (W.D. Mich.)

2016 U.S. Dist. LEXIS 8085 (W.D. Mich.)

2015 U.S. Dist. LEXIS 166745 (W.D. Mich.)

2015 U.S. Dist. LEXIS 125567 (W.D. Mich.)

2015 U.S. Dist. LEXIS 120400 (W.D. Mich.)

2015 U.S. Dist. LEXIS 93741 (W.D. Mich.)

2015 U.S. Dist. LEXIS 84490 (W.D. Mich.)

2014 U.S. Dist. LEXIS 100803 (W.D. Mich.)

2014 U.S. Dist. LEXIS 99211 (W.D. Mich.)

2014 U.S. Dist. LEXIS 98455 (W.D. Mich.)

• **Stryker Corp. v. XL Ins. America and National  
Union Fire Ins. (Stryker I)**

WL 3891297 (6th Cir. 2014)

2013 U.S. Dist. LEXIS 178885 (W.D. Mich.)

2013 WL 1194917 (W.D. Mich.)

2013 WL 504646 (W.D. Mich.)

735 F.3rd 349 (6th Cir. 2012)

726 F.Supp.2d 754 (W.D. Mich. 2010)

2009 WL 3256179 (W.D. Mich.)

2008 WL 68958 (W.D. Mich.)

2008 WL 5235886 (W.D. Mich.)

2007 WL 214347 (W.D. Mich.)

2007 WL 172401 (W.D. Mich.)

2007 WL 107655 (W.D. Mich.)

2007 WL 1031641 (W.D. Mich.)

2006 WL 3802174 (W.D. Mich.)

2006 WL 3759796 (W.D. Mich.)

2006 WL 2338245 (W.D. Mich.)

2006 WL 1997142 (W.D. Mich.)

2005 WL 2001287 (W.D. Mich.)

2005 WL 1610663 (W.D. Mich.)

• **Stryker Corp. v. XL Ins. America and TIG Ins. (Stryker II)**



2014 U.S. Dist. LEXIS 153944 (W.D. Mich.)  
2014 U.S. Dist. LEXIS 116852 (W.D. Mich.)  
2014 U.S. Dist. LEXIS 103664 (W.D. Mich.)  
2014 U.S. Dist. LEXIS 44241 (W.D. Mich.)  
2014 U.S. Dist. LEXIS 5119 (W.D. Mich.)  
2014 WL 198678 (W.D. Mich.)  
2013 WL 6799303 (W.D. Mich.)  
2013 WL 5533609 (W.D. Mich.)  
2013 3276408 (W.D. Mich.)  
681 F.3rd 819 (6th Cir. 2012)  
2009 WL 56671 (W.D. Mich.)  
2009 WL 56292 (W.D. Mich.)  
2009 WL 3256081 (W.D. Mich.)  
2008 WL 4111271 (W.D. Mich.)

• **Stryker Corp. et al v. Zimmer, Inc., et al**

2013 WL 6231533 (W.D. Mich.)  
2013 WL 3941794 (W.D. Mich.)  
2013 WL 3941815 (W.D. Mich.)  
2013 WL 3157929 (W.D. Mich.)  
2012 WL 333814 (W.D. Mich.)

• **Talent Tree Crystal, Inc. v. DRG, Inc.**

2005 WL 3312554 (W.D. Mich.)

• **Tardy v. Diesel Technology Company**

1998 WL 1989868 (Mich. App)

• **Teamsters Local Union No. 52 et al v. The Kellogg Sales Company**

2012 WL 2930206 (N.D. Ohio)

• **Tolliver v. Federal Republic of Nigeria**

265 F.Supp.2d 873 (W.D. Mich. 2003)

• **U.S. ex rel. Laucirica v. Stryker Corp.**

2010 WL 1798321 (W.D. Mich.)

