

Carlton D. Fisher

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He/Him

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About Carl

Carl concentrates his trial practice on the defense of commercial motor vehicles, general liability, product defects, and matters resulting in serious harm, wrongful death, property loss, or commercial damages.

He has tried over 80 civil cases to verdict in Illinois, Indiana, Maryland, New Jersey, New Mexico, New York, Ohio, Pennsylvania, Texas, and Washington, and has been admitted *pro hac vice* in more than 30 state and federal courts.

Carl has represented American trucking companies and product manufacturers from Europe, Asia, and the United States in lawsuits nationwide, served as national trial counsel for a management services company and several consumer services companies, and acted as national product liability supervisory counsel for a consortium of international amusement ride companies.

As a Judge Advocate in the US Marine Corps, Carl tried more than 250 federal felony cases, including charges of murder, robbery, burglary, larceny, drug offenses, and military-specific crimes.

Carl's Affiliations

- American College of Trial Lawyers, Fellow
- American Bar Association, Section of Litigation; Section of General Practice; Section of International Law; Section of Tort and Insurance Practice
- Chicago Bar Association, Judicial Evaluation Committee; Continuing Legal Education Committee
- Defense Research Institute, Trucking Law Subcommittee; Trial Techniques Committee
- Illinois Association of Defense Trial Counsel

- Transportation Lawyers Association, Litigation Committee

Areas of Focus

Industries: Transportation & Mobility

Services: Complex Tort & General Casualty; Litigation & Trial

Experience

- Secured summary judgment for broker and shipper clients, resulting in a multimillion-dollar settlement with a trucking company. The case involved a wealthy plaintiff rear-ended by a truck driver for a co-defendant motor carrier, resulting in severe injuries, including a brain injury and third-degree burn.
- Defended an electric and manufacturing company in a case involving elevator negligence and effectively limited the client's liability to 25% of the total damages. Throughout pre-trial and trial proceedings, Hinshaw challenged the punitive damages claim, and our objections were upheld on appeal. This result shielded the client from additional financial exposure and helped establish important standards for assessing the admissibility of punitive damages claims in future cases.
- Defended an amusement company in a three-week jury trial where the verdict favored all defendants after just two hours of deliberation. The case involved a 45-year-old mail carrier who sustained a frontal lobe injury after bypassing protective fencing and walking into an active amusement ride. The plaintiff sought \$2 million, while the defendants offered a structured settlement worth \$400,000. On appeal, the Seventh Circuit upheld the trial court's evidentiary rulings and reinterpreted Illinois law regarding the duty owed to trespassers.
- Successfully secured judgment in favor of all defendants, including Hinshaw's client, a pharmaceutical company, in a case involving a woman who suffered permanent brain damage following an abortion procedure at a Chicago hospital. The Illinois Appellate Court reversed a \$9.5 million verdict against the defendants, who faced allegations of malpractice from the plaintiff, as well as product liability claims against the client. After six weeks of trial and one week of jury deliberation, the initial ruling against all defendants was overturned, establishing important legal precedent in Illinois by mandating expert testimony in drug product liability warning cases and reaffirming the inadmissibility of changes to drug packet inserts made after an incident.
- Defended an engineering company in a case where a Kansas paper recycling employee sustained a severe hand injury while using a modified recycling machine. A choice of law motion led to applying Kansas law, specifically its several liability statutes, which was upheld by the appellate court. The case serves as a key reference in Kansas for defenses based on several liability and phantom defendants, illustrating the impact of choice of law on liability and defense strategies in personal injury cases.
- Secured a no-liability verdict in favor of a Hinshaw client in a product liability action. The plaintiff, a chronically unemployed individual undergoing training for new work, suffered a hand amputation due to an industrial work saw at a training center. The plaintiff made a demand for policy limits on the product manufacturer, who

asserted he would rather risk bankruptcy for his family business than pay the plaintiff anything. The legal defense team successfully demonstrated that the plaintiff was not entitled to an award due to his assumption of risk and the inadequate training and maintenance practices of his employer.

