

**Troy Office**

*1050 Wilshire Drive  
Suite 320  
Troy, MI 48084  
248.649.7800*



**Flint Office**

*4110 Pier North  
Boulevard  
Flint, MI 48504  
810.230.1000*

**HARVEY | KRUSE P.C.**  
Attorneys at Law

**Grand Rapids Office**

*60 Monroe Center NW  
500B Select Bank Bldg  
Grand Rapids, MI  
49503  
616.771.0050*

*While the next few pages cannot tell you everything about our firm, we hope to provide you with an overview of who we are, how we operate, the scope and nature of our practice and why we have joined together as partners and associates to serve our clients.*

## CONTENTS

<u>Our Practice</u>	<u>3</u>
<ul style="list-style-type: none"> <li>• Michigan</li> <li>• Nationally</li> </ul>	
<u>Who We Are</u>	<u>5</u>
<u>What We Do</u>	<u>6</u>
<ul style="list-style-type: none"> <li>• Trial Practice</li> <li>• Appellate Practice</li> <li>• Alternative Dispute Resolution</li> </ul>	
<u>Our Substantive Expertise</u>	<u>8</u>
<ul style="list-style-type: none"> <li>• Asbestos Litigation</li> <li>• Commercial and Business Disputes</li> <li>• Construction Liability</li> <li>• Employment Law</li> <li>• Fraudulent Claims Defense</li> <li>• Insurance Coverage</li> <li>• Insurance Defense</li> <li>• “No Fault” and First Party Motor Vehicle Liability</li> <li>• Product Liability</li> <li>• Third Party Motor Vehicle Liability</li> <li>• Toxic Torts</li> <li>• Transportation Litigation</li> <li>• Warranty Disputes and Consumer Rights Litigation</li> </ul>	
<u>Cases That Made A Difference</u>	<u>17</u>
<u>Our Teamwork</u>	<u>24</u>
<u>Our Technology</u>	<u>25</u>
<u>Our Clientele</u>	<u>26</u>
<u>The Value We Provide</u>	<u>27</u>
<u>Our Mission</u>	<u>28</u>
<u>Our Offices</u>	<u>29</u>



## OUR PRACTICE

We are trial attorneys. From its founding thirty-seven years ago, our firm has held a reputation for presenting an aggressive defense, always ready and willing to try cases to conclusion whenever necessary. We pride ourselves on handling all types of litigated matters, from the simplest to the most complex multi-state disputes. We represent a broad mix of individuals, governmental entities, partnerships, corporations, sole proprietorships and insurance companies. In fact, our litigation practice is one of the largest in Michigan, since every attorney in our firm tries cases.

Our major practice areas include commercial and business disputes, product liability, all aspects of insurance coverage and insurance defense litigation, administrative law (NHTSA and CPSC), construction accidents, employment litigation, toxic torts, malpractice defense, environmental litigation, premises liability, dram shop actions, no fault and automobile negligence.

Harvey Kruse also has a reputation for tailoring its services to meet the changing needs of our clients. Because we share our clients' concerns about the cost of legal services, the firm applies a rigorous cost-containment program to all aspects of its practice. Sophisticated strategy, sound legal analysis, successful results *and* reasonable fees are the hallmarks of our professional practice.

Legal integrity, aggressive representation and client satisfaction will continue to be the firm's focus as we continue in our fourth decade of practice.

### In Michigan

Since its founding in Detroit Harvey Kruse has established itself as the pre-eminent litigation firm in Michigan. With client service and satisfaction as our hallmark, the firm has chosen its office locations to promote both convenience and client service.

Our principal office is located in suburban Troy at the heart of a triangle formed by the county seats of Wayne, Oakland and Macomb counties in the center of the business hub that is Southeastern Michigan. Proximate not only to the state and federal courts, but also to airports, interstate highways, hotels, restaurants and ancillary services, the office is especially convenient for clients, witnesses and attorneys.



To the North and West of the Detroit metropolitan area is another major population center that includes Flint, Saginaw, Bay City, Midland and the state capitol, Lansing. To better serve our clients in those areas, the firm established a Flint office in 1986. The western half of the state, from the Indiana border to the Upper Peninsula, is served by our Grand Rapids office which opened in 1987.

These offices have enhanced the firm's capabilities by extending our services across Michigan. Our attorneys appear regularly in the courts of all 83 Michigan counties, including the 15 counties located in the Upper Peninsula.

### **Nationally**

As the information age brings our nation and the world closer together, Harvey Kruse has expanded to provide both regional and national representation for several clients. Specializing in important areas like product liability, insurance coverage, toxic torts and environmental law, our attorneys develop coordinated strategy and a consistent defense for our national clients, regardless of the venue involved. We reduce defense costs and eliminate inconsistency by employing nationally recognized experts and coordinating discovery. Efficient partnering with our network of local counsel allows us to focus on scientific and technical defenses as well as over-arching legal issues, thereby producing economies of scale and even greater value for our clients. By avoiding the need to “reinvent the wheel” in every new case, our clients benefit from reduced costs without sacrificing quality, consistency or an aggressive defense.

Our national representations continue to grow as clients such as Bendix Commercial Vehicle Systems, Honeywell International, Key Safety Systems and Quality Safety Systems benefit from a national defense coordinated by Harvey Kruse.



## WHO WE ARE

As a service organization and professional corporation, our firm is a composite of many dedicated individuals who have joined together to bring to our clients the highest quality legal representation. When Richard Harvey and John Kruse founded this firm on the strength of their litigation skills and acumen, they created an organization with a solid, hard-working, no-nonsense approach; and for thirty- seven years, that philosophy has provided steady growth for the firm.

That our employees involve themselves in community activities is a source of pride for the firm. We believe it is necessary to give back to the communities in which we live, work and practice law. The call for attorneys to assist those who cannot afford legal representation has been answered repeatedly by our firm. For many years now, the Volunteer Lawyers Program of the Detroit Bar Association has recognized the firm's contribution of time, effort and resources in the representation of indigent clients in the Detroit Metropolitan area.

