



**HARVEY KRUSE, P.C.**  
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## **Barry B. Sutton**

**AREAS OF PRACTICE:** Complex Litigation  
Product Liability  
Commercial Litigation  
Insurance Coverage  
Third Party Auto  
Premises Liability

**EDUCATION:** University of Florida School of Law (J.D., *honors*, 1993)  
University of Florida (B.A., 1990)

**BAR ADMISSIONS:** Michigan (1993)  
U.S. Dist. Court for the Eastern District of Mich. (1993)  
U.S. Court of Appeals for the Sixth Circuit (1998)  
U.S. Supreme Court (2000)

**EMPLOYMENT:** Shareholder at Harvey Kruse, P.C. 2000-Present  
Associate Attorney at Harvey Kruse, P.C. 1993-2000

**ACKNOWLEDGMENTS:** Teaching fellowship, law of property (1991)  
Teaching fellowship, jurisprudence (1992)

**EXPERIENCE:** Barry Sutton joined Harvey Kruse, P.C. in May, 1993 upon graduating from law school. Shortly thereafter, Mr. Sutton began work on the Dow Corning Breast Implant Insurance Coverage Dispute, one of the most complex commercial disputes ever filed in the United States, and a case that involved nearly every major comprehensive commercial liability coverage issue. In a the four month trial that ensued, Mr. Sutton served as one of eight principal trial attorneys for the Defendant insurers in that litigation. The litigation was successfully resolved prior to verdict. Since that point, Mr. Sutton has continued to represent insurance carriers in coverage disputes throughout the country, and has been repeatedly successful in obtaining both appellate and trial judgments on behalf of those clients.

In addition to insurance coverage, Mr. Sutton also specializes in the field of product liability. As principle drafter of the successful appellate briefs in *Gregory v. Cincinnati*, *Peck v. Bridgeport Machines* and *Hollister v. Dayton Hudson Corporation*, Mr. Sutton has helped to define and structure Michigan's law of product liability.

Currently, Mr. Sutton serves as national product liability counsel for several clients in litigation throughout the United States. His involvement in the defense of large, automotive component part suppliers on a national basis has allowed him to help shape the trends in product liability throughout the United States. Mr. Sutton is one of the pioneers in defending component part suppliers in product liability suits.

Mr. Sutton also specializes in commercial litigation, and currently serves several clients in commercial disputes arising within the automotive field. Mr. Sutton has successfully defended companies in commercial disputes alleging breach of contract, intentional interference with business relations, breach of warranty, misrepresentation, failure to compensate for sales commissions and breach of exclusive sales contracts. In addition, Mr. Sutton has obtained numerous restraining orders in cases preventing sub-component manufacturers from refusing to ship on "just in time" requirements contracts due to the alleged rise in raw material steel costs.

Mr. Sutton also handles general and automobile liability cases. As a solo trial attorney, Mr. Sutton has won each of the cases he tried. He has litigated cases involving misrepresentation, false imprisonment, false arrest, negligence, automobile liability, product liability and conversion, bad faith, breach of contract, violation of the consumer protection act and negligence.

Mr. Sutton has argued cases before the federal district and appellate courts and the Michigan Court of Appeals. He has filed numerous briefs with the Supreme Court of Michigan. He has briefed two cases before the United States Supreme Court. As a specialist in complex, national, product liability cases, Mr. Sutton has been admitted to practice *pro hac vice* in other states throughout the country including Florida, New York, Louisiana, California, Ohio, South Dakota, New Mexico, Texas, Alabama, Mississippi, Georgia, South Carolina, West Virginia, and Illinois.

**REPRESENTATIVE CLIENTS:**

Key Safety Systems, Inc.  
Honeywell International, Inc.  
Breed Technologies  
Gametracker, Inc.  
Bendix Commercial Vehicle Systems, L.L.C.  
Quality Safety Systems Co.  
AlliedSignal  
Amerisure Insurance Companies  
GMAC Insurance  
Nationwide Insurance  
Wausau Insurance Companies  
Scottsdale Insurance Company

**MEMBER:**

State Bar of Michigan (1993),  
American Bar Association  
Litigation Section, Tort and Insurance Practice Sections  
Defense Research Institute  
American Inns of Court (Barrister).