- Secured a jury verdict in favor of all defendants, including Hinshaw's client, a machine tools manufacturer, in a five-week product liability and commercial breach of warranty trial in Decatur, Illinois, which was later affirmed by the Illinois Appellate Court in an unpublished opinion. The case involved a husband and wife whose company purchased a CNC machine lathe from a local dealer of our client. While operating the machine, the husband was severely injured by a piece of rotating bar stock extending beyond the machine's end. Despite differing viewpoints among the defendants, the legal team conducted strategic meetings to ensure a cohesive defense in front of the jury. The plaintiffs demanded a \$3 million settlement, but no offers were made, resulting in a successful defense verdict.
- Secured a favorable verdict for a Hinshaw client when the jury determined that the accident resulted from either the plaintiff's contributory negligence or the combined negligence of two third-party defendants, who settled with the plaintiff prior to and during the trial. In this case involving a commercial motor vehicle accident, the plaintiff suffered significant leg injuries after being crushed by a nine-axle low boy trailer operated by a Canadian truck driver during the loading process. Despite the trucking company no longer being operational and the truck driver being unavailable for deposition or trial testimony, the jury was convinced that liability lay with either the plaintiff's own actions or those of the settling third-party defendants.
- Obtained a jury verdict in favor of a Hinshaw client in a catastrophic injury and wrongful death motor vehicle accident. The incident involved the client driving into the aftermath of an accident that killed a 29-year-old husband, severely injured his widow, and resulted in the stillbirth of their second child. The plaintiff claimed that the client's slight impact with their vehicle exacerbated the widow's injuries. However, during the trial, the investigating police officer altered his testimony from a favorable account in his pretrial deposition to one that was adverse to the defense. Hinshaw's expert anatomy professor effectively demonstrated that there was no causal connection between the client's impact and any injuries or death. The plaintiff's demand was \$2 million, but there was no offer made.
- Obtained a jury award of \$199,000 in an admitted liability case, where a truck driver struck and killed the plaintiff's decedent pedestrian at a tollway booth. Hinshaw client offered \$200,000.
- Successfully secured summary judgment, which was upheld on appeal, involving a four-year-old child who sustained a head injury while playing on a condominium association's playground. The incident occurred when the child fell from a slide onto a hard surface that lacked adequate safety features such as sand, wood chips, or other cushioning materials. The court granted the defendant's motion for summary judgment, ruling that the risk of falling from the slide was obvious and apparent, even to a four-year-old.
- Obtained favorable post-trial relief in federal district court after a jury's itemized verdict finding the defendant trucking company liable to the Medicare-eligible plaintiff for past and future medical expenses totaling \$219,375. The chief judge granted the defendants' post-trial motion on Medicare secondary payer issues, ordering judgment for past and future medical expenses payable to court clerk and conditioning release of funds on adequate documentation from Centers for Medicare & Medicaid Services (CMS).

- Successfully defended a national pest control company against a civil trespass case in Santa Fe, New Mexico, where a residential service technician applied pesticide to the house and adjacent land of property owner who was not a customer. Also, at the time of the pesticide application, the property owner was totally disabled as a result of a pre-existing workplace chemical exposure to the same pesticides. The jury rejected the plaintiff's \$890,000 case based on lack of proximate cause.
- Secured a motion to dismiss for a freight broker client in a consolidated personal injury case. The judge granted the motion to dismiss all claims based on federal preemption and insufficient pleading.

Recognition

- *Illinois Super Lawyers*, 2005 – 2007, 2009 – 2024
- *Leading Lawyer*, Personal Injury Defense Law: General; Products Liability Defense Law
- Martin-Hubbell, AV® Peer Review Rating
- University of Illinois College of Law, Waterman Prize; Rickert Award for Excellence in Moot Court

Credentials

Education

University of Illinois College of Law, JD, 1978

University of Illinois at Urbana-Champaign, BA, *with high honors*, 1975

Bar Admissions

Illinois

Court Admissions

US Court of Appeals for the Armed Forces

US Court of Appeals for the Seventh Circuit

US District Court for the Central District of Illinois

US District Court for the Northern District of Illinois, including Trial Bar

US District Court for the Northern District of Indiana

US District Court for the Southern District of Indiana

Interests

Did you know...

Carl enjoys refereeing adult amateur and college soccer matches for the US Soccer Federation and NCAA. He also plans and leads tours of Normandy and D-Day battle sites.

Thought Leadership

Presentations

- “Direct Examination: How to Work with Counsel and Excel,” SEAK Expert Witness Conference, Clearwater Beach, Florida, May 6, 2017
- “Top 7 Civil Litigation Mistakes - and How to Avoid Them,” National Business Institute Video Webcast, September 2015
- “Trucking Regulations, Liability and Litigation,” National Business Institute Video Webcast, June 2015 and October 2014
- “Truck Accident Litigation 101,” National Business Institute Video Webcast, March 2014
- “How Do You Get to Federal Court (and Stay There)?” Hinshaw University, Chicago, Illinois, June 2012
- “Use of Neuropsychological Evaluations in Defending the Traumatic Brain Injury Case,” IDC Spring Seminar, Chicago, Illinois, April 2012
- “What You Need to Know About the New Illinois Rules of Evidence,” Hinshaw University, Chicago, Illinois, January 2011
- “Talking With the Jury,” Hinshaw CLE Seminar, Chicago, Illinois, March 2010
- “The Magical Thinking of Hindsight: ‘Back to the Uncertain Future,’” Hinshaw All Attorney Meeting CLE, Chicago, Illinois, October 2009
- “Looking Backward, Thinking Backward: Hindsight Judgment of Human Error in Transportation Accidents,” 18th National Conference on Rural Public and Intercity Bus Transportation, Omaha, Nebraska, October 2008
- “The Top Ten Ways to Lose A Case,” Illinois Institute for Continuing Legal Education (IICLE) seminar “Litigating Back and Neck Injury Cases,” Chicago, Illinois, February 2008; February 2007
- “Foresight vs. Hindsight: A Legal Comparison of How Litigants and Their Experts Should or Could Evaluate Driver Error in Traffic Accidents with how Lawyers, Experts, Judges and Jurors Typically Assess Legal Responsibility,” Transportation Research Board Annual International Convention, Washington, D.C., January 2008
- “2005 Update of Illinois Law,” T.I.D.A. State Law Summary, February 2005
- “Presenting and Defending the Wrongful Death Case,” National Business Institute Seminar, Hinsdale, Illinois, February 2005
- “Punitive Damages Update,” Civil Damages Seminar, Illinois Institute for Continuing Legal Education Seminar, Springfield and Chicago, Illinois, January 2005
- “Preparing the Civil Case for Trial,” National Business Institute Seminar, Willowbrook, Illinois, December 2004
- “Opening the File: Jurisdiction, Venue, Pleadings and Motions,” Rookie Seminar, Illinois Association of Defense Trial Counsel, Chicago, Illinois, November 2004, 2003 and 2002
- “Trying the Automobile Case,” National Business Institute Seminar, Chicago, Illinois, August 2004
- “Superior Deposition Strategies,” National Business Institute Seminar, Chicago, Illinois, November 2003
- “Evidence in Trial Practice,” National Business Institute Seminar, Willowbrook, Illinois, May 2003