Yet our attorneys could not operate successfully without the committed and professional support provided by our paralegals, legal secretaries, law student interns and clerks who provide critical litigation support and communication services.

We are proud of the people assembled at this firm -- the best, brightest and most dedicated -- who, together, provide top quality legal services to our clients at reasonable fees.



## WHAT WE DO

### Trial Practice

Our practice is focused on litigation, yet it involves virtually every important substantive area in the civil law. We try cases before judges and juries in state and federal courts nationwide. We have a particular strength in complex, novel disputes and high stakes litigation, but we handle a wide variety of smaller engagements as well. Our clients are diverse, ranging from the largest multi-national corporations to partnerships, sole proprietors and individuals. No dispute is too large or too small, and we bring the same grasp of strategy and attention to detail to each assignment, regardless of size or subject matter.

**Every Harvey Kruse attorney is a trial lawyer.** From our most experienced partners -- leading trial attorneys with thirty-seven years' experience -- to our youngest associates; every attorney is trained and prepared for success in the courtroom, from routine motion practice to the most sophisticated appeals in the highest courts. Your matter is staffed by attorneys with experience appropriate to the nature and complexity of the case at hand. Yet, because all we do is litigation, even our younger associates have attained a degree of courtroom proficiency several years ahead of their contemporaries at "full service" firms where attorneys may rotate among litigation and non-litigation assignments or spend years reviewing documents and drafting memoranda, still awaiting their first motion argument.

Many cases require us to navigate novel and complex legal issues. Especially in the product liability and insurance coverage practice areas it fairly can be said that Harvey Kruse has "written the law" in Michigan. Our firm served as lead counsel for the Port Huron Tunnel explosion cases, the Rochester explosion cases, the Clara Barton Nursing Home Explosion Litigation and the Dow Corning Breast Implant Coverage Litigation. Nearly all substantive areas of civil litigation are within the scope of our practice. Whatever specific issue your case may involve, Harvey Kruse has the experience to obtain a successful trial verdict.

### Appellate Practice

Our trial practice is complimented by the firm's equally important work at the appellate level, including state high courts throughout the land, U.S. Courts of Appeal and the United States Supreme Court. Here too, Harvey Kruse attorneys have helped to shape the law, arguing many landmark cases over the course of three decades. Our broad and diverse appellate practice



involves almost every area of state and federal practice, from civil procedure to business and employment litigation; insurance coverage to construction law and toxic torts.

Harvey Kruse brings an added dimension to its appellate practice: Our appellate lawyers also try cases in the lower courts. Unlike larger firms whose appellate attorneys may limit their practice to the upper courts, Harvey Kruse attorneys understand not only the policy issues involved in an appeal, but also the practical evidentiary and procedural foundations that underlie each appeal. Our appellate attorneys understand how an issue was presented and preserved at trial, giving them an inherent advantage when arguing a case on appeal.

The strength and diversity of our appellate practice is revealed by the precedent-setting decisions obtained over the years, several of which are described in the section of this brochure entitled “Cases That Made A Difference.”

### **Alternative Dispute Resolution**

We have long maintained an active and varied practice in arbitration and other forms of alternative dispute resolution (ADR). Our ADR practice includes every conceivable dispute resolution mechanism, ranging from non-binding mediations to facilitation, arbitration, mini-trials, and “executive” case evaluations. We appear frequently before arbitration tribunals and many of our more experienced partners also serve as arbitrators and mediators themselves in a variety of personal injury, business, commercial and construction disputes.



## **OUR SUBSTANTIVE EXPERTISE**

### **Asbestos Litigation**

Harvey Kruse has been involved in defending asbestos-related disease claims since cases began in Michigan in the late 1970's. The firm has represented and tried cases for clients throughout Michigan and as far south as El Paso, Texas. With approximately 1,000 cases set for trial every year, the firm has a team of 7 lawyers and 7 paralegals that handle asbestos lawsuits. Some of the firm's past and current clients include manufacturers of asbestos-containing materials such as Celotex, CertainTeed, Dana, Foseco, GAF, Honeywell, Maremont, National Gypsum, Owens Corning, Owens Illinois, Union Carbide and United States Gypsum; distributors like the Crane Co., Chicago-Wilcox, Dal-Tile, Industrial Insulations and IU North America; and premises defendants including Arkema and BASF.

Our firm started the "Medical Counsel Program" in the early 1980s and took the lead in developing experts, taking medical experts' depositions and otherwise coordinating the medical defense of all asbestos cases pending in Michigan for several years prior to the formation of the Asbestos Claims Facility (ACF), which later became the Center for Claims Resolution (CCR).

Our firm serves on a variety of Court appointed Steering Committees for asbestos litigation, including the Master Steering Committee in Wayne County that drafts the case management orders adopted by virtually every court in Michigan in asbestos litigation, as well as the recently formed "E-Filing" Steering Committee.

We have extensive experience defending insulation products, friction products, gasketing materials, and premises liability issues as a result of our work for the clients mentioned above.

We have obtained scores of dismissals on motions for summary judgment in asbestos litigation over the years, including product identification, statute of limitations, "sophisticated user" and "successor liability" victories.

### **Commercial and Business Disputes**

Our commercial and business litigation practice focuses on contractual disputes, business torts, claims of unfair competition, advertising liability, negligent misrepresentation, interference with contracts or economic expectancies and bad faith. We litigate all types of cases under the



Uniform Commercial Code, including sales of goods, leases, security interests, loan transactions and banking disputes, and regularly appear in equitable actions involving the enforcement of supply contracts. In addition, we defend manufacturers in cases arising under statutes such as federal and state consumer protection laws or laws regulating trade practices. Many of these engagements involve class actions, multi-district litigation or appearances before regulatory bodies or administrative agencies. We also appear in a variety of sophisticated contractual disputes arising out of sales of goods (with a special focus on the representation of automotive suppliers), the purchase and sale of businesses, utility contracts, the transfer or licensing of intellectual property, construction contracts and partnership disputes.

