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Milton S. Karfis

AREAS OF PRACTICE:

Products Liability
Commercial Litigation
Construction Accidents
Third Party Auto
Premises Liability
Insurance Coverage

EDUCATION:

Wayne State University Law School (J.D. *cum laude*, 1996)
Michigan State University– B. A., General Business
Administration, *cum laude*, 1992

BAR ADMISSIONS:

State Bar of Michigan, 1996
U. S. District Court for the Eastern District of Michigan, 1996
U. S. Court of Appeals for the Sixth Circuit, 1998

EMPLOYMENT:

Employed by the law firm of Harvey Kruse, P.C. since 1996.
Has been a partner since 2004.

EXPERIENCE:

Trial and appellate attorney in wide range of civil litigation matters. Has represented numerous clients in circuit courts throughout the state of Michigan and United States District Court. Has briefed and/or argued in the Michigan Court of Appeals, Michigan Supreme Court and the United States Court of Appeals for the Sixth Circuit.

Has defended clients in products liability matter in wide variety of industrial and consumer products, including, but not limited to the following:

- airplanes
- asbestos
- automated doors
- automobiles
- bicycles
- boats
- boilers

- chairs – office, patio, residential, etc.
- child car seats
- compactors
- conveyor lines
- directional boring machines
- flammable fabrics
- flammable liquids
- garbage trucks
- gasoline fuel dispensers
- gasoline nozzles
- hair care products
- helmets
- industrial chemicals
- industrial machinery of all types
- industrial paint lines
- kerosene heaters
- lawn mowers
- power presses
- radiant heaters
- robotic equipment
- rope/cables
- semi trucks
- sludge pumps
- snow blowers
- snowmobiles
- tree stands
- water heaters
- windows

REPRESENTATIVE CLIENTS:

A. O. Smith
 ABB, Inc.
 Allen-Bradley Company
 ASE Industries, Inc.
 Benson Manufacturing
 Besam Automated Entrance Systems
 Centimark Corporation
 Compac Specialties, Inc.
 Cramer Products
 Detroit Radiant
 Ditch Witch
 Flender Corporation
 Herman Miller, Inc.
 Humphrey, Inc.
 Hy-Tek Systems, Inc.
 Kent International, Inc.

MTD Products, Inc.
Nutro Corporation
OPW Fueling Components
Rockwell International
Schwing America, Inc.
Scientific Brake and Equipment
Semling Menke Company, Inc.
Shianco Corp.
Shiloh
Summit Specialties, Inc.

MEMBER:

STATE BAR OF MICHIGAN

**REPRESENTATIVE
TRIAL & APPELLATE
DECISIONS:**

Rihani v Greeley & Hansen, Lapeer County Circuit Court, October 2005. Construction site accident action. The Court of Appeals reversed the trial court's denial of the Defendant's motion for summary disposition. Plaintiff was an engineer working for a subcontractor conducting a condition survey of a large above-ground water reservoir at a City of Detroit pumping station. The large reservoir, approximately the size of a football field, contained two sump pits. The water had been drained from the reservoir for the condition survey. The Plaintiff was taking measurements inside the reservoir when he fell into one of the sump pits which was not barricaded or otherwise marked. The Plaintiff sustained a serious back injury which resulted in a \$1.25 million case evaluation award. Plaintiff claimed the Defendants were negligent in failing to properly barricade the sump pit. Defendant Greeley & Hansen, a subcontractor, argued that pursuant to Michigan law, a subcontractor is not responsible to maintain a safe work site for the safety of other subcontractors' employees. The trial court denied Defendant's motion for summary disposition. The Court of Appeals reversed the trial court, finding that Greeley & Hansen was only a subcontractor to the Plaintiff's employer and therefore was not responsible for the overall workplace safety. Further, because the Plaintiff had not alleged or proved that Greeley & Hansen was actively negligent, the trial court erred by not granting summary disposition in favor of Greeley & Hansen.

The Estate of Vernon Wingard v Nutro Corporation, Saginaw County Circuit Court, April 2005. Wrongful death products liability trial. Verdict no cause for client. Products liability action against Nutro Corporation, a company that manufactured a large industrial paint line conveyor system. The deceased, Vernon Wingard, was a 42-year-old married father of four who was crushed to death when he was caught between the barrier

guard and moving portions of the conveyor line. The estate alleged the conveyor was not properly guarded and there were insufficient warnings. Nutro Corporation argued that the machinery was properly guarded and proper warnings were provided. After a four-week trial, the jury returned a verdict of no cause for action.

