



## David M. Ottengewess

### Founding Partner

David practices primarily in the area of civil litigation; specifically professional liability and medical malpractice claims, general health care law defense, executive employment matters, and commercial and employment contracts. For over 30 years, he has successfully litigated cases in Federal District Court as well as in Wayne, Oakland, Macomb, Monroe, Montcalm, Saginaw, Genesee and Washtenaw County Circuit Courts. In 2011, David was appointed by a Federal judge to serve as a Special Master in the decades long litigation involving the United States Environmental Protection Agency and the Detroit Water and Sewerage Department litigation.

### Contact Information

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### Bar Admissions

State Bar of Michigan, May 1986

United States Supreme Court, July 1989

United States Court of Appeals, Sixth Circuit, May 1988

United States District Court, Eastern District of Michigan, 1986

United States District Court, Western District of Michigan, 1999

### Legal Experience

#### Ottengewess Law, PLC

Founding Partner, 1997 – present

Southfield, Michigan

#### Schureman, Frakes, Glass & Wulfmeier, PLC

Partner/Attorney, 1986 – 1997

Detroit, Michigan

- Professional experience includes all aspects of litigation (*see below*)

#### *Litigation Experience:*

- Handled over 600 matters in civil litigation, including personal injury, employment, contracts, health law, constitutional and election law
- Defended hospitals and physicians in medical practice cases before juries in Wayne, Oakland, Macomb, Monroe, Montcalm and Washtenaw Court Circuit Courts
- Defended corporations and individuals before juries in federal court (United States District Court, Eastern District)
- Defended physicians in licensing matters

- Defended multi-state corporations in sexual harassment, sex and race discrimination cases in state and federal matters
- Represented corporations and individuals in arbitration and evidentiary hearings
- Litigated breach of employment contracts on behalf of health care providers and physicians

***Transaction and Dispute Resolution Experience:***

- Appointed as Special Master to United States District Court (Eastern District, Michigan) to facilitate the development of compliance programs on matters involving the Detroit Water and Sewerage Department (DWSD) pursuant to federal court litigation involving the DWSD and a consortium of several municipalities in Southeast Michigan (February, 2011 - April, 2013)
- Case Evaluator Panelist in civil litigation cases in Wayne and Washtenaw Counties
- Mediator in contract disputes
- Arbitrator in civil personal injury matters
- Works closely with hospital administrators and risk managers on peer review questions and sentinel events
- Advises hospitals and risk managers regarding health law and professional liability questions in an effort to reduce and eliminate potential litigation and other risks
- Review and draft employment contracts
- Frequent speaker on Legal and Professional Liability matters

## Other Legal Experience Of Interest

- Successfully represented Michigan Athletic Trainers Society, Inc., in obtaining a favorable official interpretation of the PT Administrative Rules from the Michigan Department of Community Health and the Michigan Attorney General's office
- Successfully represented a Michigan hospital and its CEO in a labor/RICO matter involving complex issues of labor law, including Section 302 allegations and claims of RICO Act Violations, in federal court through to the United States Supreme Court which ultimately vacated an unfavorable decision against the hospital by the Sixth Circuit Court of Appeals
- Successfully secured a defense verdict before a jury on behalf of a hospital and its CEO in a Polygraph Protection Act case
- Successfully litigated a First Amendment case (prior restraint) resulting in the successful dismissal of a TRO and lawsuit against client
- Successfully defended to a jury verdict a patent infringement case between two musical groups and a record company
- Successfully litigated election law matters in State Court including defending Wayne County's Super Majority Tax legislation and the successful return of the names of two candidates to election ballots after wrongfully being removed or challenged

## Professional Affiliations

- American Board of Trial Advocates
- State Bar of Michigan (Negligence Section)
- American Bar Association
- Michigan Defense Trial Counsel
- Defense Research Institute
- Oakland County Bar Association

## Professional Honors

- Named Michigan Super Lawyers® for Medical Malpractice Defense in years 2007-2021
- AV® Martindale-Hubbell Peer Review Rating, 25 years
- AV® Martindale-Hubbell Peer Review Rating - Judicial Edition
- Michigan Go To Lawyer in Medical Malpractice 2021
- Michigan Leading Lawyer in Professional Malpractice Defense and Commercial Litigation 2020, 2021
- Michigan Leading Lawyer Top 100 Business Lawyers 2020, 2021

