

Warren E. Babb, Jr.

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Areas of Practice

As a member of Lane Powell's Long Term Care and Seniors Housing Client Service Team, Warren Babb represents senior housing and care providers. His practice includes health care and pharmaceutical litigation. He represents skilled nursing and assisted living providers as well as other health care professionals in litigation involving various types of claims, including negligent hiring/supervision and medical/professional negligence. Warren has represented pharmaceutical manufacturers in litigation, including many MDLs. He is also experienced in handling products liability, complex/multiparty litigation, health care and professional liability, employment/ERISA/ Life and disability insurance claims, and insurance coverage analysis. He has a Martindale-Hubbell "AV" rating and is an arbitrator for the King County Mandatory Arbitration Program. Warren has litigated cases in Washington, Oregon, Alaska and California, and has tried cases in many different venues.

Professional Experience

Arbitrator, King County Mandatory Arbitration Program

Admitted to Practice

Washington
U.S. District Court, Western District of Washington
U.S. District Court, Eastern District of Washington
Colville Tribal Bar

Academics

Rutgers University Law School at Camden (J.D., 1983)
University of Vermont (B.A., *summa cum laude*, 1980)
Phi Beta Kappa

Practice Group and Specialty Team Memberships

Long Term Care and Senior Housing
ERISA Litigation
Health Care
Insurance
Products Liability

Publications

"Avoiding Marketing Pitfalls That Could Bring Litigation to Your Doorstep," *In-House Defense Quarterly*, Co-author (Winter 2009)
"Risk Management Issues in Marketing," National Center for Assisted Living (November 2008)
"Risk Management: Potential Claims of Residents and Their Families," Washington Health Care Association (August 2007)

Speaking Engagements

- Designed and participated in Mock Jury Trial for Washington Health Care Association, Annual Meeting (May 2010)
- “Caveat Vendor: Avoiding Marketing Pitfalls,” Defense Research Institute NH/ALF Seminar (September 2009)
- “Update on Risk Management Issues,” Washington Health Care Association (May 2009)
- “Marketing Pitfalls,” National Center for Assisted Living Webinar (November 2008)
- Served as arbitrator in mock arbitration presented at Defense Research Institute NH/ALF Litigation Seminar (September 2008)
- Washington Health Care Association Risk Management Seminar, Chair (August 2007)
- “Risk Management 101/Effective Quality Assurance Committees in Long Term Care” (September 8-9, 2005)

Representative Matters and Clients

Skilled Nursing Facilities and Other Health Care Providers

- i) Dismissal of Wrongful Death Action (obtained dismissal alleging wrongful death from fractured hip allegedly suffered in provider-sponsored activity outing)
- ii) Dismissal of Financial Exploitation Suit (obtained dismissal of suit alleging financial exploitation of assisted living resident by employee of provider)
- iii) Defense/Settlement of Wrongful Death Claim (successfully obtained settlement of wrongful death claim against assisted living provider while Summary Judgment Motion pending to dismiss plaintiff's suit)
- iv) Defense/Settlement of Wrongful Death Claim (successfully defended and obtained settlement of medication error/wrongful death litigation brought by nine adult children of nursing home resident)
- v) Defense/Representation of Pharmaceutical Manufacturer in Phenylpropanolamine Litigation/MDL (served as co-liaison counsel for defendant pharmaceutical manufacturer in MDL)
- vi) Defense/Representation of pharmaceutical company in “Mirapex” litigation MDL alleging product defect/failure to warn against manufacturer of Parkinson's Disease medication
- vii) Defense/Settlement of Breast Implant Product Cases (successfully defended and obtained settlement in multiple product liability claims alleging defective breast implants)
- viii) Defense/Representation of manufacturer in Zyprexa MDL cases
- ix) Defense/Settlement of Dental Negligence/Injury Claims (successfully defended and obtained settlement on behalf of oral surgeons and dentists in a variety of medical negligence claims) (obtained summary dismissal of several of these claims)

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- x) *Thompson v. Everett Clinic*, 71 Wn. App. 548 (1993) (Summary Judgment in negligent hiring/negligent retention case) (successfully obtained Summary Judgment in claim against medical clinic that one of its male physicians had inappropriate sexual relations with numerous male patients) (Summary Judgment upheld on appeal)
 - xi) Defended Claims of Medical Negligence Against Physical Therapist (defended and obtained favorable trial result (following a two and a half week trial) in litigation alleging medical negligence against physical therapy clinic)