Arnold Grinblatt v A&A Driving School, Wayne County Circuit Court, December 2004. Professional negligence action. Defendants' motion for summary disposition granted for the clients. The Plaintiff was a 43-year-old individual who had previously been stricken with multiple sclerosis. A&A Driving School conducted a vehicle modification assessment given the Plaintiff's changing physical needs. The Plaintiff claimed that Defendant negligently evaluated the Plaintiff to properly modify his motor vehicle with appropriate equipment. Plaintiff claimed that as a result of an uncontrolled leg spasm the Plaintiff lost control of his vehicle when he unintentionally depressed the accelerator losing control of his vehicle and crashing. Plaintiff claimed to have sustained a closed head injury, an exacerbation of his multiple sclerosis and additional orthopedic injuries. The case was defended on the basis that A&A properly conducted the Plaintiff's evaluation and recommended the appropriate modifications given the Plaintiff's disclosure and physical needs. Defendant filed a motion that it breached no duty to the Plaintiff which was granted by the court.

Romero v The Charles Machine Works, United States District Court, Eastern District of Michigan, December 2004. Products liability action. Defendant's motion for summary judgment was granted. Plaintiff was injured while using a directional boring machine to lay underground cable wires when a portion of the machine broke loose striking the Plaintiff in the head. The Defendant designed and manufactured the directional boring machine. The Plaintiff sustained a serious closed head injury as well as other orthopedic injuries. The Plaintiff claimed the directional boring machine was negligently designed and manufactured. Defendant filed a motion for summary judgment and the court found that there was no manufacturing or design defect.

Keller v Humphrey, Inc., Macomb County Circuit Court. Products liability action. Michigan Court of Appeals reversed the trial court denial of the Defendant's motion for summary disposition and entered judgment for the Defendant. The Plaintiff sustained an amputation of his left hand on a power

press during the course of employment at an automotive prototype manufacturer. Plaintiff claimed that the dual palm buttons which were used to actuate the power press were negligently designed and/or manufactured. Humphrey filed a motion for summary disposition claiming that the hand controls were not negligently designed and that Humphrey breached no duty to provide warnings. The Court of Appeals reversed the trial court's denial of Humphrey's motion for summary disposition.

Lowry v Cramer Products, Inc., Livingston County Circuit Court, June 2003. Products liability action. Summary disposition granted for the Defendant. Plaintiff filed a products liability action against the Defendant claiming that he sustained certain chemical burns and/or other permanent scarring damage to his shoulder when he placed a cold pack designed and manufactured by the Defendant. Defendant asserted that warnings on the use of the product were adequate and there was no other manufacturing or design defect pertaining to the product. The court agreed and granted the Defendant's motion for summary disposition.

The Estate of Michael Causey v Clara Barton Nursing Home, Genesee County Circuit Court, March 2003. Wrongful death negligence action. Defendant's motion for summary disposition was granted based on the Exclusive Remedy Provision of the Worker's Compensation Disability Act. On November 10, 1999, the Clara Barton Nursing Home in Flint exploded. There were approximately 5 fatalities and 18 separate injuries. Michael Causey was a 21-year-old porter working at the nursing home. The complaint alleges a natural gas leak in the boiler room resulted in the explosion and ensuing destruction of the building. Mr. Causey died as a result of the injuries sustained from the explosion. The estate claimed that Causey was not an employee of the nursing home, but rather an affiliate. Motion for summary disposition was filed on the basis that Mr. Causey was an employee of the Clara Barton Nursing Home and thus his claim was barred by the Exclusive Remedy Provision of the Worker's Compensation Disability Act. The court agreed and dismissed this lawsuit.

Borders v Flender Corporation, Washtenaw County Circuit Court, December 2002. Products liability action. Summary disposition granted for the Defendant. Plaintiff claimed that Flender Corporation defectively designed and marketed a power transmission coupler. The coupler was installed on a service

elevator at the Plaintiff's place of employer. The power transmission apparatus failed while the Plaintiff was on the service elevator. As a result, the elevator and Plaintiff fell three floors, breaking his back rendering him a paraplegic. The Plaintiff's future medical care expenses alone exceeded \$4,000,000. Flender Corporation asserted that it was a component part manufacturer and that the consumer was a sophisticated user and thus there was no duty to warn. The court granted Flender Corporation's motion for summary disposition.