Our firm has the expertise to undertake complex issues at every stage of trial practice, from preliminary injunctions through final verdict. But we also have pioneered efforts to develop faster, more economical mechanisms to resolve commercial disputes outside of traditional litigation and we counsel clients on various alternative dispute resolution techniques.

Through effective appellate advocacy, our firm has shaped Michigan law. Some landmark cases from our commercial litigation practice include:

***Pritts v. J.I. Case Co.***, 108 Mich. App 22, 310 N.W.2d 261 1981, lv den, 413 Mich. 909 (1982), reversed the long-standing precedent that a party could obtain contractual indemnity for its own negligence only if that intent was specifically stated in an indemnity agreement, and established the modern rule that an indemnity agreement providing indemnification for “all claims” includes events caused by the indemnitee’s own negligence.

***Leahan v Stroh Brewery Co.***, 420 Mich. 108, 359 N.W.2d 524 (1984), requires plaintiffs to tender back any consideration received under a release before challenging the validity of that release.

***Tope v Waterford Hills Road Racing***, 81 Mich. App 591, 265 N.W.2d 761 (1978), first appellate case in Michigan enforcing a pre-event/incident release agreement.

***Michigan Millers Mutual Insurance Co. v West Detroit Building Co.***, 196 Mich. App 367, 494 N.W.2d 1 (1992), first appellate case in Michigan applying the contractors’ statute of repose, MCL 600.5839(1), to a claim by an owner for damage to the improvement itself.



### **Construction Liability**

Harvey Kruse represents general contractors, owners, sureties, subcontractors and suppliers in all phases of dispute resolution (litigation, arbitration and mediation) and counseling arising out of construction accidents, resulting in injuries or property damage, or disputes between parties arising out of a construction project. Our attorneys possess the knowledge and expertise to undertake any construction dispute, ranging from the defense of complex traumatic injury claims, to suits involving private residences and multi-building projects. The firm's representation of contractors, subcontractors, developers, and design professionals provides our clients with the unique depth of experience necessary to analyze, defend, and resolve the entire range of construction disputes in an expedient fashion. We are committed to helping industry professionals meet the challenges of today's constantly changing construction environment.

### **Employment Law**

We are consulted frequently by employers on a variety of employment-related issues. The resolution of sexual harassment complaints, racial discrimination allegations, eligibility for exemption from overtime requirements, pension disputes, sales commission claims and the drafting and implementation of mandatory arbitration procedures in employment contracts are a few examples of our practice in this fast-paced and developing area of the law. We defend employers in both state and federal courts. In addition to claims arising under Title VII, ADEA, ADA and ERISA, we also litigate a variety of tort, contract and statutory payment claims.

Recently, Harvey Kruse obtained a successful result in *Psaila v. Shiloh Industries, Inc.*, 258 Mich. App. 388, 671 N.W.2d 563 (2003), establishing that a statute requiring an employer to pay sales commissions to a terminated sales representative did not create a "public policy" exception to the otherwise applicable "employment-at-will" doctrine.

### **Fraudulent Claims Defense**

Harvey Kruse represents insurance companies in the evaluation and defense of fraudulent claims involving all manner of misrepresentation or dishonest conduct by individuals and corporations. We handle disputes ranging from the fraudulent "loss" of a covered auto, to misrepresentations made in the application for coverage. The firm also defends individuals



and companies against claims for fraud and misrepresentation, in such diverse factual contexts as home inspections, home sales, environmental surveys, and titles to real property.

### **Insurance Coverage**

Harvey Kruse also has a leading national practice representing insurance companies in coverage disputes. We represent insurers in all facets of their dealings with policyholders. Our clients range from publicly traded, international insurers to producers, premium finance companies, third-party administrators, managing general agencies, insurance guaranty funds and state insurance departments. We also represent insurers in declaratory judgment actions, the defense of bad faith claims and disputes among insurers. We also defend insurance brokers and agents in professional liability litigation.

Our attorneys are highly respected for their experience in sophisticated insurance coverage and risk management matters. Our opinions concerning insurance coverage issues recommend practical solutions, not technicalities. Our coverage advice relates to first and third party claims against property, casualty, health and disability policies, as well as recommendations for policy drafting, claims handling procedures and corporate insurance guidelines. We are conversant with every major insurance policy form including general liability, professional malpractice, directors and officers, marine, property, employment practices, business interruption, automobile, aviation, environmental, builders' risk, commercial crime and products liability coverage.

The depth and breadth of our insurance services is unmatched among Michigan law firms. We develop and implement innovative and efficient solutions to complex disputes, litigating coverage issues throughout the State, including the Court of Appeals and the Michigan Supreme Court.

Our preeminent position in Michigan coverage litigation is recognized far and wide. Representing carriers, we successfully ended potential liabilities associated with inspection services:

***Scott v Detroit***, 113 Mich. App. 241, 318 N.W.2d 32 (1982), lv den 422 Mich. 892, 368 N.W.2d 236 (1985), in conjunction with ***Smith v Allendale Mutual***, 410 Mich. 685 (1981), effectively ended the liability of workers' compensation insurers for allegedly negligent safety inspections.



Similarly, *Staffney v Michigan Millers Insurance Co.*, 140 Mich. App. 85, 362 N.W.2d 897 (1985), lv den, 423 Mich. 851, 376 N.W.2d 113 (1985), ended property insurer's liability for their inspection of an insured's premises.

