



# Edward W. Gerecke

SHAREHOLDER

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## Overview

Ed Gerecke is a litigator with more than 30 years' experience defending product manufacturers. He focuses on prescription drug and medical device defense and has been a leader in developing industry-specific defenses such as preemption and expert exclusion.

From the start of a matter, Ed takes a tactical approach, working with clients to formulate and achieve their litigation plan consistent with overall business goals. He is an efficient, effective problem-solver who clearly communicates the information clients need to make decisions that advance their strategy. He is adept at prioritizing and planning to achieve maximum efficiencies, whether through resolution in court or by settlement.

Ed's recent honors include being named *Best Lawyers'* 2019 Tampa Mass Tort Litigation/Class Actions – Defendants "Lawyer of the Year," and *Best Lawyers'* 2017 Tampa Product Liability Litigation – Defendants "Lawyer of the Year."

Ed is certified as a circuit civil mediator by the Florida Supreme Court.

## Experience

- *Shuker v. Smith & Nephew, PLC*, 885 F.3d 760 (3d Cir. 2018). In a case of first impression, the Third Circuit Court of Appeals held that the plaintiff's negligence, strict liability, and breach of implied warranty claims against our client, a medical device manufacturer, were expressly preempted under the Medical Device Amendments of 1976 to the Federal Food, Drug, and Cosmetic Act. The plaintiff's claims involved a hip-replacement system that consisted of a number of component parts subject to different categories of federal regulation.
- *Grubbs v. DePuy Synthes*, No. 8:15-cv-00443, 2016 WL 360610 (M.D. Fla. Jan. 19, 2016) (granting summary judgment because the plaintiff failed to allege the violation of any federal requirement in the PMA device components that he received).
- *Marshick v. Johnson & Johnson*, No. 5:14-cv-00498, 2015 WL 9266955 (M.D. Fla. Dec. 11, 2015) (granting summary judgment when the plaintiff lacked expert

proof of general and specific causation).

- *Teva Pharm. Indus., Ltd. v. Ruiz*, 181 So. 3d 513 (Fla. 2d DCA 2015) (reversing denial of motion to dismiss for lack of personal jurisdiction when general jurisdiction was lacking and the plaintiff failed to establish specific jurisdiction and sufficient minimum contacts to satisfy due process).
- *Marmol v. St. Jude Med.*, 132 F. Supp. 3d 1359 (M.D. Fla. 2015) (dismissing claims against PMA medical device under implied preemption and lack of a remedy to enforce FDA regulations or requirements).
- *Ocasio v. C.R. Bard, Inc.*, No. 8:13-cv-01962, 2015 WL 3496062 (M.D. Fla. June 3, 2015) (granting summary judgment on warnings claim for lack of an expert on inadequacy and rejecting any inference of a manufacturing defect).
- *Homaday v. Smith & Nephew, Inc.*, 994 F. Supp. 2d 1264 (M.D. Fla. 2014) (wrongful death claim in third amended complaint related back to original filing for purposes of the statute of limitations).
- *Brown v. DePuy Orthopaedics, Inc.*, 978 F. Supp. 2d 1266 (M.D. Fla. 2013) (granting summary judgment under *Riegel* preemption and *Wolicki-Gables* for lack of a parallel claim and no nexus between FDA warning letter and alleged injury).
- *Kaiser v. DePuy Spine, Inc.*, 944 F. Supp. 2d 1187 (M.D. Fla. 2013) (dismissing claims with prejudice, before discovery, under *Riegel* preemption and *Wolicki-Gables* for failing to specify a parallel claim or allege noncompliance with a formal performance standard established by the FDA).
- *Layton v. SmithKline Beecham Corp.*, No. 05-CA-007440, 2012 WL 4983778 (Fla. Cir. Ct. Oct. 16, 2012) (an evidentiary hearing is not required to determine entitlement to attorneys' fees and costs based upon a proposal for settlement).
- *Wolicki-Gables v. Arrow Int'l, Inc.*, 634 F.3d 1296 (11th Cir. 2011) (affirming summary judgment under *Riegel* preemption and affirming that inference of defect did not apply).