Product Liability/Negligence

- i) Defense/Settlement of Six Wrongful Death Claims (successfully defended and obtained settlement of six wrongful death claims (involving 35 statutory beneficiaries) arising out of a refinery explosion)
- ii) Defense/Settlement of Bystander Claims (successfully defended/settled claims for bystander liability arising from refinery explosion)
- iii) Summary Judgment obtained in claims against paratransit bus manufacturer for defective design
- iv) Summary Judgment in favor of landowner/business operator on wrongful death claims (defense)
- v) Summary Judgment in favor of river rafting outfitters on wrongful death claims — upheld on appeal (defense)
- vi) Summary Judgment of Inverse Condemnation Claim (successfully obtained summary judgment on behalf of county against claims by fifteen property owners of wrongful taking through promulgation of regulations) (Summary Judgment upheld on appeal)
- vii) Defense Trial Verdict in Serious Back Injury Claim (obtained defense verdict following three weeks of trial on work place back injury claim)
- viii) Defense Trial Verdict (obtained defense verdict following weeklong trial of construction negligence/property damage claim)
- ix) Defense/Settlement Claim for Paralysis and Cognitive Impairment (successfully defended and settled a claim (after one week of trial) for paraplegia and moderate cognitive impairment allegedly suffered in a fall from industrial scaffolding)
- x) Defense/Settlement of Traumatic Head Injury Product Liability Claim (successfully defended and obtained settlement (while Summary Judgment motion was pending) of products liability claim of allegedly defective design in a travel trailer hitch mechanism)
- xi) Defense/Settlement of Traumatic Head Injury Product Liability Claim (successfully defended and obtained settlement (while Summary Judgment motion was pending) of products liability claim of allegedly defective design in a travel trailer hitch mechanism)
- xii) Defense/Settlement of Cosmetics Products Cases (successfully defended and settled multiple cases alleging facial injuries from use of cosmetic products)

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- xiii) Defense/Settlement of Industrial Solvent Product Cases (successfully defended and settled case brought by numerous Boeing employees alleging injury from inhalation of industrial solvent used in the manufacture of airplane parts)
 - xiv) Defense/Settlement of Component Parts Products Claim (successfully defended and obtained settlement in multiple claims arising from fires in coffee makers allegedly containing defective thermal cutoff switches)

Railroad Cases

- i) Summary Judgment obtained in wrongful death action arising from bicycle train collision at railroad crossing located on bicycle/pedestrian trail
- ii) Defense/Settlement of Triple Amputee FELA Claim (successfully defended and obtained settlement (while Summary Judgment motion was pending) of claim brought by railroad employee who suffered injuries in train derailment)
- iii) Defense/Settlement of Slack-Action Head and Spinal Injury Claim (successfully defended and obtained settlement in FELA claim where employee alleged slack-action of extended freight train caused him to suffer severe injuries)

Employment

- i) Defense/Settlement of Whistle Blower Claim (successfully defended and settled claim (while Summary Judgment was pending) by County Sewer District Manager who alleged he was terminated in retaliation for reporting various violations)

Insurance Litigation

- i) *Tewell, Thorpe & Findlay, Inc., P.S. v. Continental Cas. Co.*, 64 Wn. App. 571, 825 P.2d 724 (1992) (defense trial verdict in bad faith lawsuit) (obtained defense verdict following two-week trial in bad faith lawsuit brought by insured law firm for denial of coverage under its errors and omissions policy) (verdict upheld on appeal)
- ii) Summary Judgment on Behalf of Insurer in Tribal Court (successfully obtained summary judgment from Colville Tribal Court on behalf of insurer who issued policies to Tribal elders where underlying claims were for violations of the Indian Civil Rights Act by Tribal elders)
- iii) *City of Everett v. American Empire Surplus Lines Ins. Co.*, 64 Wn. App. 83, 823 P.2d 1112 (1991) (Summary Judgment on behalf of insurer) (successfully obtained Summary Judgment on behalf of municipal errors and omissions insurer in Bad Faith/Coverage Action where underlying claim against city arose from the death of firefighters) (Summary Judgment upheld on appeal)

Awards and Honors

Peer Review Rated "AV" in Martindale-Hubbell
Named as a "Washington Super Lawyer," *Super Lawyers* magazine
Fellow, Litigation Counsel of America, Trial Lawyer Honor Society (2009-Present)

Professional and Community Activities

Member, American Bar Association

Member, Defense Research Institute, ALF/Nursing Home Litigation Seminar Committee

Member, Washington Defense Trial Lawyers, Product Liability Committee

Member, Recreational Vehicle Industry Association

Member, National Association of Railroad Trial Counsel