### **Insurance Defense**

Harvey Kruse is a leader in providing defense at the request of insurance companies. We have a broad-based liability defense practice including traditional third-party cases, disputes among insurers, coverage matters for insureds, traditional first-party cases and other specialized insurance practice. The firm regularly handles a variety of bodily injury and property damage actions for insurance companies and for self-insured entities; so-called "bad faith" suits seeking punitive damages; and other first-party cases, particularly life, accident and health, major medical and credit insurance. Our longstanding service to the insurance industry continues to focus on the increasingly sophisticated needs and concerns of our insurance clients. Our philosophy is to work in tandem with our clients to achieve prompt and effective solutions to their insurance issues. We understand the need for early evaluations, risk/benefit analysis and timely reporting.

As a full service firm to the insurance market, we provide a broad spectrum of services, including defense of insureds in personal injury, property damage, product liability and other complex commercial disputes. We also represent commercial general liability carriers, homeowners' carriers and their policy holders in a variety of tort claims including premises security, premises liability, dram shop liability, social host liability, product defect, school liability, copyright infringement, sexual assault and harassment, libel and slander and malicious prosecution. Our proven record for high quality service, efficiency and competitive billing rates is the hallmark of our insurance practice.

### **"No Fault" And First Party Motor Vehicle Liability**

Harvey Kruse represents several major insurers in the defense of first party, "no fault" insurance claims. Because we understand the high stakes involved in a "continuing obligation" to provide medical coverage, we specialize in determining the nature and extent of an injury and the reasonableness of replacement services. We work hand in hand with claims professionals, physicians, and other experts to quickly and accurately understand and evaluate claims. We understand your need for prompt evaluations, an accurate risk-benefit analysis and timely reporting, and we pride ourselves



on meeting those requirements in every first party case that we handle.

### **Product Liability**

Harvey Kruse is recognized as one of the leading product liability defense firms in the United States. We represent manufacturers in a variety of industries, including automotive, industrial, marine and construction equipment, recreational products, power tools, food products and pharmaceuticals. We specialize in the defense of automotive safety appliances including seat belts, airbags, sensing systems, antilock brakes and vehicle stability systems.

We also counsel trade associations and individual manufacturers about their potential product liability exposures and develop proactive programs to reduce the occurrence and successfully defend such claims. Manufacturers work hard to develop and market safe products. But if their products are attacked, we guide them through the complexities of the litigation process, whether before an administrative agency, in an isolated tort case, or in a series of regionally or nationally coordinated cases.

We work to protect your reputation and to minimize the disruption that litigation causes to your business. Our experience equips us to work with in-house attorneys, product designers, engineers and scientists to develop defenses that take maximum advantage of any company's research, development and product knowledge. With a nationwide practice and a well-developed network of local counsel, Harvey Kruse is uniquely equipped to defend any product in state and federal courts throughout the country.

Our attorneys have earned their national reputations in the product liability field. They speak frequently before bar associations, manufacturers trade associations or serve as members of the Product Liability Advisory Council. But most importantly, our attorneys have helped to shape the law. Landmark decisions include:

***Buschlen v Ford Motor Company***, 421 Mich. 192, 364 N.W.2d 619 (1984), effectively ended the entrustment liability for automobile manufacturers in the state of Michigan in conjunction with *Fredericks v General Motors*, 411 Mich. 712, 311 N.W.2d 725 (1981).

***Gregory v. Cincinnati***, 451 Mich. 1, 538 N.W.2d 325 (1995), holding that in a design defect case, evidence of post-sale events is irrelevant and inadmissible because it had no bearing on the design choices initially



made by a product manufacturer.

*Scott v Allen-Bradley Co.*, 139 Mich.App. 665, 362 N.W.2d 734 (1984), defined the elements of a negligent design claim, establishing that a plaintiff seeking to impose liability on a manufacturer must present evidence concerning both magnitude of risk involved and the reasonableness of any proposed alternative design.

*Hollister v. Dayton Hudson Corp.*, 201 F.3d 731 (6<sup>th</sup> Cir., 2000), and *Peck v. Bridgeport Machine Corp.*, 237 F.3d 614 (6<sup>th</sup> Cir., 2001), in which the Sixth Circuit expanded Michigan's "risk-utility" balancing test making it the most stringent burden of proof on product liability plaintiffs in the nation.

*Vincent v Allen-Bradley Co.*, 95 Mich. App. 426, 291 N.W.2d 66 (1980), the first case to establish that product misuse is a defense to a product liability claim.

*Mallard v Hoffinger*, 222 Mich. App. 137 (1997), the first Michigan case to hold that the manufacturer of a "simple tool" (in this instance, an above-ground swimming pool) had no duty to design safety features to avoid open and obvious risks. The Court of Appeals held that pool manufacturers have no duty to design safety features to protect the users from injuries sustained by striking the bottom of a pool because the risk of harm is "open and obvious" to all.

*Reeves v Cincinnati, Inc.*, 28 Mich. App. 556, 528 N.W.2d 787 (1995). First Michigan appellate case holding that a defendant has no duty to warn of a latent defect where the jury also found that the product was not defectively designed.

### **Third Party Motor Vehicle Liability**

Harvey Kruse also represents several carriers and their policy holders in the defense of motor vehicle liability cases, including UM and UIM claims. Our law firm represents both owners and operators of motor vehicles. We are adept at defending cases ranging from alleged "soft tissue" injuries to complex, multi-vehicle accidents and catastrophic injuries.



### **Toxic Torts**

In this burgeoning area Harvey Kruse represents property owners, product manufacturers and their distributors against claims that a chemical, solvent or other substance caused a variety of ailments ranging from death, to disabling injuries, to “fear of cancer” or “medical monitoring” claims. This has allowed us to establish relationships with recognized experts in pathology, radiology, toxicology, internal medicine and occupational health and safety, bringing economies of scale and a cost effective defense to bear against a large docket of claims in a coordinated fashion.