## Education

**Michigan State University College of Law (formerly Detroit College of Law)**  
Juris Doctor awarded January, 1986

**Honors, Awards & Activities:**

Executive Director of the Moot Court Program (1985)  
Co-Director of the American Bar Association Oral Advocacy Program (1984)  
Member of School's National Moot Court Team (1984)  
Eve August Award (1984)

**University of South Florida**

Bachelor of Arts, Political Science awarded May, 1982

## Published Articles

*Business as Usual with the Latest SGR Temporary Fix... But This One Includes a Stunning ICD-10 Delay*, by David M. Ottenwess, Esq. and Stephanie P. Ottenwess, Esq., April, 2014

*Bailey's Head & Neck Surgery Otolaryngology, 5th edition: Business Law and the Practice of Otolaryngology*, by Robert S. Iwrey, Esq., Stephanie P. Ottenwess, Esq., Jessica Gustafson, Esq., Kathryn Hickner-Cruz, Esq., David M. Ottenwess, Esq., and Reginald Baugh, Esq., December, 2013

*Medical Malpractice Tort Reform; Bad Medicine or the Cure for What Ails You?* David M. Ottenwess, Esq., Stephanie P. Ottenwess, Esq., Meagan A. Lamberti, Esq., and Adrienne D. Dresevic, Esq., *Radiology Management*, Vol. 33, No 2, March/April 2011

*Voodoo Economics? Loss of Parental Training and Guidance: The New Battleground in Medical Malpractice Damages*, David M. Ottenwess, Esq., Stephanie P. Ottenwess, Esq., and Melissa E. Graves, Esq., *Michigan Defense Quarterly*, Vol. 27, No. 1, July, 2010

*Will Constitutional Changes Pop the Lid?* David M. Ottenwess, Esq., and Daniel J. Dulworth, Esq., *Michigan HealthCARE Business*, February, 1998

## Representative Presentations

1. Michigan Defense Trial Counsel – *Reptile Theory and Its Impact on Standard of Care*, Annual Meeting, June 20-21, 2019
2. Oakwood Symposium Presentation: *How Communication Breakdown Can Lead to Medical Care Letdown*, November 2014
3. AHRA 39<sup>th</sup> Annual Meeting and Exposition, Dallas Texas - *Medical Malpractice Liability: What You Don't Know May Hurt You*, August 16, 2011
4. Michigan Defense Trial Counsel - *Defending Damages in 2010*, Winter Meeting, November 5, 2010
5. Michigan Society of Healthcare Risk Management - *Changing Legal Landscape in Healthcare, Michigan Supreme Court Update*, October 5, 2010
6. Radiology Staff, Harper, Children's and Detroit Receiving Hospitals - *Professional Exposure in Radiology Cases in Michigan*, March 14, 2007
7. Radiology Staff, Huron Valley-Sinai Hospital - *Professional Exposure in Radiology Cases in Michigan*, March 6, 2007
8. Radiology Staff, Sinai-Grace Hospital - *Professional Exposure in Radiology Cases in Michigan*, February 27, 2007
9. Medical Staff, POH Medical Center - *Office Practice Issues - OIG and the Physician Practice*, April 29, 2006
10. Medical Staff, POH Medical Center - *How the NPDB Impacts Your Practice*, April 25, 2004
11. Medical Staff, POH Medical Center – *What is Informed Consent?* June 16, 2003

12. Department of Surgery, Garden City Hospital - *What is Informed Consent?* June 3, 2003
13. The 14<sup>th</sup> Annual GE Mammography Symposium, Dearborn Inn, Dearborn, Michigan – *Today's Legal Issues in Mammography*, March 22, 2003
14. Medical Staff and Managers, Garden City Hospital - *What is Informed Consent?* March 13, 2003
15. Radiology Technologists, Huron Valley-Sinai Hospital – *Legal Issues and Appropriate Documentation*, 2000, 2001 and 2002
16. Physician Members, Troy Internal Medicine, PC – *Professional Liability Insurance Options in Michigan*, June, 2002
17. Radiology Staff of all DMC Hospitals – *State of the Law in Michigan under Tort Reform – An Overview*, January, 2001
18. Medical Staff, POH Medical Center – *How to Act and React When Deposed in a Medical Malpractice Matter*, October, 1999
19. Radiology Staff, Bon Secours Hospital – *Pitfalls in Dictation*, March, 1996

## Current Community Service & Activities

- Ann Arbor Rec & Ed, Catholic Youth Organization, Boys Basketball Coach (2014-2017)
- Catholic Youth Organization, Boys Basketball Coach (2018-2021)