## All Insights

09.01.2016	Preemption and Other Defenses to Claims by Study Subjects
05.08.2014	Florida Appellate Court Embraces Daubert Standard and Provides First In-Depth Analysis Under New Law
08.29.2013	OMG! I Have to Produce What? 4 Steps to Tipping the Field With Social Media
10.01.2012	Mensing: Effects and Opportunities
10.04.2010	Sales Reps in the OR: The Hunt for Non-Preempted Claims
04.22.2006	Design Defects in Prescription Medical Products: Section 6(c) of the Third Restatement

## All News

- 08.14.2018 Seven Carlton Fields Attorneys Named 2019 “Lawyers of the Year”
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- 07.09.2018 Super Lawyers Honors 81 Carlton Fields Attorneys on 2018 Florida “Super Lawyers” and “Rising Stars”
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- 08.15.2017 78 Carlton Fields Attorneys Named “Best Lawyers in America”
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- 06.23.2017 Florida Super Lawyers Ranks 92 Carlton Fields Attorneys as 2017 “Super Lawyers” and “Rising Stars”

## Recognition

- AV Rated by Martindale-Hubbell
- Listed in *The Best Lawyers in America*
  - Bet-the-Company Litigation, Commercial Litigation, Mass Tort Litigation/Class Actions – Defendants, and Product Liability Litigation – Defendants (2005–2020)
  - "Lawyer of the Year"
    - Tampa Mass Tort Litigation/Class Actions – Defendants (2016, 2019)
    - Tampa Product Liability Litigation – Defendants Product Liability Litigation – Defendants (2017)
- *Who's Who Legal: Florida*, Life Sciences, Product Liability Defence (2020)
- *Who's Who Legal*, Life Sciences - Product Liability (2016–2020)
- *Who's Who Legal*, Product Liability Defence (2006–2020)
- *Guide to the World's Leading Product Liability Lawyers*
- Florida Super Lawyers, Product Liability Defense, *Super Lawyers Magazine* (2006–2020)
- *Chambers USA*, Litigation (2007–2013)

## Professional & Community Involvement

- American Board of Trial Advocates
  - President, Tampa Bay Chapter (2012)
- Defense Research Institute
  - Drug and Medical Device Committee
- Thirteenth Circuit Judicial Nominating Commission (2008–2012)
  - Chair (2011–2012)

## Speaking Engagements

- "Defenses in Drug and Medical Device Litigation," DRI Drug and Medical Device Committee  
Young Lawyers Seminar, Chicago, IL (September 20, 2016)

- "Defenses in Drug and Medical Device Litigation," DRI Drug and Medical Device Committee Young Lawyers Seminar, Chicago, IL (September 30, 2014)
- "Preemption Survey and Update," ACI Drug and Device Conference, New York, NY (December 9, 2013)
- "Nanotechnology: It Really Is a Small World," DRI Drug and Medical Device Seminar, Chicago, IL (May 6, 2011)

## Credentials

### EDUCATION

- Indiana University Maurer School of Law (J.D., with honors, 1981)
- Purdue University (B.S., with distinction, 1978)

### BAR ADMISSIONS

- Florida

### BOARD CERTIFICATIONS

- Florida Supreme Court Certified Mediator

### COURT ADMISSIONS

- U.S. Supreme Court
- U.S. Court of Appeals, Eleventh Circuit
- U.S. District Court, Middle District of Florida
- U.S. District Court, Northern District of Florida
- U.S. District Court, Southern District of Florida
- Florida State Courts

## Areas of Focus

### PRACTICES

- Alternative Dispute Resolution Services
- Class Actions
- Litigation and Trials
- Mass Tort and Product Liability
- Pharmaceuticals and Medical Devices