We understand the factual proofs involved in defending exposure-based claims and regularly litigate issues of primary and secondary causation. We are experienced in challenging novel testing such as “brain mapping” and the applicability of epidemiological studies to proof of individualized causation. We also pioneered the development of computerized reports and electronic data exchange to better assist our clients in managing the enormous amount of statistical information that mass tort litigation generates.

### **Transportation Litigation**

Harvey Kruse has developed a particular expertise in on-site response, investigation and defense of motor carrier accidents involving death or catastrophic injuries. The trucking industry seeks our expertise and advice on all aspects of bodily injury and property damage claims. We also represent clients in a variety of transportation-related issues, including: cargo claims, insurance, government regulation, vehicle design issues and safety and risk management analysis.

### **Warranty Disputes and Consumer Rights Litigation**

Harvey Kruse enjoys a well-deserved reputation for successfully defending clients in consumer litigation. Changes in the legal environment have led to a sustained increase in the number and complexity of challenges to the business practices of many clients. In addition to several high-profile matters arising in the consumer litigation context, our attorneys have extensive experience in the rapidly developing law regulating business practices. We defend claims arising under the Consumer Protection Act and the Unfair and Deceptive Trade Practices Act as well as so-called “Lemon Law” claims. We are involved constantly at both the trial and appellate levels in the interpretation and application of those statutes.



Consistently, we use our substantive knowledge and experience as aggressive advocates to achieve favorable results for our clients. Harvey Kruse has the attorneys and the geographic presence to handle consumer and trade regulation issues throughout Michigan. We defend individual cases, class actions, claims for declaratory relief and investigations commenced by Michigan's Attorney General.



## CASES THAT MADE A DIFFERENCE

Over the reach of our thirty-seven years in practice, Harvey Kruse has earned its well-deserved reputation as Michigan's leading litigation firm. Our acumen and dedication to our clients' interests have resulted in more than 100 published appellate opinions, many of which broke new ground in Michigan law. Below is a representative sample of the landmark decisions achieved through the hard work and skill of our attorneys:

***Buschlen v Ford Motor Company***, 421 Mich. 192, 364 N.W.2d 619 (1984), effectively ended die entrustment liability for automobile manufacturers in the state of Michigan in conjunction with *Fredericks v General Motors*, 411 Mich. 712, 311 N.W.2d 725 (1981).

***Pritts v. J.I. Case Co.***, 108 Mich. App. 22, 310 N.W.2d 261 1981, lv den, 413 Mich. 909 (1982), reversed the long-standing precedent that a party could obtain contractual indemnity for its own negligence if that intent was specifically stated in an indemnity agreement, and created the new rule that an indemnity agreement requiring indemnity for "all claims" includes the indemnitee's own negligence.

***Leahan v Stroh Brewery Co.***, 420 Mich. 108, 359 N.W.2d 524 (1984), required plaintiff to tender back any consideration received under a release before challenging the validity of that release.

***Staffney v Michigan Millers Insurance Co.***, 140 Mich. App. 85, 362 N.W.2d 897 (1985), lv den, 423 Mich. 851, 376 N.W.2d 113 (1985), in conjunction with *Smith v Allendale Mutual*, 410 Mich. 685 (1981), effectively ended liability for property insurers' inspections of an insured's premises.

***Scott v Detroit***, 113 Mich. App. 241, 318 N.W.2d 32 (1982), lv den 422 Mich. 892, 368 N.W.2d 236 (1985), in conjunction with *Smith v Allendale Mutual*, 410 Mich. 685 (1981), effectively ended the liability of workers' compensation insurers for allegedly negligent safety inspections.

***Tope v Waterford Hills Road Racing***, 81 Mich. App. 591, 265 N.W.2d 761 (1978), enforced a pre-event/incident release agreement for the first time in Michigan.

***Michigan Millers Mutual Insurance Co. v West Detroit Building Co.***, 196 Mich. App. 367, 494 N.W.2d 1 (1992), the first appellate case in Michigan to apply the contractors statute of repose, MCL 600.5839(1) to a



claim by the owner for damage to the improvement itself.

***Ford Motor Company v Insurance Company of North America***, 157 Mich. App. 642, 403 N.W.2d 200 (1987), lv den 429 Mich. 853, 412 N.W.2d 220 (1987), established that loading or unloading of a motor vehicle is not a “use” of the motor vehicle for purpose of no fault property protection insurance benefits.

***Alyas v Illinois Employers Insurance of Wausau***, 208 Mich. App. 324, 527 N.W.2d 548 (1995); lv den, 451 Mich. 893, 549 N.W.2d 575 (1996), established that when a garnishee defendant denies a garnishment and files its garnishee disclosure, the plaintiff must proceed with discovery within 14 days or the garnishment disclosure shall be accepted as correct.

***Wausau Underwriters Insurance Company v Ajax Paving Industries, Inc.***, 256 Mich. App. 646, 671 N.W.2d 539 (2003), lv den 469 Mich. 970, 671 N.W.2d 884 (2003), established that a contractual requirement to purchase insurance does not eliminate or replace a contractual indemnity agreement, thus allowing an insurer the right to seek contractual indemnity as subrogee of its insured.

***Berger v Mead***, 127 Mich. App. 209, 338 N.W.2d 919 (1983), established that a non-commercial joint venture and all of its employees were co-employees thereby barring the plaintiff’s tort claim under the exclusive remedy defense.

***Thomas v Process Equipment***, 154 Mich. App. 78, 397 N.W.2d 224 (1986), determined that filing a “John Doe” complaint does not toll the statute of limitations and the filing of an amended complaint specifically naming the defendants does not relate back to the original “John Doe” complaint.

***Rasmussen v Louisville Ladder***, 211 Mich. App. 541, 536 N.W.2d 221 (1995), applied collateral negligence rule to reverse plaintiffs’ verdicts totaling \$5.5 million, holding that the owner was not responsible for inherently dangerous activities when an accident was caused by the collateral negligence of a subcontractor.

