



**HARVEY KRUSE, P.C.**  
1050 Wilshire Drive, Suite 320  
Troy, Michigan 48084-1526  
Office: (248) 649-7800  
Fax: (248) 649-2316  
E-Mail: [dburmeister@harveykruse.com](mailto:dburmeister@harveykruse.com)

## **Dale R. Burmeister**

### **AREAS OF PRACTICE:**

Civil Litigation  
Commercial Litigation  
Employment Litigation  
Toxic Tort Litigation  
Insurance Coverage  
Premises Liability  
Product Liability

### **EDUCATION:**

Western Michigan University (B.B.A., *magna cum laude*,  
1975)  
University of Detroit School of Law (J.D., *magna cum laude*,  
1978)  
Executive Editor and Member, University of Detroit School  
of Law, *Journal of Urban Law* (1976-78)

### **BAR ADMISSIONS:**

State Bar of Michigan (1978)  
U.S. District Court for the Eastern District of Mich. (1978)  
U.S. District Court for the Western District of Mich. (1981)  
U.S. Court of Appeals for the Sixth Circuit (1983)

### **EMPLOYMENT:**

Board of Directors at Harvey Kruse, P.C. 1996-Present  
Shareholder at Harvey Kruse, P.C. 1987-Present  
Associate Attorney at Harvey Kruse, P.C. 1980-1987  
Teaching Fellow in Legal Research at the Detroit College of  
Law (1979-1980)  
Law Clerk for then United States District, now Sixth Circuit  
Court of Appeals, Judge Ralph B. Guy, Jr. (1978-80)

### **ACKNOWLEDGMENTS:**

Martindale Hubbell Rating: A/V  
Who's Who in American Law  
Two-time recipient of the Dean's Scholarship for Academic  
Excellence  
American Jurisprudence Award for Secured Transactions  
Justice Frank Murphy Honor Society – top 10% of class  
Freshman Moot Court Competition Winner  
Presidential Scholar – full tuition waiver

Member and Executive Editor, Journal of Urban Law (1976-1978)

Clarence M. Burton Scholarship – awarded to top three editors of the law review

Delegate, 1977 National Conference of Law Reviews.

**EXPERIENCE:**

Joining Harvey, Kruse, Westen & Milan, P.C. in 1980, he began working primarily on toxic tort cases, in particular the defense of thousands of personal injury and property damage asbestos cases. He was lead trial counsel for a consortium that originally included thirty-six former manufacturers of asbestos products and sixteen insurance carriers. He also started the Medical Counsel Program in Michigan and was responsible for hiring all defense medical experts and taking the lead in deposing and cross-examining plaintiffs' experts.

In addition, Dale has extensive product liability experience including cases involving mismatch and multi-piece tire litigation, safety restraint systems, vehicle rollovers, automotive seating systems, engine components such as flexible engine cooling fans, automatic transmission "park-to-reverse" cases, environmental claims, machinery accidents and fire extinguisher litigation.

He regularly sits as a Mediator or Case Evaluator in Wayne County Circuit Court as both a defense mediator and as a commercial mediator. In addition, he frequently serves as a Special Mediator and as an Arbitrator in commercial, toxic tort, malpractice, and wrongful discharge cases

**REPRESENTATIVE CLIENTS:**

Amchem  
Apogent Technologies  
Arkema Incorporated  
BASF Corporation  
CertainTeed  
Crane Company  
Dana  
Foseco Incorporated  
Honeywell International, Inc.  
I.U. North America  
Industrial Insulation Incorporated  
J & L America Incorporated  
Maremont Corporation  
National Service Industries  
Taylor Instruments  
Union Carbide

**MEMBER:**

Current Chair of Technology, Education and Membership  
Committees of the Association of Defense Trial Counsel  
Negligence Section of the State Bar of Michigan  
Environmental Law Section of the State Bar of Michigan  
Computer Law Section of the State Bar of Michigan  
Subsurface Contamination Section of the State Bar of Michigan  
Litigation Section of the American Bar Association  
Defense Research Institute  
American Trial Lawyers Association  
Association of Defense Trial Counsel

**REPRESENTATIVE  
TRIAL & APPELLATE  
DECISIONS:**

*Nicholas v Honeywell International* -- The Calhoun County Circuit Court granted our motion for summary disposition based on the so-called "Sophisticated User" defense, finding the the United States Air Force was a knowledgeable user of asbestos-containing products as a matter of law. The case involved a jet mechanic that died at the age of 51 of a rare form of cancer that was allegedly caused by exposure to various materials and equipment that contained asbestos.