- “Effective Depositions and Opening the File: Jurisdiction, Venue, Pleadings and Motions,” Rookie Seminar, Illinois Association of Defense Trial Counsel (Program Chair), Chicago, Illinois, November 2001
- “The Advantages of Admitting Liability in the Defense of a Case,” T.I.D.A. Annual Seminar, Indianapolis, Indiana, October 2001
- “The Automobile Injury Case for Paralegals,” National Business Institute Seminar, Chicago, Illinois, November 2000
- “Premises Liability Update for the Trucking Industry,” T.I.D.A. Annual Seminar, Denver, Colorado, October 2000.
- “Evidence Law Update,” Spring Seminar, Illinois Association of Defense Trial Counsel, St. Louis, Missouri, March 1999
- “Civil Jury Instructions for the Occasional Litigator,” Chicago Bar Association Seminar, August 1997
- “Premises Liability: The Difficult Case in Illinois,” National Business Institute, Willowbrook, Illinois, August 1997
- “Legal Perspectives on Pipeline Safety,” Pipeline Reliability Conference, Houston, Texas, November 1996
- “Jury Instructions Lecture in Summer Boot Camp for Aspiring Litigators,” Chicago Bar Association Seminar, August 1996
- “Catastrophic Litigation and Punitive Damages,” Dibb Lupton, London, England, May 1996
- “Defending the Indefensible Motor Vehicle Accident Case,” Chicago Bar Association Seminar, February 1996
- “Joint and Several Liability-2-1117,” Chicago Bar Association Seminar, November 1995
- “Workplace Violence: The Legal Defenses,” National School Bus Company, February 1995
- “Deposition Preparation for the Truck Driver,” Trucking Industry Defense Association, Kansas City, Missouri, October 1993
- “Expert Witnesses: Their Selection, Preparation and Utilization,” Chicago Bar Association Seminar, June 1993
- “Premises Liability Cases,” Chicago Bar Association Seminar, March 1993
- “How to Minimize Defense Costs,” NAICO, Chandler, Oklahoma, May 1992
- “Legal Roundtables” of the International Association of Amusement Parks and Attractions (IAAPA): Dallas, Texas, November 1992; Orlando, Florida, November 1991 and 1986; Washington, D.C., November 1990; New Orleans, Louisiana, November 1987; Atlanta, Georgia, November 1989
- “Employer Liability: Strategies after Kotecki,” Hinshaw & Culbertson LLP Insurance Symposium, September 1991
- “Defending the Rear End Accident Case,” Chicago Bar Association Seminar, May 1991 and June 1988
- “Successfully Handling the Slip and Fall Case,” (Program Chair), Illinois Institute for Continuing Legal Education, Chicago, Illinois, February 1990
- “Disputing Future Medical and Economic Special Damages,” Chicago Bar Association Seminar, September 1989
- “Successful Defense of the Automobile Accident Case,” Chicago Bar Association Seminar, May 1989

Publications

Mr. Fisher has written monographs entitled “What Every Claims Representative Ought to Know About the Rules of Evidence,” and “Successful Defense of an Amusement Ride Accident Case.” He is the author of a number of

articles and chapters on litigation topics, including:

- “Words of Warning,” *FUNWORLD Magazine*
- “Premises Liability in a Nutshell,” Premises Liability Practice Handbook (IICLE)
- “Illinois Law Summary,” T.I.D.A. State Law Summary Handbook
- “How to Prepare Well-Crafted Jury Instructions,” *Chicago Bar Record*

Press Release

- Trial Spotlight: Hinshaw Legal Team Secures Win for Freight Broker Client in Personal Injury Case, Aug 14, 2023