Estate of Raymond Korb v Progressive Die and Automation, Grand Traverse County Circuit Court, November 2002. Wrongful death products liability trial. Jury verdict of no cause for action for the Defendant. The decedent was a 38-year-old machine operator who died when a portion of a die that was shot out of a 400 ton power press struck the decedent in the neck. The first co-worker to the scene was the decedent's father. The father watched his son slowly bleed to death. The estate alleged that the Defendant, the designer and manufacturer of the die, had improperly manufactured and designed the die. The Plaintiff alleged that the bolts used to fasten the portion of the die which was ejected from the press were inadequate. Defendant argued that the die was properly designed and manufactured and the cause of the accident was the Plaintiff's employer's representatives' improperly maintaining and installing the die. The jury returned a verdict of no cause for action after three weeks of trial.

Mesaros v Centimark Corporation, Wayne County Circuit Court, January 2002. Automobile negligence action. Court of Appeals affirmed the trial court's granting summary disposition in Defendant's favor. Individual employed by Centimark Corporation drove across the center line during a snow and ice storm striking the Plaintiff's vehicle headon while returning from a job site. Ms. Mesaros and her daughter, who was valedictorian of her high school, sustained serious injuries including closed head injuries. Defendant alleged that the accident did not occur while the driver was in the course and scope of employment of Centimark. The Court of Appeals agreed with the trial court finding that the accident occurred outside the scope and course of the driver's employment and thus Centimark Corporation could not be vicariously liable for the Plaintiff's injuries. Summary disposition was upheld.

MacDonald v Heights Marina, Roscommon County Circuit Court, June 2002. Wrongful death negligence action.

Defendant's motion for summary disposition granted. Decedent was killed when he was operating his snowmobile and allegedly struck a portion of the Heights Marina dock which allegedly had not been properly illuminated or otherwise marked for snowmobilers on Houghton Lake. Defendants asserted that it was speculation and conjecture whether the Plaintiff actually struck the Defendant's dock and also that pursuant to MCL 600.2955a that the Plaintiff's intoxication caused and/or contributed to the fatal accident. The trial court granted Defendant's motion for summary disposition. The Court of Appeals upheld the trial court's determination.

Cartwright v Midwest Transport, St. Clair County Circuit Court, December 2000. Wrongful death automobile negligence action. The jury returned a no cause of action verdict for the Defendant. The plaintiff was struck by a large cargo truck resulting in his immediate death. The Plaintiff alleged the Defendant truck driver was speeding and otherwise operating the truck in a careless manner. Defendant alleged that the Defendant truck driver was operating his vehicle in safe manner and also affirmatively pled that pursuant to MCL 600.2955a the Plaintiff was intoxicated and thus the intoxication was the cause, in whole or in part, of the Plaintiff's death. The jury returned a verdict of no cause for action after a two week trial.

Auger v ABB Flexible Automation, Inc., United States District Court Eastern District, June 2000. Product liability action. Defendant's motion for summary judgment was granted. The Plaintiff sustained serious injuries to his right arm when it was caught in the chain of an automotive conveyor line. The Plaintiff underwent approximately 10 separate surgeries on his arm. Defendant asserted that pursuant to the Dual Employment Doctrine, since the Plaintiff was employed by a labor broker at the time of the incident, the Plaintiff would be considered an employee of both the labor broker and the Defendant, who retained the outside labor broker to provide temporary workers. Defendant argued that the Exclusive Remedy Provision of the Worker's Compensation Disability Act would also bar the Plaintiff's claim against the Defendant. The federal district trial court agreed granting the Defendant's motion for summary judgment.

Diaz v Centimark Corporation, Wayne County Circuit Court, January 1999. Wrongful death automobile negligence action. Summary disposition was granted for the Defendant. The decedent was a passenger in a vehicle driven by an employee of

the Defendant which crossed into oncoming traffic resulting in a head-on collision. Plaintiff alleged that pursuant to general agency principles, as well as on a joint enterprise theory, that the driver of the motor vehicle was acting as an agent of the Defendant at the time of the incident and thus Centimark Corporation could be liable for its employee's negligent operation of the motor vehicle. The trial court disagreed and granted the Defendant's motion for summary disposition finding that the Defendant driver was not acting within the course and scope of his employment at the time of the accident and there was no basis to establish a joint enterprise theory.