*Heydon v MediaOne* -- The United States Court of Appeals for the Sixth Circuit affirmed for lack of subject matter jurisdiction the dismissal of a declaratory judgment action filed under the Cable Communications Policy Act where plaintiff sought a determination that the statute does not permit a cable company to "piggyback" on utility easements.

*Thon & Associates v AWI* -- Following a week-long trial before a three-member American Arbitration Association commercial panel, our client was awarded \$831,000 for past due commissions, a \$100,000 statutory penalty under Michigan's Sales Representatives Act, and attorney fees in a case involving the non-payment of commissions for wheel sales to General Motors. That award has now been paid and Phase II of the litigation involving interference with contractual relations and other business torts is now underway.

*Beta Foundry Equipment v Die Temp* -- A federal court jury in Grand Rapids returned a verdict 58% higher than we asked for in his closing argument. A unanimous jury answered all the questions on the five page jury verdict form in favor of our client, Beta Die Casting Equipment, a Toronto based corporation that is one of the largest sellers of new and used industrial equipment in North America. The case involved breach of contract, tortious interference with contractual

relations, and tortious interference with perspective advantage counts in a dispute over the sale of industrial equipment. We suggested that the jury return a verdict of between \$36,000 and \$43,000 on the contract claim and a similar amount on the tort claims and it awarded \$36,000 for breach of contract and \$100,000 for tortious interference for a total of \$136,000.

***Gerth v R.H. Taylor Corporation*** -- Following a two day evidentiary hearing featuring some of the leading experts the United States in the fields of neurology and neuropsychology, Judge Cherry ruled that qEEG testimony should be excluded under Daubert in a case involving four plaintiffs allegedly suffering brain damage from exposure to toxic fumes.

***Baker v Honeywell International, Inc.*** -- Judge Nelson in Jackson County Circuit Court granted summary disposition in six cases and partial dismissal in 27 others based on the sophisticated user defense.

***Colonial Mold v Mancon*** -- A \$14 million computer data corruption case was dismissed by Judge Swartz in Macomb County Circuit Court due to spoliation of evidence and discovery abuses following a five day evidentiary hearing.

No cause jury verdict on behalf of a major wheel manufacturer in a wrongful death product liability case tried in Ohio. The plaintiff sustained substantial injuries from which he later died as a result of mismatching a tire and wheel. *Case name withheld at request of client.*

***County of Wayne v United States Mineral Products*** -- Leave to appeal was denied by the Michigan Supreme Court in a case in which summary disposition was granted in favor of our client, U. S. Mineral, with respect to asbestos abatement claims covering all public buildings in Wayne County, Michigan.

***Montney v. AlliedSignal Canada, Inc.*** -- The Michigan Supreme Court refused to review a decision of the Michigan Court of Appeals affirming summary disposition in favor of our client, AlliedSignal of Canada, in a flex fan case. Summary disposition was granted based upon admissions by plaintiffs' expert at his deposition that he had failed to develop an alternative design for the product, as required by applicable Michigan precedents. Plaintiff had demanded \$7.6 million at mediation.

***Arnold v. United States Gypsum*** -- Michigan Supreme Court denied leave to appeal in an asbestos mesothelioma death case in which the Michigan Court of Appeals affirmed summary disposition in favor of our client, U.S. Gypsum, based upon another state's statute of limitations. Plaintiff's demand in the trial court and the Court of Appeals was \$900,000.

***Dow Corning v. Wausau Insurance Company*** -- Participated in an insurance coverage trial involving breast implants in which approximately \$2 billion in coverage was at stake.