**SIGNIFICANT PUBLISHED  
APPELLATE DECISIONS:**

*Peck v. Bridgeport Machs. Inc.*, 237 F.3d 614 (6<sup>th</sup> Cir., 2001), United States Court of Appeals for the Sixth Circuit, a product liability case which, along with *Hollister*, shaped the landscape of product liability under Michigan law by setting forth the elements required in all product liability actions under Michigan law.

*Hollister v. Dayton Hudson Corp.*, 201 F.3d 731 (6<sup>th</sup> Cir., 2000), United States Court of Appeals for the Sixth Circuit, a product liability case which, along with *Peck*, shaped the landscape of product liability under Michigan law by setting forth the elements required in all product liability actions under Michigan law.

*Psaila v. Shiloh Industries, Inc.*, 258 Mich App 388 (2004), Court of Appeals, sales commission dispute in which plaintiff sought nearly half a million dollars in commissions allegedly due to him. As a matter of first impression, statute requiring employer to pay sales commissions to terminated sales representatives within certain timeframe did not provide public policy exception to employment-at-will doctrine.

*Sturlese v. Six Chuter, Inc.*, 822 So.2d 173 (La. App., 2002), Louisiana Court of Appeals, product liability case arising out of the use of a powered parachute in which Plaintiff sought recovery for paraplegia and sought over \$15 million. Representing the manufacturer of an automotive seatbelt,

obtained judgment notwithstanding the verdict from the trial court on the basis that the use of an automotive seatbelt in a powered parachute was not reasonably foreseeable. In a published decision, the Louisiana Court of Appeals affirmed this result.

**OTHER SIGNIFICANT  
CASES:**

Acted as national counsel for several safety restraint manufacturers in product liability cases.

Served as one of eight trial attorneys for the defendant insurers in the Dow Corning Breast Implant Coverage Litigation, a case involving over \$2 billion in disputed coverage.

Obtained reversal of a \$2 million verdict on appeal in a significant product liability case in the state of Michigan.

Obtained summary judgment in a significant burn injury case in which the plaintiff's demand was \$35 million.

Reversed on appeal a declaratory judgment regarding the meaning of a standard form CGL policy where the dispute involved more than \$1 million.

Secured summary judgment in a misrepresentation case regarding wetland environmental issues where the demand was over \$400,000.

Obtained successful summary judgments in favor of insurance carriers in insurance coverage cases in the areas of claims made policies, personal injury application, bodily injury exclusion, property loss and lost profit policies.

Obtained a directed verdict in a racially charged false imprisonment case in which a large retailer was charged with discrimination incident to a shoplifting accusation against the plaintiff.

Won significant trial victories in cases involving alleged insurance fraud, Michigan third-party no-fault actions, and misrepresentation litigation.

**PANELIST:**

*Nationwide Ins. Co.:* Fraud & Misrepresentation Claims  
*GMAC Ins. Co.:* Defending The Third Party Auto Case  
*Treestand Manufacturers Task Force:* Efficacy of Fall  
Prevention Devices

In-house training seminars for clients addressing: advertising

review guidelines, guidelines for written communications, record retention, , product liability issues for engineers and managers, acting as the in-house “expert witness” and testifying as a corporate representative.

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***Nationwide Ins. Co.:*** Fraud & Misrepresentation Claims

***GMAC Ins. Co.:*** Defending The Third Party Auto Case

***Treestand Manufacturers Task Force:*** Efficacy of Fall Prevention Devices

In-house training seminars for clients addressing: advertising review guidelines, guidelines for written communications, record retention, , product liability issues for engineers and managers, acting as the in-house “expert witness” and testifying as a corporate representative.