***McMath v Ford Motor Company***, 77 Mich. App. 721, 259 N.W.2d 140 (1977), held that partial performance of a contract as an exception to the statute of frauds does not apply to employment contracts for more than one year, and that allegations of reliance to support an estoppel claim must be definite and clear.



***Ledl v Quik-Pik Food Stores***, 133 Mich. App. 583, 349 N.W.2d 529 (1984), established that termination of employment for a store inventory shortage is not a “public policy” exception to the general rule that employment contracts are terminable at will; that allegations of defamation must set forth the defamatory words with specificity; and that there can be no intentional infliction of emotional distress if the actor was merely insisting upon its own legal rights.

***Mahdesian v Joseph T. Ryerson & Son***, 782 F. Supp. 63 (ED Mich., 1992); aff’d, 986 F.2d 1421 (6th Cir, 1993), established that plaintiff’s filing of a claim for no fault benefits for injuries incurred while unloading a truck in the course of his employment judicially estopped his tort claim alleging that he was an independent contractor.

***Michigan Sugar v Employers Insurance of Wausau***, 107 Mich. App. 9, 308 N.W.2d 684 (1981), recognized and enforced the “change in temperature” exclusion in an all risk policy, applying that exclusion where damage to sugar resulted from a change in temperature caused by a malfunctioning heating system.

***Darin & Armstrong v Ben Agree Co.***, 88 Mich. App. 128, 276 N.W.2d 869 (1979), lv den 406 Mich. 1007 (1979), recognized that a general contractor’s liability for a construction accident in a common work area constituted active negligence, barring any claim for common law indemnity.

***Nicklas v Joseph T. Ryerson & Son***, 995 F.2d 1067 (6th Cir, 1994), recognized the significant bar against speculation and conjecture in product liability cases.

***Gage v Ford Motor Company***, 423 Mich. 250, 377 N.W.2d 709 (1985), established the proper method for computing interest under the 1980 amendment to the judgment interest statute which allowed for compounding of interest, and that there could be no compounding of any interest accrued before the effective date of the statute.

***Harry v Fairlane Club Properties***, 126 Mich. App. 122, 337 N.W.2d 1 (1983) established that a successor judge was not bound by and could grant a rehearing of his predecessor’s ruling on a material issue and that a jury need not receive exhibits they had requested before reaching its verdict.

***West v Cyril J. Burke, Inc.***, 137 Mich. App. 191, 357 N.W.2d 856 (1984),



lv den, 422 Mich. 852, 364 N.W.2d 286 (1985), established that a mobile crane (while being used to lift a load of pipe) was not a “motor vehicle” as defined by the Motor Vehicle Code.

***Pioneer State Ins. Co. v Titan Ins. Co.***, 252 Mich. App. 330, 652 N.W.2d 469 (2002), established that the insurer of the owner or registrant of a motor vehicle involved in the accident is responsible for first-party benefits even where the motor vehicle is not listed as a “covered auto” in a policy of the owner or registrant.

***Crosby v City of Detroit***, 123 Mich. App. 213, 333 N.W.2d 557, lv den, 422 Mich. 891, 368 N.W.2d 231 (1985), established the standard for an intentional nuisance and that the construction of a sewer is a “governmental function,” not a “proprietary function” and thus entitled to the defense of governmental immunity.

***Perry v INA Life Insurance Co.***, 749 F. Supp. 806 (W.D. Mich., 1989), aff’d 914 F.2d 257 (1990), determined that acceptance of an offer of continued employment in another position barred the plaintiff from entitlement to severance benefits under an employers ERISA severance plan.

***Schmidt v Wilbur***, 775 F. Supp. 216 (E.D. Mich., 1991), the district court had personal jurisdiction over general partners of a limited partnership whose agent sold partnership interests in Michigan and that a defendant can be re-served with process following removal of a case from state to federal court.

***Detroit Edison Co. v Nabco, Inc.***, 35 F.3d 236 (6<sup>th</sup> Cir. 1994), established the validity of the economic loss doctrine to bar a plaintiff’s claim under Michigan law.

***Reid v Allen***, 124 Mich. App. 56, 333 N.W.2d 382 (1983), established the requirement of possession and control over a product was necessary before liability could attach.

***Formella v Ciba-Geigy Corp.***, 100 Mich. App. 649, 300 N.W.2d 356 (1981), recognized that a physician’s excessive prescription of medication was the intervening cause of plaintiff’s injuries, precluding liability despite the defendant’s alleged “negligent promotion” of the medication.

***Richland Knox Mutual Ins. Co. v Kallen***, 376 F.2d 360 (6<sup>th</sup> Cir. 1967), determined the applicability of and differences between an auto liability policy and a homeowner’s liability policy and held that the throwing a



firecracker from the back seat of an automobile was not an incident involving the use of an automobile as a motor vehicle, that the location of the event was incidental, and as a result, no coverage would be provided by the automobile liability carrier's policy of insurance.

***Bachman v Progressive Casualty Insurance Co.***, 135 Mich. App. 641, 354 N.W.2d 292 (1984) construed the "involved in the accident" language of Michigan's No Fault Act and noted there must be activity contributing to the occurrence of an accident for a motor vehicle to be "involved in" an accident.

***Richard Nagy v Farmers Insurance Exchange, et al***, 758 F.2d 189 (6th Cir, 1985) affirmed a carrier's right to terminate an insurance agent under an agency agreement and MCL 500.1209(3) for switching insurance business under the pretext of complying with the Michigan Essential Insurance Act.

***Novak v Nationwide Insurance Co.***, 235 Mich. App. 675, 599 N.W.2d 546 (1999), established that an insurance carrier did not violate the anti-redlining provisions of MCL 500.1209 when its termination of the agent was in conformity with MCL 500.1209(5); that the agent was not protected from termination by MCL 500.1209(3) or (4) which prevents termination based on geographic location or actual or expected loss experience; and that no cause of action existed under the Fair Housing Act, the Michigan Insurance Code, the agent termination and redlining provisions of MCL 500.1209, and the Civil Rights Act.