***Warren Consolidated School District v. United States Mineral Products*** -- Leave to appeal was denied by the Michigan Supreme Court in this case in which summary disposition was granted in favor of our client by the trial court and affirmed by the Court of Appeals on plaintiff's claim seeking costs for the removal of asbestos-containing materials from all school buildings in the Warren, Michigan school system.

***City of Detroit v. United States Mineral Products***. -- Tried a class action involving 330 school districts in the State of Michigan for several weeks and, when the client settled, he was hired by National Counsel for Pfizer to try the case for that company as well. At the conclusion of plaintiffs' proofs, Pfizer reached a favorable resolution of the matter.

***Hendrix v. Eichley Corporation and Great Lakes Steel***. -- No cause jury verdict on behalf of a major construction company and the owner of a steel mill in a construction accident case tried in the United States District Court for the Eastern District of Michigan. Plaintiff had fallen from a building in the process of attempting to land a large section of pipe and sustained serious injuries, including brain damage.

***Davison v. Keene Corporation***. -- Won a jury trial in a case seeking damages for removal and replacement of two million square feet of insulation from a school. At the time, it was the highest exposure case his client had ever faced in the United States.

***Weed v. Owens Illinois*** and ***Kish v. Keene Corp.*** -- Throughout the 1980s and 1990s, he has tried numerous asbestos personal injury cases in State and Federal courts around Michigan against nationally known plaintiffs' counsel. Among his more significant victories are those against Tom Henderson of Pittsburgh, Pennsylvania in a state court trial and

against Robert Sweeney from Cleveland in a federal court trial. Both are regarded as pioneers in the field of asbestos litigation in this country.

***Anjeski v. Keene Corporation*** -- The Sixth Circuit held that it is necessary to demonstrate by direct evidence that a plaintiff worked with or in close proximity to a defendant's asbestos-containing products and affirmed summary judgment in favor of our client, Keene Corp. The Court also ruled that it was impermissible to rely upon circumstantial evidence requiring several inferences to be drawn.

***Brisboy v. Fibreboard*** -- The Michigan Supreme Court ruled in favor of our client and held for the first time that the risk of developing lung cancer is within the scope of the risk assumed by a smoker, and that such evidence is admissible in a wrongful death, asbestos exposure case.

***Cousineau v. Ford Motor Company***, 140 Mich. App. 19 (1985): The Michigan Supreme Court ruled in favor of our client, Ford Motor Company, and established an extremely difficult burden for plaintiffs to prevail on a concert of action claim.

***Spencer v. Ford Motor Company*** -- The Court of Appeals ruled in favor of our client, Ford Motor Company, and held that a vehicle manufacturer may not be held liable for damages caused by a defective component part added to a vehicle subsequent to its initial distribution.

**PUBLICATIONS AND  
SPEECHES:**

Burmeister, Dale, "Emerging Law of the Internet with Particular Emphasis on First Amendment, Privacy and Copyright Concerns," written materials and lecture to the Young Lawyers Section of the State Bar of Michigan (2000).

Legal Workshop Breakfast Series: Year 2000 Business Risk Assessment, Insurance Coverage and Litigation Seminars, Lecturer (1998-1999).

Burmeister, Dale, "Y2K Business Risks and Litigation Threats," Lecture and Publication (1998; revised 1999).

Burmeister, Dale, "Lead Paint Litigation," Lorman Education Services Lecture and Publication (Fall 1996)

Burmeister, Dale, "A Michigan Environmental Update,"  
Lecture and written materials (1994).

Burmeister, Dale, "Underground Storage Tank Litigation  
Update," Lecture and written materials (Fall 1994).

Burmeister, Dale, "Who's the Junkyard Gatekeeper in Michigan  
-- Daubert One Year Later," Michigan Defense Quarterly  
(Summer 1994).

Burmeister, Dale, Comment, "Campaign Remorm in Michigan:  
Removing the Tarnish and the Taint, 54 U. Det. J. Urb. L.  
513-52 (1977).