***Portelli v IR Construction***, 218 Mich. App. 591, 554 N.W.2d 591 (1996), lv. den., 456 Mich. 919, 573 N.W.2d 618 (1998), recognized the doctrines of sophisticated user and unreasonably foreseeable misuse in a construction industry setting to bar a worker's claim.

***Rand v Knapp Shoe Stores***, 178 Mich. App. 735, 444 N.W.2d 156 (1989), established that a business owner had no duty concerning an adjacent property, even if in close proximity.

***United Southern Assurance Co. v Aetna Life & Casualty Insurance Co.***, 189 Mich. App. 485, 474 N.W.2d 131 (1991), established that a "standing" motor vehicle is a "parked" motor vehicle under Michigan's No Fault Act, thereby making the insurer of the striking motor vehicle responsible for the payment of property protection benefits to the trucking company.



*Mallard v Hoffinger*, 222 Mich. App. 137, 564 N.W.2d 74 (1997), established that the manufacturer of a “simple tool” (in this instance, an above-ground swimming pool) had no duty to design safety features to protect the users from injuries sustained by striking the bottom of their pool since the risk of harm is “open and obvious” to all.

*Huggins v MIC Gen. Ins. Corp.*, 228 Mich. App. 84, 578 N.W.2d 326 (1998), recognized the automobile policy exclusion for a driver “using a vehicle without a reasonable belief that the person is entitled to do so” where an underage, unlicensed driver was operating a vehicle, albeit with the owner’s permission.

*Auto-Owners Insurance Company v Michigan Mutual Insurance Company*, 223 Mich. App. 205; 565 N.W.2d 907 (1997), established that an insurance policy issued after the date of loss did not estop the insurer from denying coverage, and that a binder issued by an independent insurance agent prior to the accident was not binding on an assigned risk insurer because the independent agent is the agent of the insured.

*Wall v. Cherrydale Farms, Inc.*, 9 F. Supp. 2d 784 (E.D. Mich. 1998), established that the Michigan non-party fault statutes, MCL 600.2957 and 600.6304, did not violate the Due Process or the Equal Protection clauses of the U. S. Constitution.

*Gregory v Cincinnati, Inc.*, 451 Mich. 1, 538 N.W.2d 325 (1995), established that a manufacturer’s product must be judged at the time of manufacture, that a manufacturer did not have a continuing duty to repair or recall a product after it was sold, and that evidence of post-manufacture advances in technology for a product were not admissible in design defect cases.

*Reeves v Cincinnati, Inc.*, 28 Mich. App. 556, 528 N.W.2d 787 (1995), established in a products liability matter that a defendant had no duty to warn of a latent defect when the jury found the product was not defectively designed.

*Scott v Allen-Bradley Co.*, 139 Mich. App. 665, 362 N.W.2d 734 (1984), established that in a products liability matter a plaintiff seeking to impose liability on a manufacturer because of an alleged defective design must present evidence concerning both magnitude of risk involved and reasonableness of any proposed alternative design.

*Vincent v Allen-Bradley Co.*, 95 Mich. App. 426, 291 N.W.2d 66 (1980),



established that misuse was a viable defense in products liability actions based on either negligent design or breach of warranty theories.

*Hollister v. Dayton Hudson Corp.*, 201 F.3d 731 (6<sup>th</sup> Cir., 2000), established the elements of proof necessary to prevail on a product liability claim in Michigan.

*Peck v. Bridgeport Machines, Inc.*, 237 F.3d 614 (6<sup>th</sup> Cir., 2001), 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.

*Psaila v. Shiloh Industries, Inc.*, 258 Mich. App. 388 (2004), established that a statute requiring an employer to pay sales commissions within certain time frame to a terminated sales representatives did not provide “public policy” exception to “employment-at-will” doctrine.

*Sturlese v. Six Chuter and AlliedSignal, Inc.*, 822 So.2d 173 (La. App. 3<sup>rd</sup> Cir., 2002), reh. den. (La. App. 3<sup>rd</sup> Cir., 2002), writ den. 829 So.2d 1049 (La. 2002), established that the standard for determining reasonably anticipated use is an objective standard determined from the point of view of the manufacturer at the time of manufacture. A “foreseeable use” is not equivalent to a “reasonably anticipated use” under the Louisiana Product Liability Act. Plaintiff sustained paraplegia in an ultra-light aircraft accident and sought more than \$15 million in damages.



## OUR TEAMWORK

Teamwork characterizes the way we operate our practice. Working together, we maximize efficiency and capitalize on the collective wealth of talent, knowledge and years of legal experience available at our firm.

Harvey Kruse has represented corporate defendants successfully in complex litigation involving catastrophic injuries and substantial damages.

The firm is extremely active in the appellate courts, obtaining highly favorable results through exhaustive research, an in-depth understanding of the issues and the application of innovative reasoning. Our attorneys are commended frequently by the judges before whom they appear, not only for their thorough preparation and legal knowledge, but also for the professional manner in which we present our cases.

As each new matter is received, the client's objectives are assessed and a strategy congruent with those objectives is developed in conjunction with the client. Mindful of the cost of legal services, staffing is always appropriate to the size and complexity of a given case.

When an attorney is in the office, he is always accessible. Calls are "held" only if an attorney is in conference, attending a deposition or actively engaged in court proceedings. When a particular attorney is unavailable, our team approach provides the client with ready access to factual information through another attorney, a paralegal or a professional legal secretary who is familiar with your case.

A sense of teamwork within the firm and with you, our client, not only enhances our working environment but also improves communication and assures that our work product is the very best that it can be.



## OUR TECHNOLOGY

The communications revolution -- e-mail -- the Internet -- web pages -- computerized accident reconstruction -- videotaped testimony -- e-transcripts -- immediate access to statutes and case law via computer links -- have all put a "high-tech" face on the law today, and Harvey Kruse has moved aggressively to adapt our office systems to the fast pace of change.

State of the art word processing software, computer systems, computerized litigation management databases, direct e-mail connectivity with clients if they desire, computerized legal research and a corresponding investment in infrastructure and training to maintain and operate these sophisticated tools insure reduced costs and enhanced productivity that was undreamed of just a few short years ago.

But these are merely tools. The essence of legal practice -- hard work, ingenuity, organization, preparation, communication and an innate grasp of strategy and tactics -- remains the same today as when the firm was founded. No technology, no matter how advanced, can supplant personal service, and responsiveness to the needs of our clients. At Harvey Kruse we employ technology to enhance our ability to respond to your needs. We treasure our role as trusted and respected advisors and advocates for those whom we serve.



## OUR CLIENTELE

We are proud that the following representative clients have entrusted their legal matters to us over the years. We hope to be of service to you as well.

ABB Inc.	Kennametal, Inc.
Abbott Laboratories	Key Safety Systems, Inc.
ACE USA	Key Plastics, LLC
Aetna Insurance Company	KIA Motors
Allen Bradley Company	Kohler Company
Allied Insurance Company	Liberty Mutual Group
AmChem	Link Electric & Safety
Amerisure Insurance Companies	Manitowoc Company
Amoco Oil Company	Meijer, Inc.
Apogent Technologies	Michigan Construction Industry Mut.
Ashland, Inc.	Michigan Millers
BASF Corporation	Minster Machine Company
Bendix Commercial Vehicle Systems	MTD Products, Inc.
B.F. Goodrich, Inc.	National American Insurance Co.
Bituminous Insurance Companies	National Machinery Company
Caliber One Insurance	Nationwide Insurance Companies
Cambridge Integrated Services	Northland Insurance Company
Centimark Corporation	Olympia Entertainment, Inc.
CertainTeed	Proctor & Gamble
CIGNA	Quality Safety Systems Company
Cincinnati Incorporated	Rockwell Automation, Inc.
Cleaver Brooks Company	Schmid Laboratories
Crane Company	Scottsdale Insurance Company
Cub Cadet, LLC	Shiloh Corporation
Dana Corporation	Steelcase Inc.
Danly Machine Corporation	The Charles Machine Works
Emerson Electric Company	The Co-Operators
ESIS	The Toro Company
Exxon Corporation	Tishken Products Company
Farmland Insurance	Titan Insurance Company
Foseco	Transamerica Insurance Co.
GMAC Insurance	Travelers/St. Paul Insurance Co.
Harnischfeger Corporation	Umicore Autocat USA, Inc.
Honeywell International, Inc.	Union Carbide
Hyundai Motor America	Victoria Insurance Group
Insurance Corporation of Hanover	Wausau Insurance Companies
International Catalyst Technologies	White Outdoor Products Company
Kemper Insurance Company	Zurich North America



## THE VALUE WE PROVIDE

Harvey Kruse is widely recognized for providing exceptional service at reasonable rates. Indeed, we pride ourselves on our ability to deliver extraordinary value for our clients. That value is created by applying our expertise to the problem at hand, yet always keeping the client's objectives firmly in mind. We are a service business and it is our business to serve your needs, not our desires.

We strive always to deliver extraordinary results knowing that additional engagements for satisfied clients and their referrals of additional clients will yield a reasonable reward for our services. We listen to our clients, placing their goals and objectives ahead of our own. This, we feel is the very essence of professionalism; and it the basis on which we have chosen to build our practice for more than three decades. Whether your matter involves a small transaction or the complex representation of a multinational corporation, at Harvey Kruse P.C. we constantly strive to deliver value to our clients in every engagement we undertake.



## OUR MISSION

Our goal is your complete satisfaction with the professional legal services provided by Harvey Kruse. You can expect personal, responsive and professional service at all times. Client requirements take priority.

Whether a case is worth millions of dollars or whether it is a matter of principle or precedent, individual attention is given to your problem to achieve the best outcome possible. The firm's growth results from client satisfaction with our work product and their desire to utilize our services in areas beyond Michigan. Economies of scale allow us to offer quality legal services at reasonable rates for all types of cases. We have grown as an organization while simultaneously nurturing one-on-one attorney-client relationships.

We will never allow the firm's size to hinder our ability to provide excellent service, including personally responsive and available attorneys. We will remain client-focused by adjusting to changes in our clients' requirements, business objectives and needs.

We guarantee client satisfaction by premising payment of attorneys fees for a particular service on your satisfaction with that work. Professional responsibility and responsiveness assure the client of both vigorous effort and a quality product.

When you retain Harvey Kruse, your case is not lost in a bureaucratic maze. You have the resources of a major firm and the personal attention you deserve.

*We welcome the opportunity  
to be of service to you.*



**OUR OFFICES**

***Troy Office***

**Harvey Kruse, P.C.**  
1050 Wilshire Drive, Suite 320  
Troy, Michigan 48084 1526  
(248) 649-7800  
(248) 649-2316 (Fax)  
Contact: Michael F. Schmidt

***Grand Rapids Office***

**Harvey Kruse, P.C.**  
60 Monroe Center Northwest  
500B Select Bank Building  
Grand Rapids, Michigan 49503-2926  
(616) 771-0050  
(616) 776-3646 (Fax)  
Contact: Gary L. Stec

***Flint Office***

**Harvey Kruse, P.C.**  
4110 Pier North Boulevard  
Flint, Michigan 48504-1358  
(810) 230-1000  
(810) 230-0844 (Fax)  
Contact: George W. Steel

[www.harveykruse.com](http://www.harveykruse.com)

